

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%<sup>23</sup> 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.

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<sup>23</sup> For local determination

59.3 If, following receipt of a late payment notice, the Commissioner refers the matter to the Dispute Resolution Procedure detailed in Clause 66 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 Commissioner 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: .....



Title: ACCOUNTABLE OFFICER

Date of Signature..... 2/11/19.....

For: The Contractor

[Redacted]

(Full Name)

Title..... *Senior Partner*

Organisation: Horsefair Practice Group

Date of Signature..... [Redacted]

*19/12/18*

## **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:

<b>2006 Act</b>	the National Health Service Act 2006, as amended by the Health and Social Care Act 2012;
<b>2012 Act</b>	the Health and Social Care Act 2012;
<b>Accountable GP</b>	A general medical practitioner assigned to a Registered Patient in accordance with Clause 31.121 or 31.133;

<b>Additional Services</b>	has the meaning given in the GMS Contracts Regulations;
<b>Advanced Electronic Signature</b>	an electronic signature which is: <ul style="list-style-type: none"><li>(a) uniquely linked to the signatory;</li><li>(b) capable of identifying the signatory;</li><li>(c) created using means that the signatory can maintain under their sole control; and</li><li>(d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;</li></ul>
<b>Affected Party</b>	in the context of Clause 75, the Party whose performance of obligations under the Contract has been affected by the Force Majeure Event;
<b>Alert Letter</b>	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;
<b>Annual Report</b>	the annual report referred to in clauses 10.7 – 10.9;
<b>APMS Directions</b>	the Alternative Provider Medical Services Directions of 2016 (as amended by the

	Alternative Provider Medical Services (Amendment) Directions 2017);
<b>Appliance</b>	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;
<b>Approved Medical Practice</b>	shall be construed in accordance with section 10A of the Medical Act 1983 as amended or replaced from time to time;
<b>Armed Forces of the Crown</b>	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)
<b>Assessment Panel</b>	the panel appointed by the Commissioner under Clause 31.108 of this Contract;
<b>Bank Holiday</b>	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;
<b>Batch Issue</b>	has the meaning given in the NHS (PMS Agreements) Regulations 2004 (SI: 2004/627);
<b>BBV Guidelines</b>	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);

<b>Blood Borne Viruses</b>	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;
<b>CCG</b>	a Clinical Commissioning Group;
<b>CEDR</b>	the Centre for Effective Dispute Resolution;
<b>CCT</b>	Certificate of Completion of Training awarded under section 34L(1) of the Medical Act 1983;
<b>Change of Control</b>	a change in the Controlling Interest of the Contractor or its Holding Company;
<b>Charity Trustee</b>	one of the persons having the general control and management of the administration of a charity;
<b>Chemist</b>	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;
<b>Child or Children</b>	a person or people under the age of 16 years;
<b>Chiropodist or Podiatrist Independent Prescriber</b>	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;
<b>Clinical Correspondence</b>	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;
<b>Clinical Staff</b>	Contractor Staff with a medical or clinical qualification that is registered with a statutory professional body;
<b>Code of Practice on Disclosure</b>	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);

<b>Commencement Date</b>	1 <sup>st</sup> April 2019
<b>Commissioner</b>	the National Health Service Commissioning Board constituted by the 2012 Act and 'NHS England' shall have the same meaning
<b>Complaints Regulations</b>	the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009;
<b>Confidential Information</b>	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;
<b>Confidentiality Directions</b>	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;
<b>Contractor</b>	The Horsefair Practice Group
<b>Contractor's Premises</b>	means the Practice Premises;
<b>Contract Price</b>	the price as set out in and payable by the

	Commissioner to the Contractor in accordance with the provisions of Schedule 4;
<b>Contract Year</b>	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;
<b>Contract</b>	this contract concluded between the Commissioner and the Contractor;
<b>Contractor Staff</b>	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;
<b>Controlled Drugs</b>	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);
<b>Controlling Interest</b>	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;
<b>Convictions</b>	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 2006 Act;<sup>24</sup>

<b>Disclosure</b>	shall have the meaning in the Code of Practice on Disclosure;
<b>Dispenser</b>	a Chemist, medical practitioner or Contractor whom a Patient wishes to dispense his Electronic Prescriptions;
<b>Dispensing Services</b>	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;
<b>Dispute</b>	a dispute, conflict or other disagreement between the Parties arising out of or in connection with this Contract;
<b>Dispute Resolution Procedure</b>	the procedure detailed in Clause 66 of the Contract;
<b>Drug Tariff</b>	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;
<b>Electronic Communication</b>	has the same meaning as in section 15 of the Electronic Communications Act 2000;

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<sup>24</sup> 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.

<b>Electronic Prescription Form</b>	a prescription form which falls within paragraph (b) of the definition of "Prescription Form";
<b>Electronic Prescription Service</b>	the service of that name which is operated by the Health and Social Care Information Centre;
<b>Electronic Prescription</b>	an Electronic Prescription Form or Electronic Repeatable Prescription;
<b>Electronic Repeatable Prescription</b>	a prescription which falls within paragraph (b) of the definition of "Repeatable Prescription";
<b>Enhanced Disclosure</b>	shall have the meaning set out in the Police Act 1997 and the Code of Practice on Disclosure;
<b>Enhanced Services</b>	has the meaning given in the GMS Contract s Regulations;
<b>Equipment</b>	anything save for the Practice Premises and the staff that the Contractor may use in the delivery of the Services;
<b>ERC Position</b>	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;
<b>Essential Services</b>	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;
<b>Exempt Staff</b>	any person employed by an NHS Body;
<b>Existing Contract or Other Arrangement</b>	a contract or arrangement that was entered into prior to 1st April 2010 and which remains in force on 1st April 2010;
<b>Expert</b>	the person designated to determine the Dispute in accordance with Schedule 10;
<b>Expert Determination Notice</b>	notice in writing showing an intention to refer a Dispute for expert determination;
<b>Expiry Date</b>	31 March 2029 or such other date as may be fixed under Clause 2;
<b>Exposure Prone Procedure</b>	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;
<b>Financial Year</b>	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 sonic or supersonic speed; acts of terrorism; explosion; fire; flood; extraordinarily severe weather conditions which are both unforeseen and for which precautions are not customarily taken by prudent business organisations so as to avoid or mitigate the impact thereof; industrial action which affects the provision of the Services, but which is not confined to the workforce of the Party concerned or is site specific; pestilence; the actions of governmental authorities to the extent that such actions are implemented either pursuant to emergency powers or otherwise outside the usual course of governmental business; or Act of God, and could not have been avoided or mitigated by the exercise of all reasonable care by that Party and further provided that such event materially affects the ability of the Party seeking to rely upon it to perform its obligations under the Contract;

**General Medical Practitioner**

except where the context otherwise

<b>or GP</b>	requires, a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;
<b>Geographical Number</b>	a number which has a geographical area code as its prefix;
<b>GMS Contracts Regulations</b>	the National Health Service (General Medical Services Contracts) Regulations 2015;
<b>Good Practice</b>	using standards, practices, methods and procedures conforming to the Law and exercising that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, efficient and experienced clinical services Contractor providing clinical services and/or engaged in operations similar to the Services under the same or similar to the obligations of the relevant party under this Contract whilst at the same time complying with any specific standards set out in this Contract or notified to the Contractor by the Commissioner from time to time;
<b>Governing Body</b>	in respect of either Party, the board of directors, governing body, executive team or other body, as the case may be, having overall responsibility for the actions of that Party;
<b>GP2GP Facility</b>	means the facility provided by the

	Commissioner to the Contractor which enables the electronic health records of a Registered Patient which are held on the computerised clinical systems of the Contractor to be transferred securely and directly to another provider of primary medical services with which the Patient has registered;
<b>GP Specialty Registrar</b>	a medical practitioner who is being trained in general practice by a general medical practitioner who is approved under section 34I of the Medical Act 1983 for the purpose of providing training under that section whether as part of training leading to a CCT or otherwise;
<b>GPSOC accredited computer systems and software</b>	means computer systems and software which have been accredited by the Secretary of State or another person in accordance with "General Practice Systems of Choice Level 2"
<b>Health and Social Care Information Centre</b>	means a body corporate established under section 252(1) of the Health and Social Care Act 2012 which is also known as NHS Digital;
<b>Health and Social Services Board</b>	a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972;
<b>Health and Social Services Trust</b>	a Health and Social Services Trust established under article 10(1) of the

	Health and Personal Social Services (Northern Ireland) Order 1991;
<b>Health Care Professional</b>	has the same meaning as in section 93 of the 2006 Act;
<b>Health Board</b>	a Health Board established under section 2 of the National Health Service (Scotland) Act 1978;
<b>Health Check</b>	means a consultation undertaken by the Contractor in the course of which it must make such inquires and undertake such examination of the Patient as appear to it to be appropriate in all the circumstances;
<b>Health Service Body</b>	Includes a Strategic Health Authority or a Primary Care Trust which was established before the coming into force of section 33 (abolition of Strategic Health Authorities) or 34 (abolition of Primary Care Trusts) of the Health and Social Care Act 2012;
<b>Holding Company</b>	in relation to the Contractor means "holding company" as defined in section 1159 of the Companies Act 2006 and any other company which is itself a Holding Company (as so defined) of a company which is itself a <b>Holding</b> Company of the Contractor;
<b>Home Oxygen Order Form</b>	a form provided by the Commissioner and issued by a Health Care Professional to authorise a person to supply home oxygen services to a Patient requiring oxygen therapy at home;

**Home Oxygen Services**

any of the following forms of oxygen therapy or supply:

- (a) ambulatory oxygen supply;
- (b) urgent supply;
- (c) hospital discharge supply;
- (d) long term oxygen therapy; and
- (e) short burst oxygen therapy;

**Independent Nurse  
Prescriber**

a person:

- (a) who is either engaged or employed by the Contractor;
- (b) who is registered in the Nursing and Midwifery Register; and
- (c) in respect of whom an annotation signifying that he is qualified to order drugs, medicines and Appliances from as a community practitioner nurse prescriber, a nurse independent prescriber or as a nurse independent/supplementary prescriber;

**Law**

- (a) any applicable statute or proclamation or any delegated or subordinate Law;
- (b) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;

- (c) any NHS Requirement, applicable code of practice, national minimum standard, guidance, direction or determination with which the Contractor is bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Contractor by the Commissioner; and
- (d) any applicable judgement of a relevant court of law which is a binding precedent in England and Wales

in each case in force in England and Wales;

**Licensing Authority**

shall be construed in accordance with section 6(3) of the Medicines Act 1968 as amended or replaced from time to time;

**Licensing Body**

any body that licenses or regulates any profession;

**List of Patients**

in relation to the Contractor, the list maintained in respect of the Contractor by the Commissioner under direction 17 of the APMS Directions;

**Listed Medicine**

the drugs mentioned in regulation 13(1) of the National Health Service (Charges for Drugs and Appliances) Regulations 2015;

<b>Listed Medicines Voucher</b>	a form provided by the Commissioner for use for the purpose of ordering a Listed Medicine;
<b>Loaned Equipment</b>	if any, equipment owned by the Commissioner which is loaned to the Contractor for the purposes of the Contract in accordance with clause 6;
<b>Local HealthWatch Organisation</b>	the body corporate established in accordance with the requirements of the 2012 Act (and any subsequent regulations) that will provide services the same or similar to those services previously provided by the Local Involvement Network;
<b>Local Medical Committee</b>	a committee recognised by the Commissioner under section 97 of the 2006 Act;
<b>Mandatory Term</b>	a term required to be included in the Contract by the APMS Directions;
<b>Medical Card</b>	a card issued by the Commissioner, Local Health Commissioner, Health Authority, Health Commissioner or Health and Social Services Commissioner to a person for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services;
<b>Medical Officer</b>	a medical practitioner who is:  (a) employed or engaged by the

Department for Work and Pensions;  
or

- (b) provided by an organisation in pursuance of a contract entered into with the Secretary of State for Work and Pensions;

**Medical Performers List**

a list of medical practitioners maintained and published by the Commissioner in accordance with section 91(1) (Persons Performing Primary Medical Services) of the 2006 Act;

**Medical Register**

the registers kept under section 2 of the Medical Act 1983;

**National Diabetes Audit**

means the Commissioner's clinical priority programme on diabetes which measures the effectiveness of diabetes healthcare provided against clinical guidelines and quality standards issued by the National Institute for Health and Care Excellence (NICE) in England and Wales);

**National Disqualification**

- (a) a decision made by the First-tier Tribunal under section 159 of the 2006 Act (national disqualification) or under regulations corresponding to that section
- (b) a decision under provisions in force in Wales, Scotland or Northern Ireland corresponding to section 159 of the Act (national disqualification);

<b>Negotiation Period</b>	the period of 15 Operational Days following receipt of the first offer to negotiate;
<b>NHS Body</b>	shall have the meaning as set out in Clause 55.2.1;
<b>NHS Contract</b>	has the meaning assigned to it in section 9 of the 2006 Act;
<b>NHS Digital Workforce Census</b>	means the successor to the GP Workforce Census undertaken by the Health and Social Care Information Centre annually;
<b>NHS Number</b>	means, in relation to a Registered Patient, the number consisting of 10 numeric digits which serves as the national unique identifier used for the purpose of safely, accurately and efficiently sharing information relating to that patient across the whole of the health service in England;
<b>NHS Pensions</b>	NHS Pensions, as part of the NHS Business Services Authority;
<b>NHS Requirement</b>	all mandatory NHS requirements and any similar official requests, requirements and NHS standards and recommendations having similar status for the time being in force, but only to the extent the same are published and publically available (whether on the Department of Health website, on the website of a Competent Authority or otherwise) or the existence and contents of them have been notified to the Contractor by the Commissioner;

<b>NHSTDA</b>	the Special Health Authority known as the National Health Service Trust Development Authority established under the NHS Trust Development Authority (Establishment and Constitution) Order 2012 SI 2012/901;
<b>NHS Tribunal</b>	the Tribunal constituted under section 46 of the National Health Service Act 1977 for England and Wales, and which, except for prescribed cases, had effect in relation to England only until 14th December 2001 and in relation to Wales only until 26th August 2002;
<b>Nominated Dispenser</b>	a Chemist, medical practitioner or Contractor who has been nominated in respect of a Patient and the details of that nomination are held in respect of that Patient in the Patient Demographics Service, which is operated by the Information Centre for Health and Social Care;
<b>Non-Electronic Prescription Form</b>	<p>a form for the purpose of ordering a drug, medicine or Appliance which is;</p> <ul style="list-style-type: none"><li>(a) provided by the Commissioner, a local authority or the Secretary of State;</li><li>(b) issued by the Prescriber;</li><li>(c) indicates that the drug, medicine or Appliance ordered may be provided more than once; and</li></ul>

- (d) specifies the number of occasions on which they may be provided;

**Non-Electronic Repeatable Prescription**

a Prescription which falls within clause (a)(i) of the definition of "Repeatable Prescription";

**Nursing and Midwifery Register**

the register maintained by the Nursing and Midwifery Council under the Nursing and Midwifery Order 2001;

**Nursing Officer**

a health care professional who is registered on the Nursing and Midwifery Register and—

- (i) employed or engaged by the Department for Work and Pensions, or
- (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;

**Occupational Therapist**

a health care professional who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health and Social Work Professions Order 2001 relating to occupational therapists and—

- (i) employed or engaged by the Department for Work and Pensions, or
- (ii) provided by an organisation under a

contract entered into with the Secretary of State for Work and Pensions; and

<b>Operational Day</b>	a day other than a Saturday, Sunday or bank holiday in England;
<b>Out of Hours Period</b>	<p>(a) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8am on the following day;</p> <p>(b) the period between 6.30pm on Friday and 8am on the following Monday; and</p> <p>(c) Good Friday, Christmas Day and Bank Holidays;</p>
<b>Out of Hours Services</b>	services required to be provided in all or part of the Out of Hours Period which would be Essential Services if provided by a Contractor to its Registered Patients in APMS Core Hours;
<b>Outer Boundary Area</b>	the area outside the Patient Registration Area more particularly described in clause 31;
<b>Overseas Disclosure</b>	disclosure of convictions or other related matters from any country outside the United Kingdom by use of the relevant country's criminal records disclosure system;
<b>Overseas Person</b>	any person who is a citizen of or holds a

	Relevant Professional Qualification from any country outside the UK or who has worked in any country outside the UK;
<b>Parent</b>	includes, in relation to any Child, any adult who, in the opinion of the Contractor, is for the time being discharging in respect of that Child the obligations normally attaching to a parent in respect of a Child;
<b>Party</b>	either the Commissioner or the Contractor, and "Parties" shall be construed accordingly;
<b>Patient Registration Area</b>	the area in respect of which persons resident in it will, subject to any other terms of the Contract relating to Patient registration, be entitled to register with the Contractor or seek acceptance by the Contractor as a Temporary Resident; The Patient Registration Area is set out in Annex 1 of Schedule 2.
<b>Patient</b>	persons to whom the Contractor is required or has agreed to provide Services under the Contract;
<b>Patient Choice Extension Scheme</b>	means the scheme of that name established by the Secretary of State under which primary medical services may be provided to persons under arrangements made in accordance with directions by the Secretary of State under section 98A (exercise of functions) of the 2006 Act;
<b>Pharmaceutical Independent</b>	means a person:

**Prescriber**

- (a) who is either engaged or employed by the Contractor or is party to the Contract;
- (b) who is registered in Part 1 of the register maintained under Article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007 as amended or replaced from time to time or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976; and
- (c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and Appliances as a pharmacist independent prescriber;

**Physiotherapist Independent Prescriber**

a physiotherapist who is registered in Part 9 of the register maintained under article 5 of the Health and Social Work Professions Order 2001 and against whose name in that register is recorded an annotation signifying that the physiotherapist is qualified to order drugs, medicines and Appliances as a Physiotherapist Independent Prescriber;

**Physiotherapist**

a health care professional who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health and

Social Work Professions Order 2001  
relating to physiotherapists and—

- (i) employed or engaged by the  
Department for Work and Pensions,  
or
- (ii) provided by an organisation under a  
contract entered into with the  
Secretary of State for Work and  
Pensions.

**PMS Agreements  
Regulations**

the National Health Service (Personal  
Medical Services Agreements) Regulations  
2015;

**Practice Premises**

an address or addresses specified in Part  
1 of Schedule 3 of the Contract at which  
Services are to be provided under the  
Contract

**Practice**

the business operated by the Contractor  
for the purpose of delivering services under  
the Contract;

**Prescriber**

a Chiropodist or Podiatrist Independent  
Prescriber;

- (a) an Independent Nurse Prescriber
- (b) a medical practitioner;
- (c) an optometrist independent  
prescriber;
- (d) a Pharmaceutical Independent  
Prescriber;

(e) a Physiotherapist Independent Prescriber; and

(f) a Supplementary Prescriber;

who is either engaged or employed by the Contractor, or is a party to this Contract;

### Prescription Form

except in the context of the expression "Electronic Prescription Form" or "Non-Electronic Prescription Form":

(a) a form for the purpose of ordering a drug, medicine or Appliance which is:

(i) provided by the Commissioner, a local authority or the Secretary of State;

(ii) issued by a Prescriber; and

(iii) does not indicate that the drug, medicine or Appliance ordered may be ordered more than once; or

(b) where Clause 20.1 (Electronic Prescriptions) applies, data created in an electronic form for the purpose of ordering a drug, medicine or Appliance, which:

(i) is signed with a Prescriber's Advanced Electronic

Signature;

- (ii) is transmitted as an Electronic Communication to a nominated dispensing Contractor by the Electronic Prescription Service; and
- (iii) (does not indicate that the drug, medicine or Appliance ordered may be provided more than once;

**Prescription Only Medicine**

a medicine referred to in regulation 5(3) (Classification of Medicinal Products) of the Human Medicines Regulations 2012;

**Primary Care List**

- (a) a list of persons performing primary medical services under Part 4 of the 2006 Act, primary dental services under Part 5 of the 2006 Act or primary ophthalmic services under Part 6 of the 2006 Act, prepared in accordance with regulations made under sections 91, 106, 123, 145, 146, 147A or 149 respectively of the 2006 Act;
- (b) a list of persons undertaking to provide primary medical services, primary dental services, primary ophthalmic services or, as the case may be, pharmaceutical services prepared in accordance with regulations made under the

applicable provisions of the 2006 Act;

- (c) a list corresponding to any of the above lists in Wales, Scotland or Northern Ireland;

**Primary Carer**

in relation to an adult, the adult or organisation primarily caring for him;

**Primary Medical Services**

medical services provided under or by virtue of a contract or agreement to which Part 4 of the 2006 Act applies;

**Registered Patient**

a person:

- (a) who is recorded by the Commissioner pursuant to the APMS Directions as being on the Contractor's List of Patients, or
- (b) whom the Contractor has accepted for inclusion on its List of Patients, whether or not notification of that acceptance has been received by the Commissioner and who has not been notified by the Commissioner as having ceased to be on that list;

**Relevant Calls**

calls—

- (i) made by patients to the Practice Premises for any reason related to Services provided under this Contract; and

**Relevant Register**

- (ii) made by persons, other than patients, to the Practice Premises in relation to services provided as part of the health service;
- (a) in relation to a nurse, the Nursing and Midwifery Register;
- (b) in relation to a pharmacist, Part 1 of the register maintained under Article 10 of the Pharmacists and Pharmacy Technicians Order 2007 as amended or replaced from time to time or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976;
- (c) in relation to an optometrist, the register maintained by the General Optical Council in pursuance of section 7 of the Opticians Act 1989; and
- (d) the part of the register maintained by the Health and Care Professions Council in pursuance of article 5 of the Health and Social Work Professions Order 2001 relating to:
  - (i) Chiropodists and Podiatrists;
  - (ii) Physiotherapists; or
  - (iii) Radiographers;

<b>Repeat Dispensing Services</b>	pharmaceutical services or Local Pharmaceutical Services which involve the provisions of drugs, medicines or Appliances by a Chemist in accordance with a Repeatable Prescription;
<b>Repeatable Prescriber</b>	a Prescriber who is:  (a) engaged or employed by the Contractor where the Contractor provides Repeatable Prescribing Services under the terms of the Contract; or  (b) a party to the Contract where such services are provided;
<b>Repeatable Prescribing Services</b>	services which involve the prescribing of drugs, medicines or appliances on a Repeatable Prescription;
<b>Repeatable Prescription</b>	except in the context of the expression Electronic Repeatable Prescription and Non-Electronic Repeatable Prescription, a Prescription which:  (a) is a form provided by the Commissioner, a local authority or the Secretary of State for the purpose of ordering a drug, medicine or Appliance which is in the format required by NHS Business Services Authority and which:

- (i) is issued, or is to be issued, by a Repeatable Prescriber to enable a Chemist or person providing Dispensing Services to receive payment for the provision of Repeat Dispensing Services;
  - (ii) indicates, or is to indicate, that the drug, medicine or Appliance ordered may be provided more than once; and
  - (iii) specifies, or is to specify the number of occasions on which they may be provided; or
- (b) where Clause 20.1 (Electronic Prescriptions) applies, is data created in an electronic form for the purposes of ordering a drug, medicine or Appliance, which:
  - (i) is signed, or to be signed, with the Prescriber's Advanced Electronic Signature;
  - (ii) is transmitted, or is to be transmitted, as an Electronic Communication to a nominated dispensing Contractor by the Electronic

Prescription Service; and

- (iii) indicates, or is to indicate, that the drugs, medicines or Appliances ordered may be provided more than once and specifies the number of occasions on which they may be provided;

**Restricted Availability  
Appliance**

an Appliance which is approved for particular categories of persons or particular purposes only;

**Scheduled Drug**

- (a) a drug, medicine or other substance specified in any directions given by the Secretary of State under section 88 of the 2006 Act as being a drug, medicine or other substance which may not be ordered for Patients in the provision of medical services under the Contract; or
- (b) except where the conditions in Clause 30.1 are satisfied, a drug, medicine or other substance which is specified in any directions given by the Secretary of State under section 88 of the 2006 Act as being a drug, medicine or other substance which can only be ordered for specified Patients and specified purposes;

means the date on which the person

<b>the Scheduled Release Date</b>	making an application under clause 31.148.3 is due to be released from detention in prison;
<b>Secretary of State</b>	the Secretary of State for Health;
<b>Service Specification</b>	the specification for the Services set out in Schedule 2 of the Contract;
<b>Services</b>	the services to be provided by the Contractor in accordance with the terms of the Contract as detailed in the Service Specification;
<b>Standard Disclosure</b>	shall have the meaning set out in the Code of Practice on Disclosure;
<b>Standards for Better Health</b>	the document produced by the Department of Health establishing the core and developmental standards covering NHS healthcare provided for NHS patients in England;
<b>Summary Care Record</b>	means the system approved by the Commissioner for the automated uploading, storing and displaying of patient data relating to medications, allergies, adverse reactions and, where agreed with the Contractor and subject to the patient's consent, any other data taken from the patient's electronic record;
<b>Summary Information</b>	means items of patient data that comprise the Summary Care Record;
<b>Supplementary Prescriber</b>	a person:

- (a) who is either engaged or employed by the Contractor; or
- (b) whose name is registered in:
  - (i) the Nursing and Midwifery Register;
  - (ii) Part 1 of the Register maintained under Article 19 of the Pharmacy Order 2010;
  - (iii) the register maintained in pursuance of articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976; or
  - (iv) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health and Social Work Professions Order 2001 relating to:
    - (aa) chiropodists and podiatrists;
    - (bb) physiotherapists;
    - (cc) radiographers: diagnostic or therapeutic; or
  - (v) the register of optometrists maintained by the General

Optical Council pursuant to section 7 of the Opticians Act 1989; and

- (c) against whose name is recorded in the Relevant Register an annotation signifying that he is qualified to order drugs medicines and Appliances as a Supplementary Prescriber;

**System of Clinical Governance**

a framework through which the Contractor endeavours continuously to improve the quality of its Services and safeguard high standards of care by creating an environment in which clinical excellence can flourish.

**Temporary Resident**

has the meaning given in the GMS Contracts Regulations;

**Transferring Employees**

the employees of the Commissioner or any Contractor of the services immediately prior to the Commencement Date which become the Services (as the case may be) whose employment shall transfer under TUPE to the Contractor on the Commencement Date and any other employees of the Commissioner or any such Contractor (as the case may be) to whom TUPE applies by operation of law as a consequence of this Contract;

**TUPE**

the Transfer of Undertakings (Protection of Employment) Regulations 2006

**Working Day**

any day apart from Saturday, Sunday, Christmas Day, Good Friday or a Bank Holiday; and

**Writing**

except in Clause 57.1 and unless the context otherwise requires, includes electronic mail and "written" should be construed accordingly.

## Schedule 2 Service Specification<sup>25</sup>

### Part A

#### General Service Delivery Requirements

The following words shall have those meanings as described below for the purposes of this Schedule 2.

“Patients” means all those persons that are provided a service under this Agreement.

“Frontline Staff” means any staff or other persons engaged by the Contractor that have direct contact with patients.

“BNF” means British National Formulary.

#### 1. Equity of Access

##### 1.1. The Contractor shall:

1.1.1. not discriminate between Patients on the grounds of age, sex, sexuality, ethnicity, disability, or any other non-medical characteristics;

1.1.2. implement Royal National Institute of Blind People and Royal National Institute of Deaf People guidance as amended from time to time to ensure Patients who have relevant disabilities and/or communications difficulties are afforded appropriate access to the Services;

1.1.3. Provide a dedicated telephone number for text phone users who have hearing difficulties to enable them to access the services

1.1.4. subject to its obligations under the Data Protection Legislation, record details of any Patients who have special requirements in relation to accessing the Services;

1.1.5. utilise available professional translation services:

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<sup>25</sup> The Service Specification must specify who the Contractor is to provide services to under the Contract, including where appropriate by reference to an area within which a person resident would be entitled to receive services under the Contract. This is a requirement of the APMS Directions.

- i. as required for all non-English speaking Patients during all consultations.
  - ii. to provide appropriate translations of materials describing procedures and clinical prognosis, where it is normal procedure to provide such materials in English, for the languages recommended by the Commissioner as being the most common languages spoken by Patients who are likely to use the Services; and
- 1.1.6. take reasonable steps to proactively deliver health promotion and disease prevention activities to all Patients including those from hard-to-reach groups. The Contractor acknowledges that a hard-to-reach group shall include but not be limited to the following:
  - i. those who do not understand written or spoken English;
  - ii. those who cannot hear or see, or have other disabilities;
  - iii. working single parents;
  - iv. asylum seekers or refugees;
  - v. those who have no permanent address;
  - vi. gypsy travellers
  - vii. black or minority ethnic communities;
  - viii. adolescents;
  - ix. elderly and/or housebound people;
  - x. those who have mental illnesses;
  - xi. those who misuse alcohol or illicit drugs; and
  - xii. those who are unemployed.
- 1.2. The Contractor acknowledges that to improve equity of access for black and minority ethnic (“BME”) Communities, it is important to collect information on ethnicity and first language due to the need to take into account culture and language in providing appropriate care packages and the need to demonstrate non-discrimination and equality of access to service provision. The Contractor shall therefore be required to record the ethnic origin and first language of all Registered Patients.

## **2. Patient Dignity & Respect**

### **2.1. The Contractor shall:**

- 2.1.1. ensure that the provision of the Services and the Practice Premises protect and preserve Patient dignity, privacy and confidentiality;
- 2.1.2. allow Patients to have their personal clinical details discussed with them by a person of the same gender, where required by the Patient and if reasonably practicable;

- 2.1.3. provide a chaperone for intimate examinations if requested by the patient to preserve Patient dignity and respect cultural preferences; and
- 2.1.4. ensure that the Contractor's staff and anyone acting on behalf of the Contractor behaves professionally and with discretion towards all Patients and visitors at all times

### **3. Informed Consent**

- 3.1. The Contractor shall comply with NHS requirements in relation to obtaining informed consent from each Patient as notified to the Contractor by the Commissioner from time to time prior to commencing treatment including the following as amended from time to time:

- 3.1.1. Department of Health Good Practice in Consent Implementation Guide: Consent to Examination or Treatment 2001;

- 3.1.2. Health Service Circular HSC 2001/023; and

- 3.1.3. Seeking Patients' Consent - The Ethical Consideration: GMC November 1998.

### **4. Children and Vulnerable Adults**

- 4.1. The Contractor shall:

- 4.1.1. provide the Services to Children who attend the Premises in accordance with the standards contained in the National Service Framework for Children and protocols notified to the Contractor by the Commissioner, as amended from time to time;

- 4.1.2. ensure that the health and wellbeing of all children aged 16 and under that newly register with the practice is reviewed as part of a face to face consultation with the child within 30 days of registration with the practice;

- 4.1.3. ensure that the Contractor's medical and Frontline Staff and anyone working on behalf of the Contractor are familiar with, and receive regular training in, local Child protection policies as directed by the Commissioner and as amended from time to time;

- 4.1.4. participate in any supervision, work with, and accept relevant support from a registered Children's nurse within the local health care community.

4.1.5. participate in any relevant case conferences, work with, and accept support from the named professional leads for safeguarding in the CCG Area.

4.1.6. Have a named and appropriately trained lead for both safeguarding children and vulnerable adults.

## **5. Medicines Optimisation**

5.1. Without prejudice to Clause 29 of this Contract (which shall prevail in case of conflict or ambiguity with this paragraph 5), the Contractor shall:

5.1.1. prescribe the most clinically and cost effective medicines in accordance with national and local guidance from time to time including:

- i. NICE guidance and Department of Health directives relating to prescribing;
- ii. Good Prescribing Practice as defined by BNF and adherence to local formulary for medicines. All organisations within the health economy should work together to achieve improvements in national QIPP and other locally agreed prescribing objectives to deliver safer and more cost effective prescribing;
- iii. shared care protocols agreed between the Commissioner and other secondary care NHS Contractors; and
- iv. Utilise Patient Group Directions, such as emergency contraception and antibiotics, national vaccination programme and ensure all staff are working to PGDs.
- v. Meet all requirements of the prescribing or medicines management work plan agreed with the CCG.
- vi. Maintaining compliance with medicines safety alerts and provide evidence of compliance and provide evidence of learning and sharing locally from incidents. Also, provide timely information to the commissioner of untoward incidents involving medicines.
- vii. Controlled Drug Incidents to be notified to the relevant Accountable Officer and the local CD Local Intelligence Network to ensure the safe management of CDs within the health economy.
- viii. Participation in national and local audits.

- 5.1.2. Meet all requirements of the prescribing or medicines management work plan agreed with the CCG.

## **6. Clinical Safety & Medical Emergencies**

### **6.1. The Contractor shall:**

- 6.1.1. ensure that all Contractor Staff have and maintain basic life support certification with competence in defibrillation and ensure that all the Contractor's staff comply with the UK Resuscitation Council guidelines on Basic Life Support and the Use of Automated External Defibrillators;
- 6.1.2. ensure the availability of sufficient numbers of the Contractor's staff with appropriate skill, training and competency and who are able and available to recognise, diagnose, treat and manage Patients with urgent conditions at all times;
- 6.1.3. possess the equipment and in-date emergency drugs including oxygen to treat life-threatening conditions such as anaphylaxis, meningococcal disease, suspected myocardial infarction, status asthmaticus and status epilepticus;
- 6.1.4. pass all life threatening conditions to the ambulance service as soon as practicable by dialling 999 and requesting the ambulance service; and
- 6.1.5. adhere to any national or local guidelines relating to clinical safety and medical emergencies in primary care as amended from time to time.

## **7. Good Clinical Practice**

- 7.1. Without prejudice to Clause 50 of this Contract, the Contractor shall perform the Services in accordance with the following requirements as amended from time to time:
  - 7.1.1. Care Quality Commission or any successor organisation Essential Standards in force from time to time during the term of this Contract;
  - 7.1.2. the "excellent GP" according to Good Medical Practice for General Practitioners (RCGP 2008);
  - 7.1.3. any relevant MHRA guidance, technical standards, and alert notices;

7.1.4. the highest level of clinical standards that can be derived from the standards and regulations referred to in this paragraph 7.1 of Part A of Schedule 2; and

7.1.5. the General Medical Council guidance on Good Medical Practice (2013).

7.2. The Contractor shall ensure that clinical meetings are convened for all clinicians working in the practice a minimum of once each calendar month.

7.3 The Contractor shall ensure that a GP is a member of the Patient Participation Group and attends as a minimum two (2) meetings per year.

## **8. Equipment**

8.1. The Contractor shall provide all medical and surgical equipment, medical supplies including medicines, drugs, instruments, Appliances, and materials necessary for the delivery of services under this Agreement; which shall be adequate, functional and effective.

8.2. The Contractor shall establish and maintain a planned maintenance programme for the equipment referred to in paragraph 8.1 above in line with the manufacturer's guidance, and make adequate contingency arrangements for emergency replacement or remedial maintenance.

## **9. Infection Control and prevention**

9.1. Without prejudice to clause 12 of this Contract, the Contractor shall have in place arrangements that meet the standards outlined in the NICE guidelines on infection control "Prevention of healthcare associated infections in primary and community care (June 2003)", to maintain a safe, hygienic and pleasant environment at the Practice Premises, and the NHS England Standard Operating Procedure Infection Prevention & Control Audit requirements, and shall:

9.1.1. use only disposable medical devices;

9.1.2. make arrangements for the ordering, recording, handling, safe keeping, safe administration and disposal of medicines used in relation to the Services; and

9.1.3. make arrangements to minimise the risk of infection and toxic conditions and the spread of infection between Patients and staff

(including any clinical practitioners which the Contractor has asked to carry out clinical activity).

- 9.1.4. Follow appropriate guidelines to the management of hospital acquired infections

## **10. Referrals**

10.1. The Contractor shall:

- 10.1.1. record all referrals in the patient record using the appropriate Read Codes;
- 10.1.2. monitor and minimise inappropriate referrals and hospital admissions in line with the CCG annually agreed priorities and practice specific work plan;
- 10.1.3. co-operate with and make effective use of:
- i. 111, including making available appointment slots into which patients registered with the practice may be offered an appointment by 111;
  - ii. the community matron/case management team;
  - iii. Commissioner - commissioned services provided outside acute hospitals, including health promotion services; and
  - iv. local authority services and employment advisers;
- 10.1.4. co-operate with service contractors carrying out Out of Hours Services to ensure safe and seamless care for Patients, including providing information on, as a minimum, a weekly basis and, where relevant, daily to such contractors carrying out Out of Hours Services on Patients that may require their services or who have special clinical requirements;
- 10.1.5. provide complete and comprehensive information to support any referral made and comply with, where appropriate, any directions provided by the relevant CCG concerning the format or composition of referrals including, where relevant, instruction to direct Referrals to a third party for clinic booking and/or clinical triage;

- 10.1.6. use robust clinical pathways for referral, where these are agreed with other local healthcare Contractors and/or issued by the relevant CCG;
- 10.1.7. routinely collect and assess data about the appropriateness of the Contractor's referrals, using audit and peer review to share learning;
- 10.1.8. implement national referral advice including Referral Guidelines for Suspected Cancer and NICE guidance;
- 10.1.9. ensure urgent suspected cancer referrals are faxed or sent electronically and received by the relevant trust within twenty-four (24) hours;
- 10.1.10. review referrals practice every six (6) months as a minimum to ensure it is in line with latest guidance and protocols;
- 10.1.11. develop and implement policies in relation to nurse and nurse specialist referrals where nurses have an extended role in the treatment and investigation of Patients with specified diseases; and
- 10.1.12. implement and operate Choose and Book at point of referral for services, and provide a booking facility unless this is managed by a third party under contract with the CCG (in accordance with the NHS Choice agenda).

## **11. Co-operation with Other NHS Contractors**

- 11.1. The Contractor will provide an integrated and fully supported primary health care team to work in partnership with all other NHS and non-NHS healthcare contractors and stakeholders (including, but not limited to, health visitors, district nurses, social services, mental health services, acute trusts and acute trust laboratories, community health Contractors, other GP practices and healthcare Contractors and local voluntary and third sector organizations) on the same basis as the majority of other GP practices in the CCG area.
- 11.2. The contractor will be an active member of the locality group of GP practices in the area working collaboratively and at scale with other local providers of primary care services within the local area.
- 11.3. The Contractor shall, together with the Commissioner:
  - 11.3.1. establish good information flows to/from pathology and diagnostic Contractors and NHS and non-NHS healthcare Contractors;

- 11.3.2. foster good working relationships and gain mutual understanding of systems, policies and procedures with key local stakeholders;
- 11.3.3. establish a directory of information regarding local resources and foster a good understanding of the local Patient care pathways to promote effective referrals; and
- 11.3.4. utilise specialist services (for example drug misuse, minor surgery, dermatology, NHS dentistry) from central primary care locations and other services at local locations to avoid duplication of services, promote economies of scale, and bring practices together to plan and implement common aims for the benefit of those practices and their patients.

11.4. The Contractor shall collaborate with the Commissioner in the following areas:

- 11.4.1. structures - to ensure that links are maintained with key individuals, departments, forums, groups and organisations within the Commissioner and local health economy, particularly with forums dealing with Patient and Public Involvement (an NHS defined term) which is an initiative to involve Patients and the public in the planning of services;
- 11.4.2. process – to ensure that similar policies and protocols are implemented by all Contractors and the Commissioner (e.g. clinical policies, workforce planning including training opportunities and structured secondment programmes subject to agreement by the Commissioner and Department of Health); and
- 11.4.3. outcomes – to ensure that key clinical indicators are in place to allow benchmarking with other equivalent services commissioned by the Commissioner and contribute towards the Commissioner's own performance indicators.
- 11.4.4. For the purposes of this paragraph 11.3 above, the Contractor will, if requested by the Commissioner, nominate representatives for key planning forums.

11.5. The Contractor shall:

- 11.5.1. discuss and develop policies and procedures with local CCGs to ensure there is compatibility with local policies and procedures, including clinical and non-clinical issues;

- 11.5.2. sign up to multi-agency information sharing agreements as agreed with the Commissioner.
- 11.5.3. develop referral protocols with local health facilities including CCG and

offering training opportunities for staff in the CCG (including nursing and medical training and training for local Health Care Professionals in order to meet accreditation and regulatory requirements)

## **12. Clinical Governance & Quality Assurance**

### **12.1. The Contractor shall:**

- 12.1.1. show a commitment to achieve maximum points on the Quality and Outcomes Framework (QOF) and/or any future National Quality Framework;
- 12.1.2. show a commitment to achieve the highest banding across the range of indicators on the NHS England Assurance Framework and/or any future quality scorecard by preparing and implementing suitable action plans until the standard is achieved;
- 12.1.3. comply with any NHS England – North Midlands Regional Team Quality Standards that may be introduced during the term of the contract, subject to the agreement of additional funding should it be reasonably required;
- 12.1.4. operate an effective, comprehensive, system of Clinical Governance with clear channels of accountability, supervision and reporting, and effective systems to reduce the risk of clinical system failure;
- 12.1.5. have medical leadership in place;
- 12.1.6. nominate a person who will have responsibility for ensuring the effective operation of the System of Clinical Governance and who is accountable for any activity carried out on a Patient;
- 12.1.7. continuously monitor and report on clinical performance and evaluate Serious Incidents, near misses and complaints arising from any activity including 'learning the lessons' and provide the Commissioner with the records of such to assist the Commissioner in assessing whether standards are being met;

- 12.1.8. use appropriate formal methods such as root cause analysis for Serious Incidents, near misses and complaints;
- 12.1.9. have in place a system for collecting data on Serious Incidents, near misses and complaints in a systematic and detailed manner to ascertain any lessons learnt about the quality of care and to indicate changes that might lead to future improvements. Furthermore, the Contractor shall have in place a system for adopting such changes into practice and processes going forward;
- 12.1.10. operate robust auditing of clinical care against clinical standards and in line with CQC essential standards;
- 12.1.11. comply with the Commissioner's governance requirements and inspections and make available, on reasonable notice to the Commissioner, any and all Contractor records (including permitting the Commissioner to take copies) relating to Contractor clinical governance to enable the Commissioner to audit and verify the clinical governance standards of the Contractor;
- 12.1.12. where appropriate, fully implement any recommendations following Commissioner clinical governance inspections within three (3) months of notification by the Commissioner of the recommendations;
- 12.1.13. provide the Commissioner with an annual report and service improvement plan on a template to be provided by the Commissioner;
- 12.1.14. participate in all quality and clinical governance initiatives agreed between the Commissioner and its other GP practices.

### **13. Complaints Procedure**

The Contractor will:

- 13.1. Produce and publicise a complaints procedure that is consistent with the principles of the NHS complaints procedure. The complaints procedure must be easy to understand, accessible to patients and provide for a prompt response.
- 13.2. Take reasonable steps to ensure that patients are aware of:
  - i. The complaints procedure.
  - ii. The role of the NHS England and other bodies in relation to complaints about services under the Contract, and

iii. The right to assistance with any complaint from independent advocacy services provided under section 19A of *the Act*.

13.3. Take reasonable steps to ensure that the complaints procedure is accessible to all patients; being aware of language, and communication support needs.

13.4. Provide as required a summary of all complaints, to the Commissioner.

## Human Resource Management

### 14. Contractor Workforce: Recruitment and Competence

**14.1.** The Contractor must have a comprehensive, robust plan for recruitment, selection and employment procedures in place that are compliant with employment legislation and European directives.

**14.2.** The principle objectives of the Contractor must:

- i. Reflect the local community and range of languages spoken to support access to services.
- ii. Meet the essential day-to-day staff leadership, management and supervisory needs of the contract during its lifetime, including during mobilisation and, if appropriate, contract termination.
- iii. Support the provision of safe, high quality clinical services.
- iv. Ensure the appropriate skill mix: the intended range and ratio of clinical and non-clinical staff to include GPs, Nurse Practitioners, Practice Nurses, Health Care Assistants and the administrative staff required to support these professionals.
- v. Ensure that every member of the staff has a job description and appropriate contracts of employment setting out their terms and conditions, and roles and obligations as well as their rights.
- vi. Ensure that, where appropriate any transference of employees to its employment must comply with TUPE regulations.
- vii. Contractors must specify arrangements to ensure that all mandatory pre-employment checks are implemented for all staff working in the organisation, including ensuring that all staff undergo appropriate DBS checks before they start employment.
- viii. Ensure, through appropriate audit, training and continuous professional development, that all staff involved in treating patients are and remain qualified and competent to do so.
- ix. Support the implementation of all relevant statutory and non-statutory NHS standards, regulations, guidelines and codes of practice.
- x. Ensure there are systems in place to monitor that clinicians do not work excessive shifts or hours to the detriment of patient safety and their own welfare.

**14.3.** The Contractor should provide details of their staffing structure highlighting the persons that are to have responsibility for the operation of the contract.

14.4. The Contractor should provide details of the management structure and the escalation procedures for resolving problems. Also how during periods of annual leave or sickness or an industrial dispute the service will be delivered.

14.5. The Contractor must ensure:

14.5.1. All Clinical Staff are registered with all appropriate regulatory bodies including without limitation the following:

- i. For Medical Staff, **the GMC.**
- ii. For Nursing Staff, **the Nursing and Midwifery Council;** and
- iii. For Staff who are other Health Care Professionals (including Allied Health Professionals and Health Care Scientists (where appropriate), **the Health Professions Council.**

14.6. All Medical Staff performing specialist procedures are suitably qualified, competent and experienced and are registered in the GMC Specialist Register in respect of the specialty in which they perform specialist procedures.

14.7. All GPs are:

- i. Registered with the GMC and on the GMC GP register.
- ii. Hold appropriate certificates confirming their eligibility to work in general practice including current membership on the Medical Performers List; and
- iii. GPs who are not already members of the Royal College of General Practitioners are encouraged to become members, having passed the MRCGP examination or obtained membership by Assessment of Performance.
- iv. Be fully licensed to practice.
- v. Undergone a revalidation process as appropriate.

14.8. All Nursing Staff are:

- i. Registered on the Nursing and Midwifery and Health Professional Council Register and, if they are to prescribe drugs and/or medicine, that the corresponding entry in the register indicated they hold a prescribing qualification; and
- ii. Subject to robust procedures for re-registering and monitoring subsequent re-registration for Health Care Professionals as appropriate.

## 15. **Workforce Training and Development.**

15.1. The Contractor must ensure arrangements are in place to ensure that all clinical and non-clinical staff are adequately trained and are competent for

their roles, including setting up systems for assessing clinical competence in telephone consultations and triage in particular.

**15.2.** The Contractor must have robust staff development processes in place including opportunities which will provide development for both clinical and non-clinical staff. This might include formal qualifications, short courses and on-the-job training. All staff employed must receive an annual appraisal and hold a personal development plan.

**16. Practitioner Skill Mix/Continuity**

**16.1.** The Contractor shall:

16.1.1. notify the Commissioner about any planned material changes to the skill mix of Clinical Staff at the GP Practice;

16.1.2. keep the Commissioner informed of any changes in the permanently employed GPs or nurse practitioners; and

16.1.3. take all reasonable steps to keep the use of locum GPs or nurses to a minimum.

**17. Risk Management**

**17.1.** The Contractor shall:

17.1.1. Operate mechanisms for assessing & managing clinical and general business risk including the maintenance of a suitable risk register that is reviewed, as a minimum by the business owners on a monthly basis;

17.1.2. prepare disaster recovery, contingency and business continuity plans that should be available for inspection by the Commissioner at any time;

17.1.3. keep the Commissioner fully informed about any significant risks that have been identified that could impact on the performance of the contract;

17.1.4. notify the Commissioner of the person (or their successor) responsible for risk management within the contractor's organisation.

**18. Patient Records**

18.1. The Contractor shall at its own cost retain and maintain all the clinical records in accordance with:

18.1.1. Good Clinical Practice; and

18.1.2. this Part A of Schedule 2.

18.2. The Contractor shall at its own cost retain and maintain all the paper based clinical records in chronological order and in a form that is capable of audit.

18.3. The Contractor shall institute a programme of audit of individual clinicians' electronic medical records on at least an annual basis for all clinicians engaged to work at the practice on the contractor's behalf.

**19. Contractor Records**

19.1. The Contractor shall during the term of this Contract and for a period of six (6) years thereafter, maintain at its own cost such records relating to the provision of the Services, the calculation of the Charges and/or the performance by the Contractor of its obligations under this Contract as the Commissioner may reasonably require in any form (the "Records"), including information relating to:

19.1.1. contract management reporting;

19.1.2. national / data set reporting;

19.2. The Contractor shall, subject always to the provisions of relevant legislation and Directions :

19.2.1. on request produce the Records for inspection by the Commissioner or, on receipt of reasonable notice, allow or procure for the Commissioner and/or its authorised representatives access to any premises where any Records are stored for the purposes of inspecting and/or taking copies of and extracts from Records free of charge and for the purposes of carrying out an audit of the Contractor's compliance with this Contract, including all activities of the Contractor, the Charges and the performance, and the security and integrity of the Contractor in providing the Services under this Contract;

19.2.2. preserve the integrity of the Records in the possession or control of the Contractor and Contractor Staff and all data which is used in, or generated as a result of, providing the Services;

19.2.3. prevent any corruption or loss of the Records, including keeping a back-up copy; and

19.2.4. provide any assistance reasonably requested by the Commissioner in order to interpret or understand any Records.

19.3. The Contractor shall ensure that during any Records inspection the Commissioner and/or its authorised representatives receive all reasonable assistance and access to all relevant Contractor staff, premises, systems, data and other information and records relating to this Contract (whether manual or electronic).

## 20. Clinical Commissioning Groups

20.1 the Contractor must-

(a) be a member of a CCG for the duration of the contract and

(b) appoint one individual who is a health care professional to act on its behalf in the dealings between it and the CCG to which it belongs.

**Part B**

**Services**

**1. Services To Be Provided By The Contractor**

The Contractor shall provide:

- 1.1 GP led primary medical care services as set out in this Schedule 2 Part B to patients residing in the Practice Registration Area and Outer Boundary Area, and/ or patients registered with the practice as temporary patients according to National Guidance as amended from time to time in accordance with the requirements set out in this schedule 2 part A

**2. Access To Services**

Opening hours

2.1 The provider shall provide Patients with the ability to attend Non Bookable Appointments and Bookable Appointments at the Practice Premises, irrespective of their registration status.

2.2 The Practice shall be open and Reception Services as defined below provided at all times during APMS Core Hours subject to any changes that may be made to any other GP Contractor services (GMS, PMS) which will then be reflected in this contract. APMS Core Hours are defined as:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
08:00 – 18:30	08:00 – 18:30	08:00 – 18:30	08:00 – 18:30	08:00 – 18:30	Closed	Closed

Provision of Reception Services

2.3 The Contractor must provide full reception services at the Practice Premises throughout the APMS Core Hours.

2.4 Reception services will include but not be limited to:

2.4.1 Answering the telephone by a practice staff member;

2.4.2 Free access to the premises without the need to be physically admitted;

2.4.3 Booking appointments;

2.4.4 Answering and co-ordinating Patient queries and requests;

2.4.5 Signposting Patients to services.

Patient Registration Area

2.5.1 The Patient Registration Area means the area outlined in Annex 1 to this Schedule 2 in respect of which persons resident in it will be entitled to register with the Provider or seek acceptance by the Provider as a Temporary Resident for the purposes of the Provider's List of Registered Patients.

2.5.2 The Provider shall continue to treat any registered patient that is admitted to a nursing/residential home of short term care where the address is situated within the practice area. The Provider will routinely accept any patient admitted to a nursing home/residential home if requested to do so by the patient or carer where the address is situated within the practice area.

### Appointments

- 2.6 The Contractor shall offer a full range of consultation methods according to clinical need and patient preference including, but not limited to, telephone, e-mail, Video Consultation and face to face consultation at the GP Practice.
- 2.7 The Contractor shall undertake continuous assessment of its appointment system and access, monitoring demand and supply and taking action to address gaps in provision.

### Booking An Appointment

- 2.8 The Contractor shall ensure that, upon contacting the practice during APMS Core Hours in person or by telephone:
- 2.8.1 Patients should be required to only make one call in order to make an appointment and not be asked to call back;
  - 2.8.2 Patients are able to book an appointment with an appropriate Health Care Professional within twenty-four (24) hours and a GP within forty-eight (48) hours of contacting the practice;
  - 2.8.3 Patients are able to consult an appropriate GP or other Health Care Professional of their choice within 6 working days of contacting the practice;
  - 2.8.4 Patients are able to book an appointment with the GP or other appropriate Health Care Professional of their choice at the practice up to and including four (4) weeks in advance;
  - 2.8.5 If clinically urgent, a patient is able to book an urgent appointment on the same day which may not be a Health Care Professional or GP of their choice.

### Availability of Appointments

2.9 In order to ensure that demand for appointments is met, the Contractor shall provide as a minimum:

2.9.1 72 consultations with a GP or Nurse Practitioner per 1,000 Carr-Hill weighted registered patients per week during APMS Core Hours. (For the purposes of measurement the number of consultations counted for a Nurse practitioner must not exceed 25% of the total consultations reported)

2.9.2 25 consultations with a Nurse or Healthcare Assistant per 1,000 Carr-Hill weighted registered patients per week during APMS Core Hours. (For the purposes of measurement the number of consultations counted for a Healthcare Assistant must not exceed 25% of the total consultations reported)

2.9.3 A duty doctor/ Nurse Practitioner to be available throughout APMS Core Hours to provide urgent consultations and house-calls.

### Length of Appointments

2.10 Appointment length shall be tailored to the clinical needs of the patient. Time allowed for booked face to face appointments shall be no less than:

2.10.1 10 minutes for a GP or Nurse Practitioner led appointment;

2.10.2 15 minutes for a Nurse or Healthcare Assistant led appointment except where the Nurse or Healthcare assistant consider a shorter appointment is appropriate.

### Punctuality of Appointments

2.11 Consultations shall commence within 30 minutes of the scheduled appointment time unless there are exceptional circumstances.

2.12 Treatment for patients suffering from immediate and life threatening conditions (as determined by a clinically trained individual acting reasonably) shall commence within 5 minutes.

### Home Visits

2.13 The Contractor shall conduct patients' home visits according to clinical need as determined by a GP acting in accordance with Good Clinical Practice:

2.13.1 The criteria for determining when home visits are necessary shall be consistently applied to patients and included within the practice leaflet and on any practice website.

2.13.2 Patients shall be seen as soon as practicable according to clinical need, and in any event on the same day as the practice is alerted.

2.13.3 Patients shall be informed of the timescale in which they will be visited, and contacted if the agreed visit is expected to be delayed.

### Improving Access Through Use of Technology

2.14 The Contractor shall ensure that its pages on NHS Choices are updated regularly, and at all times provide complete and accurate information regarding the practice.

2.15 In addition to improving access through the use of technology, the Contractor is expected to engage with Commissioners to achieve 7 day access as appropriate and in accordance with nationally and locally agreed arrangements.

## **3. Patient Voice**

### 3.1 Patient Surveys

3.1.1 The Contractor shall be required to fully cooperate and assist the Commissioner in measuring patient satisfaction on an on-going basis. The method for measuring patient satisfaction will be determined by the Commissioner and may include touch screen, written surveys, interviews or other appropriate mechanisms. The methods may include, but not be limited to:

3.1.2 An annual locally-administered survey of patients using a survey approved by the Commissioner;

3.1.3 The NHS GP Friends and Family Test;

3.1.4 The NHS England national annual GP Patient Survey.

### **Practice Clinical Services**

The Contractor shall:

4.1 Provide Essential and Additional Services to all Registered Patients, including patients registered as Temporary Residents;

4.2 Not be required to provide Out of Hours Services.

4.3 Provide Enhanced Services appropriate to the provision of care required by the health needs of the Contractor's List of Registered Patients and directed by the Commissioner;

4.4 Participate in the Quality and Outcomes Framework (QOF);

4.5 Implement the Gold Standards Framework and Co-Ordinate My Care for patients requiring end of life care;

4.6 Participate in and support Health Promotion and Disease Prevention programmes

### **5 Essential Services**

5.1 The Contractor shall provide Essential Services at such times, within APMS Core Hours, as are appropriate to meet the reasonable needs of Registered Patients, including patients registered with the practice as Temporary Residents.

5.2 The Contractor shall have in place arrangements for Patients to access such services throughout the Opening Hours if clinically urgent and in case of emergency

5.3 The Contractor shall provide:

5.3.1 Essential Services required for the management of registered patients and temporary residents who are, or believe themselves to be:

- i) ill with conditions from which recovery is generally expected;
- ii) terminally ill; or
- iii) suffering from a long term condition.
- iv) Suffering from chronic disease

5.3.2 Essential Services that are delivered in the manner determined by the GP Practice following discussion with the Registered Patient; and

5.3.3 Appropriate ongoing treatment and care to all Registered Patients and temporary residents taking account of their specific needs including:

- i) advice in connection with the patient's health, including relevant health promotion advice;
- ii) the referral of the Registered Patient for other services under the Act; and
- iii) primary medical care services required in core hours for the immediately necessary treatment of any person to whom the Contractor has been requested to provide treatment owing to an accident or emergency at any place in the Practice Area.

5.4 For the purposes of the above section, "management" includes:

5.4.1 offering a consultation and, where appropriate, physical examination for the purpose of identifying the need, if any, for treatment or further investigation; and

5.4.2 making available such treatment or further investigation as is necessary and appropriate, including the referral of the patient for other services under the Act and liaison with other Health Care Professionals involved in the Registered Patient's treatment and care.

5.4.3 For the purposes of clause 5.3.3 (iii) "emergency" includes any medical emergency whether or not related to services provided under the Contract.

## 6. Immediately Necessary Treatment

6.1 The Contractor shall provide primary medical care services required in Opening Hours for the immediately necessary treatment of any person falling within the following conditions described below who requests such treatment, for the period specified

6.2A person falls within this paragraph if he is a person:

6.2.1 whose application for inclusion in the Contractor's List of Registered Patients has been refused in accordance with clause 31.17 of the APMS contract and who is not registered with another contractor of Essential Services (or their equivalent) in the Practice Area;

6.2.2 whose application for acceptance as a Temporary Resident has been rejected clause 31.17 of the APMS contract;

6.2.3 who is present in the Contractors Practice Area for less than twenty-four (24) hours.

6.3 The period referred to in 6.1 above is:

6.3.1 in the case of 6.2.1 above, fourteen (14) days beginning with the date on which that person's application was refused or until that person has been registered elsewhere for the provision of Essential Services (or their equivalent), whichever occurs first;

6.3.2 in the case of 6.2.2 above, fourteen (14) days beginning with the date on which that person's application was rejected or until that person has been subsequently accepted elsewhere as a Temporary Resident, whichever occurs first; and

6.3.3 in the case of 6.2.3 above, twenty-four (24) hours or such shorter period as the person is present in the Contractors Practice Area.

6.3 For the avoidance of doubt, Essential Services provided by the contractor is deemed to include wound care and suture removal.

6.5 The Contractor does not have to provide the services described in 5.3 and 6.1 during any period in respect of which the Care Quality Commission has suspended the Contractor as a service provider under section 18 of the Health and Social care Act 2008.

## **7 Additional Services**

7.1.1 The Contractor shall provide Additional Services as defined in the GMS contracts regulations as amended from time to time.

7.1.2 The Contractor shall provide Additional Services at such times, within APMS Core Hours, as are appropriate to meet the reasonable needs of Registered Patients and persons accepted by the Contractor as temporary residents

7.1.3 The Contractor shall have in place arrangements for Patients to access such services throughout the Opening Hours if clinically urgent and in case of emergency.

7.1.4 The Contractor shall provide such facilities and equipment as are necessary to enable it properly to perform each Additional Service that it provides.

7.1.5 The Additional Services the Contractor shall provide to Registered Patients and Temporary Residents are:

- i) Vaccinations and Immunisations;
- ii) Contraceptive Services;
- iii) Maternity Medical Services (excluding intra-partum care);
- iv) Child Health Surveillance Services;
- v) Cervical Screening Services;
- vi) Minor surgery; and
- vii) Childhood Immunisations and pre-school boosters.

## **7.2. Cervical screening**

7.2.1. The Contractor shall-

- (a) provide the services described in clause 7.2.2; and
- (b) make such records as are referred to in clause 7.2.3.

7.2.2. The services referred to in clause 7.2.1 are-

- (a) the provision of any necessary information and advice to assist women identified by the Board as recommended nationally for a cervical screening test in making an informed decision as to participation in the NHS Cervical Screening Programme;
- (b) the performance of cervical screening tests on women who have agreed to participate in that Programme;
- (c) arranging for women to be informed of the results of the test;
- (d) ensuring that test results are followed up appropriately.

7.2.3. The records referred to in clause 7.2.1 are an accurate record of the carrying out of a cervical screening test, the result of the test and any clinical follow up requirements.

## **7.3. Contraceptive services**

7.3.1. The Contractor shall make available the following services to all of its patients who request such services:

- (a) the giving of advice about the full range of contraceptive methods;
- (b) where appropriate, the medical examination of patients seeking such advice;

- (c) the treatment of such patients for contraceptive purposes and the prescribing of contraceptive substances and appliances (excluding the fitting and implanting of intrauterine devices and implants);
- (d) the giving of advice about emergency contraception and where appropriate, the supplying or prescribing of emergency hormonal contraception or, where the Contractor has a conscientious objection to emergency contraception, prompt referral to another provider of primary medical services who does not have such conscientious objections;
- (e) the provision of advice and referral in cases of unplanned or unwanted pregnancy, including advice about the availability of free pregnancy testing in the practice area and, where appropriate, where the Contractor has a conscientious objection to the termination of pregnancy, prompt referral to another provider of primary medical services who does not have such conscientious objections;
- (f) the giving of initial advice about sexual health promotion and sexually transmitted infections; and
- (g) the referral as necessary for specialist sexual health services, including tests for sexually transmitted infections.

#### **7.4. Vaccines and immunisations**

The Contractor must comply with clauses 7.4.1 to 7.4.4.

##### **7.4.1. The Contractor must—**

- (a) offer to provide to patients all vaccines and immunisations (other than childhood immunisations and the combined Haemophilus influenza type B and Meningitis C booster vaccine) of the type and in the circumstances set out in the GMS Statement of Financial Entitlements;
- (b) taking into account the individual circumstances of the patient, consider whether immunisation ought to be administered by the Contractor or other health professional or a prescription form ought to be provided for the purpose of the patient self-administering immunisation;

- (c) provide appropriate information and advice to patients about such vaccines and immunisations;
- (d) record in the patient's record any refusal of the offer referred to in sub-clause (a);
- (e) where the offer is accepted and immunisation is to be administered by the Contractor or other health professional, include in the patient's record the information specified in clause 7.4.2; and
- (f) where the offer is accepted and the immunisation is not to be administered by the Contractor or other health care professional, issue a prescription form for the purpose of self-administration by the patient.

7.4.2. The specified information referred to in clause 7.4.1(e) is—

- (a) the patient's consent to immunisation or the name of the person who gave consent to the immunisation and that person's relationship to the patient;
- (b) the batch numbers, expiry date and title of the vaccine;
- (c) the date of administration;
- (d) in a case where two vaccines are administered by injection in close succession, the route of administration and the injection site of each vaccine;
- (e) any contraindications to the vaccine or immunisation; and
- (f) any adverse reactions to the vaccine or immunisation.

7.4.3. The Contractor must ensure that all staff involved in the administration of immunisations are trained in the recognition and initial treatment of anaphylaxis.

7.4.4. In this clause 7.4, "patient records" means the record which is kept in accordance with clause 32 of the APMS Contract

## **7.5. Childhood vaccines and immunisations**

### **7.5.1. The Contractor shall-**

- (a) offer to provide to children all vaccines and immunisations of the type and in the circumstances which are set out in the GMS Statement of Financial Entitlements;
- (b) provide appropriate information and advice to patients and, where appropriate, their parents about such vaccines and immunisations;
- (c) record in the patient's record kept in accordance with clause 32 of the APMS Contract any refusal of the offer referred to in sub-clause (a).

### **7.5.2. Where the offer is accepted, administer the immunisations, and include in the patient's record kept in accordance with clause 32 of the APMS Contract**

- (a) the name of the person who gave consent to the immunisation and his relationship to the patient;
- (b) the batch numbers, expiry date and title of the vaccine;
- (c) the date of administration;
- (d) in a case where two vaccines are administered in close succession, the route of administration and the injection site of each vaccine;
- (e) any contraindications to the vaccine; and
- (f) any adverse reactions to the vaccine.

### **7.5.3. The Contractor shall ensure that all staff involved in administering vaccines are trained in the recognition and initial treatment of anaphylaxis.**

## **7.6. Child health surveillance**

### **7.6.1. The Contractor shall, in respect of any child under the age of five for whom it has responsibility under the Contract-**

- (a) provide the services described in clause 7.6.2, other than any examination so described which the parent refuses to allow the child to undergo, until the date upon which the child attains the age of five years; and
- (b) maintain such records as are specified in clause 7.6.3.

7.6.2. The services referred to in clause 7.6.1(a) are-

- (a) the monitoring -
  - (i) by the consideration of any information concerning the child received by or on behalf of the Contractor, and
  - (ii) on any occasion when the child is examined or observed by or on behalf of the Contractor (whether pursuant to sub-clause (b) or otherwise),  
of the health, well-being and physical, mental and social development (all of which characteristics are referred to in clause 7.6.3 as "development") of the child while under the age of 5 years with a view to detecting any deviations from normal development;
- (b) the examination of the child at a frequency that has been agreed with the Board in accordance with the nationally agreed evidence based programme set out in the revised fourth edition of "Health for all Children" (David Hall and David Elliman, September 2006, Oxford University Press ISBN 978-0-19-857084-4).

7.6.3. The records referred to in clause 7.6.1(b) are an accurate record of-

- (a) the development of the child while under the age of 5 years, compiled as soon as is reasonably practicable following the first examination of that child and, where appropriate, amended following each subsequent examination; and
- (b) the responses (if any) to offers made to the child's parent for the child to undergo any examination referred to in clause 7.6.2(b).

**7.7. Maternity medical services**

7.7.1. The Contractor shall-

- (a) provide to female patients who have been diagnosed as pregnant all necessary maternity medical services throughout the antenatal period;
- (b) provide to female patients and their babies all necessary maternity medical services throughout the postnatal period other than neonatal checks;
- (c) provide all necessary maternity medical services to female patients whose pregnancy has terminated as a result of miscarriage or abortion or, where the Contractor has a conscientious objection to the termination of pregnancy, prompt referral to another provider of primary medical services, who does not have such conscientious objections.

7.7.2. In clause 7.7.1 -

“antenatal period” means the period from the start of the pregnancy to the onset of labour,

“maternity medical services” means-

- (i) in relation to female patients (other than babies) all primary medical services relating to pregnancy, excluding intra partum care, and
- (ii) in relation to babies, any primary medical services necessary in their first 14 days of life, and

“postnatal period” means the period starting from the conclusion of delivery of the baby or the patient’s discharge from secondary care services, whichever is the later, and ending on the fourteenth day after the birth.

**7.8. Minor surgery**

7.8.1. The Contractor shall make available to patients where appropriate curettage and cautery and, in relation to warts, verrucae and other skin lesions, cryocautery.

7.8.2. The Contractor shall ensure that its record of any treatment provided pursuant to clause 7.8.1 includes the consent of the patient to that treatment.

## **7 Enhanced Services**

8.1 The Contractor shall:

8.1.1 provide all clinically appropriate NHS England commissioned Enhanced Services

8.1.2 accept any changes or amendments to the Enhanced Services as other participating GP Practices on the financial basis set out in the GMS Statement of Financial Entitlements.

## **9 Quality and Outcomes Framework (QOF)**

With regard to the Quality and Outcomes Framework (QOF) as defined in the GMS Contract Regulations and/or any future National Quality Framework, the Contractor shall:

9.1 participate in the QOF Scheme each year;

9.2 work towards gaining the maximum QOF points for each Contract Year

9.3 take all reasonable steps to minimise exception reporting and improve prevalence rates on practice registers;

9.4 set standards over and above the QOF requirements to ensure Patients continually receive the highest standards of clinical care

## **10 Health Promotion and Disease Prevention**

The Contractor shall:

10.1 provide services focusing on health promotion and disease prevention and work with the Commissioner, CCGs, Local Authority, other local GP practices and other health contractors on initiatives to promote health and prevent disease within the Commissioner's area;

- 10.2 ensure it has effective strategies for health promotion and disease prevention in place. These shall include but not be limited to:
  - 10.2.1 smoking;
  - 10.2.2 alcohol;
  - 10.2.3 obesity;
  - 10.2.4 lack of exercise;
  - 10.2.5 dietary habits; and
  - 10.2.6 sexual activity;
  - 10.2.7 teenage pregnancy.
- 10.3 identify and proactively screen and manage Patients at risk of developing long term conditions, cancers and sexually transmitted infections as well as those more likely to have unwanted pregnancies;
- 10.4 provide information about, and access to, self-management programmes for Registered Patients with long term conditions where appropriate;
- 10.5 identify local care pathways for Registered Patients with long term conditions to reduce inappropriate and unnecessary hospital admissions;
- 10.6 provide information and advice to Registered Patients on self-monitoring for long-term conditions;
- 10.7 have in place effective call and recall systems to manage Patients with long term conditions; and
- 10.8 make effective use of computer disease management templates to ensure the QOF Score is greater than the national average and in any event no less than 95% of the total maximum points available.
- 10.9 participate in expert Registered Patient programmes;
- 10.10 use computer-based disease management templates; and
- 10.11 Implement appropriate DH, NICE, MHRA and any other relevant guidelines (as amended from time to time) that apply to the provision of primary medical care services for Registered Patients.
- 10.12 For the purposes of this paragraph 10, "Long Term Conditions" shall be deemed to be those conditions that cannot at present be cured but which can be controlled by medication and other therapies.

10.13 The Contractor shall, at the minimum, be expected to achieve those standards in the key Public Health Targets including but not limited to:

- 10.13.1 flu vaccine uptake
- 10.13.2 pneumococcal vaccine uptake
- 10.13.3 shingles vaccine uptake
- 10.13.4 childhood vaccines uptake
- 10.13.5 cervical cytology screening
- 10.13.6 bowel screening
- 10.13.7 breast screening
- 10.13.8 diabetic retinopathy screening
- 10.13.9 abdominal aortic aneurism (AAA) screening
- 10.13.10 smoking cessation
- 10.13.11 obesity
- 10.13.12 alcohol consumption

### **Service Mobilisation / Transition Plan<sup>26</sup>**

The contractor shall ensure that those services and requirements described in this contract are implemented in accordance with the timetable and plan described below.

For the avoidance of doubt where any service or requirement is not specified in the Service Mobilisation / Transition Plan this shall be deemed to have been implemented by the contract commencement date.

This plan was proposed by the contractor as part of their successful tender bid and forms part of this contract.

**Please see attached annex – Annex A – Sandy Lane Mobilisation**

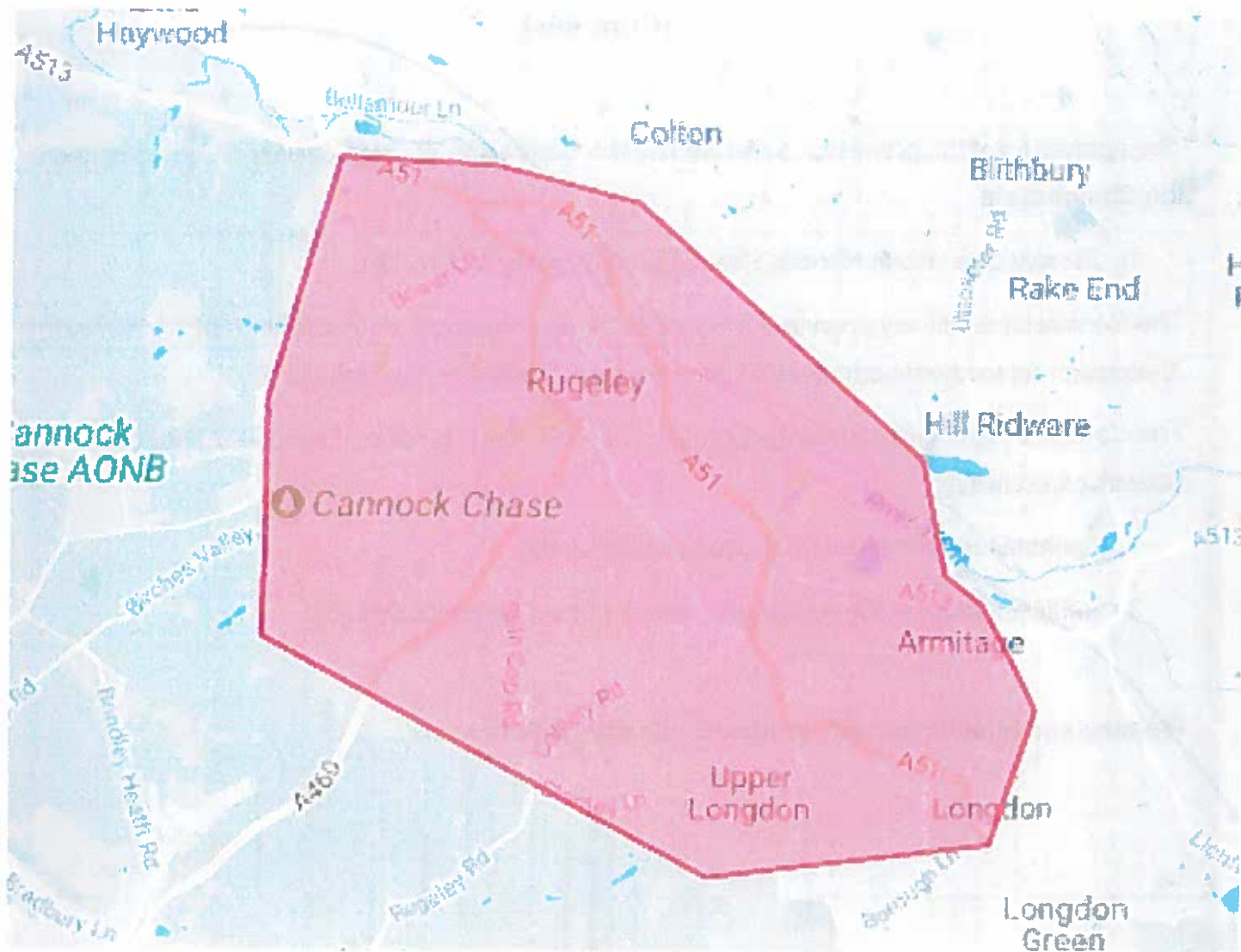
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<sup>26</sup> For local agreement

## Annex 1

### Patient Registration Area and Outer Boundary Area

Reference: Clause 31.2



**Schedule 3**  
**Practice Premises and Equipment**

**Part 1**  
**Premises**

The addresses of the premises to be used by the Contractor for the provision of Services under the Contract are:

1. Sandy Lane Health Centre, Sandy Lane, Rugeley, WS15 2EL

The Contractor shall only provide the Services at the addresses stated within Part 1 of Schedule 3, or such replacement addresses as may be agreed between the Parties.

The Contractor shall ensure that the premises used for the provision of services under the Contract are always:

1. Suitable for the delivery of those services; and
2. Sufficient to meet the reasonable needs of the Contract's Patients.

**Please see attached annex – Annex B –Sandy Lane Lease**

## Part 2

### Provisions relating to Loaned Equipment

<sup>27</sup>At the Commencement Date of this contract there is no<sup>28</sup> Loaned Equipment. Therefore the provisions in this Part 2 do not apply at Commencement

- 1.1 The Contractor shall be liable for and shall make good any damage to any Loaned Equipment caused by misdirection or misuse due to negligence on the part of the Contractor, his employees, contractors or agents or any other person or entity engaged by the Contractor and in the event that any such Loaned Equipment is beyond economic repair the Contractor shall at its own cost procure new replacements of equivalent specification or such other specification that the Commissioner may approve in writing.
- 1.2 The Commissioner shall not be liable for any damage to the Loaned Equipment caused by faulty operation or misuse of the Loaned Equipment.
- 1.3 The Commissioner shall have the right to withdraw any Loaned Equipment at any time and shall be under no liability whatsoever for failing to lend equipment at any time.
- 1.4 The Commissioner will grant to the Contractor on and from the Commencement Date, for the duration set out in paragraph 1.5, a non-exclusive, non-transferable licence to use any and all of the Loaned Equipment that may be required to enable the Contractor to carry out or otherwise perform the Services and any ancillary services. The Parties acknowledge and agree that the list of Loaned Equipment set out in Annex 1 to Schedule 3 has been compiled based on the information known to the Parties at the Commencement Date. The Parties acknowledge and agree that the list of Loaned Equipment set out in Part 2 of Schedule 3 may not be a complete list.
- 1.5 The licence granted pursuant to paragraph 1.4 shall terminate at the same time as this Contract. If this Contract is terminated (in whole or in part) for any reason in accordance with its terms, the licence shall terminate in respect of the Loaned Equipment and the Contractor shall at the Commissioner's request return the Loaned Equipment to the Commissioner in accordance with paragraph 1.12.

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<sup>27</sup> May be amended – for local agreement

<sup>28</sup> Delete within highlighted sections where applicable

**1.6 The Contractor shall not:**

- 1.6.1 sub-license to any sub-contractor (other than those approved in writing by the Commissioner);
- 1.6.2 assign or novate the benefit or burden of the licence set out in paragraph 1.4 in whole or in part;
- 1.6.3 allow the Loaned Equipment to become the subject of any charge, lien or encumbrance; and
- 1.6.4 deal in any manner with any of the Loaned Equipment which is inconsistent with its rights and obligations under paragraph 1.4,

without the prior written consent of the Commissioner, which shall not be unreasonably withheld.

**1.7 The Contractor shall:**

- 1.7.1 use the Loaned Equipment in accordance with manufacturer's instructions and any instructions provided by the Commissioner to the Contractor;
- 1.7.2 store the Loaned Equipment appropriately and in accordance with all applicable Law, good practice guidelines and any manufacturer's instructions;
- 1.7.3 establish and manage a planned preventative maintenance programme and make adequate and appropriate contingency arrangements for emergency remedial maintenance or substitute equipment;
- 1.7.4 keep the Loaned Equipment in good condition and repair;
- 1.7.5 maintain records of maintenance testing and certification of the Loaned Equipment, such records to be made available to the Commissioner as requested from time to time;
- 1.7.6 ensure the Loaned Equipment are only operated or used by properly trained and appropriately qualified operators (where applicable);
- 1.7.7 adequately insure all the Loaned Equipment.

- 1.8 Upon receiving written notice from the Commissioner, the Contractor will allow the Commissioner to conduct an inspection of the Loaned Equipment in order to ensure the Contractor is complying with its obligations set out in this paragraph 1.
- 1.9 Save to the extent caused or contributed to by the Commissioner, the Contractor shall indemnify and keep indemnified the Commissioner from and against all liability in respect of all losses, claims, charges, demands, liabilities, damages and expenses suffered by the Commissioner in respect of:
- 1.9.1 damage, loss or destruction of the Loaned Equipment;
  - 1.9.2 injury, harm or death of any person;
  - 1.9.3 damage to any Premises; or
  - 1.9.4 failure by the Contractor to comply with its obligations under paragraph 1.7.
- by reason of acts or omissions by the Contractor or those authorised by it when using the Loaned Equipment after the Commencement Date.
- 1.10 Save as otherwise provided in this Clause, the Contractor shall use the Loaned Equipment at its own risk and no liability shall attach to the Commissioner in respect of the use of the Loaned Equipment by the Contractor or otherwise.
- 1.11 The Parties agree that the Licence granted pursuant to paragraph 1.4 may be terminated in respect only of the Loaned Equipment affected by the relevant Licence Termination Event, by the Commissioner, immediately on notice to the Contractor, on the occurrence of any of the following events:
- 1.11.1 expiry or termination of any of this Contract, in whole or in part;
  - 1.11.2 the Contractor failing to comply with its obligations under this paragraph 1;
  - 1.11.3 there is a change in Law that requires the licensing arrangements to end; or
  - 1.11.4 the Contractor ceasing to exist or ceasing to carry on its business or any part of its business,
- (each a "Licence Termination Event") and the provisions of paragraph 1.12 shall apply.

- 1.12 Upon the occurrence of a Licence Termination Event, the Contractor shall return to the Commissioner the Loaned Equipment as soon as reasonably practicable in the same or similar condition as the Loaned Equipment was handed over to the Contractor on the Transfer Date, excepting fair wear and tear ("Return Conditions").
- 1.13 If the Contractor fails to return the Loaned Equipment to the Commissioner upon request, or any returned Loaned Equipment do not comply with the Return Conditions, then:
  - 1.13.1 the Commissioner shall be entitled to deduct an amount equal to the replacement value of any and all Loaned Equipment that are either not returned, or returned in a condition that does not meet the Return Conditions (as applicable) at the date of the expiry or termination, from any amounts payable by the Commissioner to the Contractor under this Contract; or
  - 1.13.2 the Contractor shall pay the Commissioner, on written notice from the Commissioner, an amount equal to the replacement value of the portion of the Loaned Equipment that were either not returned or returned in a condition that does not comply with the Return Conditions (as applicable) at the time such assets are returned to the Commissioner.

**Annex 1**  
**Loaned Equipment**

**Please see attached annex – Annex C – Sandy Lane Asset List PC**

## Schedule 4

### Finance<sup>29</sup>

#### Part 1: Payment calculations and timing

##### 1. Introduction

Part 1 of this schedule 4 explains the calculations and timing of the payments to be made under this Agreement.

##### 2. The payment to the Provider shall be built up from the following three elements:

- A core services payment
- A QOF payment, and
- Premise Costs payments

##### 2.1 Core Services Payment

2.1.1 The Provider will receive a payment for the provision of essential services, additional services and enhanced services which is calculated upon three elements:

2.1.1.1 The number of weighted patients on the Providers List of Registered Patients at the start of each quarter (i.e. 1<sup>st</sup> January, April, July and October) multiplied by the relevant Price Per Patient (Global Sum, currently as at 01/04/18 £88.96 per annum) note that this payment is for essential services and additional services);

2.1.1.2 Enhanced Services provided and paid in accordance with the Statement of Financial Entitlements.

The Contractor may deliver a range of Enhanced Services to its patients and others as specified in the individual Service Level Agreements to be determined and agreed between the CCG and the Provider on an annual basis. Such Enhanced Services are covered by separate formal agreements between the Parties and may vary from time to time.

##### 2.2 QOF Payment

The Provider shall receive a payment related to QOF which will be calculated on an identical basis to the QOF payment regime under the GMS contract (the "QOF Payment").

##### 2.3 Premises Costs Payments

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<sup>29</sup> For local agreement.

"All payments and regulations relating to premises will be in line with the NHS (General Medical Services – Premises Costs) Directions 2013 and the Statement of Financial Entitlements."

The Provider shall receive a monthly payment to reimburse the Provider for those costs incurred by the Provider but ultimately to be borne by relevant CCG e.g. reimbursement of rent, business and water rates.

### 3. Payment Distribution

3.1 To facilitate more even payments to the Provider during a Contract Year, every month the Provider shall receive a Budgeted Services Payment, and a Budgeted QOF Payment as well as the Budgeted Monthly Premises Costs Payments all of which shall be calculated for the Contract Month in question.

3.2 At the end of each Contract Year, an annual reconciliation shall be undertaken, which shall calculate the difference between what has been paid to the Provider and what should have been paid to the Provider. An Annual Payment Adjustment shall then be made in line with actual activity.

### 4. Inflation

There will be an increase/decrease by the same factor as the annual increase (or decrease) of General Medical Practitioners (GMP) pay as set out in the annual report published by the Doctors' and Dentists Review Body (DDRB).

## Payment Mechanism

### Part 2: Method of Payment

#### 1 Payment Arrangements

Payments to the provider will be made monthly by BACS and will be made on or before the 15<sup>th</sup> day of the month.

#### 2 Payment Dispute

2.1 If either party has a bona fide Dispute in respect of the whole or any part of the payments made under this agreement, then the party shall immediately notify the other party of the nature of the Dispute in writing providing all relevant details supporting the disputed payment(s).

- 2.2 The parties shall cooperate in good faith to resolve the Dispute over the payments as amicably and promptly as possible in accordance with the Dispute Resolution Procedure and on settlement of any Dispute NHS England shall make the appropriate payment in accordance with this Agreement.
- 2.3 With respect to any settled amount, any agreed period within which payments are due to be made shall commence on the date on which the Dispute is resolved and payments of any settled amount shall only be deemed to be late after the period given for payment of the settled amount has elapsed.
- 2.4 If any sums are due to NHS England from the Provider, then NHS England shall be entitled to exercise the right to setoff such sums against any payments due to the Provider from NHS England under or in relation to this or any other Agreement. The Provider shall not be entitled to apply any amount due to NHS England under this Agreement in or towards payment of any sum owing by NHS England to the Provider in relation to any matter whatsoever.

## Schedule 5

### Part 2: Minimum Insurance Requirements

#### Reference Clause 52

The minimum insurance required under clause 52 is set out below<sup>30</sup>.

<b>Class</b>	<b>Minimum Sum Insured</b>
Public Liability	£5,000,000 (five million pounds sterling) for any one claim and unlimited in the aggregate
Employers Liability	£10,000,000 (ten million pounds sterling) any one claim
Property All Risks	Reinstatement as new cost on buildings, fixtures, fittings and contents in relation to damage to property used for or in connection with the ownership, maintenance and operation of the Practice Premises and provision of the Services.
Clinical Negligence	£5,000,000 (five million pounds sterling) for any one claim with an aggregate limit of at least £10,000,000 (ten million pounds sterling).

<sup>30</sup> For local agreement. An assessment should be made in each set of circumstances as to the appropriate level of cover.

## **Schedule 6**

### **Complaints Procedure**

#### **1. Arrangements for the handling and consideration of complaints**

- (1) The Contractor must make arrangements ("arrangements for dealing with complaints") in accordance with this Schedule for the handling and consideration of complaints.
- (2) The arrangements for dealing with complaints must be such as to ensure that—
  - (a) complaints are dealt with efficiently;
  - (b) complaints are properly investigated;
  - (c) complainants are treated with respect and courtesy;
  - (d) complainants receive, so far as is reasonably practical—
    - (i) assistance to enable them to understand the procedure in relation to complaints; or
    - (ii) advice on where they may obtain such assistance;
  - (e) complainants receive a timely and appropriate response;
  - (f) complainants are told the outcome of the investigation of their complaint; and
  - (g) action is taken if necessary in the light of the outcome of a complaint.

#### **2. Responsibility for complaints arrangements**

- (1) The Contractor must designate—
  - (a) a responsible person, to be responsible for ensuring compliance with the arrangements made under this Schedule, and in particular ensuring that action is taken if necessary in the light of the outcome of a complaint; and
  - (b) a complaints manager, to be responsible for managing the procedures for handling and considering complaints in accordance with the arrangements made under this Schedule.
- (2) The functions of the responsible person may be performed by any person authorised by the Contractor to act on behalf of the responsible person.
- (3) The functions of the complaints manager may be performed by any person authorised by the Contractor to act on behalf of the complaints manager.
- (4) The responsible person is to be:

- (a) the person who acts as the chief executive officer of the Contractor or, if none—
  - (i) the person who is the sole proprietor of the Contractor;
  - (ii) where the Contractor is a partnership, a partner; or
  - (iii) in any other case, a director of the Contractor, or a person who is responsible for managing the Contractor.
- (5) The complaints manager may be—
  - (a) a person who is not an employee of the Contractor;
  - (b) the same person as the responsible person.

### **3. Persons who may make complaints**

- (1) A complaint may be made by—
  - (a) a person who receives or has received services from the Contractor; or
  - (b) a person who is affected, or likely to be affected, by the action, omission or decision of the Contractor which is the subject of the complaint.
- (2) A complaint may be made by a person (in this regulation referred to as a representative) acting on behalf of a person mentioned in paragraph (1) who—
  - (a) has died;
  - (b) is a child;
  - (c) is unable to make the complaint themselves because of—
    - (i) physical incapacity; or
    - (ii) lack of capacity within the meaning of the Mental Capacity Act 2005; or
  - (d) has requested the representative to act on their behalf.
- (3) Where a representative makes a complaint on behalf of a child, the Contractor—
  - (a) must not consider the complaint unless it is satisfied that there are reasonable grounds for the complaint being made by a representative instead of the child; and
  - (b) if it is not so satisfied, must notify the representative in writing, and state the reason for its decision.
- (4) This paragraph applies where—
  - (a) a representative makes a complaint on behalf of—
    - (i) a child; or

- (ii) a person who lacks capacity within the meaning of the Mental Capacity Act 2005; and
  - (b) the Contractor is satisfied that the representative is not conducting the complaint in the best interests of the person on whose behalf the complaint is made.
- (5) Where paragraph (4) applies—
  - (a) the complaint must not be considered or further considered under this Schedule; and
  - (b) the Contractor must notify the representative in writing, and state the reason for its decision.
- (6) In this Schedule any reference to a complainant includes a reference to a representative.

#### **4. Time limit for making a complaint**

- (1) Except as mentioned in paragraph (2), a complaint must be made not later than 12 months after—
  - (a) the date on which the matter which is the subject of the complaint occurred; or
  - (b) if later, the date on which the matter which is the subject of the complaint came to the notice of the complainant.
- (2) The time limit in paragraph (1) shall not apply if the Contractor is satisfied that—
  - (a) the complainant had good reasons for not making the complaint within that time limit; and
  - (b) notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.

#### **5. Procedure before investigation**

- (1) A complaint may be made orally, in writing or electronically.
- (2) Where a complaint is made orally, the Contractor must—
  - (a) make a written record of the complaint; and
  - (b) provide a copy of the written record to the complainant.
- (3) The Contractor must acknowledge the complaint not later than 3 working days after the day on which it receives the complaint.

- (4) Where the Contractor receives a complaint sent to it by the Commissioner or another responsible body (as defined in the Complaints Regulations), the complaint must be acknowledged by the Contractor not later than 3 working days after the day on which it receives the complaint.
- (5) The acknowledgement may be made orally or in writing.
- (6) At the time it acknowledges the complaint, the Contractor must offer to discuss with the complainant, at a time to be agreed with the complainant—
  - (a) the manner in which the complaint is to be handled; and
  - (b) the period (“the response period”) within which—
    - (i) the investigation of the complaint is likely to be completed; and
    - (ii) the response is likely to be sent to the complainant.
- (7) If the complainant does not accept the offer of a discussion, the Contractor must—
  - (a) determine the response period specified in paragraph (6)(b); and
  - (b) notify the complainant in writing of that period.

## **6. Investigation and response**

- (1) A Contractor to which a complaint is made must—
  - (a) investigate the complaint in a manner appropriate to resolve it speedily and efficiently; and
  - (b) during the investigation, keep the complainant informed, as far as reasonably practicable, as to the progress of the investigation.
- (2) As soon as reasonably practicable after completing the investigation, the Contractor must send the complainant in writing a response, signed by the Contractor, which includes—
  - (a) a report which includes the following matters—
    - (i) an explanation of how the complaint has been considered; and
    - (ii) the conclusions reached in relation to the complaint, including any matters for which the complaint specifies, or the Contractor considers, that remedial action is needed; and
  - (b) confirmation as to whether the Contractor is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken;
  - (c) details of the complainant's right to take their complaint to the Health Service Commissioner under the Health Service Commissioners Act 1993.

- (3) In paragraph (4), "relevant period" means the period of 6 months commencing on the day on which the complaint was received, or such longer period as may be agreed before the expiry of that period by the complainant and the Contractor.
- (4) If the Contractor does not send the complainant a response in accordance with paragraph (2) within the relevant period, the Contractor must—
  - (a) notify the complainant in writing accordingly and explain the reason why; and
  - (b) send the complainant in writing a response in accordance with paragraph (2) as soon as reasonably practicable after the relevant period.

## **7. Form of communications**

- (1) Any communication which is required by this Schedule to be made to a complainant may be sent to the complainant electronically where the complainant—
  - (a) has consented in writing or electronically; and
  - (b) has not withdrawn such consent in writing or electronically.
- (2) Any requirement in this Schedule for a document to be signed by a person is satisfied, in the case of a document which is sent electronically in accordance with this Schedule, by the individual who is authorised to sign the document typing their name or producing their name using a computer or other electronic means.

## **8. Publicity**

The Contractor must make information available to the public as to—

- (a) its arrangements for dealing with complaints; and
- (b) how further information about those arrangements may be obtained.

## **9. Monitoring**

For the purpose of monitoring the arrangements under this Schedule the Contractor must maintain a record of the following matters—

- (a) each complaint received;
- (b) the subject matter and outcome of each complaint; and
- (c) where the Contractor informed the complainant of—
  - (i) the response period specified in paragraph 5(6)(b); or
  - (ii) any amendment to that period,

whether a report of the outcome of the investigation was sent to the complainant within that period or any amended period.

#### 10. Annual reports

- (1) The Contractor must prepare an annual report for each year which must—
  - (a) specify the number of complaints which the Contractor received;
  - (b) specify the number of complaints which the Contractor decided were well-founded;
  - (c) specify the number of complaints which the Contractor has been informed have been referred to—
    - (i) the Health Service Commissioner to consider under the Health Service Commissioners Act 1993; and
  - (d) summarise—
    - (i) the subject matter of complaints that the Contractor received;
    - (ii) any matters of general importance arising out of those complaints, or the way in which the complaints were handled;
    - (iii) any matters where action has been or is to be taken to improve services as a consequence of those complaints.
- (2) In paragraph (1), "year" means a period of 12 months ending with 31st March.
- (3) The Contractor must ensure that its annual report is available to any person on request.
- (4) The Contractor must send a copy of its annual report to the Commissioner.
- (5) The copy of the annual report required to be sent in accordance with paragraph (5) must be sent as soon as reasonably practicable after the end of the year to which the report relates.

**Schedule 7**  
**Performance Management<sup>31</sup>**

**To be agreed locally**

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<sup>31</sup> For local agreement.

## **Annex 1**

### **Annual Report**

The Contractor agrees to provide a report on an annual basis as requested by the Commissioner. The Template for the Annual Report shall be provided by the Commissioner no later than 9 months after the Commencement Date.<sup>32</sup>

**To be agreed locally**

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<sup>32</sup> Or for local agreement if provisions can be specified or agreed by alternative means.

## Schedule 8 Administration

The following person is the Commissioner's Representative and is authorised to act on behalf of the Commissioner on all matters relating to the Contract:

[REDACTED]

Title: Primary Care Lead

The Contractor's Representative shall be:

[REDACTED]

Title: Senior GP Partner

All correspondence relating to the Contract shall be dated and sent to the Commissioner's Representative or the Contractor's Representative at the postal or email addresses notified to the other party from time to time.

The Commissioner and the Contractor shall appoint Representatives from time to time who are authorised to act on behalf of the Commissioner and Contractor on all matters relating to the Contract.

The Commissioner and Contractor shall notify the other party of the identity of their respective Representative(s) and of any change of such Representative(s) as soon as reasonably practicable.

For the purposes of clause 81.2 (Confidential Information), the relevant timescale shall be [2 years for all classes of information]<sup>33</sup>.

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<sup>33</sup> Consideration should be paid in each case as to the nature of information likely to be affected.

## Schedule 9

### Particulars for Practice Leaflet

A practice leaflet shall include:

1. In the case of a Contract with a partnership:
  - a. the name of the Contractor;
  - b. in the case of a Contract with a partnership, whether or not it is a limited partnership; and
  - c. the names of all the partners and, in the case of a limited partnership, their status as a general or limited partner.
2. In the case of a Contract with a company:
  - a. the names of the directors, the company secretary and the shareholders of that company; and
  - b. the address of the company's registered office.
3. The full name of each person performing Services under the Contract.
4. In the case of each Health Care Professional performing services under the Contract his professional qualifications.
5. Whether the Contractor undertakes the teaching or training of Health Care Professionals or persons intending to become health care professionals.
6. The Contractor's Patient Registration Area, including the area known as the Outer Boundary Area, by reference to a sketch diagram, plan or postcode.
7. The address of each of the Practice Premises.
8. The Contractor's telephone and fax number and the address of its website (if any).
9. Whether the Practice Premises have suitable access for all disabled patients and, if not, the alternative arrangements for providing services to such Patients.

10. How to register as a Patient.
11. The right of Patients to express a preference of practitioner and the means of expressing such a preference.
12. The services available under the Contract.
13. The opening hours of the Practice Premises and the method of obtaining access to services throughout the Core Hours.
  - (i) The criteria for home visits and the method of obtaining such a visit.
  - (ii) The consultations available to Patients.
14. The arrangements for services in the Out of Hours period (whether or not provided by the Contractor) and how the Patient may access such services.
15. Where the services referred to in paragraph 14 are not provided by the Contractor, the fact that the Commissioner is responsible for commissioning the services.
16. The method by which Patients are to obtain repeat prescriptions.
17. If the Provider offers Repeatable Prescribing Services, the arrangements for providing such services.
18. If the Provider is a dispensing Provider the arrangements for dispensing prescriptions.
19. How Patients may make a complaint or comment on the provision of service.
20. The rights and responsibilities of the Patient, including keeping appointments.
21. The action that may be taken where a Patient is violent or abusive to the Provider or his staff or other persons on the Practice Premises.
22. Details of who has access to Patient information (including information from which the identity of the individual can be ascertained) and the Patient's rights in relation to disclosure of such information.
23. The name, address and telephone number of the Commissioner.

24. Information about the assignment by the Contractor to its new and existing Patients of an Accountable GP in accordance with clauses 31.133 to 31.141.
25. Information about the assignment by the Contractor to its Patients aged 75 and over of an Accountable GP under clauses 31.121 to 31.124.

**Schedule 10**  
**TUPE, Tendering and Handover<sup>34</sup>**

**Please see attached annex – Annex D – TUPE Information Sandy Lane**

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<sup>34</sup> For local agreement.

## **Schedule 11**

### **Dispute Resolution Procedure**

#### **Escalated Negotiation**

1. If any Dispute arises, the Parties must first attempt to settle it by either of them making a written offer to the other to negotiate. During the Negotiation Period the Parties must negotiate and be represented:
  - 1.1. for the first 10 Operational Days, by a senior person who where practicable has not had any direct day-to-day involvement in the matter and has authority to settle the Dispute; and
  - 1.2. for the last 5 Operational Days, by their chief executive, director, or member of their Governing Body, as the case may be, who has authority to settle the Dispute.
2. Where practicable, neither Party shall be represented by the same individual under it paragraphs 1.1 and 1.2.

#### **Mediation**

3. If the Parties are unable to settle the Dispute by negotiation, they must, within 5 Operational Days after the end of the Negotiation Period, submit the Dispute:
  - 3.1. to mediation arranged jointly by the NHSTDA and the Commissioner where the Contractor is an NHS Trust; or
  - 3.2. to mediation by CEDR or other independent body or organisation agreed between the Parties in all other cases.
4. In the case of a mediation under paragraph 3.1:
  - 4.1. during the mediation phase and before the mediation session, each Party must submit to the mediator within 5 Operational Days of the mediator's request a signed position statement describing the precise points on which the Parties disagree, and describing its solution to the Dispute;

- 4.2. where the mediator is satisfied that the nature of the Dispute has been adequately documented in accordance with General Condition 4.1, the mediator will allow each Party 5 Operational Days in which to comment to him in writing on the other Party's solution to the Dispute;
- 4.3. the mediator may, in their absolute discretion, require either Party to clarify any aspects of its signed position statement and upon receipt of that clarification, will forward the clarification to the other Party;
- 4.4. following distribution by the mediator of the signed position statements and any clarification to the Parties, the mediator will arrange a mediation session at a venue chosen by the mediator to facilitate mediation and settlement of the Dispute. The mediation session will be fixed for a date at least 10 Operational Days following receipt by both Parties of the other Party's signed position statement and any clarification;
- 4.5. each Party must make an opening presentation of its position to the other party and the mediator will then meet each of the Parties separately for such time as the mediator considers appropriate and will determine the procedure of the mediation session. Neither Party will terminate its participation in the mediation session until after the opening presentations have been given and the mediator has met both Parties separately;
- 4.6. the Parties must keep confidential and not disclose or use for any other purpose any information, whether given orally, in writing or otherwise, arising out of or in connection with the mediation, including the fact of any settlement and its terms, except for the fact that the mediation is to take place or has taken place; and
- 4.7. all information, whether oral, in writing or otherwise, arising out of or in connection with the mediation will be inadmissible in any current or subsequent litigation or other proceedings. This paragraph 4.7 will not apply to any information which would in any event have been admissible in any such proceedings.

- 4.8. Mediations under paragraph 3.2 must follow the mediation process of CEDR or other independent body or organisation as agreed between the Parties in accordance with clause 3.2.

#### **Expert Determination**

- 4.9. If the Parties are unable to settle the Dispute through mediation, the Dispute must be referred to expert determination, by one Party giving written notice to that effect to the other Party following closure of the failed mediation. The Expert Determination Notice must include a brief statement of the issue or issues which it is desired to refer, the expertise required in the expert, and the solution sought.
- 4.10. If the Parties have agreed upon the identity of an expert and the expert has confirmed in writing their readiness and willingness to embark upon the expert determination, then that person will be appointed as the Expert.
- 4.11. Where the Parties have not agreed upon an expert, or where that person has not confirmed their willingness to act, then either Party may apply to CEDR for the appointment of an expert. The request must be in writing, accompanied by a copy of the Expert Determination Notice and the appropriate fee and must be copied simultaneously to the other Party. The other Party may make representations to CEDR regarding the expertise required in the expert. The person nominated by CEDR will be appointed as the Expert.
- 4.12. The Party serving the Expert Determination Notice must send to the Expert and to the other Party within 5 Operational Days of the appointment of the Expert a statement of its case, including a copy of the Expert Determination Notice, the Contract, details of the circumstances giving rise to the Dispute, the reasons why it is entitled to the solution sought, and the evidence upon which it relies. The statement of case must be confined to the issues raised in the Expert Determination Notice.
- 4.13. The Party not serving the Expert Determination Notice must reply to the Expert and to the other Party within 5 Operational Days of receiving the statement of

case, giving details of what is agreed and what is disputed in the statement of case and the reasons why.

- 4.14. The Expert must produce a written decision with reasons within 30 Operational Days of receipt of the statement of case referred to in paragraph 4.13, or any longer period as is agreed by the Party after the Dispute has been referred.
- 4.15. The Expert will have complete discretion as to how to conduct the expert determination, and will establish the procedure and timetable.
- 4.16. The Party must comply with any request or direction of the Expert in relation to the expert determination.
- 4.17. The Expert must decide the matters set out in the Expert Determination Notice, together with any other matters which the Parties and the Expert agree are within the scope of the expert determination. The Expert must send their decision in writing simultaneously to both Parties. Within 5 Operational Days following the date of the decision the Parties must provide the Expert and the other Party with any requests to correct minor clerical errors or ambiguities in the decision. The Expert must correct any minor clerical errors or ambiguities at their discretion within a further 5 Operational Days and send any revised decision simultaneously to the Parties in Dispute.
- 4.18. The Parties must bear their own costs and expenses incurred in the expert determination and are jointly liable for the costs of the Expert.
- 4.19. **The decision of the Expert is final and binding**, except in the case of fraud, collusion, bias, or material breach of instructions on the part of the Expert, in which case a Party will be permitted to apply to Court for an Order that:
  - 4.19.1. the Expert reconsider his decision (either all of it or part of it); or
  - 4.19.2. the Expert's decision be set aside (either all of it or part of it).
- 4.20. If a Party in Dispute does not abide by the Expert's decision the other Parties may apply to Court to enforce it.

- 4.21. All information, whether oral, in writing or otherwise, arising out of or in connection with the expert determination will be inadmissible as evidence in any current or subsequent litigation or other proceedings whatsoever, with the exception of any information which would in any event have been admissible or disclosable in any such proceedings.
- 4.22. The Expert is not liable for anything done or omitted in the discharge or purported discharge of their functions, except in the case of fraud or bad faith, collusion, bias, or material breach of instructions on the part of the Expert.
- 4.23. The Expert is appointed to determine the Dispute or Disputes between the Parties and the Expert's decision may not be relied upon by third parties, to whom the Expert shall have no duty of care.

## Schedule 11

## Quality and Outcomes Framework – Indicators no longer in the Quality and Outcomes Framework

<i>Indicator ID</i>	<i>Indicator Description</i>
<i>Clinical domain</i>	
CHD003	The percentage of patients with coronary heart disease whose last measured total cholesterol (measured in the preceding 12 months) is 5mmo/l or less
CKD002	The percentage of patients in the CKD register in whom the last blood pressure reading (measured in the preceding 12 months) is 140/85 mmHg or less
CKD004	The percentage of patients in the CKD register whose notes have a record of a urine albumin:creatinine ratio (or protein:creatinine ratio) test in the preceding 12 months
NM84	The percentage of patients on the CKD register with hypertension and proteinuria who are currently treated with renin-angiotensin system antagonists
DEP001	The percentage of patients aged 18 or over with a new diagnosis of depression in the preceding 1 <sup>st</sup> April to 31 <sup>st</sup> March, who have had a bio-psychosocial assessment by the point of diagnosis. The completion of the assessment is to be recorded on the same day as the diagnosis is recorded.
DM005	The percentage of patients with diabetes, on the register, who have a record of an albumin:creatinine ratio test in the preceding 12 months
DM011	The percentage of patients with diabetes, on the register, who have a record of retinal screening in the preceding 12 months
DM016	The percentage of male patients with diabetes, on the register, who have a record of erectile dysfunction with a record of advice and assessment of contributory factors and treatment options in the preceding 12 months
EP002	The percentage of patients aged 18 or over on drug treatment for epilepsy who have been seizure free for the last 12 months recorded in the preceding 12 months
EP003	The percentage of women aged 18 or over and who have not attained the age of 55 who are taking antiepileptic who have a record of information and counselling about contraception, conception and pregnancy in the preceding 12 months
HYP003	The percentage of patients aged 79 or under with hypertension in whom the last blood pressure reading (measured in the preceding 9 months) is 140/90mmHg or less

HYP004	The percentage of patients with hypertension aged 16 or over and who have not attained the age of 75 in whom there is an assessment of physical activity, using, GPPAQ, in the preceding 12 months
HYP005	The percentage of patients with hypertension aged 16 or over and who have not attained the age of 75 who score 'less than active' on GPPAQ in the preceding 12 months, who also have a record of a brief intervention in the preceding 12 months
LD002	The percentage of patients in the learning disability register with Down's Syndrome aged 18 or over who have a record of blood TSH in the preceding 12 months (excluding those who are on the thyroid disease register)
MH004	The percentage of patients aged 40 or over with schizophrenia, bipolar affective disorder and other psychoses who have a record of total cholesterol:hdl ratio in the preceding 12 months
MH005	The percentage of patients aged 40 or over with schizophrenia, bipolar affective disorder and other psychoses who have a record of blood glucose or HbA1c in the preceding 12 months
MH006	The percentage of patients with schizophrenia, bipolar affective disorder and other psychoses who have a record of BMI in the preceding 12 months
PAD003	The percentage of patients with peripheral arterial disease in whom the last measured total cholesterol (measured in the preceding 12 months) is 5 mmol/l or less
RA003	The percentage of patients with rheumatoid arthritis aged 30 or over and who have not attained the age of 85 who have had a cardiovascular risk assessment using a CVD risk assessment tool adjusted for RA in the preceding 12 months
RA004	The percentage of patients aged 50 or over and who have not attained the age of 91 with rheumatoid arthritis who have had an assessment of fracture risk using a risk assessment tool adjusted for RA in the preceding 24 months
STIA004	The percentage of patients with stroke or TIA who have a record of total cholesterol in the preceding 12 months
STIA005	The percentage of patients with a stroke shown to be non-haemorrhagic, or a history of TIA whose last measured total cholesterol (measured in the preceding 12 months) is 5 mmol/l or less
THY001	The contractor establishes and maintains a register of patients with hypothyroidism who are currently treated with levothyroxine
THY002	The percentage of patients with hypothyroidism, on the register, with thyroid function tests recorded in the preceding 12 months
<i>Public Health Domain</i>	
CVD-	The percentage of patients diagnosed with hypertension (diagnosed after on or after 1 <sup>st</sup> April 2009) who are given lifestyle advice in the preceding 12

PP002	months for smoking cessation, safe alcohol consumption and healthy diet
CON002	The percentage of women, on the register, prescribed an oral or patch contraception method in the preceding 12 months who have also received information from the contractor about long acting reversible methods of contraception in the preceding 12 months
SMOK001	The percentage of patients aged 15 or over whose roles record smoking status in the preceding 24 months.

**ANNEX A**

**SANDY LANE MOBILISATION**

