



# **NHS England Standard General Medical Services Contract 2015/16**

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# **NHS England Standard General Medical Services Contract**

*The text of the Standard General Medical Services Contract has been approved by the National Health Service Commissioning Board and by the BMA.*

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The NHS Commissioning Board (NHS CB) was established on 1 October 2012 as an executive non-departmental public body. Since 1 April 2013, the NHS Commissioning Board has used the name NHS England for operational purposes.

“Promoting equality and addressing health inequalities are at the heart of NHS England’s values. Throughout the development of the policies and processes cited in this document, we have:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it;
- Given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities.”

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**THIS CONTRACT** is made on the                      day of                      20[ ]  
**BETWEEN**

- (1) The NHS Commissioning Board whose name and address appears at Schedule 1 to this Contract (called “the Board”) and
- (2) The contractor(s) whose name(s) appear(s) at Schedule 1 to this Contract (called “the Contractor”)

## **BACKGROUND**

- A. The Board is a statutory body established by section 1H of the National Health Service Act 2006.<sup>1</sup> It is the duty of the Board to exercise its powers so as to secure the provision of primary medical services throughout England.
- B. In order to achieve this object, the Board is empowered by Part 4 the National Health Service Act 2006, and the regulations made there under<sup>2</sup>, to enter into a general medical services contract with specified categories of person.
- C. By virtue of a property transfer scheme made under s.300 of the Health and Social Care Act 2012, a general medical services contract which was entered into before 1st April 2013 is to transfer to the Board on that date.
- D. The Contractor falls within one of the specified categories of person.
- E. The Board and the Contractor wish to enter into a general medical services contract under which the Contractor is to provide primary medical services and other services in accordance with the provisions of this Contract.

## **1 PART 1<sup>3</sup>**

### **1.1 Definitions and Interpretation**

- 1.1. The following terms and phrases shall have the following meanings for the purposes of this Contract:

“**1977 Act**” means the National Health Service Act 1977;

“**2006 Act**” means the National Health Service Act 2006;

“**2012 Act**” means the Health and Social Care Act 2012;

“**accountable GP**” means a *general medical practitioner* assigned to a *registered patient* in accordance with clauses 7.7B.1 and 7.9.3;

“**additional services**” means one or more of-

- (a) *cervical screening services*;
- (b) *contraceptive services*;
- (c) *vaccines and immunisations*;

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<sup>1</sup> Section 1H is inserted by section 9 of the Health and Social Care Act 2012

<sup>2</sup> The National Health Service (General Medical Services Contracts) Regulations 2004. Please also see *the Transitional Order* which, amongst other matters, sets out certain categories of persons who are entitled to a GMS Contract and, where such entitlement exists, this Order specifies particular requirements as to the terms of the GMS Contract to be entered into.

<sup>3</sup> Part 1 is not required by *the Regulations*, but is recommended.

- (d) *childhood vaccines and immunisations;*
- (e) *child health surveillance services;*
- (f) *maternity medical services; and*
- (g) *minor surgery;*

**“adjudicator”** means *the Secretary of State* or a person or persons appointed by *the Secretary of State* under section 9(8) of *the 2006 Act* or paragraph 101(5) of Schedule 6 to *the Regulations*;

**“advanced electronic signature”** means an electronic signature which is—

- (a) uniquely linked to the signatory,
- (b) capable of identifying the signatory,
- (c) created using means that the signatory can maintain under his sole control, and
- (d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;

**“appliance”** means an appliance which is included in a list for the time being approved by *the Secretary of State* for the purposes of section 126 of *the 2006 Act*;

**“approved medical practice”** has the same meaning as in section 11 of the Medical Act 1983;

**“armed forces GP”** means a medical practitioner who is employed on a contract of service by the Ministry of Defence, whether or not as a member of the *armed forces of the Crown*;

**“armed forces of the Crown”** means the forces that are “regular forces” or “reserve forces” within the meaning given in section 374 of the Armed Forces Act 2006 (definitions applying for the purposes of the whole Act);

**“assessment panel”** means a panel appointed by the Board under paragraph 35(3) of Schedule 6 to *the Regulations*;

**“bank holiday”** means any day that is specified or proclaimed as a bank holiday in England and Wales pursuant to section 1 of the Banking and Financial Dealings Act 1971;

**“batch issue”** means a form, in the format required by the Board and approved by *the Secretary of State* which-

- (a) is issued by a *repeatable prescriber* at the same time as a *non-electronic repeatable prescription* to enable a *chemist* to receive payment for the provision of *repeat dispensing services*;
- (b) relates to a particular *non-electronic repeatable prescription* and contains the same date as that prescription;
- (c) is generated by a computer and not signed by a *repeatable prescriber*;
- (d) is issued as one of a sequence of forms, the number of which is equal to the number of occasions on which the drugs, medicines or

appliances ordered on the *non-electronic repeatable prescription* may be provided, and

- (e) has included on it a number denoting its place in the sequence referred to in sub-clause (d);

**“Care Quality Commission”** means the body established by section 1 of the Health and Social Care Act 2008;

**“CCG”** means a clinical commissioning group;

**“CCT”** means Certificate of Completion of Training awarded under section 34L(1) of the Medical Act 1983 including any such certificate awarded in pursuance of the competent authority functions of the General Medical Council specified in section 49B of, and Schedule 4A to, that Act;

**“cervical screening services”** means the services described in clause 9.2.2;

**“the Charges Regulations”** means the National Health Service (Charges for Drugs and Appliances) Regulations 2015;

**“charity trustee”** means one of the persons having the general control and management of the administration of a charity;

**“chemist”** means-

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

who is included in the list of the Board or a *Local Health Board* under section 129 of *the 2006 Act*, or who provides *local pharmaceutical services* in accordance with *LPS arrangements*;

**“child”** means a person under the age of 16 years;

**“child health surveillance services”** means the services described in clause 9.6.2;

**“childhood vaccines and immunisations”** means the services described in clauses 9.5.1 to 9.5.2;

**“chiropodist independent prescriber”** means a chiropodist who is registered in Part 2 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 chiropodist is qualified to order drugs and appliances as a chiropodist independent prescriber;

**“clinical correspondence”** means all correspondence in writing, whether in electronic form or otherwise, between the Contractor and other health service providers concerning or arising out of patient attendance and treatment at *practice premises* including referrals made by letter or by any other means;



**“closed”** in relation to the *Contractor’s list of patients*, means closed to application for inclusion in the list of patients other than from *immediate family members of registered patients*;

**“complete course”** means the course of treatment appropriate to the patient’s condition, being the same as the amount that would have been prescribed if the patient had been seen during *core hours*;

**“contraceptive services”** means the services described in clause 9.3;

**“Contract”** means this Contract between the Board and the Contractor named in Schedule 1;

**“Contractor’s list of patients”** means the list prepared and maintained by the Board under clause 13.4.3;

**“core hours”** means 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*;

**“default contract”** means a contract with a *Primary Care Trust* made pursuant to article 13 of *the Transitional Order* which transferred to the Board as a consequence of a property transfer scheme made under section 300 of *the 2012 Act*;

**“disease”** means a disease included in the list of three-character categories contained in the tenth revision of the International Statistical Classification of Diseases and Related Health Problems (published by the World Health Organisation, a copy of which can be found at: [http://www.who.int/classifications/icd/ICD10Volume2\\_en\\_2010.pdf](http://www.who.int/classifications/icd/ICD10Volume2_en_2010.pdf));

**“dispenser”** means a *chemist*, medical practitioner or contractor whom a patient wishes to dispense his *electronic prescriptions*;

**“dispensing services”** means 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 and section 129 of *the 2006 Act*;

**“Drug Tariff”** means the publication known as the Drug Tariff which is published by *the Secretary of State* and which is referred to in section 127(4) of *the 2006 Act*;

**“electronic communication”** has the same meaning as in section 15 of the Electronic Communications Act 2000;

**“electronic prescription”** means an *electronic prescription form* or an *electronic repeatable prescription*;

**“electronic prescription form”** means data created in an electronic form for the purposes of ordering a drug, medicine or appliance, which—

- (a) is signed with a *prescriber’s advanced electronic signature*;
- (b) is transmitted as an *electronic communication* to a nominated dispensing contractor by the *Electronic Prescription Service*; and

- (c) does not indicate that the drug, medicine or appliance ordered may be provided more than once;

**“Electronic Prescription Service”** means the service of that name which is operated by the Health and Social Care Information Centre;

**“electronic repeatable prescription”** means data created in an electronic form for the purposes of ordering a drug, medicine or appliance, which—

- (a) is signed with a *prescriber’s advanced electronic signature*;
- (b) is transmitted as an *electronic communication* to a nominated dispensing contractor by the *Electronic Prescription Service*;
- (c) indicates that the drug, medicine or appliance ordered may be provided more than once; and
- (d) specifies the number of occasions on which they may be provided;

**“enhanced services”** are-

- (a) services other than *essential services, additional services or out of hours services*; or
- (b) *essential services, additional services or out of hours services* or an element of such a service that a contractor agrees under a contract to provide in accordance with specifications set out in a plan, which requires of the contractor an enhanced level of service provision compared to that which it needs generally to provide in relation to that service or element of service;

**“essential services”** means the services required to be provided in accordance with clauses 8.1.1 to 8.1.8;

**“friends and family test”** means the arrangements that the Contractor is required by the Board to implement to enable its patients to provide anonymous feedback about the patient experience at the Contractor's *practice*;

**“general medical practitioner”** means, unless the context otherwise requires, a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;

**“general medical services contract”** means a general medical services contract under section 84 of *the 2006 Act*;

**“geographical number”** means a number which has a geographical area code as its prefix;

**“global sum”** has the same meaning as in the *GMS Statement of Financial Entitlements*;

**“GMS Statement of Financial Entitlements”** is the directions given by *the Secretary of State* under section 87 of *the 2006 Act*<sup>4</sup>;

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<sup>4</sup> The GMS Statement of Financial Entitlements Directions 2013 were signed on [date] and are published on the Department of Health’s website ([www.dh.gov.uk](http://www.dh.gov.uk)).

**“GP Registrar”** means a medical practitioner who is being trained in general practice by a *general medical practitioner* who is approved under section 341 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;

**“GPSOC accredited computer systems and software”** 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<sup>5</sup>”;

**“GP2GP facility”** means the facility provided by the Board to the *practice* which enables the electronic health records of a *registered patient* which are held on the computerised clinical systems of the *practice* to be transferred securely and directly to another provider of primary medical services with which the patient has registered;

**“Health and Social Services Board”** means a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972;

**“Health and Social Services Trust”** means a Health and Social Services Trust established under Article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991;

**“Health Board”** means a Health Board established under section 2 of the National Health Service (Scotland) Act 1978;

**“health care professional”** has the same meaning as in section 102 of *the 2006 Act*, and “health care profession” shall be construed accordingly;

**“health check”** means a consultation undertaken by the Contractor which is of the type which the Contractor is required to undertake at a patient’s request under clause 7.9.4(c);

**“the health service”** means the health service continued under section 1(1) of *the 2006 Act*;

**“health service body”**, unless the context otherwise requires, has the meaning given to it in section 9(4) of *the 2006 Act*;

**“home oxygen order form”** means a form provided by the Board 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”** means 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

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<sup>5</sup> GP Systems of Choice is a scheme by which the National Health Service funds the cost of GP clinical IT systems in England. Guidance about this scheme is available from the Health and Social Care Information Centre, 1 Trevelyan Square, Boar Lane, Leeds, LS1 6AE

(e) short burst oxygen therapy;

**“immediate family member”** means-

(a) a spouse or civil partner,

(b) a person (whether or not of the opposite sex) whose relationship with the *registered patient* has the characteristics of the relationship between husband and wife,

(c) a parent or step-parent,

(d) a son,

(e) a daughter, or

(f) a *child* of whom the *registered patient* is-

(i) the guardian, or

(ii) the carer duly authorised by the local authority to whose care the *child* has been committed under the Children Act 1989; or

(g) a grandparent;

**“independent nurse prescriber”** means a person-

(a) who is either engaged or employed by the Contractor or is a party to the Contract;

(b) who is registered in the *Nursing and Midwifery Register*; 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 community practitioner nurse prescriber, a nurse independent prescriber or as a nurse independent/supplementary prescriber;

**“licensing body”** means any body that licenses or regulates any profession;

**“limited partnership”** means a partnership registered under the Limited Partnerships Act 1907;

**“listed medicines”** means the drugs mentioned in regulation 13(1) of the *Charges Regulations*;

**“listed medicines voucher”** means a form provided by the Board for use for the purpose of ordering a *listed medicine*;

**“Local Health Board”** means a body established under section 11 of the National Health Service (Wales) Act 2006;

**“Local Medical Committee”** means a committee recognised by the Board under section 97 of *the 2006 Act*;

**“local pharmaceutical services”** means such services as are prescribed under s.134(7) of, or paragraph 1(7) of Schedule 12 to, *the 2006 Act*;

**“LPS arrangements”** means arrangements made under a pilot scheme established under sections 134 to 143 of *the 2006 Act*;

**“mandatory term”** means a term required to be included in the Contract by *the Regulations*;

**“maternity medical services”** means the services described in clause 9.7.1;

**“medical card”** means a card issued by the Board, *Local Health Board*, Health Authority, *Health Board* or *Health and Social Services Board* to a person for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services;

**“medical officer”** means a medical practitioner who is—

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

**“medical performers list”** means the list of medical practitioners maintained by the Board in accordance with section 91 of *the 2006 Act*;

**“Medical Register”** means the registers kept under section 2 of the Medical Act 1983;

**“minor surgery”** means the services described in clause 9.8.1;

**“national disqualification”** means—

- (a) a decision made by the First-tier Tribunal under section 159 of *the 2006 Act* or under regulations corresponding to that section made under section 91(3) of *the 2006 Act* (persons performing primary medical services),
- (b) a decision under provisions in force in Scotland or Northern Ireland corresponding to section 159 of *the 2006 Act*, or
- (c) a decision by the *NHS Tribunal* which was treated as a national disqualification by the Family Health Services Appeal Authority<sup>6</sup> by virtue of regulation 6(4)(b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001 or regulation 6(4)(b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002;

**“necessary drugs, medicines and appliances”** means those drugs, medicines and appliances which the patient requires and for which, in the reasonable opinion of the Contractor, and in the light of the patient’s medical condition, it would not be reasonable in all the circumstances for the patient to wait until such time as he could obtain them during core hours;

**“NHS contract”** has the meaning assigned to it in section 9 of *the 2006 Act*;

**“NHS dispute resolution procedure”** means the procedure for resolution of disputes specified in-

- (a) paragraphs 101 and 102 of Schedule 6 to *the Regulations*; or
- (b) a case to which paragraph 36 of Schedule 6 to *the Regulations* applies, in that paragraph.

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<sup>6</sup> The Family Health Services Appeal Authority was constituted under section 49S of *the 1977 Act* and was abolished on 18th January 2010 by article 3 of the Transfer of Tribunal Functions Order 2010 (S.I. 2010/22).

**“NHS number”** 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;

**“NHS Tribunal”** means the Tribunal constituted under section 46 of *the 1977 Act* for England and Wales, and which, except for prescribed cases, had effect in relation to England only until 14<sup>th</sup> December 2001 and in relation to Wales only until 26<sup>th</sup> August 2002;

**“nominated dispenser”** means 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 Health and Social Care Information Centre;

**“non-electronic prescription form”** means a form for ordering a drug, medicine or appliance which is—

- (a) provided by the Board, a local authority or *the Secretary of State*;
- (b) issued by the *prescriber*; and
- (c) does not indicate that the drug, medicine or appliance ordered may be provided more than once;

**“non-electronic repeatable prescription”** means a form for ordering a drug, medicine or appliance which is—

- (a) provided by the Board, a local authority or *the Secretary of State*;
- (b) issued by the *prescriber*;
- (c) does indicate that the drug, medicine or appliance ordered may be provided more than once; and
- (d) specifies the number of occasions on which they may be provided.

**“normal hours”** means those days and hours being the days on which and the times at which services under the Contract will normally be available and may be different for different services;

**“Nursing and Midwifery Register”** means the register maintained by the Nursing and Midwifery Council under the Nursing and Midwifery Order 2001;

**“nursing officer”** means a *health care professional* who is registered on the Nursing and Midwifery Register and—

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

**“occupational therapist”** means 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—

- (a) employed or engaged by the Department for Work and Pensions, or

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

**“open”** in relation to the *Contractor’s list of patients*, means open to applications from patients in accordance with clause 13.5;

**“optometrist independent prescriber”** means a person—

- (a) who is registered in the register of optometrists maintained under section 7(a) of the Opticians Act 1989; and
- (b) against whose name is recorded in that register an annotation signifying that the person is qualified to order drugs, medicines and appliances as an optometrist independent prescriber;

**“opt out notice”** means a notice given under clause 11.1.3 to *permanently opt out* or *temporarily opt out* of the provision of an *additional service*;

**“out of hours opt out notice”** means a written notice served on the Board specifying that the Contractor wishes to terminate its obligation to provide *out of hours services* pursuant to clause 11.4.2;

**“out of hours performer”** means a *prescriber*, a person acting in accordance with a *Patient Group Direction* or any other *health care professional* employed or engaged by the Contractor who can lawfully supply a drug, medicine or appliance, who is performing *out of hours services* under the Contract;

**“out of hours period”** means-

- (a) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8am on the following day;
- (b) the period between 6.30pm on Friday and 8am on the following Monday; and
- (c) Good Friday, Christmas Day and *bank holidays*,

and “part” of an out of hours period means any part of one or more of the periods described in paragraphs (a) to (c);

**“out of hours services”** means services required to be provided in all or part of the *out of hours period* which-

- (a) would be *essential services* if provided by the Contractor to its *registered patients* in *core hours*; or
- (b) are included in the Contract as *additional services* funded under the *global sum*.

**“parent”** 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*;

**“patient”** means-

- (a) a *registered patient*,
- (b) a *temporary resident*,

- (c) persons to whom the Contractor is required to provide immediately necessary treatment under clause 8.1.2(b)(iii) or 8.1.5,
- (d) any other person to whom the Contractor has agreed to provide services under the Contract;
- (e) any person for whom the Contractor is responsible under regulation 31 of *the Regulations*; and

**“Patient Choice Extension Scheme”** means the scheme of that name established by *the Secretary of State* under which primary medical services may be provided under arrangements made in accordance with directions given to the Board by *the Secretary of State* under section 98A of *the 2006 Act*;

**“Patient Group Direction”** has the same meaning as in the Human Medicines Regulations 2012;<sup>7</sup>

**“permanent opt out”** in relation to the provision of an *additional service* that is funded through the *global sum*, means the termination of the obligation under the Contract for the Contractor to provide that service; and “permanently opt out” shall be construed accordingly;

**“permanent opt out notice”** means an *opt out notice* to *permanently opt out*;

**“personal number”** means a telephone number which starts with the number 070 followed by a further 8 digits;

**“Pharmaceutical Regulations”** means the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349);

**“pharmacist independent prescriber”** means a person—

- (a) who is either engaged or employed by the contractor or is party to the contract,
- (b) who is registered in the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954 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”** means 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;

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<sup>7</sup> The definition of “Patient Group Direction” in the Prescription Only Medicines (Human Use) Order 1997 was consolidated into the Human Medicines Regulations 2012.



**“physiotherapist”** means 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—

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

**“pilot doctor”** means a medical practitioner who performs personal medical services in connection with a *pilot scheme*;

**“pilot scheme”** means an agreement made under Part I of the National Health Service (Primary Care) Act 1997;

**“podiatrist independent prescriber”** means a podiatrist who is registered in Part 2 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 podiatrist is qualified to order drugs, medicines and appliances as a podiatrist independent prescriber;

**“practice”** means the business operated by the Contractor for the purpose of delivering services under the Contract;

**“practice area”** means the area referred to in clause 13.2.1;

**“practice leaflet”** means a leaflet drawn up in accordance with clause 16.7.1;

**“practice premises”** means an address specified in the Contract as one at which services are to be provided under the Contract;

**“preliminary opt out notice”** means a notice given under clause 11.1.1 that the Contractor wishes to *temporarily opt out* or *permanently opt out* of the provision of an *additional service*;

**“prescriber”** means—

- (a) *a chiropodist independent prescriber*;
- (b) *an independent nurse prescriber*;
- (c) a medical practitioner;
- (d) *an optometrist independent prescriber*;
- (e) *a pharmacist independent prescriber*;
- (f) *a physiotherapist independent prescriber*;
- (g) *a podiatrist independent prescriber*; and
- (h) *a supplementary prescriber*,

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

**“prescription form”** means, 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 Board, a local authority or the Secretary of State
  - (ii) issued by the *prescriber*, and
  - (iii) does not indicate that the drug, medicine or appliance ordered may be provided more than once; or
- (b) where clause 14.3 (electronic prescriptions), 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 of Drugs Regulations”** means the National Health Service (General Medical Services) (Prescription of Drugs etc.) Regulations 2004 (S.I.2004/629);

**“prescription only medicine”** means a medicine referred to in regulation 5(3) of the Human Medicines Regulations 2012;

**“primary care list”** means-

- (a) a list of persons performing primary medical services, primary dental services or primary ophthalmic services under sections 91, 106 and 123 of *the 2006 Act*,
- (b) a list of persons undertaking to provide general medical services, general dental services, general ophthalmic services or, as the case may be, pharmaceutical services prepared in accordance with regulations made under sections 29, 36, 39, 42 or 43 of *the 1977 Act*,
- (c) a list of persons approved for the purposes of assisting in the provision of any services mentioned in paragraph (b) prepared in accordance with regulations made under section 147A of *the 2006 Act*,
- (d) a services list referred to in section 8ZA of the National Health Service (Primary Care) Act 1997,
- (e) a list corresponding to a services list prepared by virtue of regulations made under section 41 of the Health and Social Care Act 2001, or
- (f) a list corresponding to any of the above lists in Scotland or Northern Ireland;

**“primary carer”** means, in relation to an adult, the adult or organisation primarily caring for him;

**“Primary Care Trust”** means, unless the context provides otherwise, the Primary Care Trust which immediately before the coming into force of section 34 of *the 2012 Act* was a party to the *general medical services contract* with the Contractor;

**“registered patient”** means-

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

**“the Regulations”** means the National Health Service (General Medical Services Contracts) Regulations 2004 (S.I. 2004/291) as amended;

**“relevant register”** means—

- (a) in relation to a nurse, the *Nursing and Midwifery Register*;
- (b) in relation to a pharmacist, the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954 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 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;

**“Remission of Charges Regulations”** means the National Health Service (Travel Expenses and Remission of Charges) Regulation 2003 (S.I. 2003/2382);

**“repeat dispensing services”** means pharmaceutical services or *local pharmaceutical services* which involve the provision of drugs, medicines or appliances by a *chemist* in accordance with a *repeatable prescription*;

**“repeatable prescriber”** means a *prescriber* in a case where the Contractor provides *repeatable prescribing services* under clause 14.5;

**“repeatable prescribing services”** means services which involve the prescribing of drugs, medicines or appliances on a *repeatable prescription*;

**“repeatable prescription”** means a prescription which—

- (a) is a form for the purpose of ordering a drug, medicine or appliance which is in the format required by the NHS Business Services Authority and which is—
  - (i) provided by the Board, a local authority or *the Secretary of State*;
  - (ii) issued by a *prescriber*;
  - (iii) indicates that the drug, medicine or appliance ordered may be provided more than once;

- (iv) and specifies the number of occasions on which they may be provided; or

- (b) an *electronic repeatable prescription*;

**“restricted availability appliance”** means an appliance which is approved for particular categories of persons or particular purposes only;

**“Scheduled drug”** means-

- (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 14.6.2 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.

**“the Secretary of State”** means, unless the context otherwise requires, one of Her Majesty’s Principal Secretaries of State;

**“section 28C arrangements”** means arrangements which were made under section 28C of *the 1977 Act*;

**“section 28C provider”** means a person who is providing services under a *pilot scheme* or in accordance with *section 28C arrangements*;

**“section 92 arrangements”** means arrangements made under section 92 of *the 2006 Act* (arrangements by the Board for the provision of primary medical services);

**“service provider”** has the same meaning as in regulation 2 of the Care Quality Commission (Registration) Regulations 2009;

**“Summary Care Record”** means the system approved by the Board 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;

**“summary information”** means items of patient data that comprise the Summary Care Record;

**“supplementary prescriber”** means a person who-

- (a) who is either engaged or employed by the Contractor or is a party to the Contract;
- (b) whose name is registered in-
  - (i) the *Nursing and Midwifery Register*;
  - (ii) the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954;

- (iii) the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976;
- (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*; or
  - (cc) radiographers: diagnostic or therapeutic; or
- (v) the register of optometrists maintained by the General Optical Council in pursuance of section 7 of the Opticians Act 1989, and
- (c) against whose name is recorded in the *relevant register* an annotation or entry signifying that he is qualified to order drugs medicines and appliances as a supplementary prescriber or, in the case of the *Nursing and Midwifery Register*, a nurse independent/supplementary prescriber;

**“supply form”** means a form provided by the Board and completed by or on behalf of the Contractor for the purpose of recording the provision of drugs, medicines or appliances to a patient during the *out of hours period*;

**“system of clinical governance”** means 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 opt out”** in relation to the provision of an *additional service* that is funded through the *global sum*, means the suspension of the obligation under the Contract for the Contractor to provide that service for a period of more than six months and less than twelve months and includes an extension of a temporary opt out and “temporarily opt out” and “temporarily opted out” shall be construed accordingly;

**“temporary opt out notice”** means an *opt out notice* to *temporarily opt out*;

**“temporary resident”** means a person accepted by the Contractor as a temporary resident under clause 13.6 and for whom the Contractor’s responsibility has not been terminated in accordance with those clauses;

**“the Transitional Order”** means the General Medical Services Transitional and Consequential Provisions Order 2004 (S.I. 2004/433);<sup>8</sup>

1.2. In this Contract unless the context otherwise requires:

- 1.2.1. Defined terms and phrases appear in italics, except for the terms “patient” and “Contract”.
- 1.2.2. In Schedule 7, defined terms and phrases which appear in bold italics are terms and phrases referred to in the *Pharmaceutical Regulations*.

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<sup>8</sup> See also S.I. 2013/235

- 1.2.3. Words denoting any gender include all genders and words denoting the singular include the plural and vice versa.
- 1.2.4. Reference to any person may include a reference to any firm, company or corporation.
- 1.2.5. 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*.
- 1.2.6. The headings in this Contract are inserted for convenience only and do not affect the construction or interpretation of this Contract.
- 1.2.7. The schedules to this Contract are and shall be construed as being part of this Contract.
- 1.2.8. Reference to any statute or statutory provision 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 this Contract), and all statutory instruments or orders made pursuant to it.
- 1.2.9. Where, pursuant to the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004-
  - (a) any matter or act that took place, or
  - (b) any notice that was served,before the entry into force of the Contract is to be treated as if it took place pursuant to the Contract, it shall be so treated and the Contract, and obligations under the Contract, shall be interpreted consistently with that Order.
- 1.2.10. Any obligation relating to the completion and submission of any form that the Contractor is required to complete and submit to the Board includes the obligation to complete and submit the form in such a format or formats (electronic, paper or otherwise) as the Board may specify.
- 1.2.11. Any obligation on the Contractor to have systems, procedures or controls includes the obligation effectively to operate them.
- 1.2.12. Where this Contract imposes an obligation on the Contractor, the Contractor must comply with it and must take all reasonable steps to ensure that its personnel and contractors comply with it. Similarly, where this Contract imposes an obligation on the Board, the Board must comply with it and must take all reasonable steps to ensure that its personnel and contractors (save for the Contractor) comply with it.
- 1.3. Where there is any dispute as to the interpretation of a particular term in the Contract, 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 Regulations*, *the Transitional Order*, the General Medical Services

and Personal Medical Services Transitional and Consequential Provisions Order 2004 and any other relevant regulations or orders made under *the 2006 Act*.

- 1.4. Where the parties have indicated in writing that a clause in the Contract is reserved, that clause is not relevant and has no application to the Contract<sup>9</sup>.
- 1.5. Where a particular clause is included in the Contract but is not relevant to the Contractor because that clause relates to matters which do not apply to the Contractor (for example, if the clause only applies to partnerships and the Contractor is an individual medical practitioner), that clause is not relevant and has no application to the Contract.

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<sup>9</sup> This provision has been included so that if, in relation to a particular contract, a particular clause number or numbers are not relevant (for example, because that clause or those clauses only need to be included in contracts with a partnership and the contractor concerned is an individual medical practitioner) the words of that clause can be deleted and the word 'reserved' can be inserted next to that clause number: this is to avoid renumbering the clauses or cross-references in the Contract.

## 2 PART 2<sup>10</sup>

### 2.1 Relationship between the parties

- 2.1.1. 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 Board. 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 Board.
- 2.1.2. The Board does not by entering into this Contract, and shall not as a result of anything done by the Contractor in connection with the performance of this Contract, incur any contractual liability to any other person.
- 2.1.3. This Contract does not create any right enforceable by any person not a party to it.<sup>11</sup>
- 2.1.4. In complying with this Contract, in exercising its rights under the Contract and in performing its obligations under the Contract, the Contractor must act reasonably and in good faith.
- 2.1.5. In complying with this Contract, and in exercising its rights under the Contract, the Board must act reasonably and in good faith and as a responsible public body required to discharge its functions under *the 2006 Act*.
- 2.1.6. Clauses 2.1.4 and 2.1.5 above do not relieve either party from the requirement to comply with the express provisions of this Contract and the parties are subject to all such express provisions.
- 2.1.7. The Contractor shall not give, sell, assign or otherwise dispose of the benefit of any of its rights under this Contract, [save in accordance with Schedule 1]<sup>12</sup>. The Contract does not prohibit the Contractor from delegating its obligations arising under the Contract where such delegation is expressly permitted by the Contract.
- 2.1.8. [The Contractor was a party to a *general medical services contract* with [ ] on 31st March 2013 which was transferred to the Board on [ ].]<sup>13</sup>

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<sup>10</sup> Except where indicated, Part 2 is not required by *the Regulations*, but is recommended.

<sup>11</sup> This clause is required by *the Regulations* (see paragraph 126 of Schedule 6).

<sup>12</sup> The words indicated in square brackets only need to be included if the Contractor is a partnership and Schedule 1 (partnerships) has therefore been utilised.

<sup>13</sup> Clause 2.1.8 in square brackets only needs to be included if the Contractor was a party to a *general medical services contract* on 31st March 2013, and that contract is transferred to the Board as a result of a property transfer scheme. The name of the *Primary Care Trust* should be inserted in the first set of square brackets, and the date of the relevant property transfer scheme should be inserted in the second set of square brackets.



### 3 PART 3

#### 3.1 NHS Contract<sup>14</sup>

- 3.1. The Contractor has [not] elected to be regarded as a *health service body* for the purposes of section 9 of *the 2006 Act*. Accordingly, this Contract is [not] an *NHS contract*.<sup>15</sup>

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<sup>14</sup> If the Contractor has elected to be regarded as a *health service body* for the purposes of section 9 of *the 2006 Act* pursuant to regulation 10 of *the Regulations*, then the Contract must state that it is an *NHS contract*: see regulation 12 of *the Regulations*.

<sup>15</sup> Where the contract is an *NHS contract*, it is not enforceable in the courts but instead is subject to the dispute resolution procedures set out in clause 25.3 of the Contract and paragraph 36 and Part 7 of Schedule 6 to *the Regulations*. Therefore, the Contract must specify whether or not the Contractor has elected to be regarded as a *health service body*, and if it has, the Contractor must indicate that the Contract is an *NHS contract*.

## 4 PART 4

### 4.1 Commencement of the Contract

4.1.1. This Contract shall commence on [date].<sup>16</sup>

### 4.2. Duration of the Contract

4.2.1. [Subject to clause 4.2.2]<sup>17</sup> The Contract shall subsist until [insert date]/ [it is terminated in accordance with the terms of this Contract or the general law.]<sup>18</sup>

4.2.2. [If the parties agree that the Contractor is going to provide services other than *essential services*, *additional services* funded under the *global sum* or *out of hours services* provided pursuant to regulation 30 or 31 of *the Regulations*, (for example, *enhanced services* or *additional services* not funded under the *global sum*) details in relation to the period for which each of those services is to be provided should be inserted here: the period for which each of such services will be provided is a matter for negotiation between the parties]<sup>19</sup>

4.2.3. [ ]

4.2.4. [ ]

4.2.5. [ ]

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<sup>16</sup> The parties must insert the date of commencement: services can only be provided under the Contract on a date after 31<sup>st</sup> March 2004 (see regulation 28 of *the Regulations*).

<sup>17</sup> The words in square brackets only need to be included if clause 4.2.3 et seq. are completed.

<sup>18</sup> This clause is required by *the Regulations*: see Regulation 14 of *the Regulations*. The option for the Contract to subsist until it is terminated in accordance with the terms of the Contract or the general law must be included unless the Board is entering into a temporary contract for a period not exceeding 12 months for the provision of services to the patients of the Contractor, following the termination of a previous contract that that Contractor held with the Board. The Board or the Contractor may, if it wishes to do so, invite the *Local Medical Committee* to participate in the negotiations intending to lead to a temporary contract.

<sup>19</sup> This clause, and clauses 4.2.3, 4.2.4 or 4.2.5 if further space is needed, need to be adapted and completed as indicated (see regulation 19 of *the Regulations*)– if it is not relevant because there are no such services to be provided under the Contract, these clauses should be omitted.

## 5 PART 5<sup>20</sup>

### 5.1 Clinical Commissioning Groups

5.1.1. 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.

### 5.2. Patient Participation

5.2.1. The Contractor must establish and maintain a group known as a "Patient Participation Group" comprising of some of its *registered patients* for the purposes of—

- (a) obtaining the views of patients who have attended the Contractor's *practice* about the services delivered by the Contractor; and
- (b) enabling the Contractor to obtain feedback from its *registered patients* about those services.

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

5.2.3. The Contractor must make reasonable efforts during each financial year to review the membership of its Patient Participation Group in order to ensure that the Group is representative of its *registered patients*.

5.2.4. The Contractor must—

- (a) engage with its Patient Participation Group, at such frequent intervals throughout each financial year as the Contractor must agree with that group, with a view to obtaining feedback from the Contractor's *registered patients*, in an appropriate and accessible manner which is designed to encourage patient participation, about the services delivered by the Contractor; and
- (b) review any feedback received about the services delivered by the Contractor, whether pursuant to clause 5.2.4(a) or otherwise, with its Patient Participation Group with a view to agreeing with that group the improvements (if any) which are to be made to those services.

5.2.5. The Contractor must make reasonable efforts to implement such improvements to the services delivered by the Contractor as are

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<sup>20</sup> Part 5 is required by *the Regulations*: see regulation 20A of *the Regulations*.

agreed between the Contractor and its Patient Participation Group.

- 5.2.6. In this clause 5.2 “financial year” means the 12 month period beginning on 1st April each year and ending on 31st March the following year

## **6 PART 6<sup>21</sup>**

### **6.1 Warranties**

- 6.1.1. Each of the parties warrants that it has power to enter into this Contract and has obtained any necessary approvals to do so.
- 6.1.2. The Contractor warrants that:
- (a) all information in writing provided to the Board in seeking to become a party to this Contract was, when given, true and accurate in all material respects, and in particular, that the Contractor satisfied the conditions set out in regulations 4 and 5 of *the Regulations*;
  - (b) no information has been omitted which would make the information that was provided to the Board materially misleading or inaccurate;
  - (c) no circumstances have arisen which materially affect the truth and accuracy of such information; and
  - (d) it is not aware as at the date of this Contract of anything within its reasonable control which may or will materially adversely affect its ability to fulfil its obligations under this Contract.
- 6.1.3. The Board warrants that:
- (a) all information in writing which it provided to the Contractor specifically to assist the Contractor to become a party to this Contract was, when given, true and accurate in all material respects;
  - (b) no information has been omitted which would make the information that was provided to the Contractor materially misleading or inaccurate;
  - (c) no circumstances have arisen which materially affect the truth and accuracy of such information.
- 6.1.4. The Board and the Contractor have relied on, and are entitled to rely on, information provided by one party to the other in the course of negotiating the Contract.

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<sup>21</sup> This Part is not required by *the Regulations*, but is recommended.

## 7 PART 7

### 7.1 Level of Skill<sup>22</sup>

- 7.1.1. The Contractor shall carry out its obligations under the Contract in a timely manner and with reasonable care and skill.

### 7.1 Provision of Services<sup>23</sup>

#### 7.2. Premises

- 7.2.1. The address of each of the premises to be used by the Contractor or any sub-contractor for the provision of services under the Contract is as follows: [ ]<sup>24</sup>.
- 7.2.2. Subject to any plan which is included in the Contract pursuant to clause 7.2.3, the Contractor shall ensure that premises used for the provision of services under the Contract are:
- (a) suitable for the delivery of those services; and
  - (b) sufficient to meet the reasonable needs of the Contractor's patients.
- 7.2.3. Where, on the date on which the Contract was signed, the Board is not satisfied that all or any of the premises specified in clause 7.2.1 met the requirements set out in clause 7.2.2 and consequently the Board and the Contractor have together drawn

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<sup>22</sup> This clause is required by *the Regulations* (see paragraph 67 of Schedule 6).

<sup>23</sup> Except where specifically indicated in a footnote, this whole section (Provision of Services) is required by *the Regulations* (see regulation 18(1)(b), (2) and (3), 26 and Part 1 of Schedule 6).

<sup>24</sup> All relevant addresses from which services under the Contract will be provided by the Contractor or any sub-contractor must be included here. It does not include the homes of patients or any other premises where services are provided on an emergency basis. This clause is required by regulation 18(1)(b) of *the Regulations*, together with regulation 18(2). However, where a medical practitioner who, on 31<sup>st</sup> March 2004, is providing general medical services under section 29 of *the 1977 Act*, enters into a *general medical services contract* on or before 31<sup>st</sup> March 2004 whether as an individual medical practitioner, as one or two or more individuals practising in partnership, or if that person is a legal and beneficial shareholder in a company which enters into a *general medical services contract* on or before 31<sup>st</sup> March 2004, the *practice premises* specified in the Contract at its commencement must, unless the Board agrees otherwise in writing, be:-

- if the Contractor is a medical practitioner, all the premises which, on 31<sup>st</sup> March 2004 (or on the date on which the contract is signed, if earlier), were approved (whether with or without conditions) by the Board or *the Secretary of State* under paragraph 29 or 29A of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992 in respect of that practitioner and whose approval had not been withdrawn;
- if the Contractor is a partnership, all the premises which, on 31<sup>st</sup> March 2004 (or on the date on which the contract is signed, if earlier), were approved (whether with or without conditions) by the Board or *the Secretary of State* under paragraph 29 or 29A of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992 in respect of any of those practitioners and whose approval had not been withdrawn; or
- if the Contractor is a company, all the premises which, on 31<sup>st</sup> March 2004 (or on the date on which the Contract is signed if earlier), were approved (whether with or without conditions) by the Board or *the Secretary of State* under paragraph 29 or 29A of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992 in respect of any of the medical practitioners who are legal and beneficial shareholders in that company and whose approval had not been withdrawn.

This is a requirement of article 26 of *the Transitional Order*. The applicability of article 26 of the *Transitional Order* does not prevent the inclusion of a plan pursuant to clause 7.2.3 where the Board does not consider that all or any one of the premises meets the standards in clause 7.2.2.

up a plan (contained in Schedule 5 to this Contract) which specifies-

- (a) the steps to be taken by the Contractor to bring the premises up to the relevant standard;
- (b) any financial support that is available from the Board; and
- (c) the timescale in which such steps will be taken<sup>25</sup>.

7.2.4. The Contractor shall comply with the plan specified in clause 7.2.3 and contained in Schedule 5 to this Contract as regards the steps to be taken by the Contractor to meet the requirements in clause 7.2.2 and the timescale in which those steps will be taken.

### 7.3. Telephone services

7.3.1. The Contractor shall not be a party to any contract or other arrangement under which the number for telephone services to be used by—

- (a) patients to contact the *practice* for any purpose related to the Contract; or
- (b) any other person to contact the *practice* in relation to services provided as part of the *health service*,

start with the digits 087, 090 or 091 or consists of a *personal number*, unless the service is provided free to the caller.

### 7.4. Cost of relevant calls

7.4.1. The Contractor must not enter into, renew or extend a contract or other arrangement for telephone services unless it is satisfied that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls to the *practice* than they would to make equivalent calls to a *geographical number*.

7.4.2. Where the Contractor is party to an existing contract or other arrangement for telephone services under which persons making relevant calls to the *practice* call a number which is not a *geographical number*, the Contractor must comply with clause 7.4.3.

7.4.3. The Contractor must—

- (a) before 1st April 2011, review the arrangement and consider whether, having regard to the arrangement as a whole, persons pay more to make relevant calls than they would to make equivalent calls to a *geographical number*, and
- (b) if the Contractor so considers, take all reasonable steps, including in particular considering the matters specified in

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<sup>25</sup> Clause 7.2.3, clause 7.2.4 and Schedule 6 need only be included in the Contract if the Board is not satisfied that any or all of the premises at which services are to be provided meet the standards set out in clause 7.2.2 at the date the Contract is signed. If the premises do meet the standards, these clauses can be deleted.

sub-clause 7.4.4, to ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls than they would to make equivalent calls to a *geographical number*.<sup>26</sup>

7.4.4. The matters referred to in clause 7.4.3(b) are—

- (a) varying the terms of the contract or arrangement,
- (b) renegotiating the contract or arrangement, and
- (c) terminating the contract or arrangement.

7.4.5. If, despite taking all reasonable steps referred to clause 7.4.3(b), it has not been possible to ensure that, having regard to the arrangement as a whole, persons will not pay any more to make relevant calls to the *practice* than they would to make equivalent calls to a *geographical number*, the Contractor must consider introducing a system under which if a caller asks to be called back, the Contractor will do so at the Contractor's expense.

7.4.6. For the purpose of clause 7.4—

- (a) “existing contract or other arrangement” means a contract or arrangement that was entered into prior to 1st April 2010 and which remains in force on 1st April 2010,
- (b) “relevant calls” means calls—
  - (i) made by patients to the *practice* for any reason related to services provided under the contract, and
  - (ii) made by persons, other than patients, to the *practice* in relation to services provided as part of the *health service*.

## 7.5. **Attendance at practice premises**

7.5.1. The Contractor shall take reasonable steps to ensure that any patient who has not previously made an appointment and attends at the *practice premises* during the *normal hours* for *essential services* is provided with such services by an appropriate *health care professional* during that surgery period except where:

- (a) it is more appropriate for the patient to be referred elsewhere for services under *the 2006 Act*, or
- (b) the patient is then offered an appointment to attend again within a time which is reasonable having regard to all the circumstances and his health would not thereby be jeopardised.

## 7.6. **Attendance outside *practice premises***

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<sup>26</sup> Clauses 7.4.3 to 7.4.6 only apply where the Contractor entered into a *general medical services contract* before 1st April 2011: otherwise these clauses can be deleted.



- 7.6.1. In the case of a patient whose medical condition is such that in the reasonable opinion of the Contractor attendance on the patient is required and it would be inappropriate for the patient to attend at a place where services are provided in *normal hours* under the Contract, the Contractor shall provide services to that patient at whichever in its judgement is the most appropriate of the following places:
- (a) the place recorded in the patient's medical records as being his last home address;
  - (b) such other place as the Contractor has informed the patient and the Board is the place where it has agreed to visit and treat the patient;
  - (c) some other place in the Contractor's *practice area*.
- 7.6.2. Nothing in this clause or clause 7.6.1 prevents the Contractor from:
- (a) arranging for the referral of a patient without first seeing the patient, in a case where the medical condition of that patient makes that course of action appropriate; or
  - (b) visiting the patient in circumstances where this clause or clause 7.6.1 does not place it under an obligation to do so.

**7.7. Newly registered patients**

- 7.7.1. Where a patient has been accepted on the *Contractor's list of patients* under clause 13.5 or assigned to that list by the Board, the Contractor shall, in addition and without prejudice to its other obligations in respect of that patient under the Contract, invite the patient to participate in a consultation either at its *practice premises* or, if the medical condition of the patient so warrants, at one of the places referred to in clause 7.6.1. Such an invitation shall be issued within six months of the date of the acceptance of the patient on, or their assignment to, the *Contractor's list of patients*.
- 7.7.2. Where a patient (or, where appropriate, in the case of a patient who is a *child*, his *parent*) agrees to participate in a consultation referred to in clause 7.7.1 above, the Contractor shall, in the course of that consultation, make such inquiries and undertake such examinations as appear to it to be appropriate in all the circumstances.

**7.7A. Newly registered patients – alcohol dependency screening**

- 7.7A.1. Where, under clause 7.7, a patient has been—
- (a) accepted onto the Contractor's *list of patients*; or
  - (b) assigned to that list by the Board,
- the Contractor must, whether as part of the consultation which the Contractor is required to offer that patient under clause 7.7.1 or

otherwise, take action to identify any such patient over the age of 16 who is drinking alcohol at increasing or higher risk levels with a view to seeking to reduce the alcohol related health risks to that patient.

- 7.7A.2. The Contractor must comply with the requirement in clause 7.7A.1 by screening the patient using either one of the two shortened versions of the World Health Organisation Alcohol Use Disorders Identification (“AUDIT”) questionnaire<sup>27</sup> which are known as—
- (a) FAST (which has four questions); or
  - (b) AUDIT-C (which has three questions).
- 7.7A.3. Where, under clause 7.7A.2, the Contractor identifies a patient as positive using one of the shortened versions of the AUDIT questionnaire specified in clause 7.7A.2, the remaining questions of the full ten question AUDIT questionnaire are to be used by the Contractor to determine increasing risk, higher risk or likely dependent drinking.
- 7.7A.4. Where a patient is identified as drinking at increasing or higher risk levels, the Contractor must—
- (a) offer the patient appropriate advice and lifestyle counselling;
  - (b) respond to any other need identified in the patient which relates to the patient’s levels of drinking, including by providing any additional support or treatment required for people with mental health issues; and
  - (c) in any case where the patient is identified as a dependent drinker, offer the patient a referral to such specialist services as are considered clinically appropriate to meet the needs of the patient.
- 7.7A.5. Where a patient is identified as drinking at increasing or higher risk levels or as a dependent drinker, the Contractor must ensure that the patient is—
- (a) assessed for anxiety and depression;
  - (b) offered screening for anxiety or depression; and
  - (c) where anxiety or depression is diagnosed, provided with any treatment or support which may be required under the Contract, including referral for specialist mental health treatment.
- 7.7A.6 The Contractor must make relevant entries, including the results of the completed questionnaire referred to in clause 7.7A.2, in the

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<sup>27</sup> The World Health Organisation Alcohol Use Disorders Identification Test (AUDIT) questionnaire can be accessed at [http://www.who.int/substance\\_abuse/activities/sbi/en/](http://www.who.int/substance_abuse/activities/sbi/en/). Further information about the test, and the questionnaires themselves, is available in hard copy from NHS England, PO Box 16738, Redditch, B97 7PT

patient's record that the Contractor is required to keep under clause 16.1.

**7.7B. Accountable GP**

- 7.7B.1. A Contractor must ensure that for each of its *registered patients* (including those patients under the age of 16) there is assigned an *accountable GP*.
- 7.7B.2. The *accountable GP* must take lead responsibility for ensuring that any services which the Contractor is required to provide under the Contract are, to the extent that their provision is considered necessary to meet the needs of the patient, coordinated and delivered to the patient.
- 7.7B.3. The Contractor must—
  - (a) inform the patient, as soon as is reasonably practicable and in such manner as is considered appropriate by the *practice*, of the assignment to the patient of an *accountable GP* and must state the name and contact details of the *accountable GP* and the role and responsibilities of the *accountable GP* in respect of the patient;
  - (b) inform the patient as soon as any circumstances arise in which the *accountable GP* is not able, for any significant period, to carry out the duties of an *accountable GP* in respect of the patient; and
  - (c) where the practice considers it to be necessary, assign a replacement *accountable GP* to the patient and give notice to the patient accordingly.
- 7.7B.4. The Contractor must comply with the requirement in clause 7.7B.3—
  - (a) by 30th June 2015, in the case of any person who is included in the Contractor's *list of patients* immediately before 1st April 2015; or
  - (b) in the case of any person who is accepted by the Contractor as a *registered patient* on or after 1st April 2015, within 21 days from the date on which that patient is so accepted.
- 7.7B.5. The requirement in this clause 7.7B does not apply to—
  - (a) any patient of the Contractor who is aged 75 or over, or who attains the age of 75, on or after 1st April 2015; or
  - (b) any other patient of the Contractor if the Contractor has been informed that the patient does not wish to have an *accountable GP*.
- 7.7B.6. Where, under clause 7.7B.3(a), the Contractor informs a patient of the assignment to them of an *accountable GP*, the patient may

express a preference as to which *general medical practitioner* within the Contractor's *practice* the patient would like to have as the patient's *accountable GP* and, where such a preference has been expressed, the Contractor must make reasonable efforts to accommodate the request.

7.7B.7. Where, under clause 7.7B.5(b), the Contractor has been informed by or in relation to a patient that the patient does not wish to have an *accountable GP*, the Contractor must record that fact in the patient's record that the Contractor is required to keep under clause 16.1.

7.7B.8. The Contractor must, by no later than 31st March 2016, include information about the requirement to assign an *accountable GP* to each of its new and existing *registered patients*—

- (a) on the Contractor's *practice* website (if it has one); and
- (b) in the Contractor's *practice leaflet*.

7.7B.9. Where the Contractor does not have a *practice* website, the Contractor must include the information referred to in clause 7.7B.8 on its profile page on NHS Choices<sup>28</sup>.

7.8. **Patients not seen within 3 years**

7.8.1. Where a *registered patient* who:

- (a) has attained the age of 16 years but has not attained the age of 75 years; and
- (b) has attended neither a consultation with, nor a clinic provided by, the Contractor within the period of three years prior to the date of his request,

requests a consultation the Contractor shall, in addition and without prejudice to its other obligations in respect of that patient under the Contract, provide such a consultation.

7.8.2. Where the Contractor provides a consultation referred to in clause 7.8.1 the Contractor shall, in the course of that consultation, make such inquiries and undertake such examinations as appear to it to be appropriate in all the circumstances.

7.9. **Patients aged 75 years and over**

7.9.1. Where a *registered patient* who-

- (a) has attained the age of 75 years; and
- (b) has not participated in a consultation under this clause within the period of twelve months prior to the date of his request,

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<sup>28</sup> NHS Choices is the website available at <http://www.nhs.uk> which provides information from the National Health Service on conditions, treatments and local services including GP services.

requests a consultation, the Contractor shall, in addition and without prejudice to its other obligations in respect of that patient under the Contract, provide such a consultation in the course of which it shall make such inquiries and undertake such examinations as appear to it to be appropriate in all the circumstances.

7.9.2. A consultation under clause 7.9.1 shall take place in the home of the patient where, in the reasonable opinion of the Contractor, it would be inappropriate, as a result of the patient's medical condition, for him to attend at the *practice premises*.

7.9.3. The Contractor must ensure that for each of its *registered patients* aged 75 and over there is assigned an *accountable GP*.

7.9.4. The *accountable GP* must:

- (a) take lead responsibility for ensuring that all services which the Contractor is required to provide under the Contract are, to the extent that their provision is considered necessary to meet the needs of the patient, delivered to the patient;
- (b) take all reasonable steps to recognise and appropriately respond to the physical and psychological needs of the patient in a timely manner;
- (c) ensure that the patient receives a *health check* if, and within a reasonable period after, one has been requested; and
- (d) work co-operatively with other health and social care professionals who may become involved in the care and treatment of the patient to ensure the delivery of a multi-disciplinary care package designed to meet the needs of the patient.

7.9.5. The Contractor must:

- (a) inform the patient, in such manner as the Contractor may consider appropriate, of the assignment to them of an *accountable GP* which must state the name and contact details of the *accountable GP* and the role and responsibilities of the *accountable GP* in respect of the patient;
- (b) inform the patient as soon as any circumstances arise in which the *accountable GP* is not able, for any significant period, to carry out their duties towards the patient; and
- (c) where the Contractor considers it to be necessary, assign a replacement *accountable GP* to the patient and give notice to the patient accordingly.

7.9.6. The Contractor must comply with the requirement in clause 7.9.5(a):

- (a) in the case of any person who is included in the *Contractor's list of patients* immediately before 1 April 2014 and:
  - (i) is aged 75 on or before that date, by 30 June 2014; or
  - (ii) who attains the age of 75 after that date, within 21 days from the date on which that person attained that age; or
- (b) in the case of any person aged 75 or over who is accepted by the Contractor as a *registered patient* on or after 1 April 2014, within 21 days from the date on which that person is so accepted.

**7.10. Clinical reports**

- 7.10.1. Where the Contractor provides any clinical services, other than under a private arrangement, to a patient who is not on its list of patients, it shall, as soon as reasonably practicable, provide a clinical report relating to the consultation, and any treatment provided, to the Board.
- 7.10.2. The Board must send any report received under 7.10.1 to the person with whom the patient is registered for the provision of *essential services* or their equivalent.
- 7.10.3. This clause 7.10 does not apply in relation to *out of hours services* provided by the Contractor on or after 1<sup>st</sup> January 2005.

**7.11. Storage of vaccines**

- 7.11.1. The Contractor shall ensure that-
  - (a) all vaccines are stored in accordance with the manufacturer's instructions; and
  - (b) all refrigerators in which vaccines are stored have a maximum/minimum thermometer and that readings are taken on all working days.

**7.12. Infection control**

- 7.12.1. The Contractor shall ensure that it has appropriate arrangements for infection control and decontamination.

**7.13. Duty of co-operation in relation to *additional, enhanced and out of hours services*<sup>29</sup>**

- 7.13.1. If the Contractor is not, pursuant to the Contract, providing to its *registered patients* or to persons whom it has accepted as *temporary residents*—

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<sup>29</sup> Although not every aspect of clauses 7.13.1 to 7.13.4 will be relevant to every Contractor, these clauses should be left in every GMS Contract as in many cases, a Contractor will not be providing each *additional service*, each *enhanced service* and *out of hours services*: these clauses have been drafted so that they can be left in the Contract even if that were to be the case. These clauses are required by paragraph 12 of Schedule 6 to *the Regulations*.

- (a) a particular *additional service*;
- (b) a particular *enhanced service*; or
- (c) *out of hours services*, either at all or in respect of some periods or some services,

the Contractor shall comply with the requirements specified in clause 7.13.2.

7.13.2. The requirements referred to in clause 7.13.1 are that the Contractor shall—

- (a) co-operate, insofar as is reasonable, with any person responsible for the provision of that service or those services;
- (b) comply in *core hours* with any reasonable request for information from such a person or from the Board relating to the provision of that service or those services; and
- (c) in the case of *out of hours services*:
  - (i) take reasonable steps to ensure that any *patient* who contacts the *practice premises* during the *out of hours period* is provided with information about how to obtain services during that period;
  - (ii) ensure that the clinical details of all *out of hours* consultations received from the *out of hours* provider are reviewed by a clinician within the *practice* on the same working day as those details are received by the *practice* or, exceptionally, on the next day;
  - (iii) ensure that any information requests received from the *out of hours* provider in respect of any *out of hours* consultations are responded to by a clinician within the *practice* on the same day as those requests are received by the *practice*, or on the next working day;
  - (iv) take all reasonable steps to comply with any systems which the *out of hours* provider has in place to ensure the rapid, secure and effective transmission of patient data in respect of *out of hours* consultations; and
  - (v) agree with the *out of hours* provider a system for the rapid, secure and effective transmission of information about *registered patients* who, due to chronic disease or terminal illness, are predicted as more likely to present themselves for treatment during the *out of hours period*.

7.13.3. Nothing in clauses 7.13.1 and 7.13.2 shall require the Contractor (if it is not providing *out of hours services* under the Contract) to make itself available during the *out of hours period*.

7.13.4. If the Contractor is to cease to be required to provide to its *patients*—

- (a) a particular *additional service*;
- (b) a particular *enhanced service*; or
- (c) *out of hours services*, either at all or in respect of some periods or some services,

it shall comply with any reasonable request for information relating to the provision of that service or those services made by the Board or by any person with whom the Board intends to enter into a contract for the provision of such services.



## 8 PART 8<sup>30</sup>

### 8.1 Essential Services

- 8.1.1. Subject to clause 8.1.8, the Contractor must provide the services described in Part 8 (namely *essential services*) at such times, within *core hours*, as are appropriate to meet the reasonable needs of its patients, and to have in place arrangements for its patients to access such services throughout the *core hours* in case of emergency<sup>31</sup>.
- 8.1.2. The Contractor must provide-
- (a) services required for the management of the Contractor's *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 chronic *disease*,delivered in the manner determined by the *practice* in discussion with the patient;
  - (b) appropriate ongoing treatment and care to all *registered patients* and *temporary residents* taking account of their specific needs including-
    - (i) the provision of advice in connection with the patient's health, including relevant health promotion advice; and
    - (ii) the referral of the patient for other services under *the 2006 Act*;
    - (iii) primary medical 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 its *practice area*.
- 8.1.3. For the purposes of clause 8.1.2, "management" includes-
- (a) offering a consultation and, where appropriate, physical examination for the purpose of identifying the need, if any, for treatment or further investigation; and
  - (b) the making available of such treatment or further investigation as is necessary and appropriate, including the referral of the patient for other services under *the 2006*

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<sup>30</sup> This Part is required by *the Regulations* (see regulation 15). Every GMS Contract must require the Contractor to provide *essential services*.

<sup>31</sup> This clause is also required by regulation 20 of *the Regulations*.

*Act and liaison with other health care professionals involved in the patient's treatment and care.*

- 8.1.4. For the purposes of clause 8.1.2(b)(iii) "emergency" includes any medical emergency whether or not related to services provided under the Contract.
- 8.1.5. The Contractor must provide primary medical services required in *core hours* for the immediately necessary treatment of any person falling within clause 8.1.6 who requests such treatment, for the period specified in clause 8.1.7.
- 8.1.6. A person falls within this clause if he is a person-
- (a) whose application for inclusion in the *Contractor's list of patients* has been refused in accordance with clause 13.7 and who is not registered with another provider of *essential services* (or their equivalent);
  - (b) whose application for acceptance as a *temporary resident* has been rejected under clause 13.7; or
  - (c) who is present in the Contractor's *practice area* for less than 24 hours.
- 8.1.7. The period referred to in clause 8.1.5 is-
- (a) in the case of clause 8.1.6(a), 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;
  - (b) in the case of clause 8.1.6(b), 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
  - (c) in the case of clause 8.1.6(c), 24 hours or such shorter period as the person is present in the Contractor's *practice area*.
- 8.1.8. The Contractor does not have to provide the services described in clauses 8.1.2 and 8.1.5 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.

## 9 PART 9<sup>32</sup>

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<sup>32</sup> This Part only needs to be included in the Contract where the Contractor is to provide any one or more of the *additional services*. Where the contract is with-

- an individual medical practitioner who, on 31<sup>st</sup> March 2004, was providing services under section 29 of *the 1977 Act*;
- two or more individuals practising in partnership at least one of whom was, on 31<sup>st</sup> March 2004, a medical practitioner providing services under section 29 of *the 1977 Act*; or

## 9.1 Additional Services

- 9.1.1. In relation to each *additional service* it provides, the Contractor shall provide such facilities and equipment as are necessary to enable it properly to perform that service.
- 9.1.2. Where an *additional service* is to be funded under the *global sum*, the Contractor must provide that *additional service* at such times, within *core hours*, as are appropriate to meet the reasonable needs of its patients. The Contractor must also have in place arrangements for its patients to access such services throughout the *core hours* in case of emergency.
- 9.1.3. The Contractor shall provide the *additional services*<sup>33</sup> set out in clause 9.1.4 to-
- (a) its *registered patients*; and
  - (b) persons accepted by it as *temporary residents*.

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• a company in which one or more of the shareholders was, on 31<sup>st</sup> March 2004, a medical practitioner providing services under section 29 of *the 1977 Act* and services are to be provided under the Contract from 1<sup>st</sup> April 2004, the Contract must provide for the Contractor to provide in *core hours* to its *registered patients* and persons accepted by it as *temporary residents* such of the *additional services* as are equivalent to the services which that medical practitioner or practitioners was or were providing to his or their patients on the date that the Contract is entered into except to the extent that:-

- the provision of any of those services by that medical practitioner or practitioners was due to come to an end on or before the date on which services are required to start being provided under the Contract, or
- prior to the signing of the Contract, the *Primary Care Trust* has accepted in writing a written request from the Contractor that the Contract should not require it to provide all or any of those *additional services* (see regulation 29 of *the Regulations*).

In any other circumstances, it is for the Contractor and the Board to negotiate which *additional services* will be provided by the Contractor. If the Contractor is providing any one or more *additional services* under the Contract (whether or not pursuant to regulation 29), then the clauses relating to that particular *additional service* are required to be inserted into the Contract: clause 9.1 must be included where any one or more *additional services* is being provided by the Contractor under the Contract. This reflects the requirements of regulation 16 and Schedule 2 to *the Regulations*.

The first exception to these general principles (see article 17 of *the Transitional Order*) is where the Contractor was entitled to enter into a *general medical services contract* pursuant to article 8 or 10 of *the Transitional Order*: if this is the case, the Contract must, unless the Board has accepted in writing a written request from the Contractor not to provide such services, provide for the Contractor to provide in *core hours* to the Contractor's *registered patients* and persons accepted by it as *temporary residents*-

- such of the *additional services* as are equivalent to the services which were specified in the notice of vacancy published under regulation 18D of the National Health Service (General Medical Services) Regulations 1992, or
- in a case in which the services required were not so specified, the services which the medical practitioner whose death or withdrawal or removal from the *Primary Care Trust's* medical list led to the declaration of the vacancy was providing to his patients immediately prior to his death or withdrawal or removal from the list.

The second exception to these general principles (see article 18 of *the Transitional Order*) is where the Contract is being entered into with a Contractor who, immediately before the coming into force of the Contract, is a party to a *default contract* with a *Primary Care Trust*: if this is the case, the Contract must require the Contractor to provide in *core hours* to its *registered patients* and persons accepted by it as *temporary residents* all of the *additional services* which were required to be provided under the *default contract*, except to the extent that, prior to the signing of the Contract, the *Primary Care Trust* has accepted in writing a written request from the Contractor that the Contract should not require it to provide all or any of those *additional services*.

<sup>33</sup> Delete from the list at clause 9.1.4 any of the *additional services* that the Contractor is not going to be providing under the Contract to the persons specified in clause 9.1.3.

- 9.1.4. The Contractor shall provide to the patients specified in clause 9.1.3-
- (a) [*cervical screening services*];
  - (b) [*contraceptive services*];
  - (c) [*vaccines and immunisations*];
  - (d) [*childhood vaccines and immunisations*];
  - (e) [*child health surveillance services*];
  - (f) [*maternity medical services*];
  - (g) [*minor surgery*].
- 9.1.5. The Contractor shall provide the *additional services* set out in [ ] to [ ]<sup>34</sup>.
- 9.1.6. The Contractor shall provide to the patients specified in clause 9.1.5 -
- (a) [*cervical screening services*];
  - (b) [*contraceptive services*];
  - (c) [*vaccines and immunisations*];
  - (d) [*childhood vaccines and immunisations*];
  - (e) [*child health surveillance services*];
  - (f) [*maternity medical services*];
  - (g) [*minor surgery*].
- 9.1.7. [In addition to the *additional services* specified in clauses 9.1.3, 9.1.4, 9.1.5, and 9.1.6 the Contractor shall provide *child health surveillance services* to [*specify here any patients/categories of patients (other than patients who are recorded as being on the Contractor's list of patients) to whom the Contractor was providing child health surveillance services, either under regulation 28 of the National Health Service (General Medical Services) Regulations 1992 or pursuant to a default contract, on or immediately before the date this contract is to be entered into (see article 24 and 25 of the Transitional Order) (see article 24 and 25 of the Transitional Order)*]. The requirement to provide this *additional service* to the patients specified in this clause shall cease on the date on which any *opt out of child health surveillance services* in respect of the

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<sup>34</sup> Clauses 9.1.5 and 9.1.6 only need to be included if the parties agree that the Contractor will provide *additional services* that are not funded by the *global sum*. If the parties do so agree, details need to be inserted at clause 9.1.5 of the patients to whom such services will be provided, and where particular *additional services* specified in clause 9.1.6 are to be provided to particular patients (for example *maternity medical services* is to be provided to one group of patients and *minor surgery* is to be provided to a different group of patients), the spaces in square brackets at clause 9.1.5 should be completed to make it clear which *additional services* included at clause 9.1.6 are to be provided to which patients; any *additional services* that the Contractor will not be providing to patients specified in clause 9.1.5 need to be deleted from clause 9.1.6.

Contractor's own *registered patients* commences pursuant to Part 11 of the Contract]<sup>35</sup>

9.1.8. [In addition to the *additional services* specified in clauses 9.1.3, 9.1.4, 9.1.5, and 9.1.6 the Contractor shall provide *contraceptive services* to *[specify here any patients/categories of patients (other than patients who are recorded as being on the Contractor's list of patients) to whom the Contractor was providing contraceptive services, either under regulation 29 of the National Health Service (General Medical Services) Regulations 1992 or pursuant to a default contract, on or immediately before the date this contract is to be entered into (see article 24 and 25 of the Transitional Order)]* The requirement to provide this *additional service* to the patients specified in this clause shall cease on the date on which any *opt out of contraceptive services* in respect of the Contractor's own *registered patients* commences pursuant to Part 11 of the Contract]<sup>36</sup>

9.1.9. [In addition to the *additional services* specified in clauses 9.1.3, 9.1.4, 9.1.5, and 9.1.6, the Contractor shall provide *maternity medical services* to *[specify here any patients/categories of patients (other than patients who are recorded as being on the Contractor's list of patients) to whom the Contractor was providing contraceptive services either under regulation 31 of the National Health Service (General Medical Services) Regulations 1992 or pursuant to a default contract, on or immediately before the date the Contract is to be entered into (see article 24 and 25 of the Transitional Order)]*. The requirement to provide this *additional service* to the patients specified in this clause shall cease on the date on which any *opt out of maternity medical services* in respect of the Contractor's own *registered patients* commences pursuant to Part 11 of the Contract]<sup>37</sup>

9.1.10. [Nothing in clauses 9.1.7 to 9.1.9 shall prevent the Contractor from subsequently terminating its responsibility for patients not registered with the Contractor pursuant to clause 13.7]<sup>38</sup>.

9.1.11. [ ]<sup>39</sup>

## 9.2. **Cervical screening**<sup>40</sup>

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<sup>35</sup> This clause only needs to be included if the Contractor must provide such services pursuant to article 24 or 25 of the *Transitional Order*: if neither article applies to the Contractor, this clause can be deleted.

<sup>36</sup> This clause only needs to be included if the Contractor must provide such services pursuant to article 24 or 25 of the *Transitional Order*: if neither article applies to the Contractor, this clause can be deleted.

<sup>37</sup> This clause only needs to be included if the Contractor must provide such services pursuant to article 24 or 25 of the *Transitional Order*: if neither article applies to the Contractor, this clause can be deleted.

<sup>38</sup> This clause only needs to be included if any of clauses 9.1.7 to 9.1.9 are included. If not, this clause can be deleted.

<sup>39</sup> Clause 9.1.2 makes provision in respect of *additional services* funded by the *global sum* in respect of the times during which *additional services* are to be provided to patients. In relation to *additional services* that are not funded by the *global sum* (specified in clause 9.1.10), the parties will need to specify here the times during which such services are to be provided: there is further space in the clauses below to include such further detail as is necessary.

9.2.1. The Contractor shall-

- (a) provide the services described in clause 9.2.2; and
- (b) make such records as are referred to in clause 9.2.3.

9.2.2. The services referred to in clause 9.2.1 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.

9.2.3. The records referred to in clause 9.2.1 are an accurate record of the carrying out of a cervical screening test, the result of the test and any clinical follow up requirements.

9.3. **Contraceptive services**<sup>41</sup>

9.3.1. 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

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<sup>40</sup> Clauses 9.2.1 to 9.2.3 are required by *the Regulations* only where the Contract includes the provision of *cervical screening services*. If the Contractor is not providing *cervical screening services*, these clauses should be deleted.

<sup>41</sup> Clause 9.3.1 is required by *the Regulations* only where the Contract includes the provision of *contraceptive services*. If the Contractor is not providing *contraceptive services*, this clause should be deleted.

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.

9.4. **Vaccines and immunisations**<sup>42</sup>

The Contractor must comply with clauses 9.4.1 to 9.4.4.

9.4.1. 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 9.4.2; 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.

9.4.2. The specified information referred to in clause 9.4.1(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;

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<sup>42</sup> Clauses 9.4.1 to 9.4.4 are required by *the Regulations* only where the Contract includes the provision of *vaccines and immunisations*. If the Contractor is not providing *vaccines and immunisations*, these clauses should be deleted.

- (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.
- 9.4.3. The Contractor must ensure that all staff involved in the administration of immunisations are trained in the recognition and initial treatment of anaphylaxis.
- 9.4.4. In this clause 9.4, “patient records” means the record which is kept in accordance with clause 16.1.
- 9.5. **Childhood vaccines and immunisations**<sup>43</sup>
  - 9.5.1. 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 16.1 any refusal of the offer referred to in sub-clause (a).
  - 9.5.2. Where the offer is accepted, administer the immunisations, and include in the patient’s record kept in accordance with clause 16.1-
    - (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.

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<sup>43</sup> Clauses 9.5.1 to 9.5.3 are required by *the Regulations* only where the Contract includes the provision of *childhood vaccines and immunisations*. If the Contractor is not providing *childhood vaccines and immunisations*, these clauses should be deleted.



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

9.6. **Child health surveillance**<sup>44</sup>

- 9.6.1. 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 9.6.2, 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 9.6.3.

- 9.6.2. The services referred to in clause 9.6.1(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 9.6.3 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).

- 9.6.3. The records referred to in clause 9.6.1(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

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<sup>44</sup> Clauses 9.6.1 to 9.6.3 are required by *the Regulations* only where the Contract includes the provision of *child health surveillance services*. If the Contractor is not providing *child health surveillance services*, these clauses should be deleted.

- (b) the responses (if any) to offers made to the child's *parent* for the child to undergo any examination referred to in clause 9.6.2(b).

9.7. **Maternity medical services**<sup>45</sup>

9.7.1. 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.

9.7.2. In clause 9.7.1 -

“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.

9.8. **Minor surgery**<sup>46</sup>

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

9.8.2. The Contractor shall ensure that its record of any treatment provided pursuant to clause 9.8.1 includes the consent of the patient to that treatment.

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<sup>45</sup> Clauses 9.7.1 to 9.7.2 are required by *the Regulations* only where the Contract includes the provision of *maternity medical services*. If the Contractor is not providing *maternity medical services*, these clauses should be deleted.

<sup>46</sup> Clauses 9.8.1 to 9.8.2 are required by *the Regulations* only where the Contract includes the provision of *minor surgery*. If the Contractor is not providing *minor surgery*, these clauses should be deleted.

## 10 PART 10

### 10.1 Out of Hours Services<sup>47</sup>

- 10.1.1. [Subject to clause 10.1.2, the Contractor shall provide-
- (a) the services which must be provided in *core hours* pursuant to clauses 8.1.1 to 8.1.8; and
  - (b) such *additional services* (if any) as are included in the Contract pursuant to clause 9.1.4,
- during the *out of hours period*<sup>48</sup>].

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<sup>47</sup> A contractor is required to provide *out of hours services* under the Contract if it falls within the categories specified in regulations 30 to 31 of *the Regulations*; otherwise it is a matter for negotiation between the parties. This means that the Contractor must provide *out of hours services* under the Contract in the following circumstances:-

1. (regulation 30) if, under the Contract, the Contractor will be providing any services before 1<sup>st</sup> January 2005 (whether or not services will be provided after that date), the Contract must provide for *out of hours services* to be provided to patients by the Contractor unless:-
  - a) the *Primary Care Trust* has accepted in writing, prior to the signing of the Contract, a written request from the Contractor that the Contract should not require the Contractor to make such provision; or
  - b) the Contract is, at the date on which it is signed, with-
    - a medical practitioner who is or was, on 31<sup>st</sup> March 2004 relieved of responsibility for providing services to his patients under paragraph 18(2) of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992;
    - a partnership in which all of the partners who are *general medical practitioners* are, or were on 31<sup>st</sup> March 2004 relieved of responsibility for providing services to their patients under that paragraph on that date;
    - a company in which all of the *general medical practitioners* who own shares in that company are, or were on 31<sup>st</sup> March 2004 relieved of responsibility for providing services to their patients under that paragraph on that date
  - c) the Contractor opts out of the provision of *out of hours services* pursuant to the Contract (which will not affect the need to include the provision of *out of hours services* in the Contract at the point the Contract is entered into); or
  - d) the Contract has been otherwise varied to exclude a requirement to make such provision (this will not be relevant at the point where the Contract is being entered into because there will not be any such variation until there is a contract to vary); AND
2. (regulation 31) if the Contract is with any of the persons specified in a) to c) below, the Contract must require the Contractor to continue providing *out of hours services* to patients of an exempt contractor where the Contractor is-
  - a) an individual medical practitioner who is, or was on 31<sup>st</sup> March 2004, responsible for providing services during all or part of the *out of hours period* to the patients of a medical practitioner who meets the requirements set out in paragraph 3 below ("exempt contractor");
  - b) two or more individuals practising in partnership at least one of whom is, or was on 31<sup>st</sup> March 2004, a medical practitioner responsible for providing such services; or
  - c) a company in which one or more of the shareholders is, or was, on 31<sup>st</sup> March 2004, a medical practitioner responsible for providing such servicesand the Contractor must continue to provide such services until it has opted out of the provision of *out of hours services* in accordance with Part 11 of the Contract, or the Board has agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients.
3. the requirements referred to in 2.a) are that-
  - a) the medical practitioner was relieved of responsibility for providing services to his patients under paragraph 18(2) of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992; and
  - b) he-
    - a. has entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above,
    - b. is one of two or more individuals practising in partnership who have entered or intend to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above;
    - c. is the owner of shares in a company which has entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above.

- 10.1.2. The Contractor shall only be required to provide the services specified in clause 10.1.1 during the *out of hours period* to a patient if, in the reasonable opinion of the Contractor in the light of the patient's medical condition, it would not be reasonable in all the circumstances for the patient to wait for the services required until the next time at which he could obtain such services during *core hours*<sup>49</sup>.
- 10.1.3. The Contractor must, in the provision of *out of hours services*, meet the quality requirements set out in the document entitled "National Quality Requirements in the Delivery of Out of Hours Services" published on 20th July 2006 (the document is published electronically at <http://www.dh.gov.uk>)<sup>50</sup> and comply with any requests for information which it receives from, or on behalf of, the Board about the provision by the Contractor of *out of hours services* to its *registered patients* in such manner, and before the end of such period, as is specified in the request.
- 10.1.4. Where the Contractor does not provide *out of hours services*, the Contractor must:
- (a) monitor the quality of the out of hours services which are offered or provided to its registered patients having regard to the National Quality Standards referred to in clause 10.1.3 and record, and act appropriately in relation to, any concerns arising;
  - (b) record any patient feedback received, including any complaints;
  - (c) report to the Board, either at the request of the Board or otherwise, any concerns arising about the quality of the *out of hours services* which are offered or provided to its *registered patients* having regard to:
    - (i) any patient feedback received, including any complaints, and
    - (ii) the quality requirements set out in the National Quality Standards referred to in clause 10.1.3.
- 10.2. **Supply of medicines etc. by contractors providing out of hours services**<sup>51</sup>

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<sup>48</sup> This clause is mandatory only if *out of hours services* are being provided pursuant to regulation 30 or 31 of *the Regulations*: if *out of hours services* are included in the Contract other than by virtue of regulation 30 or 31, details of what services are to be provided by the Contractor during the *out of hours period* should be included here instead, and the provision can be re-drafted depending on what is agreed between the parties.

<sup>49</sup> This clause is required whenever *out of hours services* will be provided, whether pursuant to regulation 30 or 31 of *the Regulations* or not.

<sup>50</sup> This clause is required whenever *out of hours services* will be provided, whether pursuant to regulation 30 or 31 of *the Regulations* or not.

<sup>51</sup> This clause is required whenever *out of hours services* will be provided, whether pursuant to regulation 30 or 31 of *the Regulations* or not.

- 10.2.1. If the Contract includes the supply of *necessary drugs, medicines and appliances* to patients at the time that the Contractor is providing them with *out of hours services*, the Contractor shall comply with the requirements in clauses 10.2.2 to 10.2.5.
- 10.2.2. The Contractor shall ensure that an *out of hours performer*—
- (a) only supplies *necessary drugs, medicines and appliances*;
  - (b) supplies the *complete course* of the necessary medicine or drug required to treat the patient; and
  - (c) does not supply—
    - (i) drugs, medicines or appliances which he could not lawfully supply,
    - (ii) appliances which are not listed in Part IX of the *Drug Tariff*,
    - (iii) *restricted availability appliances*, except where the patient is a person, or it is for a purpose, specified in the *Drug Tariff*, or
    - (iv) a drug, medicine or other substance listed in Schedule 1 to the *Prescription of Drugs Regulations*, or a drug, medicine or other substance listed in Schedule 2 to those Regulations other than in the circumstances specified in that Schedule.
- 10.2.3. The *out of hours performer* shall record on a separate *supply form* for each patient any drugs, medicines or appliances supplied to the patient provided that a single *supply form* may be completed where the Contractor supplies *necessary drugs, medicines or appliances* to two or more persons in a school or other institution in which at least 20 persons normally reside, when the *out of hours performer* may write on the *supply form* the name of the school or institution rather than the name of the individual patient.
- 10.2.4. The *out of hours performer* shall ask any person who makes a declaration that the patient does not have to pay the charges specified in regulations made under sections 172 and section 174 of *the 2006 Act* in respect of *dispensing services* to a patient by virtue of either—
- (a) entitlement to exemption under regulations made under those sections; or
  - (b) entitlement to full remission of charges under regulations made under sections 182 or 183 of that Act,
- to produce satisfactory evidence of such entitlement, unless at time of the declaration such evidence is available to the *out of hours performer*.

- 10.2.5. If no satisfactory evidence is produced to him as required by clause 10.2.4 (and, where it is relevant, none is already available to him as mentioned in that clause), the *out of hours performer* shall endorse the *supply form* to that effect.
- 10.2.6. Subject to clause 10.2.7, nothing in clauses 10.2.1 to 10.2.5 shall prevent an *out of hours performer* supplying a *Scheduled drug* or a *restricted availability appliance* in the course of treating a patient under a private arrangement.
- 10.2.7. The provisions of Part 19 apply in respect of the supply of *necessary drugs, medicines and appliances* under clauses 10.2.1 to 10.2.5 as they apply in respect of prescriptions for drugs, medicines and appliances.
- 10.2.8. If the Contractor is required to provide *out of hours services* under the Contract pursuant to regulation 31 of *the Regulations* to the patients of an exempt contractor it shall provide such services, and continue to provide such services until-
- (a) it has opted out of the provision of *out of hours services* in accordance with Part 11 of this Contract;
  - (b) the Board has agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients<sup>52</sup>.
- 10.2.9. [If the Contractor is required to provide *out of hours services* under the Contract, pursuant to article 20 of *the Transitional Order*, to the patients of a party to a *default contract* who is an exempt contractor (within the meaning of that article) it shall provide such services to those patients, and continue to provide such services until-
- (a) the exempt contractor's *default contract* referred to in article 20(3)(a) of *the Transitional Order* has come to an end and not been succeeded by a *general medical services contract* which does not include *out of hours services* pursuant to regulation 30(1)(b) of *the Regulations*;
  - (b) the Contractor has opted out of the provision of *out of hours services* in accordance with Part 11 of the Contract; or
  - (c) the Board has agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients.]<sup>53</sup>

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<sup>52</sup> This clause is only required if the Contractor is providing *out of hours services* pursuant to regulation 31 of *the Regulations*. Otherwise this clause should be deleted.

<sup>53</sup> Clause 10.2.9 only needs to be included if, pursuant to article 20 of *the Transitional Order*, the Contractor will be responsible for providing *out of hours services* to the patients of a party to a *default contract*. If it is not relevant to the Contractor, the clause can be deleted.

## 11 PART 11

### 11.1 Opt outs of additional and out of hours services<sup>54</sup>

#### 11.1. Opt outs of additional services: general

- 11.1.1. Where the Contractor wishes to *permanently opt out* or *temporarily opt out* of the provision of one or more *additional services* (referred to in clauses 11.1.2 to 11.3.11 below as “*additional service*”), the Contractor shall give to the Board in writing a *preliminary opt out notice* which shall state the reasons for wishing to opt out.
- 11.1.2. As soon as is reasonably practicable and in any event within the period of 7 days beginning with the receipt of the *preliminary opt out notice* by the Board, the Board shall enter into discussions with the Contractor concerning the support which the Board may give the Contractor, or other changes which the Board or the Contractor may make, which would enable the Contractor to continue to provide the *additional service*. The Board and the Contractor shall use reasonable endeavours to achieve this aim.
- 11.1.3. The discussions referred to in clause 11.1.2 shall be completed within the period of 10 days beginning with the date of the receipt of the *preliminary opt out notice* by the Board or as soon as reasonably practicable thereafter. If, following the discussions, the Contractor still wishes to opt out of the provision of the *additional service*, it shall send an *opt out notice* to the Board.
- 11.1.4. An *opt out notice* shall specify-
- (a) the *additional service* concerned;
  - (b) whether the Contractor wishes to *permanently opt out* or *temporarily opt out*;
  - (c) the reasons for wishing to opt out;
  - (d) the date from which the Contractor would like the opt out to commence, which must in the case of a *temporary opt out* be at least 14 days after the date of service of the *opt out notice*, and in the case of a *permanent opt out* must be the day either 3 or 6 months after the date of service of the *opt out notice*; and
  - (e) in the case of a *temporary opt out*, the desired duration of the opt out.

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<sup>54</sup> These provisions are required by *the Regulations* in certain circumstances (see regulation 17 and Schedule 3):-

- if the Contract provides for the Contractor to provide an *additional service* that is to be funded through the *global sum*, clauses 11.1.1 to 11.3.11 are required;
- if the Contract is entered into on or after 1<sup>st</sup> October 2004 and the Contract provides for the Contractor to provide *out of hours services* pursuant to regulation 30 or 31 of *the Regulations*, clauses 11.4.1 to 11.4.8 are required.

If any of the provisions relating to opt outs of *additional* and *out of hours services* are included, clauses 11.5.1 to 11.5.3 are required.

- 11.1.5. Where the Contractor has given two previous *temporary opt out notices* within the period of three years ending with the date of the service of the latest *opt out notice* (whether or not the same *additional service* is concerned), the latest *opt out notice* shall be treated as a *permanent opt out notice* even if the *opt out notice* says that it wishes to *temporarily opt out*.
- 11.2. **Temporary opt outs and permanent opt outs following temporary opt outs**
- 11.2.1. Clauses 11.2.1 to 11.2.12 apply following the giving of a *temporary opt out notice*.
- 11.2.2. As soon as is reasonably practicable and in any event within the period of 7 days beginning with the date of receipt of a *temporary opt out notice* under clause 11.1.3, the Board shall-
- (a) approve the *opt out notice* and specify in accordance with clauses 11.2.4 and 11.2.5 the date on which the *temporary opt out* is to commence and the date that it is to come to an end ("the end date"); or
  - (b) reject the *opt out notice* in accordance with clause 11.2.3, and shall notify the Contractor of its decision as soon as possible, giving reasons for its decision.
- 11.2.3. The Board may reject the *opt out notice* on the ground that the Contractor-
- (a) is providing *additional services* to patients other than its own *registered patients*, or *enhanced services*; or
  - (b) has no reasonable need temporarily to *opt out* having regard to its ability to deliver the *additional service*.
- 11.2.4. The date specified by the Board for the commencement of the *temporary opt out* shall wherever reasonably practicable be the date requested by the Contractor in its *opt out notice*.
- 11.2.5. Before determining the end date, the Board shall make reasonable efforts to reach agreement as to the end date with the Contractor.
- 11.2.6. Where the Board approves an *opt out notice*, the Contractor's obligation to provide the *additional service* specified in the notice shall be suspended from the date specified by the Board in its decision under clause 11.2.2 and shall remain suspended until the end date unless-
- (a) the Contractor and the Board agree an earlier date in writing, in which case the suspension shall come to an end on the earlier date agreed;
  - (b) the Board specifies a later date under clause 11.2.7 in which case the suspension shall end on the later date specified;



- (c) clause 11.2.8 applies, and the Contractor refers the matter to the *NHS dispute resolution procedure* or the court, in which case the suspension shall end-
    - (i) where the outcome of the decision is to uphold the decision of the Board, on the day after the date of the decision of *the Secretary of State* or the court,
    - (ii) where the outcome of the dispute is to overturn the decision of the Board, 28 days after the decision of *the Secretary of State* or the court, or
    - (iii) where the Contractor ceases to pursue the *NHS dispute resolution procedure* or court proceedings, on the day after the date that the Contractor withdraws its claim or the procedure is or proceedings are otherwise terminated by *the Secretary of State* or the court;
  - (d) clause 11.2.10 applies and-
    - (i) the Board refuses the Contractor's request for a *permanent opt out* within the period of 28 days ending with the end date, in which case the suspension shall come to an end 28 days after the end date, or
    - (ii) the Board refuses the Contractor's request for a *permanent opt out* after the end date, in which case the suspension shall come to an end 28 days after the date of service of the notice.
- 11.2.7. Before the end date, the Board may, in exceptional circumstances and with the agreement of the Contractor, notify the Contractor in writing of a later date on which the *temporary opt out* is to come to an end, being a date no more than six months later than the end date.
- 11.2.8. Where the Board considers that-
- (a) the Contractor will be unable to satisfactorily provide the *additional service* at the end of the *temporary opt out*; and
  - (b) it would not be appropriate to exercise its discretion under clause 11.2.7 to specify a later date on which the *temporary opt out* is to come to an end or the Contractor does not agree to a later date,
- the Board may notify the Contractor in writing at least 28 days before the end date that a *permanent opt out* shall follow a *temporary opt out*.
- 11.2.9. Where the Board notifies the Contractor under clause 11.2.8 that the *permanent opt out* shall follow a *temporary opt out*, the *permanent opt out* shall take effect immediately after the end of the *temporary opt out*.

- 11.2.10. Where the Contractor has *temporarily opted out*, the Contractor may at least three months prior to the end date notify the Board in writing that it wishes to *permanently opt out* of the *additional service* in question.
- 11.2.11. Where the Contractor has notified the Board under clause 11.2.10 that it wishes to *permanently opt out*, the *temporary opt out* shall be followed by a *permanent opt out* beginning on the day after the end date unless the Board refuses the Contractor's request to *permanently opt out* by giving a notice in writing to the Contractor to this effect.
- 11.2.12. A *temporary opt out* or *permanent opt out* commences, and a *temporary opt out* ends, at 08.00 on the relevant day unless-
- (a) the day is a Saturday, Sunday, Christmas Day, Good Friday or a *bank holiday*, in which case the opt out shall take effect on the next working day at 08.00; or
  - (b) the Board and the Contractor agree a different day or time.

11.3. **Permanent opt outs**

- 11.3.1. In clauses 11.3.2 to 11.3.11–
- “A Day” is the day specified by the Contractor in its *permanent opt out notice* to the Board for the commencement of the *permanent opt out*;
- “B Day” is the day six months after the date of service of the *permanent opt out notice*; and
- “C Day” is the day nine months after the date of service of the *permanent opt out notice*.
- 11.3.2. As soon as is reasonably practicable and in any event within the period of 28 days beginning with the date of receipt of a *permanent opt out notice* under clause 11.1.3 (or *temporary opt out notice* which is treated as a *permanent opt out notice* under clause 11.1.5), the Board shall-
- (a) approve the *opt out notice*; or
  - (b) reject the *opt out notice* in accordance with clause 11.3.3,
- and shall notify the Contractor of its decision as soon as possible, including reasons for its decision where its decision is to reject the *opt out notice*.
- 11.3.3. A Board may reject the *opt out notice* on the ground that the Contractor is providing an *additional service* to patients other than its *registered patients* or *enhanced services*.
- 11.3.4. The Contractor may not withdraw an *opt out notice* once it has been approved by the Board in accordance with clause 11.3.2(a) without the Board's agreement.

- 11.3.5. If the Board approves the *opt out notice* under clause 11.3.2(a), it shall use its reasonable endeavours to make arrangements for the Contractor's *registered patients* to receive the *additional service* from an alternative provider from A day.
- 11.3.6. The Contractor's duty to provide the *additional service* shall terminate on A Day unless the Board serves a notice under clause 11.3.7 (extending A day to B day or C day).
- 11.3.7. If the Board is not successful in finding an alternative provider to take on the provision of the *additional service* from A day, then it shall notify the Contractor in writing of this fact no later than one month before A day, and-
- (a) in a case where A Day is three months after service of the *opt out notice*, the Contractor shall continue to provide the *additional service* until B Day unless at least one month before B Day it receives a notice in writing from the Board under clause 11.3.8 that despite using its reasonable endeavours, it has failed to find an alternative provider to take on the provision of the *additional service* from B Day;
  - (b) in a case where A Day is six months after the service of the *opt out notice*, the Contractor shall continue to provide the *additional service* until C Day.
- 11.3.8. Where in accordance with clause 11.3.7(a) the *permanent opt out* is to commence on B Day and the Board, despite using its reasonable endeavours, has failed to find an alternative provider to take on the provision of the *additional service* from that day, it shall notify the Contractor in writing of this fact at least one month before B Day, in which case the Contractor shall continue to provide the *additional service* until C Day.
- 11.3.9. As soon as is reasonably practicable and in any event within 7 days of the Board serving a notice under clause 11.3.8, the Board shall enter into discussions with the Contractor concerning the support that the Board may give to the Contractor or other changes which the Board or the Contractor may make in relation to the provision of the *additional service* until C Day.
- 11.3.10. Nothing in clauses 11.3.1 to 11.3.9 above shall prevent the Contractor and the Board from agreeing a different date for the termination of the Contractor's duty under the Contract to provide the *additional service* and, accordingly, varying the Contract in accordance with clause 26.1.1.
- 11.3.11. The *permanent opt out* takes effect at 08.00 on the relevant day unless-
- (a) the day is a Saturday, Sunday, Christmas Day, Good Friday or a *bank holiday*, in which case the opt out shall take effect on the next working day at 08.00; or

- (b) the Board and the Contractor agree a different day or time.

11.4. **Out of hours opt outs where the opt out notice is served after 30<sup>th</sup> September 2004**

- 11.4.1. Clauses 11.4.2 to 11.4.8 apply where the Contractor wishes to serve or serves an *out of hours opt out notice* after 30<sup>th</sup> September 2004.
- 11.4.2. Where the Contractor wishes to terminate its obligation to provide *out of hours services* which was included in the Contract pursuant to regulation 30 of *the Regulations*, the Contractor shall notify the relevant Board in writing to that effect (an *out of hours opt out notice*).
- 11.4.3. An *out of hours opt out notice* shall specify the date from which the Contractor would like the opt out to take effect, which must be either three or six months after the date of service of the *out of hours opt out notice*.
- 11.4.4. As soon as is reasonably practicable and in any event within 28 days of receiving the *out of hours opt out notice*, the Board shall approve the notice and specify in accordance with clause 11.4.5 the date on which the out of hours opt out is to commence (“OOH Day”). The Board shall notify the Contractor of its decision as soon as possible.
- 11.4.5. The date specified under clause 11.4.4 shall be the date specified in the *out of hours opt out notice*.
- 11.4.6. The Contractor may not withdraw an *out of hours opt out notice* once it has been approved by the Board under clause 11.4.4 without the Board’s agreement.
- 11.4.7. Following receipt of the *out of hours opt out notice*, the Board must use its reasonable endeavours to make arrangements for the Contractor’s *registered patients* to receive the *out of hours services* from an alternative provider from OOH Day.
- 11.4.8. Clauses 11.3.6 to 11.3.9 shall apply to an out of hours opt out as they apply to a *permanent opt out* and as if the reference to “A Day” was a reference to OOH day.

11.5. **Informing patients of opt outs**

- 11.5.1. Prior to any opt out taking effect, the Board and the Contractor shall discuss how to inform the Contractor’s patients of the proposed opt out.
- 11.5.2. The Contractor shall, if requested by the Board, inform its *registered patients* of an opt out and the arrangements made for them to receive the *additional service* or *out of hours services* by-
  - (a) placing a notice in the *practice’s* waiting room; or
  - (b) including the information in the *practice leaflet*.

- 11.5.3. In clauses 11.5.1 and 11.5.2 “opt out” means an out of hours opt out, a *permanent opt out* or a *temporary opt out*.

## 12 PART 12<sup>55</sup>

### 12.1 Enhanced Services

12.1. [The parties should insert here the details of the *enhanced services* that the Contractor has agreed to provide under the Contract (if any) including details of to whom each of such services will be provided].

12.2. [ ]

12.3. [ ]

12.4. [ ]

12.5. [ ]

12.6. [ ]

12.7. [ ]

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<sup>55</sup> This Part is not required by *the Regulations* but if the parties agree that the Contractor is going to provide *enhanced services* under the GMS Contract, or any relevant Directions direct the Board to include particular *enhanced services* if the Contractor so requests, details of such services, together with any relevant specifications, should be incorporated in this Part.

## 13 PART 13<sup>56</sup>

### 13.1 Patients

#### 13.1. Persons to whom services are to be provided<sup>57</sup>

- 13.1.1. [Except where specifically stated otherwise in respect of particular services]<sup>58</sup> The Contractor shall provide services under the Contract to:
- (a) *registered patients*,
  - (b) *temporary residents*,
  - (c) persons to whom the Contractor is required to provide immediately necessary treatment under clause 8.1.2(b)(iii) or 8.1.5,
  - (d) any person for whom the Contractor is responsible under regulation 31 of *the Regulations*<sup>59</sup> [or article 20 of *the Transitional Order*]<sup>60</sup>; and
  - (e) any other person to whom the Contractor has agreed to provide services under the Contract.

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<sup>56</sup> Except where specifically indicated in a footnote, this Part is required by *the Regulations*: see regulation 18, regulation 25 and Part 2 of Schedule 6.

<sup>57</sup> This provision is required by regulation 18(1)(c) of *the Regulations* which requires the Contract to specify to whom services under the Contract are to be provided.

<sup>58</sup> The words in square brackets may be required where the Contractor is providing *additional services* not funded by the *global sum*, *enhanced services* or *out of hours services* only to specific categories of patients (and not all of the patients specified in clauses 13.1.1(a) to 13.1.1(d)).

<sup>59</sup> Regulation 31 of *the Regulations* provides that if the Contract is with any of the persons specified in a) to c) below, the Contract must require the Contractor to continue providing *out of hours services* to patients of an exempt contractor where the Contractor is-

- a) an individual medical practitioner who is, or was on 31<sup>st</sup> March 2004, responsible for providing services during all or part of the *out of hours period* to the patients of a medical practitioner who meets the requirements set out in paragraph 2 below ("exempt contractor");
  - b) two or more individuals practising in partnership at least one of whom was, or will be, on 31<sup>st</sup> March 2004, a medical practitioner responsible for providing such services; or
  - c) a company in which one or more of the shareholders was, or will be, on 31<sup>st</sup> March 2004, a medical practitioner responsible for providing such services,
- and the Contractor must continue to provide such services until it has opted out of the provision of *out of hours services* in accordance with Part 11 of the Contract, or the Board (or if it is different, the Board with whom the exempt contractor holds its contract)) has or have agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients.
2. The requirements are that-
- a) the medical practitioner was relieved of responsibility for providing services to his patients under paragraph 18(2) of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992; and
  - b) he-
    - a. has entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above,
    - b. is one of two or more individuals practising in partnership who have entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above;
    - c. is the owner of shares in a company which has entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above.

<sup>60</sup> The words indicated in square brackets need only be included if, pursuant to article 20 of *the Transitional Order* and clause 10.2.9 the Contractor is required to provide *out of hours services* to the patients of a party to a *default contract* who is an exempt contractor as set out in that article.

13.2. **Patient registration area**

- 13.2.1. 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*, is [ ]<sup>61</sup>.

13.3. **Outer boundary area**<sup>62</sup>

- 13.3.1. The area, other than the area referred to in clause 13.2.1, which is to be known as the outer boundary area is [ ].
- 13.3.2. Where a patient moves into the outer boundary area referred to in clause 13.3.1 and wishes to remain on the *Contractor's list of patients*, the patient may remain on that list if the Contractor so agrees, notwithstanding the patient no longer resides in the area referred to in clause 13.2.1.
- 13.3.3. Where a patient remains on the *Contractor's list of patients* as a consequence of clause 13.3.2, the outer boundary area is to be treated as part of the *practice area* for the purposes of the application of any other terms and conditions of this contract in respect of that patient.

13.4. **List of patients**

- 13.4.1. The *Contractor's list of patients* is [open/closed]<sup>63</sup>.
- 13.4.2. The *Contractor's list of patients* shall remain closed for a period of [ ]<sup>64</sup> from the date on which the Contract comes into force. The *Contractor's list of patients* shall remain closed for that whole period, unless the Contractor successfully applies for an extension to the closure period in accordance with clauses 13.21.1 to 13.21.11 or the Contractor and the Board agree that the Contractor should re-open its list of patients in accordance with clause 13.22.]<sup>65</sup>
- 13.4.3. The Board shall prepare and keep up to date a list of the patients-
- (a) who have been accepted by the Contractor for inclusion in its list of patients under clauses 13.5.1 to 13.5.6 and 28.1.1 and who have not subsequently been removed from that list under clauses 13.9.1 to 13.16.3; and
  - (b) who have been assigned to the Contractor under clause 13.23, or clause 13.24 and whose assignment has not subsequently been rescinded.

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<sup>61</sup> The *practice area* needs to be specified here – this is required by regulation 18(1)(d) of *the Regulations*.

<sup>62</sup> Clauses 13.3.1, 13.3.2 and 13.3.3 must be included and clause 13.7.2 amended only where the parties agree there is to be an outer boundary area.

<sup>63</sup> The Contract must specify whether, at the date the Contract comes into force, the Contractor's list of patients will be *open* or *closed*. Please delete as appropriate. This clause is required by regulation 18(1)(e) of *the Regulations*.

<sup>64</sup> A period of at least 3 months and not more than 12 months should be inserted here.

<sup>65</sup> This clause should only be included if clause 13.4.1 states that the Contractor's list is *closed*.



- 13.4.4. [The Board shall also include in the *Contractor's list of patients* those patients who, on 31<sup>st</sup> March 2004, were recorded by the Board pursuant to regulation 19 of the National Health Service (General Medical Services) Regulations 1992 as being on the list of-
- (a) the Contractor, if the Contractor is an individual medical practitioner,
  - (b) any of the two or more medical practitioners practising in partnership who have entered into the contract, if the Contractor is a partnership, or
  - (c) any of the medical practitioners who are legal and beneficial shareholders in the company which has entered into the contract,
- unless the patient lives outside the *practice area*, and that patient was included on that medical practitioner's list other than by virtue of an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998.
- 13.4.5. [The Board shall also include in the *Contractor's list of patients*-
- (a) all the patients who, on the date immediately before the coming into force of the *general medical services contract* were on the *Contractor's list of patients* for the purposes of a *default contract* with the Board, unless the patient lives outside the *practice area*, and that patient was included on the Contractor's list other than by virtue of an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998 or under the *default contract*; and
  - (b) any patient who had been assigned to the Contractor when he was a party to that *default contract* in accordance with the terms of that contract but not yet included in the list referred to in clause 13.4.4.]<sup>66</sup>
- 13.4.6. [The Board shall also include in the *Contractor's list of patients* all of the patients who, on the date on which temporary arrangements under regulation 25(2) or (6) of the National Health Service (General Medical Services) Regulations 1992 came to an end, were-
- (a) temporarily re-assigned to other medical practitioners under paragraph (14A) of regulation 25; or
  - (b) included on the list of the medical practitioner for whom the temporary arrangements were in place,

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<sup>66</sup> This clause should only be included if the Contract with the Board is being entered into with a Contractor who was a party to a *default contract* with the Board immediately before the coming into force of the Contract: see article 29 of *the Transitional Order*. If the clause does not apply, it should be deleted.

unless the patient lives outside the *practice area* and that patient became registered with either the medical practitioner for whom the temporary arrangements are in place or the medical practitioner or practitioners providing the temporary arrangements otherwise than as a result of an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998.]<sup>67</sup>

- 13.4.7. [The Board shall also include in the *Contractor's list of patients*, all of the patients who were, on the date on which contractual arrangements under article 15 of *the Transitional Order* in respect of the Contractor's patients came to an end, on the list or lists of patients prepared and maintained by the Board for the purpose of those contractual arrangements, unless the patient lives outside the *practice area* and that patient's inclusion in the list of patients did not result from an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998 or under the contractual arrangements under article 15]<sup>68</sup>.

13.5. **Application for inclusion in a list of patients**

- 13.5.1. The Contractor may, if its list of patients is *open*, accept an application for inclusion in its list of patients made by or on behalf of any person, whether or not resident in its *practice area* or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services.
- 13.5.2. The Contractor may, if its list of patients is *closed*, only accept an application for inclusion in its list of patients from a person who is an *immediate family member* of a *registered patient* whether or not resident in its *practice area* or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services.
- 13.5.3. Subject to clause 13.5.4, an application for inclusion in the *Contractor's list of patients* shall be made by delivering to the *practice premises* a *medical card* or an application signed (in either case) by the applicant or a person authorised by the applicant to sign on his behalf.
- 13.5.4. An application may be made-
- (a) on behalf of any *child*-

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<sup>67</sup> This clause is required by article 30(1) of *the Transitional Order* if the Contractor is an individual medical practitioner for whom, immediately before the Contract commences, the Board had in place temporary arrangements under regulation 25(2) or (6) of the National Health Service (General Medical Services) Regulations 1992: if the Contractor is not such a person, this clause should be deleted.

<sup>68</sup> Clause 13.4.8 is required by article 30(2) of *the Transitional Order* if the Contractor is an individual medical practitioner for whom, immediately before the Contract commences, the Board had in place contractual arrangements under article 15 of *the Transitional Order*. If the Contractor is not such a person, this clause should be deleted.

- (i) by either *parent*, or in the absence of both *parents*, the guardian or other adult who has care of the *child*,
    - (ii) by a person duly authorised by a local authority to whose care the *child* has been committed under the Children Act 1989, or
    - (iii) by a person duly authorised by a voluntary organisation by which the *child* is being accommodated under the provisions of that Act;
  - (b) on behalf of any adult who lacks the capacity to make such an application, or to authorise such an application to be made on their behalf, by a relative of that person, the *primary carer* of that person, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005.
- 13.5.5. Where the Contractor accepts an application for inclusion in its list of patients, the Contractor shall notify the Board in writing as soon as possible.
- 13.5.6. On receipt of a notice under clause 13.5.5, the Board shall include that person in the *Contractor's list of patients* from the date on which the notice is received, and shall notify the applicant (or, in the case of a *child* or an adult who lacks capacity, the person making the application on their behalf) in writing of the acceptance.

#### **13.5A. Inclusion in list of patients: armed forces personnel**

- 13.5A.1 The Contractor may, if its *list of patients* is *open*, include a person to whom clause 13.5A.2 applies in that list for a period of up to two years and clause 13.14.1(b) does not apply in respect of any person who is included in the Contractor's *list of patients* by virtue of clause 13.5A.
- 13.5A.2 Clause 13.5A.2 applies to a person who is—
- (a) a serving member of the *armed forces of the Crown* who has received written authorisation from Defence Medical Services<sup>69</sup> to receive primary medical services from the Contractor's *practice*; and
  - (b) living or working within the Contractor's *practice area* during the period in respect of which that written authorisation is given.
- 13.5A.3 Where the Contractor has accepted a person to whom clause 13.5A.2 applies onto its *list of patients*, the Contractor must—

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<sup>69</sup> Defence Medical Services is an umbrella organisation within the Ministry of Defence responsible for the provision of medical, dental and nursing services in the United Kingdom to members of the armed forces of the Crown

- (a) obtain a copy of the patient's medical record, or a summary of that record, from Defence Medical Services; and
  - (b) provide regular updates to Defence Medical Services, at such intervals as are agreed with Defence Medical Services, about any care and treatment which the Contractor has provided to the patient.
- 13.5A.4 At the end of the period of two years, or on such earlier date as the Contractor's responsibility for the patient has come to an end, the Contractor must—
  - (a) notify Defence Medical Services of the fact that the Contractor's responsibility for the patient has come to an end; and
  - (b) update the patient's medical record, or summary of that record, and return it to Defence Medical Services.
- 13.5A.5 In clause 13.5A, "primary medical services" means the medical services which are provided by the Contractor's *practice* under the Contract to which Part 4 of the 2006 Act applies.

13.6. ***Temporary residents***

- 13.6.1. The Contractor may if its *list of patients* is *open* accept a person as a *temporary resident* provided it is satisfied that the person is—
  - (a) temporarily resident away from his normal place of residence and is not being provided with *essential services* under any other arrangement in the locality where he is temporarily residing; or
  - (b) moving from place to place and not for the time being resident in any place.
- 13.6.2. For the purposes of clause 13.6.1, a person shall be regarded as temporarily resident in a place if, when he arrives in that place, he intends to stay there for more than 24 hours but not more than three months.
- 13.6.3. Where the Contractor wishes to terminate its responsibility for a person accepted as a *temporary resident* before the end of three months or such shorter period for which it had agreed to accept him as a patient, the Contractor shall notify the patient either orally or in writing and its responsibility for that person shall cease 7 days after the date on which the notification was given.
- 13.6.4. At the end of three months, or on such earlier date as its responsibility for the patient has come to an end, the Contractor shall notify the Board in writing of any person whom it accepted as a *temporary resident*.

**13.7. Refusal of applications for inclusion in the list of patients or for acceptance as a *temporary resident***

- 13.7.1. The Contractor shall only refuse an application made under clauses 13.5.1 to 13.5.6 if it has reasonable grounds for doing so which do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition.
- 13.7.2. The reasonable grounds referred to in clause 13.7.1 shall, in the case of applications made under clauses 13.5.1 to 13.5.6, include the ground that the applicant does not live in the Contractor's *practice area* or that the applicant lives in the outer boundary area referred to in clause 13.3.
- 13.7.3. If the Contractor refuses an application made under clauses 13.5.1 to 13.6.4, it shall, within 14 days of its decision, notify the applicant (or, in the case of a *child* or an adult who lacks capacity, the person making the application on their behalf) in writing of the refusal and the reason for it.
- 13.7.4. The Contractor shall keep a written record of refusals of applications made under clauses 13.5.1 to 13.5.6 and of the reasons for them and shall make this record available to the Board on request.

**13.8. Patient preference of practitioner**

- 13.8.1. Where the Contractor has accepted an application for inclusion in its list of patients, it shall-
  - (a) notify the patient (or, in the case of a *child* or an adult who lacks capacity, the person making the application on their behalf) of the patient's right to express a preference to receive services from a particular performer or class of performer either generally or in relation to any particular condition; and
  - (b) record in writing any such preference expressed by or on behalf of the patient.
- 13.8.2. The Contractor shall endeavour to comply with any reasonable preference expressed under clause 13.8.1 but need not do so if the preferred performer has reasonable grounds for refusing to provide services to the patient, or does not routinely perform the service in question within the *practice*.

**13.9. Removals from the list at the request of the patient**

- 13.9.1. The Contractor shall notify the Board in writing of any request for removal from its list of patients received from a *registered patient*.
- 13.9.2. Where the Board receives notification from the Contractor under clause 13.9.1, or receives a request from the patient to be removed from the *Contractor's list of patients*, it shall remove that person from the *Contractor's list of patients*.

- 13.9.3. A removal under clause 13.9.2 shall take effect-
- (a) on the date on which the Board receives notification of the registration of the person with another provider of *essential services* (or their equivalent); or
  - (b) 14 days after the date on which the notification or request made under clause 13.9.1 or 13.9.2 respectively is received by the Board,
- whichever is the sooner.
- 13.9.4. The Board shall, as soon as practicable, notify in writing-
- (a) the patient; and
  - (b) the Contractor,
- that the patient's name will be or has been removed from the *Contractor's list of patients* on the date referred to in clause 13.9.3.
- 13.9.5. In clauses 13.9, 13.10.1(b), 13.10.10, 13.11.6, 13.11.7, 13.13 and 13.15 a reference to a request received from, or advice, information or notification required to be given to, a patient shall include a request received from or advice, information or notification required to be given to-
- (a) in the case of a patient who is a *child*, a *parent* or other person referred to in clause 13.5.4(a); or
  - (b) in the case of an adult patient who lacks the capacity to make the relevant request or receive the relevant advice, information or notification, a relative of that person, the *primary carer* of that person, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005.

**13.10. Removals from the list at the request of the Contractor**

- 13.10.1. Subject to clauses 13.11.1 to 13.11.8, where the Contractor has reasonable grounds for wishing a patient to be removed from its list of patients which do not relate to the patient's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition, the Contractor shall-
- (a) notify the Board in writing that it wishes to have the patient removed; and
  - (b) subject to clause 13.10.2, notify the patient in writing of its specific reasons for requesting removal.
- 13.10.2. Where, in the reasonable opinion of the Contractor, the circumstances of the removal are such that it is not appropriate for a more specific reason to be given, and there has been an irrevocable breakdown in the relationship between the patient and

the Contractor, the reason given under clause 13.10.1 may consist of a statement that there has been such a breakdown.

- 13.10.3. Except in the circumstances specified in clause 13.10.4, the Contractor may only request a removal under clause 13.10.1, if, within the period of 12 months prior to the date of its request to the Board, it has warned the patient that he is at risk of removal and explained to him the reasons for this.
- 13.10.4. The circumstances referred to in clause 13.10.3 are that-
- (a) the reason for removal relates to a change of address;
  - (b) the Contractor has reasonable grounds for believing that the issue of such a warning would be harmful to the physical or mental health of the patient or would put at risk the safety of one or more of the persons specified in clause 13.10.5; or
  - (c) it is, in the opinion of the Contractor, not otherwise reasonable or practical for a warning to be given.
- 13.10.5. The persons referred to in clause 13.10.4 are-
- (a) if the Contractor is an individual medical practitioner, the Contractor;
  - (b) if the Contractor is a partnership, a partner in the partnership;
  - (c) if the Contractor is a company, both a legal and beneficial owner of shares in that company;
  - (d) a member of the Contractor's staff;
  - (e) a person engaged by the Contractor to perform or assist in the performance of services under the Contract; or
  - (f) any other person present on the *practice premises* or in the place where services are being provided to the patient under the Contract.
- 13.10.6. The Contractor shall record in writing the date of any warning given in accordance with clause 13.10.3 and the reasons for giving such a warning as explained to the patient, or the reason why no such warning was given.
- 13.10.7. The Contractor shall keep a written record of removals under clause 13.10.1 which shall include the reason for removal given to the patient, the circumstances of the removal and in cases where clause 13.10.2 applies, the grounds for a more specific reason not being appropriate, and the Contractor shall make this record available to the Board on request.
- 13.10.8. A removal requested in accordance with clause 13.10.1 shall, subject to clause 13.10.9, take effect from the date on which the person is registered with another provider of *essential services*, or

the eighth day after the Board receives the notice, whichever is the sooner.

13.10.9. Where, on the date on which the removal would take effect under clause 13.10.8, the Contractor is treating the patient at intervals of less than seven days, the Contractor shall inform the Board in writing of that fact and the removal shall take effect on the eighth day after the Trust receives notification from the Contractor that the person no longer needs such treatment, or on the date on which the person is registered with another provider of *essential services*, whichever is the sooner.

13.10.10. The Board shall notify in writing-

- (a) the patient; and
- (b) the Contractor,

that the patient's name has been or will be removed from the *Contractor's list of patients* on the date referred to in clause 13.10.8 or 13.10.9.

13.11. **Removals from the list of patients who are violent**

13.11.1. Where the Contractor wishes a patient to be removed from its list of patients with immediate effect on the grounds that-

- (a) the patient has committed an act of violence against any of the persons specified in clause 13.11.2 or behaved in such a way that any such person has feared for his safety; and
- (b) it has reported the incident to the police,

the Contractor shall notify the Board in accordance with clause 13.11.3.

13.11.2. The persons referred to in clause 13.11.1 are-

- (a) if the Contract is with an individual medical practitioner, that individual;
- (b) if the Contract is with a partnership, a partner in that partnership;
- (c) if the Contract is with a company, both a legal and beneficial owner of shares in that company;
- (d) a member of the Contractor's staff;
- (e) a person employed or engaged by the Contractor to perform or assist in the performance of services under the Contract; or
- (f) any other person present on the *practice premises* or in the place where services were provided to the patient under the Contract.



- 13.11.3. Notification under clause 13.11.1 may be given by any means including telephone or fax but if not given in writing shall subsequently be confirmed in writing within seven days (and for this purpose a faxed notification is not a written one).
  - 13.11.4. The Board shall acknowledge in writing receipt of a request from the Contractor under clause 13.11.1.
  - 13.11.5. A removal requested in accordance with clause 13.11.1 shall take effect at the time the Contractor makes the telephone call to the Board, or sends or delivers the notification to the Board.
  - 13.11.6. Where, pursuant to clauses 13.11.1 to 13.11.5 the Contractor has notified the Board that it wishes to have a patient removed from its list of patients, it shall inform the patient concerned unless-
    - (a) it is not reasonably practicable for it to do so; or
    - (b) it has reasonable grounds for believing that to do so would be harmful to the physical or mental health of the patient or would put at risk the safety of one or more of the persons specified in clause 13.11.2.
  - 13.11.7. Where the Board has removed a patient from the *Contractor's list of patients* in accordance with clause 13.11.5 it shall give written notice of the removal to that patient.
  - 13.11.8. Where a patient is removed from the *Contractor's list of patients* in accordance with clauses 13.11.1 to 13.11.7, the Contractor shall record in the patient's medical records that the patient has been removed under this clause 13.11 and the circumstances leading to his removal.
- 13.12. **Removals from the list of patients registered elsewhere**
- 13.12.1. The Board must remove a patient from the *Contractor's list of patients* if –
    - (a) that patient has subsequently been registered with another provider of *essential services* (or their equivalent) within England; or
    - (b) it has received notice from a *Local Health Board*, a *Health Board* or a *Health and Social Services Board* that the patient has subsequently been registered with a provider of *essential services* (or their equivalent) outside England.
  - 13.12.2. A removal in accordance with clause 13.12.1 shall take effect on the date on which notification of acceptance by the new provider was received or, with the consent of the Board, on such other date as has been agreed between the Contractor and the new provider.
  - 13.12.3. The Board shall notify the Contractor in writing of persons removed from its list of patients under clause 13.12.1.
- 13.13. **Removals from the list of patients who have moved**

- 13.13.1. Subject to clause 13.13.2, where the Board is satisfied that a person on the *Contractor's list of patients* no longer resides in that Contractor's *practice area*, the Board shall-
- (a) inform that patient and the Contractor that the Contractor is no longer obliged to visit and treat the patient;
  - (b) advise the patient in writing either to obtain the Contractor's agreement to the continued inclusion of the patient on its list of patients or to apply for registration with another provider of *essential services* (or their equivalent); and
  - (c) inform the patient that if, after the expiration of 30 days from the date of the advice referred to in sub-clause (b), he has not acted in accordance with the advice and informed it accordingly, the Board will remove him from the *Contractor's list of patients*.
- 13.13.2. If, at the expiration of the period of 30 days referred to in clause 13.13.1(c), the Board has not been notified of the action taken, it shall remove the patient from the *Contractor's list of patients* and inform him and the Contractor accordingly.
- 13.13.3. Where the address of a patient who is on the Contractor's list is no longer known to the Board, the Board shall-
- (a) give to the Contractor notice in writing that it intends, at the end of the period of six months commencing with the date of the notice, to remove the patient from the *Contractor's list of patients*; and
  - (b) at the end of that period, remove the patient from the *Contractor's list of patients* unless, within that period, the Contractor satisfies the Board that it is still responsible for providing *essential services* to that patient.
- 13.14. **Removals from the list of patients absent from the United Kingdom etc**
- 13.14.1. The Board shall remove a patient from the *Contractor's list of patients* where it receives notification that that patient-
- (a) intends to be away from the United Kingdom for a period of at least three months;
  - (b) is in the *armed forces of the Crown* (except in the case of a patient to whom clause 13.5A applies;
  - (c) is serving a prison sentence of more than two years or sentences totalling in the aggregate more than that period;
  - (d) has been absent from the United Kingdom for a period of more than three months; or
  - (e) has died.
- 13.14.2. A removal in accordance with clause 13.14.1 shall take effect-

- (a) in the cases referred to in clause 13.14.1(a) to 13.14.1(c) from the date of the departure, enlistment or imprisonment or the date on which the Board first receives notification of the departure, enlistment or imprisonment whichever is the later;
  - (b) in the cases referred to in clause 13.14.1(d) and 13.14.1(e) from the date on which the Board first receives notification of the absence or death.
- 13.14.3. The Board shall notify the Contractor in writing of patients removed from its list of patients under clause 13.14.1.
- 13.15. **Removals from the list of patients accepted elsewhere as *temporary residents***
  - 13.15.1. The Board shall remove from the *Contractor's list of patients* a patient who has been accepted as a *temporary resident* by another contractor or other provider of *essential services* (or their equivalent) where it is satisfied, after due inquiry-
    - (a) that the patient's stay in the place of temporary residence has exceeded three months; and
    - (b) that the patient has not returned to his normal place of residence or any other place within the Contractor's *practice area*.
  - 13.15.2. The Board shall notify the Contractor and, where practicable, the patient, of a removal under clause 13.15.1.
  - 13.15.3. A notification to the patient under clause 13.15.2 shall inform him of-
    - (a) his entitlement to make arrangements for the provision to him of *essential services* (or their equivalent), including by the Contractor by whom he has been treated as a *temporary resident*; and
    - (b) the name, postal and email address of the Board.
- 13.16. **Removals from the list of pupils etc of a school**
  - 13.16.1. Where the Contractor provides *essential services* under the Contract to persons on the grounds that they are pupils at, or staff or residents of, a school, the Board shall remove from the *Contractor's list of patients* any such persons who do not appear on particulars of persons who are pupils at, or staff or residents of, that school provided by that school.
  - 13.16.2. Where the Board has made a request to a school to provide the particulars mentioned in clause 13.16.1 and has not received them, it shall consult the Contractor as to whether it should remove from its list of patients any persons appearing on that list as pupils at, or staff or residents of, that school.

13.16.3. The Board shall notify the Contractor in writing of patients removed from its list of patients under clause 13.16.1.

13.17. **Termination of responsibility for patients not registered with the Contractor**

13.17.1. Where the Contractor-

- (a) has received an application for the provision of medical services other than *essential services*-
  - (i) from a person who is not included in its list of patients,
  - (ii) from a person whom it has not accepted as a *temporary resident*, or
  - (iii) on behalf of a person mentioned in sub-clause (i) or (ii), from one of the persons specified in clause 13.5.4; and
- (b) has accepted that person as a patient for the provision of the service in question, its responsibility for that patient shall be terminated in the circumstances referred to in clause 13.17.2.

13.17.2. The circumstances referred to in clause 13.17.1 are-

- (a) the patient informs the Contractor that he no longer wishes it to be responsible for provision of the service in question;
- (b) in cases where the Contractor has reasonable grounds for terminating its responsibility which do not relate to the person's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition, the Contractor informs the patient that it no longer wishes to be responsible for providing him with the service in question; or
- (c) it comes to the notice of the Contractor that the patient-
  - (i) no longer resides in the area for which the Contractor has agreed to provide the service in question; or
  - (ii) is no longer included in the list of patients of another contractor to whose *registered patients* the Contractor has agreed to provide that service.

13.17.3. If the Contractor wishes to terminate its responsibility for a patient under clause 13.17.2(b), it shall notify the patient of the termination and the reason for it.

13.17.4. The Contractor shall keep a written record of terminations under clauses 13.17.1 to 13.17.3 and of the reasons for them and shall make this record available to the Board on request.

- 13.17.5. A termination under clause 13.17.2(b) shall take effect-
- (a) from the date on which the notice is given where the grounds for termination are those specified in clause 13.11.1; or
  - (b) in all other cases, 14 days from the date on which the notice is given.

13.18. **Application for closure of list of patients**

- 13.18.1. Where the Contractor wishes to close its list of patients, the Contractor must send a written application ("the Application") to close its list to the Board and the Application must include the following details—
- (a) the options which the Contractor has considered, rejected or implemented in an attempt to relieve the difficulties which the Contractor has encountered in respect of its *open* list and, if any of the options were implemented, the level of success in reducing or extinguishing such difficulties;
  - (b) any discussions between the Contractor and its patients and a summary of those discussions including whether in the opinion of those patients the list of patients should or should not be *closed*;
  - (c) any discussions between the Contractor and other contractors in the *practice area* and a summary of the opinion of the other contractors as to whether the list of patients should or should not be *closed*;
  - (d) the period of time during which the Contractor wishes its list of patients to be *closed* and that period must not be less than 3 months and not more than 12 months;
  - (e) any reasonable support from the Board which the Contractor considers would enable its list of patients to remain *open* or would enable the period of proposed closure to be minimised;
  - (f) any plans the Contractor may have to alleviate the difficulties mentioned in the Application during the period the list of patients may be *closed* in order for that list to reopen at the end of the proposed closure period without the existence of those difficulties; and
  - (g) any other information which the Contractor considers ought to be drawn to the attention of the Board.
- 13.18.2. The Board must—
- (a) acknowledge receipt of the Application within a period of 7 days starting on the date the Application was received by the Board; and

- (b) consider the Application and may request such other information from the Contractor which it requires to enable it to consider the Application.
- 13.18.3. The Board must enter into discussions with the Contractor concerning—
  - (a) the support which the Board may give the Contractor; or
  - (b) changes which the Board or Contractor may make,to enable the Contractor to keep its list of patients open.
- 13.18.4. The Board and Contractor must, throughout the discussions referred to in clause 13.18.3 use its reasonable endeavours to achieve the aim of keeping the *Contractor's list of patients* open.
- 13.18.5. The Board or the Contractor may, at any stage during the discussions, invite the *Local Medical Committee* for the area in which the Contractor provides services under the Contract (if any) to attend any meetings arranged between the Board and Contractor to discuss the Application.
- 13.18.6. The Board may consult such persons as it appears to the Board may be affected by the closure of the *Contractor's list of patients*, and if it does so, the Board must provide the Contractor with a summary of the views expressed by those consulted in respect of the Application.
- 13.18.7. The Board must enable the Contractor to consider and comment on all the information before the Board makes a decision in respect of the Application.
- 13.18.8. A Contractor may withdraw its Application at any time before the Board makes a decision in respect of that Application.
- 13.18.9. Within a period of 21 days starting on the date of receipt of the Application (or within such longer period as the parties may agree), the Board must make a decision—
  - (a) to approve the Application and determine the date the closure is to take effect and the date the list of patients is to reopen; or
  - (b) to reject the Application.
- 13.18.10. The Board must notify the Contractor of its decision to approve the Application in accordance with clauses 13.19.1 to 13.19.3, or in the case where the Application is rejected, in accordance with clauses 13.20.1 to 13.20.3.
- 13.18.11. A Contractor must not submit more than one application to close its list of patients in any period of 12 months starting on the date of which the Board makes its decision on the Application unless-
  - (a) clauses 13.20.1 to 13.20.3 apply; or

- (b) there has been a change in the circumstances of the Contractor which affects its ability to deliver services under the Contract.

13.19. **Approval of an application to close a list of patients**

13.19.1. Where the Board approves an application to close a list of patients, it must—

- (a) notify the Contractor of its decision in writing as soon as possible and the notification (“the closure notice”) must include the details referred to in clause 13.19.2; and
- (b) at the same time as it notified the Contractor, send a copy of the closure notice to the *Local Medical Committee* for the area in which the Contractor provides services under the Contract (if any) and to any person it consulted in accordance with clause 13.18.6.

13.19.2. The closure notice must include—

- (a) the period of time for which the *Contractor’s list of patients* will be *closed* which must be—
  - (i) the period specified in the application to close the list of patients; or
  - (ii) in the case where the Board and Contractor have agreed in writing a different period, that different period,and in either case, the period must be not less than 3 months and not more than 12 months;
- (b) the date from which the closure of the list of patients is to take effect; and
- (c) the date from which the list of patients is to re-open.

13.19.3. Subject to clause 13.22, a Contractor must close its list of patients with effect from the date the closure of the list of patients is to take effect and the list of patients must remain *closed* for the duration of the closure period as specified in the closure notice.

13.20. **Rejection of an application to close a list of patients**

13.20.1. Where the Board rejects an application to close a list of patients it must—

- (a) notify the Contractor of its decision in writing as soon as possible and the notification must include the reasons for the rejection of the application; and
- (b) at the same time as it notified the Contractor, send a copy of the notification to the *Local Medical Committee* for the area in which the Contractor provides services under the Contract (if any) and to any person it consulted in accordance with clause 13.18.6.

- 13.20.2. Subject to clause 13.20.3, if a Board makes a decision to reject a Contractor's application to close a list of patients, the Contractor must not make any further application until—
- (a) the end of the period of 3 months, starting on the date of the decision of the Board to reject; or
  - (b) the end of the period of 3 months, starting on the date of the final determination in respect of a dispute arising from the decision to reject the application made pursuant to the *NHS dispute resolution procedure* (or any court proceedings),

whichever is the later.

- 13.20.3. A Contractor may make a further application to close its list of patients where there has been a change in the circumstances of the Contractor which affects its ability to deliver services under the Contract.

13.21. **Application for an extension of a closure period**

- 13.21.1. The Contractor may apply to extend a closure period by sending a written application to extend the closure period no later than 8 weeks before the date that period is due to expire.

- 13.21.2. The application to extend the closure period must include-
- (a) details of the options the Contractor has considered, rejected or implemented in an attempt to relieve the difficulties which have been encountered during the closure period or which may be encountered when the closure period expires;
  - (b) the period of time during which the Contractor wishes its list of patients to remain *closed*, which extended period of desired closure must not be more than 12 months;
  - (c) details of any reasonable support from the Board which the Contractor considers would enable its list of patients to re-open or would enable the proposed extension of the closure period to be minimised;
  - (d) details of any plans the Contractor may have to alleviate the difficulties mentioned in the application to extend the closure period in order for the list of patients to re-open at the end of the proposed extension of the closure period without the existence of those difficulties; and
  - (e) any other information which the Contractor considers ought to be drawn to the attention of the Board.
- 13.21.3. The Board must acknowledge receipt of the application for an extension to the closure period within a period of 7 days starting on the date the application was received by the Board.



- 13.21.4. The Board must consider the application for an extension to the closure period and may request such other information from the Contractor which it requires to enable it to consider that application.
- 13.21.5. The Board may enter into discussions with the Contractor concerning—
- (a) the support which the Board may give the Contractor; or
  - (b) changes which the Board or Contractor may make,
- to enable to Contractor to re-open its list of patients.
- 13.21.6. Within a period of 14 days starting on the date of receipt of the application to extend the closure period (or within such longer period as the parties may agree), the Board must make a decision.
- 13.21.7. The Board must notify the Contractor of its decision to approve or reject the application to extend the closure period as soon as possible after making its decision.
- 13.21.8. Where the Board approves the application to extend the closure period, it must—
- (a) notify the Contractor of its decision in writing and the notification (“the extended closure notice”) shall include the details referred to in clause 13.21.9; and
  - (b) at the same time as it notifies the Contractor, send a copy of the extended closure notice to the *Local Medical Committee* for the area in which the Contractor provides services under the Contract (if any) and to any person it consulted in accordance with clause 13.18.6.
- 13.21.9. The extended closure notice must include—
- (a) the period of time for which the *Contractor’s list of patients* will remain closed which must be—
    - (i) the period specified in the application to extend the closure period; or
    - (ii) the case where the Board and Contractor have agreed in writing a different period to the period specified in the application to extend the closure period, the period which is agreed,and in either case, the period (“the extended closure period”), must be not less than 3 months and not more than 12 months;
  - (b) the date from which the extended closure period is to take effect; and
  - (c) the date on which the list of patients is to re-open.

- 13.21.10. Where the Board rejects an application to extend the closure period it must—
- (a) notify the Contractor of its decision in writing and the notification must include the reasons for the rejection of the application; and
  - (b) at the same time as it notifies the Contractor, send a copy of the notification to the *Local Medical Committee* for the area in which the Contractor provides services under the Contract (if any).
- 13.21.11. Where an application for an extension of the closure period is made in accordance with clauses 13.21.1 and 13.21.2, the list of patients will remain closed pending—
- (a) the determination by the Board of the application for an extension of the closure period; or
  - (b) the Contractor ceasing to pursue any dispute arising from the application for an extension of the closure period pursuant to the *NHS dispute resolution procedure* (or any court proceedings),
- whichever is the later.

13.22. **Re-opening of list of patients**

- 13.22.1. The Contractor may re-open its list of patients before the expiry of the closure period if the Board and Contractor agree that the Contractor should re-open its list of patients.

13.23. **Assignment of patients to lists: open lists**

- 13.23.1. The Board may, subject to clause 13.24.1, assign a new patient to the Contractor whose list of patients is *open*.
- 13.23.2. In this clause, and in clauses 13.24.1 to 13.24.2 and clauses 13.26.1 to 13.28.3, a “new patient” means a person who-
- (a) has been refused inclusion in a list of patients or has not been accepted as a *temporary resident* by the Contractor; and
  - (b) wishes to be included in the list of patients of the Contractor in whose area (as specified in clause 13.2.1) that person resides.

13.24. **Assignment of patients to lists: closed lists**

- 13.24.1. The Board may not assign a new patient to the Contractor where it has closed its list of patients except in the circumstances specified in clause 13.24.2.
- 13.24.2. The Board may, subject to clause 13.25.1, assign a new patient to the Contractor when it has closed its list of patients if –
- (a) the *assessment panel* has determined under paragraph 35(7) of Schedule 6 to *the Regulations* that patients may

be assigned to the Contractor, and that determination has not been overturned either by a determination of *the Secretary of State* under paragraph 36(13) of Schedule 6 to *the Regulations* or (where applicable) by a court; and

- (b) the Board has entered into discussions with the Contractor regarding the assignment of a patient if such discussions are required under clause 13.28.

13.25. **Factors relevant to assignments**

13.25.1. In making an assignment to the Contractor under clauses 13.23.1 to 13.24.2, the Board must have regard to-

- (a) the wishes and circumstances of the patient to be assigned;
- (b) the distance between the patient's place of residence and the Contractor's *practice premises*;
- (c) any request made by any contractor to remove the patient from its list of patients within the preceding period of 6 months starting on the date on which the application for assignment is received by the Board;
- (d) whether, during the preceding period of 6 months starting on the date on which the application for assignment is received by the Board, the patient has been removed from a list of patients on the grounds referred to in-
  - (i) clause 13.10 (removal from the list at the request of the contractor),
  - (ii) clause 13.11 (removal from the list of patients who are violent), or
  - (iii) the equivalent provisions to those clauses in relation to arrangements made under section 83(2) of *the 2006 Act* or under *section 92 arrangements*;
- (e) in a case to which clause (d)(ii) (or the equivalent provisions mentioned in clause (d)(iii)) applies, whether the Contractor has appropriate facilities to deal with such patients; and
- (f) such other matters as the Board considers relevant.

13.26. **Assignments to closed lists: determinations of the *assessment panel***

13.26.1. If the Board wishes to assign new patients to contractors which have closed their list of patients, it must prepare a proposal to be considered by the *assessment panel*.

13.26.2. The Board must notify in writing-

- (a) contractors, including those contractors who provide primary medical services under arrangements made under

section 83(2) of *the 2006 Act* or under section 92 arrangements, which-

- (i) have closed their list of patients; and
  - (ii) may, in the opinion of the Board, be affected by the determination of the *assessment panel*; and
- (b) *the Local Medical Committee* (if any) for the area in which the contractors referred to in sub-clause (a) provide *essential services*,

that it has referred the matter to the *assessment panel*.

13.26.3. The Board must ensure that the *assessment panel* is appointed to consider and determine the proposal made under clause 13.26.1, and the composition of the *assessment panel* must be as described in clause 13.26.4.

13.26.4. The members of the *assessment panel* must be-

- (a) a member of the Board who is a director;
- (b) a patient representative who is a member of the Local Health and Wellbeing Board or Local Healthwatch organisation; and
- (c) a member of a *Local Medical Committee* but not a member of the *Local Medical Committee* formed for the area in which the contractors who may be assigned patients as a consequence of the panel's determination provide services.

13.27. **Assignments to closed lists: *NHS dispute resolution procedure relating to determinations of the assessment panel***

13.27.1. Where the *assessment panel* determines in accordance with paragraph 35(5) to (9) of Schedule 6 to *the Regulations* that the Board may assign new patients to contractors which have *closed* their lists of patients, and the Contractor is specified in that determination, the Contractor may refer the matter to *the Secretary of State* to review the determination of the *assessment panel* pursuant to paragraph 36(2) to (17) of Schedule 6 to *the Regulations*.

13.27.2. Where, pursuant to clause 13.27.1 the Contractor wishes to refer the matter to *the Secretary of State* either by itself, or jointly with other contractors specified in the determination of the *assessment panel*, it must, either by itself or together with the other contractors, within the period of 7 days beginning with the date of the determination of the *assessment panel*, send to *the Secretary of State* a written request for dispute resolution which shall include or be accompanied by-

- (a) the names and addresses of the parties to the dispute;
- (b) a copy of the Contract (or contracts); and

- (c) a brief statement describing the nature and circumstances of the dispute.
- 13.27.3. Where a matter is referred to *the Secretary of State* in accordance with paragraph 36 of Schedule 6 to *the Regulations*, it shall be reviewed in accordance with the procedure specified in that paragraph.
- 13.28. **Assignment to closed lists: assignments of patients by the Board**
  - 13.28.1. Before the Board may assign a new patient to the Contractor, it must, subject to clause 13.28.3, enter into discussions with the Contractor regarding additional support that the Board can offer the Contractor and the Board must use its best endeavours to provide support.
  - 13.28.2. In the discussions referred to in clause 13.28.1, both parties shall use reasonable endeavours to reach agreement.
  - 13.28.3. The requirement in clause 13.28.1 to enter into discussions applies-
    - (a) to the first assignment of a patient to the Contractor; and
    - (b) to any subsequent assignment to that Contractor to the extent that it is reasonable and appropriate having regard to the numbers of patients who have been or may be assigned to it and the period of time since the last discussions under clause 13.28.1 took place.

## 14 PART 14

### 14.1 Prescribing and Dispensing<sup>70</sup>

- 14.1.1. The Contractor shall comply with any directions given by *the Secretary of State* for the purposes of section 88 of *the 2006 Act* as to the drugs, medicines or other substances which may or may not be ordered for patients in the provision of medical services under the Contract<sup>71</sup>.

### 14.2. Prescribing

- 14.2.1. The Contractor shall ensure that—
- (a) any *prescription form* or *repeatable prescription* for drugs, medicines or appliances issued or created by a *prescriber*, and
  - (b) any *listed medicines voucher* issued by a *prescriber* or any other person acting under the Contract,
- complies as appropriate with the requirements in clauses 14.2.2 to 14.2.15, clauses 14.3.1 to 14.3.4 and clauses 14.5.9 to 14.8.4.
- 14.2.2. Subject to clause 14.2.4 and 14.2.5 and to clauses 14.6 to 14.7 a *prescriber* shall order any drugs, medicines or appliances which are needed for the treatment of any patient who is receiving treatment under the Contract by—
- (a) issuing to that patient a *non-electronic prescription form* or *non-electronic repeatable prescription* completed in accordance with clause 14.2.8; or
  - (b) where clause 14.3 applies, creating and transmitting an *electronic prescription*.
- 14.2.3. A *non-electronic prescription form*, *non-electronic repeatable prescription* or *electronic prescription* shall not be used in any circumstances other than those described in clause 14.2.2.
- 14.2.4. A *health care professional* shall order any *home oxygen services* which are needed for the treatment of any patient who is receiving treatment under the Contract by issuing a *home oxygen order form*.
- 14.2.5. During an outbreak of an illness for which a *listed medicine* may be used for treatment or for prophylaxis, if—
- (a) *the Secretary of State* or the Board has made arrangements for the distribution of a *listed medicine* free of charge; and;

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<sup>70</sup> This Part is required by *the Regulations* (see Part 3 of Schedule 6) and where indicated in the footnotes by *the 2006 Act*.

<sup>71</sup> This clause is required by section 88(1) of *the 2006 Act*. See also the *Prescription of Drugs Regulations*.

- (b) that *listed medicine* is needed for treatment or prophylaxis of any patient who is receiving treatment under the Contract,

a *prescriber* may, or if the patient has not attained the age of 13 years must, order that *listed medicine* by using a *listed medicines voucher*, which the *prescriber* must sign.

14.2.6. During an outbreak of an illness for which a *listed medicine* may be used for treatment or for prophylaxis, if—

- (a) *the Secretary of State* or the Board has made arrangements for the distribution of a *listed medicine* free of charge;
- (b) those arrangements contain criteria set out in a protocol which enable persons who are not *prescribers* to identify the symptoms of, and whether there is a need for treatment or prophylaxis of, that *disease*;
- (c) a person acting on behalf of the Contractor, who is not a *prescriber* but who is authorised to order *listed medicines* by the Board, has applied the criteria referred to in sub-clause (b) to any patient who is receiving treatment under the Contract; and
- (d) having applied the criteria, the person acting on behalf of the Contractor has concluded that the *listed medicine* is needed for treatment or prophylaxis of that patient,

the person acting on behalf of the Contractor must order that *listed medicine* by using a *listed medicines voucher*, which the person ordering the *listed medicine* must sign.

14.2.7. A *prescriber* may order drugs, medicines or appliances on a *repeatable prescription* only where the drugs, medicines or appliances are to be provided more than once.

14.2.8. In issuing any *non-electronic prescription form* or *non-electronic repeatable prescription* the *prescriber* shall sign the *prescription form* or *repeatable prescription* in ink with his initials, or forenames, and surname in his own handwriting and not by means of a stamp, and shall so sign only after particulars of the order have been inserted in the *prescription form* or *repeatable prescription*.

14.2.9. A *prescription form* or *repeatable prescription* shall not refer to any previous *prescription form* or *repeatable prescription*.

14.2.10. A separate *prescription form* or *repeatable prescription* shall be used for each patient, except where a bulk prescription is issued for a school or institution under clauses 14.8.1 to 14.8.4.

14.2.11. A *home oxygen order form* shall be signed by a *health care professional*.

- 14.2.12. Where a *prescriber* orders the drug buprenorphine or diazepam or a drug specified in Schedule 2 to the Misuse of Drugs Regulations 2001 (controlled drugs to which regulations 14, 15, 16, 18, 19, 20, 21, 23, 26 and 27 of those Regulations apply) for supply by instalments for treating addiction to any drug specified in that Schedule, he shall-
- (a) use only the *non-electronic prescription form* provided specially for the purposes of supply by instalments;
  - (b) specify the number of instalments to be dispensed and the interval between each instalment; and
  - (c) order only such quantity of the drug as will provide treatment for a period not exceeding 14 days.
- 14.2.13. The *non-electronic prescription form* provided specially for the purpose of supply by instalments shall not be used for any purpose other than ordering drugs in accordance with clause 14.2.12.
- 14.2.14. In a case of urgency a *prescriber* may request a *chemist* to dispense a drug or medicine before a *prescription form* or *repeatable prescription* is issued or created, but only if:
- (a) that drug or medicine is not a *Scheduled drug*;
  - (b) that drug is not a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedules 4 or 5 to the Misuse of Drugs Regulations 2001; and
  - (c) he undertakes to—
    - (i) furnish the *chemist*, within 72 hours, with a *non-electronic prescription form* or *non-electronic repeatable prescription* completed in accordance with clause 14.2.8, or
    - (ii) transmit to the *Electronic Prescription Service* within 72 hours an *electronic prescription*.
- 14.2.15. In a case of urgency a *prescriber* may request a *chemist* to dispense an appliance before a *prescription form* or *repeatable prescription* is issued or created, but only if-
- (a) that appliance does not contain a *Scheduled drug* or a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 5 to the Misuse of Drugs Regulations 2001;
  - (b) in the case of a *restricted availability appliance*, the patient is a person, or it is for a purpose, specified in the *Drug Tariff*; and
  - (c) he undertakes to—



- (i) furnish the *chemist*, within 72 hours, with a *prescription form* or *repeatable prescription* completed in accordance with clause 14.2.8, or
- (ii) transmit to the *Electronic Prescription Service* within 72 hours an *electronic prescription*.

14.3. **Electronic prescriptions**

- 14.3.1. A *prescriber* may only order drugs, medicines or appliances by means of an *electronic prescription* if—
- (a) the Board authorises the Contractor to use the *Electronic Prescription Service*;
  - (b) the patient to whom the prescription relates has—
    - (i) nominated one or more *dispensers*;
    - (ii) confirmed that he intends to use that *dispenser* (or one of them) for the purposes of obtaining the drugs, medicines or appliances ordered on the *electronic prescription* in question; and
    - (iii) consents to the use of an *electronic prescription* on the particular occasion; and
  - (c) the prescription is not—
    - (i) for a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001;
    - (ii) for supply by instalments under clause 14.2.12; or
    - (iii) a bulk prescription issued for a school or institution under clauses 14.8.1 to 14.8.4.
- 14.3.2. A *health care professional* may not order *home oxygen services* by means of an *electronic prescription*.
- 14.3.3. In relation to a patient who is a *child* or an adult who lacks the capacity to nominate a *dispenser*, clause 14.3.1(b) shall apply as if the reference to the patient to whom the prescription relates included a reference to—
- (a) in the case of a *child*, that patient's *parent* or other person referred to in clause 13.5.4(a); or
  - (b) in the case of an adult, that patient's relative, *primary carer*, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005.
- 14.3.4. A *prescriber* who orders drugs, medicines or appliances by means of an *electronic prescription* shall—

- (a) in the case of an *electronic repeatable prescription*, issue the patient, if the patient so requests, with a form provided by the Board for the purpose of recording details of that *electronic repeatable prescription* and linked to that *electronic repeatable prescription* by a number contained on the form; and
- (b) in the case of an *electronic prescription form*, issue the patient, if the patient so requests, with a written record of the prescription which has been created.

14.4. **Nomination of dispensing contractors for the purpose of *electronic prescriptions***

14.4.1. If the Contractor is authorised to use the *Electronic Prescription Service* for its patients, it must enter into the particulars relating to that patient which is held in the Patient Demographic Service which is operated by the Health and Social Care Information Centre,

- (a) where he does not have a *nominated dispenser*, the *dispenser* chosen by that patient; and
- (b) where he does have a *nominated dispenser*—
  - (i) a replacement *dispenser*; or
  - (ii) a further *dispenser*,

chosen by that patient.

14.4.2. Clause 14.4.1(b)(ii) shall not apply if the number of *nominated dispensers* would thereby exceed the maximum number permitted by the *Electronic Prescription Service*.

14.4.3. Clause 13.5.4(a) shall apply in relation to requests under clause 14.4.1 as it applies to applications for inclusion in a list of patients.

14.4.4. The Contractor—

- (a) shall not seek to persuade a patient to nominate a *dispenser* recommended by the *prescriber* or the Contractor; and
- (b) shall, if asked by the patient to recommend a *chemist* whom he might nominate as his *dispenser*, provide the patient with the list of all the *chemists* in the area who provide an *Electronic Prescription Service* as given to the Contractor by the Board.

14.5. **Repeatable prescribing services**

14.5.1. The Contractor may only provide *repeatable prescribing services* to any person on its list of patients if it-

- (a) satisfies the conditions in clause 14.5.2; and

- (b) has notified the Board of its intention to provide *repeatable prescribing services* in accordance with clauses 14.5.3 and 14.5.4.
- 14.5.2. The conditions referred to in clause 14.5.1 are-
  - (a) the Contractor has access to computer systems and software which enable it to issue *non-electronic repeatable prescriptions* and *batch issues*; and
  - (b) the *practice premises* at which the *repeatable prescribing services* are to be provided are located in a Local Authority area in which there is also located the premises of at least one *chemist* who has undertaken to provide, or has entered into an arrangement to provide, *repeat dispensing services*.
- 14.5.3. The notification referred to in clause 14.5.1(b) is a notification, in writing, by the Contractor to the Board that it-
  - (a) wishes to provide *repeatable prescribing services*; and
  - (b) intends to begin to provide those services from a specified date; and
  - (c) satisfies the conditions in clause 14.5.6.
- 14.5.4. The date specified by the Contractor pursuant to clause 14.5.3(b) must be at least ten days after the date on which the notification specified in clause 14.5.1 is given.
- 14.5.5. Nothing in clauses 14.5.1 to 14.5.8 requires the Contractor or *prescriber* to provide *repeatable prescribing services* to any person.
- 14.5.6. A *prescriber* may only provide *repeatable prescribing services* to a person on a particular occasion if-
  - (a) that person has agreed to receive such services on that occasion; and
  - (b) the *prescriber* considers that it is clinically appropriate to provide such services to that person on that occasion.
- 14.5.7. The Contractor may not provide *repeatable prescribing services* to any patient of its to whom any of the persons specified in clause 14.5.8 is authorised or required by the Board in accordance with arrangements made under section 126 of *the 2006 Act* to provide pharmaceutical services.
- 14.5.8. The persons referred to in clause 14.5.7 are-
  - (a) if the Contract is with an individual medical practitioner, that medical practitioner;
  - (b) if the Contract is with a partnership, any medical practitioner who is a partner;

- (c) if the Contract is with a company, any medical practitioner who is a legal and beneficial shareholder in that company; or
  - (d) any medical practitioner employed by the Contractor.
- 14.5.9. A *prescriber* who issues a *non-electronic repeatable prescription* must at the same time issue the appropriate number of *batch issues*.
- 14.5.10. Where a *prescriber* wishes to make any change to the type, quantity, strength or dosage of drugs, medicines or appliances ordered on a person's *repeatable prescription* he must—
  - (a) in the case of a *non-electronic repeatable prescription*—
    - (i) notify the person; and
    - (ii) make reasonable efforts to notify the *chemist* providing *repeat dispensing services* to that person,that the original *repeatable prescription* should no longer be used to obtain or provide *repeat dispensing services* and make arrangements for a replacement *repeatable prescription* to be issued to that person; or
  - (b) in the case of an *electronic repeatable prescription*—
    - (i) arrange with the *Electronic Prescription Service* for the cancellation of the original *repeatable prescription*; and
    - (ii) create a replacement *electronic repeatable prescription* relating to that person and notify him that he has done so.
- 14.5.11. A *prescriber* who has created an *electronic repeatable prescription* for a person must as soon as practicable arrange with the *Electronic Prescription Service* for its cancellation if, before the expiry of that prescription—
  - (a) he considers that it is no longer appropriate or safe for that person to receive the drugs, medicines or appliances ordered on his *electronic repeatable prescription* or no longer appropriate or safe for him to continue to receive *repeatable prescribing services*;
  - (b) he has issued the person with a *non-electronic repeatable prescription* in place of the *electronic repeatable prescription*; or
  - (c) it comes to his notice that that person has been removed from the list of patients of the Contractor on whose behalf the prescription was issued.

- 14.5.12. Where a *prescriber* has cancelled a person's *electronic repeatable prescription* in accordance with clause 14.5.11 he must, as soon as is practicable, notify that person.
- 14.5.13. A *prescriber* who has issued a *non-electronic repeatable prescription* in respect of a person must, as soon as practicable, make reasonable efforts to notify the *chemist* that that *repeatable prescription* should no longer be used to provide *repeat dispensing services* to that person, if, before the expiry of that *repeatable prescription*—
- (a) he considers that it is no longer appropriate or safe for that person to receive the drugs, medicines or appliances ordered on his *repeatable prescription* or no longer appropriate or safe for him to continue to receive *repeatable prescribing services*;
  - (b) he issues or creates a further *repeatable prescription* in respect of the person to replace the original *repeatable prescription* other than in the circumstances referred to in clause 14.5.10(a) (for example, because the person wishes to obtain the drugs, medicines or appliances from a different *chemist*); or
  - (c) it comes to his notice that that person has been removed from the list of patients of the Contractor on whose behalf the prescription was issued.
- 14.5.14. Where the circumstances in clause 14.5.13 apply, the *prescriber* must as soon as practicable notify the person on whose behalf the *non-electronic repeatable prescription* was issued that that *repeatable prescription* should no longer be used to obtain *repeat dispensing services*.
- 14.6. **Restrictions on prescribing by medical practitioners**
- 14.6.1. In the course of treating a patient to whom he is providing treatment under the Contract, a medical practitioner shall not order on a *listed medicines voucher*, a *prescription form* or *repeatable prescription* 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 drugs, medicines or other substances which may not be ordered for patients in the provision of medical services under the Contract but may, subject to clause 19.1.1(b), prescribe such a drug, medicine or other substance for that patient in the course of that treatment under a private arrangement.
- 14.6.2. In the course of treating a patient to whom he is providing treatment under the Contract, a medical practitioner shall not order on a *listed medicines voucher*, a *prescription form* or *repeatable prescription* 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 can

only be ordered for specified patients and specified purposes unless-

- (a) that patient is a person of the specified description;
- (b) that drug, medicine or other substance is prescribed for that patient only for the specified purpose; and
- (c) if the order is on a *prescription form*, the practitioner includes-
  - (i) the reference "SLS", or
  - (ii) if the order is under arrangements made by *the Secretary of State* or the Board for the distribution of a *listed medicine* free of charge, the reference "ACP",

but may, subject to clause 19.1.1(b), prescribe such a drug, medicine or other substance for that patient in the course of that treatment under a private arrangement.

14.6.3. In the course of treating a patient to whom he is providing treatment under the Contract, a medical practitioner shall not order on a *prescription form* or *repeatable prescription* a *restricted availability appliance* unless-

- (a) the patient is a person, or it is for a purpose, specified in the *Drug Tariff*; and
- (b) the practitioner includes on the *prescription form* the reference "SLS",

but may, subject to clause 19.1.1(b), prescribe such an appliance for that patient in the course of that treatment under a private arrangement.

14.6.4. In the course of treating a patient to whom he is providing treatment under the Contract, a medical practitioner shall not order on a *repeatable prescription* a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001, but may, subject to clause 19.1.1(b), prescribe such a drug for that patient in the course of that treatment under a private arrangement.

14.7. **Restrictions on prescribing by *supplementary prescriber***

14.7.1. Where the Contractor employs or engages a *supplementary prescriber* and that person's functions include prescribing, the Contractor shall have arrangements in place to secure that a *supplementary prescriber* will –

- (a) issue or create a prescription for a *prescription only medicine*;
- (b) administer a *prescription only medicine* for parenteral administration; or

- (c) give directions for the administration of a *prescription only medicine* for parenteral administration,

as a *supplementary prescriber* only under the conditions set out in clause 14.7.2.

14.7.2. The conditions referred to in clause 14.7.1 are that –

- (a) the person satisfies the applicable conditions set out in regulation 215 of the Human Medicines Regulations 2012 (prescribing and administration by supplementary prescribers), unless those conditions do not apply by virtue of any of the exemptions set out in the subsequent provisions of those Regulations;
- (b) the drug, medicine or other substance is not 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;
- (c) the drug, medicine or other substance is not 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 unless –
  - (i) the patient is a person of the specified description,
  - (ii) the medicine is prescribed for that patient only for the specified purposes, and
  - (iii) if the *supplementary prescriber* is issuing or creating a prescription on a *prescription form*, the *prescriber* includes on the form the reference “SLS” or, in the case of a *listed medicine* ordered under arrangements made by *the Secretary of State* or the Board for the medicine’s distribution free of charge, the reference “ACP”.

14.7.3. Where the functions of a *supplementary prescriber* include prescribing, the Contractor shall have arrangements in place to secure that that person will only issue or create a prescription for –

- (a) an appliance; or
- (b) a medicine which is not a *prescription only medicine*,

as a *supplementary prescriber* under the conditions set out in clause 14.7.4.

14.7.4. The conditions referred to in clause 14.7.3 are that –

- (a) the *supplementary prescriber* acts in accordance with a clinical management plan which is in effect at the time he acts and which contains the following particulars –
  - (i) the name of the patient to whom the plan relates,

- (ii) the illness or conditions which may be treated by the *supplementary prescriber*,
- (iii) the date on which the plan is to take effect, and when it is to be reviewed by the medical practitioner or dentist who is a party to the plan,
- (iv) reference to the class or description of medicines or types of appliances which may be prescribed or administered under the plan,
- (v) any restrictions or limitations as to the strength or dose of any medicine which may be prescribed or administered under the plan, and any period of administration or use of any medicine or appliance which may be prescribed or administered under the plan,
- (vi) relevant warnings about known sensitivities of the patient to, or known difficulties of the patient with, particular medicines or appliances,
- (vii) the arrangements for notification of –
  - (aa) suspected or known adverse reactions to any medicine which may be prescribed or administered under the plan, and suspected or known adverse reactions to any other medicine taken at the same time as any medicine prescribed or administered under the plan,
  - (bb) incidents occurring with the appliance which might lead, might have led or has led to the death or serious deterioration of state of health of the patient, and
  - (cc) the circumstances in which the *supplementary prescriber* should refer to, or seek the advice of, the medical practitioner or dentist who is a party to the plan;
- (b) he has access to the health records of the patient to whom the plan relates which are used by any medical practitioner or dentist who is a party to the plan;
- (c) if it is a prescription for a drug, medicine or other substance, that drug, medicine or other substance is not 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;



- (d) if it is a prescription for a drug, medicine or other substance, that drug, medicine or other substance is not 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 unless –
    - (i) the patient is a person of the specified description,
    - (ii) the medicine is prescribed for that patient only for the specified purposes, and
    - (iii) when issuing or creating the prescription, he includes on the *prescription form* the reference “SLS”;
  - (e) if it is a prescription for an appliance, the appliance is listed in Part IX of the *Drug Tariff*; and
  - (f) if it is a prescription for a *restricted availability appliance* –
    - (i) the patient is a person of a description mentioned in the entry in Part IX of the *Drug Tariff* in respect of that appliance,
    - (ii) the appliance is prescribed only for the purposes specified in respect of that person in that entry, and
    - (iii) when issuing or creating the prescription, he includes on the *prescription form* the reference “SLS”.
- 14.7.5. In clause 14.7.4, “clinical management plan” means a written plan (which may be amended from time to time) relating to the treatment of an individual patient agreed by—
- (a) the patient to whom the plan relates;
  - (b) the medical practitioner or dentist who is a party to the plan; and
  - (c) any *supplementary prescriber* who is to prescribe, give directions for administration or administer under the plan.

#### 14.8. **Bulk prescribing**

- 14.8.1. Where the Contractor is responsible under the Contract for the treatment of 10 or more persons in a school or other institution in which at least 20 persons normally reside, and a *prescriber* orders, for any two or more of those persons for whose treatment the Contractor is responsible, drugs, medicines or appliances to which this clause to clause 14.8.4 apply, the *prescriber* may use a single *non-electronic prescription form* for the purpose.
- 14.8.2. Where a *prescriber* uses a single *non-electronic prescription form* for the purpose mentioned in clause 14.8.1, he shall (instead of

entering on the form the names of the persons for whom the drugs, medicines or appliances are ordered) enter on the form-

- (a) the name of the school or institution in which those persons reside; and
- (b) the number of persons residing there for whose treatment the Contractor is responsible.

14.8.3. Clauses 14.8.1 and 14.8.2 apply to any drug, medicine or appliance which can be supplied as part of pharmaceutical services or *local pharmaceutical services* and which-

- (a) in the case of a drug or medicine, is not a product of a description or class which is for the time being specified in an order made under section 58(1) of the Medicines Act 1968; or
- (b) in the case of an appliance, does not contain such a product.

14.8.4. For the purposes of clauses 14.8.1 to 14.8.2, if the Contractor has contracted to provide *contraceptive services*, drugs include contraceptive substances and appliances include contraceptive appliances.

14.9. **Excessive prescribing**

14.9.1. The Contractor shall not prescribe drugs, medicines or appliances whose cost or quantity, in relation to any patient, is, by reason of the character of the drug, medicine or appliance in question, in excess of that which was reasonably necessary for the proper treatment of that patient.

14.9.2. In considering whether a Contractor has breached its obligations under 14.9.1, the Board must seek the views of the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract.

14.10. **Arrangements for Pharmaceutical Services**

14.10.1. Where the Contractor is a dispensing doctor within the meaning of the *Pharmaceutical Regulations*,<sup>72</sup> the provisions in Schedule 7 shall apply.

14.11. **Provision of drugs, medicines and appliances for immediate treatment or personal administration**

14.11.1. The Contractor—

- (a) shall provide to a patient any drug, medicine or appliance, not being a *Scheduled drug*, where such provision is needed for the immediate treatment of that patient before a provision can otherwise be obtained; and

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<sup>72</sup> See regulation 46(1) of the *Pharmaceutical Regulations*.

- (b) may provide to a patient any drug, medicine or appliance, not being a *Scheduled drug*, which he personally administers or applies to that patient,

but shall, in either case, provide a *restricted availability appliance* only if it is for a person or a purpose specified in the *Drug Tariff*. Nothing in this clause authorises a person to supply any drug or medicine to a patient otherwise than in accordance with Part 3 of the Medicines Act 1968,<sup>73</sup> or any regulations or orders made under that Act.

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<sup>73</sup> Part 3 of the Medicines Act 1968 has largely been consolidated into Part 12 of the Human Medicines Regulations 2012, although some provisions in Part 3 remain in force.

## 15 PART 15<sup>74</sup>

### 15.1 Persons Who Perform Services

#### 15.1. Qualifications of performers

- 15.1.1. Subject to clause 15.1.2, no medical practitioner shall perform medical services under the Contract unless he is-
- (a) included in the *medical performers list*;
  - (b) not suspended from that list or from the *Medical Register*; and
  - (c) not subject to interim suspension under section 41A of the Medical Act 1983.
- 15.1.2. Clause 15.1.1 shall not apply in the case of –
- (a) a medical practitioner employed by an NHS trust, an NHS foundation trust, (in Scotland) a *Health Board*, or (in Northern Ireland) a *Health and Social Services Trust*, who is providing services other than primary medical services at the *practice premises*;
  - (b) a person who is provisionally registered under section 15, 15A or 21 of the Medical Act 1983 acting in the course of his employment in a resident medical capacity in an *approved medical practice*;
  - (c) a *GP Registrar* who has applied to a Board to have his name included in its *medical performers list* until the first of the following events arises-
    - (i) the Board notifies him of its decision on that application; or
    - (ii) the end of a period of 3 months, starting with the date on which that *GP Registrar* begins a postgraduate medical education and training scheme necessary for the award of a certificate of training awarded under section 34L(1) of the Medical Act 1983; or
  - (d) a medical practitioner, who-
    - (i) is not a *GP Registrar*;
    - (ii) is undertaking a programme of post-registration supervised clinical practice supervised by the General Medical Council (“a post-registration programme”);
    - (iii) has notified the Board that he will be undertaking part or all of a postgraduate programme in

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<sup>74</sup> Except where footnotes indicate otherwise, this Part is required by *the Regulations* (see Part 4 of Schedule 6).

England at least 24 hours before commencing any part of that programme; and

- (iv) has, with that notification, provided the Board with evidence sufficient for it to satisfy itself that he is undergoing a post-registration programme,

but only in so far as any medical services that the medical practitioner performs constitute part of a post-registration programme.

15.1.3. No *health care professional* other than one to whom clauses 15.1.1 and 15.1.2 apply shall perform clinical services under the Contract unless he is registered with his relevant professional body and his registration is not currently suspended.

15.1.4. Where the registration of a *health care professional* or, in the case of a medical practitioner, his inclusion in a *primary care list* is subject to conditions, the Contractor shall ensure compliance with those conditions insofar as they are relevant to the Contract.

15.1.5. No *health care professional* shall perform any clinical services unless he has such clinical experience and training as are necessary to enable him properly to perform such services.

15.2. **Conditions for employment and engagement**

15.2.1. Subject to clauses 15.2.2 and 15.2.3, the Contractor shall not employ or engage a medical practitioner (other than one falling within clause 15.1.2) unless-

- (a) that practitioner has provided it with documentary evidence that the practitioner is on the *medical performers list*; and
- (b) the Contractor has checked that he meets the requirements in clause 15.1.1.

15.2.2. Where the employment or engagement of a medical practitioner is urgently needed and it is not possible to check the matters referred to in clause 15.1.1 in accordance with clause 15.2.1(b) before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.

15.2.3. Where the prospective employee is a *GP Registrar*, the requirements set out in clause 15.2.1 shall apply with the modifications that-

- (a) the *GP Registrar* has provided documentary evidence of the *GP Registrar's* application to the Board for inclusion on the *medical performers list*; and
- (b) confirmation that his name appears on that list shall not be required until the end of the first two months of his training period.

- 15.2.4. The Contractor shall not employ or engage-
- (a) a *health care professional* other than one to whom clauses 15.1.1 and 15.1.2 apply unless the Contractor has checked that he meets the requirements in clause 15.1.3; or
  - (b) a *health care professional* to perform clinical services unless he has taken reasonable steps to satisfy himself that he meets the requirements in clause 15.1.5.
- 15.2.5. Where the employment or engagement of a *health care professional* is urgently needed and it is not possible to check the matters referred to in clause 15.1.3 in accordance with clause 15.2.4 before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.
- 15.2.6. When considering a *health care professional's* experience and training pursuant to clause 15.2.4(b), the Contractor shall have regard to any post-graduate or post-registration qualification held by the *health care professional*, and any relevant training undertaken by him and any relevant clinical experience gained by him.
- 15.2.7. The Contractor shall not employ or engage a *health care professional* to perform medical services under the Contract, other than a medical practitioner falling within clause 15.1.2(d) unless-
- (a) that person has provided two clinical references, relating to two recent posts (which may include any current post) as a *health care professional* which lasted for three months without a significant break, or where this is not possible, a full explanation and alternative referees; and
  - (b) the Contractor has checked and is satisfied with the references.
- 15.2.8. Where the employment or engagement of a *health care professional* is urgently needed and it is not possible to obtain and check the references in accordance with clause 15.2.7(b) before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 14 days whilst his references are checked and considered, and for an additional single period of a further 7 days if the Contractor believes the person supplying those references is ill, on holiday or otherwise temporarily unavailable.
- 15.2.9. Where the Contractor employs or engages the same person on more than one occasion within a period of three months, he may rely on the references provided on the first occasion, provided that those references are not more than twelve months old.
- 15.2.10. Before employing or engaging any person to assist it in the provision of services under the Contract, the Contractor shall take

reasonable care to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which he is to be employed or engaged.

15.2.11. When considering the competence and suitability of any person for the purpose of clause 15.2.10, the Contractor shall have regard, in particular, to-

- (a) that person's academic and vocational qualifications;
- (b) his education and training; and
- (c) his previous employment or work experience.

### 15.3. **Training**

15.3.1. The Contractor shall ensure that for any *health care professional* who is-

- (a) performing clinical services under the Contract; or
- (b) employed or engaged to assist in the performance of such services,

there are in place arrangements for the purpose of maintaining and updating his skills and knowledge in relation to the services which he is performing or assisting in performing.

15.3.2. The Contractor shall afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

### 15.4. **Terms and conditions**

15.4.1. The Contractor shall only offer employment to a *general medical practitioner* on terms and conditions which are no less favourable than those contained in the "Model terms and conditions of service for a salaried general practitioner employed by a GMS practice" published by the British Medical Association and the NHS Confederation as item 1.2 of the supplementary documents to the new GMS contract 2003 (this document is available on the NHS Employers website at <http://www.nhsemployers.org/PayAndContracts/GeneralMedicalServicesContract/GMSContractChanges/gmscontract200304/Pages/NewGMSContract200304.aspx>).

### 15.5. **Arrangements for GP Registrars**

15.5.1. The Contractor shall only employ a *GP Registrar* subject to the conditions in clause 15.5.2.

15.5.2. The conditions referred to in clause 15.5.1 are that the Contractor shall not, by reason only of having employed or engaged a *GP Registrar*, reduce the total number of hours for which other medical practitioners perform primary medical services under the contract or for which other staff assist them in the performance of those services.

- 15.5.3. Where the Contractor employs a *GP Registrar*, the Contractor must offer terms of employment in accordance with the rates and subject to the conditions contained in directions given by *the Secretary of State* under sections 7 and 8 of *the 2006 Act* to Health Education England.

15.6. **Notification requirements in respect of specified prescribers**

15.6.1. Where—

- (a) the Contractor employs or engages a person who is specified in clause 15.6.3 whose functions will include prescribing;
- (b) a party to the Contract is a person who is specified in clause 15.6.3 whose functions will include prescribing; or
- (c) the functions of a person who is specified in clause 15.6.3 whom the Contractor already employs or has already engaged are extended to include prescribing,

it must notify the Board in writing within the period of seven days starting on the date on which the Contractor employed or engaged the person, the party became a party to the Contract (unless, immediately before becoming such a party, the person fell under sub-clause (a)) or the person's functions were extended, as the case may be.

15.6.2. Where—

- (a) the Contractor ceases to employ or engage a person who is specified in clause 15.6.3 whose functions will include prescribing in its *practice*;
- (b) a party to the Contract who is a person who is specified in clause 15.6.3 ceases to be a party to the Contract;
- (c) the functions of a person who is a person specified in clause 15.6.3 and whom the Contractor employs or engages in its *practice* are changed so that the functions no longer include prescribing in its *practice*; or
- (d) the Contractor becomes aware that a person who is specified in clause 15.6.3 whom it employs or engages has been removed or suspended from the *relevant register*,

it must notify the Board by the end of the second working day after the day on which the event occurred.

15.6.3. The specified persons are—

- (a) *a chiropodist or podiatrist independent prescriber*;
- (b) *an independent nurse prescriber*;
- (c) *a pharmacist independent prescriber*;
- (d) *a physiotherapist independent prescriber*; and



(e) a *supplementary prescriber*.

15.6.4. The Contractor shall provide the following information when it notifies the Board in accordance with clause 15.6.1-

- (a) the person's full name;
- (b) his professional qualifications;
- (c) his identifying number which appears in the *relevant register*;
- (d) the date on which his entry in the *relevant register* was annotated to the effect that he was qualified to order drugs, medicines and appliances for patients;
- (e) the date on which-
  - (i) he was employed or engaged, if applicable,
  - (ii) he became a party to the Contract, if applicable, or
  - (iii) one of his functions became to prescribe in its *practice*.

15.6.5. The Contractor shall provide the following information when it notifies the Board in accordance with clause 15.6.2-

- (a) the person's full name;
- (b) his professional qualifications;
- (c) his identifying number which appears in the *relevant register*;
- (d) the date-
  - (i) he ceased to be employed or engaged in its *practice*,
  - (ii) he ceased to be a party to the Contract,
  - (iii) his functions changed so as no longer to include prescribing, or
  - (iv) on which he was removed or suspended from the *relevant register*.

## 15.7. **Signing of documents**

15.7.1. In addition to any other requirements relating to such documents whether in this Contract or otherwise, the Contractor shall ensure-

- (a) that the documents specified in clause 15.7.2 include-
  - (i) the clinical profession of that *health care professional* who signed the document; and
  - (ii) the name of the Contractor on whose behalf it is signed; and

- (b) that the documents specified in clause 15.7.3 include the clinical profession of the *health care professional* who signed the document.

15.7.2. The documents referred to in clause 15.7.1(a) are-

- (a) certificates issued in accordance with clause 17.1 unless regulations relating to a particular certificate provide otherwise; and
- (b) any other clinical documents, apart from—
  - (i) *home oxygen order forms*, and
  - (ii) those documents specified in clause 15.7.3.

15.7.3. The documents referred to in clause 15.7.2(b) are *batch issues*, *prescription forms* and *repeatable prescriptions*.

15.8. **Appraisal and assessment**

15.8.1. The Contractor shall ensure that any medical practitioner performing services under the Contract-

- (a) participates in the appraisal system provided by the Board, unless he participates in an appropriate appraisal system provided by another *health service body* or is an *armed forces GP*; and
- (b) co-operates with the Board in relation to the Board's patient safety functions.

15.8.2. The Board must provide an appraisal system for the purposes of clause 15.8.1(a) after consultation with the *Local Medical Committee* (if any) which is formed for the area in which the Contractor provides services under the Contract and with such other persons as appear to it to be appropriate.

15.9. **Sub-contracting of clinical matters**

15.9.1. Subject to clause 15.9.2, the Contractor shall not sub-contract any of its rights or duties under the Contract in relation to clinical matters unless-

- (a) in all cases, including those which fall within clauses 15.10.1 to 15.10.15 it has taken reasonable steps to satisfy itself that it is reasonable in all the circumstances and that person is qualified and competent to provide the service; and
- (b) except in cases which fall within clauses 15.10.1 to 15.10.15, it has notified the Board in writing of its intention to sub-contract as soon as reasonably practicable before the date on which the proposed sub-contract is intended to come into force.

- 15.9.2. Clause 15.9.1(b) shall not apply to a contract for services with a *health care professional* for the provision by that professional personally of clinical services.
- 15.9.3. The notification referred to in clause 15.9.1(b) shall include-
- (a) the name and address of the proposed sub-contractor;
  - (b) the duration of the proposed sub-contract;
  - (c) the services to be covered; and
  - (d) the address of any premises to be used for the provision of services.
- 15.9.4. Following receipt of a notice in accordance with clause 15.9.1(b), the Board may request such further information relating to the proposed sub-contract as appears to it to be reasonable and the Contractor shall supply such information promptly.
- 15.9.5. The Contractor shall not proceed with the sub-contract or, if it has already taken effect, shall take steps to terminate it, where, within 28 days of the notice referred to in clause 15.9.1(b), the Board has served a notice of objection to the sub-contract on the grounds that-
- (a) the sub-contract would-
    - (i) put at serious risk the safety of the Contractor's patients, or
    - (ii) put the Board at risk of material financial loss; or
  - (b) the sub-contractor would be unable to meet the Contractor's obligations under the Contract.
- 15.9.6. Where the Board objects to a proposed sub-contract in accordance with clause 15.9.5, it shall include with the notice of objection a statement in writing of the reasons for its objection.
- 15.9.7. Clauses 15.9.1 and 15.9.3 to 15.9.6 shall also apply in relation to any renewal or material variation of a sub-contract in relation to clinical matters.
- 15.9.8. Where the Board does not object to a proposed sub-contract under clause 15.9.5, the parties to the Contract shall be deemed to have agreed to a variation of the contract which has the effect of adding to the list of *practice premises* any premises whose address was notified to it under clause 15.9.3(d) and clause 26.1.1 shall not apply.
- 15.9.9. A contract with a sub-contractor must prohibit the sub-contractor from sub-contracting the clinical services it has agreed with the Contractor to provide.
- 15.9.10. The Contractor shall not sub-contract any of its rights or duties under the Contract in relation to the provision of *essential services* to a company or firm-

- (a) owned wholly or partly by the Contractor, or by any former or current employee of, or partner or shareholder in, the Contractor;
- (b) formed by or on behalf of the Contractor, or from which it derives or may derive a pecuniary benefit; or
- (c) formed by or on behalf of a former or current employee of, or partner or shareholder in, the Contractor, or from which such a person derives or may derive a pecuniary benefit,

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

15.10. **Sub-contracting of out of hours services**<sup>75</sup>

- 15.10.1. The Contractor shall not, otherwise than in accordance with the written approval of the Board, sub-contract all or part of its duty to provide *out of hours services* to any person other than those listed in clause 15.10.2 other than on a short-term occasional basis.
- 15.10.2. The persons referred to in clause 15.10.1 are-
  - (a) a person who holds a *general medical services contract* or a *default contract* with the Board which includes *out of hours services*;
  - (b) a person who is a party to contractual arrangements made under article 15 of *the Transitional Order*;
  - (c) a *section 28C provider* who is required to provide the equivalent of *essential services* to his patients during all or part of the *out of hours period*;
  - (d) a *health care professional*, not falling within clause (a) to (c), who is to provide the *out of hours services* personally under a contract for services; or
  - (e) a group of medical practitioners, whether in partnership or not, who provide *out of hours services* for each other under informal rota arrangements.
- 15.10.3. An application for approval under clause 15.10.1 shall be made by the Contractor in writing to the Board and shall state-
  - (a) the name and address of the proposed sub-contractor;
  - (b) the address of any premises to be used for the provision of services;
  - (c) the duration of the proposed sub-contract;
  - (d) the services to be covered by the arrangement; and

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<sup>75</sup> Clauses 15.10.1 to 15.10.15 only need to be included in the Contract if the Contractor is providing *out of hours services* under the Contract. Articles 21 and 22 of *the Transitional Order* are also relevant to these clauses.

- (e) how it is proposed that the sub-contractor will meet the Contractor's obligations under the Contract in respect of the services covered by the arrangement.
- 15.10.4. Within 7 days of receipt of an application under clause 15.10.2, the Board may request such further information relating to the proposed arrangements as seem to it to be reasonable.
- 15.10.5. Within 28 days of receipt of an application which meets the requirements of clause 15.10.3 or the further information requested under clause 15.10.4 (whichever is the later), the Board shall-
  - (a) approve the application;
  - (b) approve the application with conditions; or
  - (c) refuse the application.
- 15.10.6. The Board shall not refuse the application if it is satisfied that the proposed arrangement will, in respect of the services to be covered, enable the Contractor to meet satisfactorily its obligations under the Contract and will not-
  - (a) put at serious risk the safety of the Contractor's patients; or
  - (b) put the Board at risk of material financial loss.
- 15.10.7. The Board shall inform the Contractor by notice in writing of its decision on the application and, where it refuses an application, it shall include in the notice a statement of the reasons for its refusal.
- 15.10.8. Where the Board approves an application pursuant to clause 15.10.5 the parties to the Contract shall be deemed to have agreed a variation of the contract which has the effect of adding to the list of *practice premises*, for the purposes of the provision of services in accordance with that application, any premises whose address was notified to it under clause 15.10.3(b) and clause 26.1.1 shall not apply.
- 15.10.9. Clauses 15.10.1 to 15.10.8 shall also apply in relation to any renewal or material variation of a sub-contract in relation to *out of hours services*.
- 15.10.10. A contract with a sub-contractor must prohibit the sub-contractor from sub-contracting the *out of hours services* it has agreed with the Contractor to provide.
- 15.10.11. Without prejudice to any other remedies which it may have under the Contract, where the Board has approved an application made under clause 15.10.3 it shall, subject to clauses 15.10.14 and 15.10.15, be entitled to serve notice on the Contractor withdrawing or varying that approval from a date specified in the notice if it is no longer satisfied that the proposed arrangement will enable the Contractor to meet satisfactorily its obligations under the Contract.

- 15.10.12. The date specified pursuant to clause 15.10.11 shall be such as appears reasonable in all the circumstances to the Board.
- 15.10.13. The notice referred to in clause 15.10.11 shall take effect on whichever is the later of-
- (a) the date specified in the notice; or
  - (b) the date on which any dispute relating to the notice is finally determined.
- 15.10.14. Without prejudice to any other remedies which it may have under the Contract, where the Board has approved an application made under clause 15.10.3 it shall be entitled to serve notice on the Contractor withdrawing or varying that approval with immediate effect if-
- (a) it is no longer satisfied that the proposed arrangement will enable the Contractor to meet satisfactorily its obligations under the Contract; and
  - (b) it is satisfied that immediate withdrawal or variation is necessary to protect the safety of the Contractor's patients.
- 15.10.15. A notice served under clause 15.10.14 shall take effect on the date on which it is received by the Contractor.

## 16 PART 16

### 16.1 Records, Information, Notification and Rights of Entry<sup>76</sup>

#### 16.1. Patient records

- 16.1.1. In this part, “computerised records” means records created by way of entries on a computer.
- 16.1.2. The Contractor shall keep adequate records of its attendance on and treatment of its patients and shall do so-
  - (a) on forms supplied to it for the purpose by the Board; or
  - (b) with the written consent of the Board, by way of computerised records,or in a combination of those two ways.
- 16.1.3. The Contractor shall include in the records referred to in clause 16.1.2 clinical reports sent in accordance with clause 7.10 or from any other *health care professional* who has provided clinical services to a person on its list of patients.
- 16.1.4. The consent of the Board required by clause 16.1.2(b) shall not be withheld or, once given, withdrawn provided the Board is satisfied, and continues to be satisfied, that-
  - (a) the computer system upon which the Contractor proposes to keep the records has been accredited by *the Secretary of State* or another person on his behalf in accordance with General Practice Systems of Choice Level 2<sup>77</sup>;
  - (b) the security measures, audit and system management functions incorporated into the computer system as accredited in accordance with sub-clause (a) have been enabled; and
  - (c) the Contractor is aware of, and has signed an undertaking that it will have regard to the guidelines contained in “Good Practice Guidelines for General Practice Electronic Patient Records (version 4)” published on 21st March 2011 (this document is available on the Department of Health’s website [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_125310](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_125310)).
- 16.1.5. Where a patient’s records are computerised records, the Contractor must, as soon as possible following a request from the Board, allow the Board to access the information recorded on the computer system on which those records are held by means of the audit function referred to in clause 16.1.4(b) to the extent

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<sup>76</sup> Except where it is expressly indicated in a footnote that a particular clause is only required in certain types of GMS Contract, this section is required by *the Regulations*: see Part 5 of Schedule 6.

<sup>77</sup> Information on specification can be found on <http://www.connectingforhealth.nhs.uk/systemsandservices/gpsupport/gpsoc>.

necessary for the Board to confirm that the audit function is enabled and functioning correctly.

16.1.6. The Contractor shall send the complete records relating to a patient to the Board –

- (a) where a person on its list dies, before the end of the period of 14 days beginning with the date on which it was informed by the Board of the death, or (in any other case) before the end of the period of one month beginning with the date on which it learned of the death; or
- (b) in any other case where the person is no longer registered with the Contractor, as soon as possible at the request of the Board,

[and the Contractor's obligations pursuant to this clause, and clause 16.1.7 below shall survive the termination or expiry of the Contract]<sup>78</sup>.

16.1.7. To the extent that a patient's records are computerised records, the Contractor complies with clause 16.1.6 if it sends to the Board a copy of those records-

- (a) in written form; or
- (b) with the written consent of the Board in any other form.

16.1.8. The consent of the Board to the transmission of information other than in written form for the purposes of clause 16.1.7(b) shall not be withheld or withdrawn provided it is satisfied, and continues to be satisfied, with the following matters-

- (a) the Contractor's proposals as to how the record will be transmitted;
- (b) the Contractor's proposals as to the format of the transmitted record;
- (c) how the Contractor will ensure that the record received by the Board is identical to that transmitted; and
- (d) how a written copy of the record can be produced by the Board.

16.1.9. Where the Contractor's patient records are computerised records, the Contractor shall not disable, or attempt to disable, either the security measures or the audit and system management functions referred to in clause 16.1.4(b).

## 16.2. **Summary Care Record**

16.2.1. The Contractor must, in any case where there is a change to the information included in a patient's medical record, enable an automated upload of *summary information* to the *Summary Care*

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<sup>78</sup> The words in square brackets are not mandatory but they are recommended to ensure that an obligation to provide patient records to the Board continues to apply even where the Contract has ended.



*Record*, at least on a daily basis, using the approved systems provided to it by the Board.

16.2.2. The requirement in clause 16.2.1 does not apply to the Contractor where:

- (a) the Contractor does not have access to computer systems and software which would enable it to carry out automated uploads of the *summary information*; and
- (b) the Contractor has, by 30 September 2014, publicised its plans to enable it to achieve that requirement by no later than 31 March 2015 by displaying a statement of intent at the *practice premises* and, where the practice has a website, on the practice website.

16.3. **Electronic transfer of patient records**

16.3.1. The Contractor must use the *GP2GP facility* for the safe and effective transfer of any patient records:

- (a) in a case where a new patient registers with the *practice*, to the *practice* from the practice of another provider of primary medical services (if any) with which the patient was previously registered; or
- (b) in a case where the Contractor receives a request from another provider of primary medical services with which the patient has registered, in order to respond to that request.

16.3.2. The requirement in clause 16.3.1 does not apply to the Contractor where:

- (a) the Contractor does not have access to computer systems and software which would enable it to use the *GP2GP facility* to effect the transfer of patient records to another provider of primary medical services with a patient list; and
- (b) the Contractor has, by 30 September 2014, publicised its plans to enable it to achieve that requirement by 31 March 2015 by displaying a statement of intent at the *practice premises* and, where the practice has a website, on the practice website.

16.3.3. The requirement in clause 16.3.1 does not apply in the case of a temporary resident.

16.4. **Clinical correspondence: requirement for NHS number**

16.4.1. The Contractor must include the *NHS number* of a *registered patient* as the primary identifier in all *clinical correspondence* issued by the Contractor which relates to that patient.

16.4.2. The requirement in clause 16.4.1 does not apply where, in exceptional circumstances outside of the Contractor's control, it is

not possible for the Contractor to ascertain the patient's *NHS number*.

16.5. **Patient online Services**

16.5.1. The Contractor must promote and offer to its *registered patients* the facility for a patient:

- (a) to book, view, amend, cancel and print appointments online;
- (b) to order repeat prescriptions for drugs, medicines or appliances online; and
- (c) to view and print a list of any drugs, medicines or appliances in respect of which the patient has a repeat prescription

in a manner which is capable of being electronically integrated with the computerised clinical systems of the *practice* using appropriate systems authorised by the Board.

16.5.1A A Contractor must, when complying with the requirement in clause 16.5.1, consider whether it is necessary, in order to meet the reasonable needs of its *registered patients*, to take action to comply with the requirement in clause 16.5.1 so as to increase the proportion of appointments which are available for its *registered patients* to book online and, if so, take such action.

16.5.2. The Contractor must promote and offer to its *registered patients*, in circumstances where the medical records of its patients are held on the Contractor's computerised clinical systems, the facility for a patient to:

- (a) access online any summary information derived from the patient's medical records and any other data which the Contractor has agreed that the patient may access; and
- (b) view online, electronically export or print any summary information derived from the patient's medical records and any other data which the Contractor has agreed that the patient may access.

16.5.2A. A Contractor must promote and offer to its *registered patients*, in circumstances where the medical records of its *registered patients* are held on the Contractor's computerised clinical systems, the facility for any such patient to access online all information from the patient's medical record which is held in coded form unless:

- (a) in the reasonable opinion of the Contractor, access to such information would not be in the patient's best interests because it is likely to cause serious harm:
  - (i) to the patient's physical or mental health, or
  - (ii) to the physical or mental health of any other person;

- (b) the information includes a reference to any third party who has not consented to its disclosure; or
    - (i) the information in the patient's medical record contains a free text entry and it is not possible under the Contractor's computerised clinical systems to separate that free text entry from other information in that medical record which is held in coded form.
- 16.5.3. Where the Contractor has a *practice* website, the Contractor must also promote and offer to its *registered patients* the facility referred to in clauses 16.5.1(a) and 16.5.1(b) on that *practice* website.
- 16.5.4. The requirements in clause 16.5.1 do not apply where the Contractor does not have access to computer systems and software which would enable it to offer the online services described in clause 16.5.1 to its *registered patients*.
- 16.5.5. The requirements in clause 16.5.2:
  - (a) do not apply where the Contractor does not have access to computer systems and software which would enable it to offer the online services described in clause 16.5.2; and
  - (b) only apply until such time as the Contractor is able to fully comply with the requirements in clause 16.5.2A.
- 16.5.6. The requirements in clause 16.5.2A do not apply where:
  - (a) the Contractor does not have access to GPSOC accredited computer systems and software which would enable it to offer the online services described in that clause to its *registered patients*; and
  - (b) the Contractor has, by 30th September 2015, publicised its plans to enable it to achieve those requirements by 31st March 2016 by displaying a statement of intent on the *practice premises* and, where the *practice* has a website, on the *practice* website.
- 16.6. **Confidentiality of personal data**
  - 16.6.1. The Contractor shall nominate a person with responsibility for practices and procedures relating to the confidentiality of personal data held by it.
- 16.7. **Practice leaflet**
  - 16.7.1. The Contractor shall-
    - (a) compile a *practice leaflet* which shall include the information specified in Schedule 3;
    - (b) review its *practice leaflet* at least once in every period of 12 months and make any amendments necessary to maintain its accuracy; and

- (c) make available a copy of the leaflet, and any subsequent updates, to its patients and prospective patients.

16.7.2. Where the Contractor has a website, the Contractor shall publish on that website details of the *practice area* specified in clause 13.2.1 including the area known as the outer boundary area specified in clause 13.3.1 by reference to a sketch diagram, plan or postcode.

#### 16.7A. Friends and Family Test

16.7A.1 The Contractor must give all patients who use the Contractor's *practice* the opportunity to provide feedback about the service received from the *practice* through the *friends and family test*.

16.7A.2 The Contractor must-

16.7A.2.1 report the results of completed *friends and family tests* to the Board; and

16.7A.2.2 publish the results of such completed Tests, in the manner approved by the Board.

#### 16.8. Provision of information

16.8.1. Subject to clause 16.8.2, the Contractor shall, at the request of the Board, produce to the Board or to a person authorised in writing by the Board or allow it, or a person authorised in writing by it, to access, on request-

- (a) any information which is reasonably required by the Board for the purposes of or in connection with the Contract; and
- (b) any other information which is reasonably required in connection with the Board's functions.

16.8.2. The Contractor is not required to comply with any request made in accordance with clause 16.8.1 unless it has been made by the Board in accordance with directions made by *the Secretary of State* under section 98A of *the 2006 Act* relating to the provision of information by contractors.

16.8.3. The Contractor shall produce the information requested, or, as the case may be, allow access to it-

- (a) by such date as has been agreed as reasonable between the Contractor and the Board; or
- (b) in the absence of such agreement, within 28 days of the request being made.

#### 16.8A. Publication of earnings information

16.8A.1 The Contractor must publish each year on its *practice* website (if it has one) the information specified in clause 16.8A.2

16.8A.2 The information specified in this clause is:

- (a) the mean net earnings in respect of the previous financial year of:
  - (i) all general medical practitioners who were party to the Contract for a period of at least six months during that financial year, and
  - (ii) any general medical practitioners who were employed or engaged by the Contractor to provide services under the Contract in the Contractor's *practice*, whether on a full-time or part-time basis, for a period of at least six months during that financial year; and
- (b) the:
  - (i) total number of any general medical practitioners to whom the earnings information referred to in clause 16.8A.2(a) relates, and
  - (ii) (where applicable) the number of those practitioners who have been employed or engaged by the Contractor to provide services under the Contract in the Contractor's *practice* on a full time or a part time basis and for a period of at least six months during the financial year in respect of which that information relates.

16.8A.3 The information specified in clause 35B.2 must be:

- (a) published by the Contractor before the end of the financial year following the financial year to which that information relates; and
- (b) made available by the Contractor in hard copy form on request.

16.8A.4 For the purposes of clause 16.8A, “mean net earnings” are to be calculated by reference to the earnings of a *general medical practitioner* that, in the opinion of the Board, are attributable to the performance or provision by the practitioner under the contract of medical services to which Part 4 of the 2006 Act applies, after having disregarded any expenses properly incurred in the course of performing or providing those services.

16.9. **Inquiries about prescriptions and referrals**

- 16.9.1. The Contractor shall, subject to clauses 16.9.2 and 16.9.3, sufficiently answer any inquiries whether oral or in writing from the Board concerning-
  - (a) any *prescription form* or *repeatable prescription* issued or created by a *prescriber*;
  - (b) the considerations by reference to which *prescribers* issue such forms;

- (c) the referral by or on behalf of the Contractor of any patient to any other services provided under *the 2006 Act*; or
  - (d) the considerations by which the Contractor makes such referrals or provides for them to be made on its behalf.
- 16.9.2. An inquiry referred to in clause 16.9.1 may only be made for the purpose either of obtaining information to assist the Board to discharge its functions or of assisting the Contractor in the discharge of its obligations under the Contract.
- 16.9.3. The Contractor shall not be obliged to answer any inquiry referred to in clause 16.9.1 unless it is made-
  - (a) in the case of clause 16.9.1(a) or 16.9.1(b) by an appropriately qualified *health care professional*; or
  - (b) in the case of clause 16.9.1(c) or 16.9.1(d), by an appropriately qualified medical practitioner,appointed in either case by the Board to assist it in the exercise of its functions under clause 16.9.1 and 16.9.2 who produces, on request, written evidence that that person is authorised by the Board to make such an inquiry on its behalf.
- 16.10. **Provision of information to a *medical officer* etc.**
  - 16.10.1. The Contractor shall, if it is satisfied that the patient consents-
    - (a) supply in writing to any person specified in clause 16.10.2, within such reasonable period as that person may specify, such clinical information as any of the persons mentioned in sub-clause 16.10.2(a) to 16.10.2(d) considers relevant about a patient to whom the Contractor or a person acting on behalf of the Contractor has issued or has refused to issue a medical certificate; and
    - (b) answer any inquiries by any person mentioned in clause 16.10.2 about—
      - (i) a *prescription form* or medical certificate issued or created by, or on behalf of, the Contractor, or
      - (ii) any statement which the Contractor or a person acting on behalf of the Contractor has made in a report.
  - 16.10.2. For the purposes of clause 16.10.1, the persons are—
    - (a) a *medical officer*,
    - (b) a *nursing officer*,
    - (c) an *occupational therapist*,
    - (d) a *physiotherapist*, or

- (e) an officer of the Department for Work and Pensions who is acting on behalf of, and at the direction of, any person specified in sub-clauses (a) to (d).

16.10.3. For the purpose of being satisfied that a patient consents, the Contractor may rely on an assurance in writing from any person mentioned in clause 16.10.2 that the consent of the patient has been obtained, unless the Contractor has reason to believe that the patient does not consent.

**16.11. Annual return and review**

16.11.1. The Contractor shall submit an annual return relating to the Contract to the Board which shall require the same categories of information from all persons who hold contracts with the Board.

16.11.2. Subject to article 53 of the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004, one such return may be requested by the Board at any time during each financial year in relation to such period (not including any period covered by a previous annual return) as may be specified in the request: in this clause, "financial year" means the twelve months ending with 31<sup>st</sup> March.

16.11.3. The Contractor shall submit the completed return to the Board-

- (a) by such date as has been agreed as reasonable between the Contractor and the Board; or
- (b) in the absence of such agreement, within 28 days of the request being made.

16.11.4. Following receipt of the return referred to in clause 16.11.1, the Board shall arrange with the Contractor an annual review of its performance in relation to the Contract.

16.11.5. Either the Contractor or the Board may, if it wishes to do so, invite the *Local Medical Committee* for the area in which the Contractor provides services under the Contract to participate in the annual review.

16.11.6. The Board shall prepare a draft record of the review referred to in clause 16.11.4 for comment by the Contractor and, having regard to such comments, shall produce a final written record of the review. A copy of the final record shall be sent to the Contractor.

**16.12. Notifications to the Board**

16.12.1. In addition to any requirements of notification elsewhere in the Contract, the Contractor shall notify the Board in writing, as soon as reasonably practicable, of-

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

- (b) any circumstances which give rise to the Board's right to terminate the contract under clause 26.8, 26.9 or 26.10;
  - (c) any appointments system which it proposes to operate and the proposed discontinuance of any such system;
  - (d) any change of which it is aware in the address of a *registered patient*; and
  - (e) the death of any patient of which it is aware.
- 16.12.2. The Contractor shall notify the Board in writing of any person other than a *registered patient* or a person whom it has accepted as a *temporary resident* to whom it has provided the *essential services* described in clauses 8.1.2(b)(iii) and 8.1.5 within the period of 28 days beginning on the day that the services were provided.
- 16.13. **Notice provision specific to a Contractor that is a company limited by shares**<sup>79</sup>
- 16.13.1. The Contractor shall give notice in writing to the Board forthwith when-
- (a) any share in the Contractor is transmitted or transferred (whether legally or beneficially) to another person on a date after the Contract has been entered into;
  - (b) a new director or secretary is appointed;
  - (c) it passes a resolution or a court of competent jurisdiction makes an order that the Contractor be wound up;
  - (d) circumstances arise which might entitle a creditor or a court to appoint a receiver, administrator or administrative receiver for the Contractor;
  - (e) circumstances arise which would enable the court to make a winding up order in respect of the Contractor; or
  - (f) the Contractor is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.
- 16.13.2. A notice under clause 16.13.1 shall confirm that the new shareholder, or, as the case may be, the personal representative of a deceased shareholder-
- (a) is a medical practitioner, or that he satisfies the conditions specified in section 86(2)(b)(i) to (iv) of *the 2006 Act*; and
  - (b) meets the further conditions imposed on shareholders by virtue of regulations 4 and 5 of *the Regulations*.
- 16.13.3. A notice under clause 16.13.1(b) shall confirm that the new director or, as the case may be, secretary meets the conditions

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<sup>79</sup> Clauses 16.13.1, 16.13.2 and 16.13.3 only need to be included in the Contract if the Contractor is a company limited by shares. If the Contractor is not a company limited by shares, these clauses can be deleted.



imposed on directors and secretaries by virtue of regulation 5 of *the Regulations*.

16.14. **Notice provision specific to a Contractor that is a partnership**<sup>80</sup>

16.14.1. The Contractor shall give notice in writing to the Board forthwith when-

- (a) a partner leaves or informs his partners that he intends to leave the partnership, and the date upon which he left or will leave the partnership;
- (b) a new partner joins the partnership.

16.14.2. A notice under clause 16.14.1(b) shall-

- (a) state the date that the new partner joined the partnership;
- (b) confirm that the new partner is a medical practitioner, or that he satisfies the conditions specified in section 86(2)(b)(i) to (iv) of *the 2006 Act*;
- (c) confirm that the new partner meets the conditions imposed by regulations 4 and 5 of *the Regulations*; and
- (d) state whether the new partner is a general or limited partner.

16.15. **Notification of deaths**

16.15.1. The Contractor shall report in writing to the Board the death on its *practice premises* of any patient no later than the end of the first working day after the date on which the death occurred.

16.15.2. The report shall include-

- (a) the patient's full name;
- (b) the patient's National Health Service number where known;
- (c) the date and place of death;
- (d) a brief description of the circumstances, as known, surrounding the death;
- (e) the name of any doctor or other person treating the patient whilst on the *practice premises*; and
- (f) the name, where known, of any other person who was present at the time of the death.

16.16. **Notifications to patients following a variation of the Contract**

16.16.1. Where the Contract is varied in accordance with Part 26 of this Contract and, as a result of that variation-

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<sup>80</sup> Clauses 16.14.1 and 16.14.2 only need to be included in the Contract if the Contractor is a partnership. If the Contractor is not a partnership, these clauses can be deleted.

- (a) there is to be a change in the range of services provided to the Contractor's patients; or
- (b) patients who are on the *Contractor's list of patients* are to be removed from that list,

the Board 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).

**16.17. Entry and inspection by the Board**

- 16.17.1. Subject to the conditions in clause 16.17.2, the Contractor shall allow persons authorised in writing by the Board to enter and inspect the *practice premises* at any reasonable time.
- 16.17.2. The conditions referred to in clause 16.17.1 are that-
  - (a) reasonable notice of the intended entry has been given;
  - (b) written evidence of the authority of the person seeking entry is produced to the Contractor on request; and
  - (c) entry is not made to any premises or part of the premises used as residential accommodation without the consent of the resident.
- 16.17.3. The Contractor, the Board or a person authorised in writing by the Board may, if it wishes to do so, invite the *Local Medical Committee* for the area in which the Contractor provides services under the Contract, to be present at an inspection of the *practice premises* which takes place under this clause 16.17.

**16.18. Entry and Inspection by the *Care Quality Commission***

- 16.18.1. The Contractor shall allow persons authorised by the *Care Quality Commission* to enter and inspect the premises in accordance with section 66 of the Health and Social Care (Community Health and Standards) Act 2003 as modified by section 3 to the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009 and section 62 of the Health and Social Care Act 2008.

**16.19. Entry and viewing by Local Healthwatch organisations**

- 16.19.1. The Contractor must comply with the requirement to allow an authorised representative to enter and view premises and observe the carrying-on of activities on those premises in accordance with regulations made under section 225 of the Local Government and Public Involvement Health Act 2007.

**17 PART 17****17.1 Certificates<sup>81</sup>**

- 17.1.1. The Contractor shall issue free of charge to a patient or his personal representative any medical certificate of a description prescribed in column 1 of the table below which is reasonably required under or for the purposes of the enactments specified in relation to the certificate in column 2 of the table below, except where, for the condition to which the certificate relates, the patient-
- (a) is being attended by a medical practitioner who is not-
    - (i) employed or engaged by the Contractor,
    - (ii) if this Contract is with a partnership, one of the partners, or
    - (iii) if this Contract is with a company limited by shares, one of the persons legally or beneficially owning shares in the company; or
  - (b) is not being treated by or under the supervision of a *health care professional*.
- 17.1.2. The exception in sub-clause 17.1.1(a) shall not apply where the certificate is issued in accordance with regulation 2(1) of the Social Security (Medical Evidence) Regulations 1976 (which provides for the issue of a certificate as evidence of incapacity for work or limited capability for work) or regulation 2(1) of the Statutory Sick Pay (Medical Evidence) Regulations 1985 (which provides for the issue of medical information relating to incapacity for work).

**LIST OF PRESCRIBED MEDICAL CERTIFICATES**

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

<sup>81</sup> This Part is required by *the Regulations* (see regulation 21 and Schedule 4).

<i>Description of medical certificate</i>	<i>Enactment under or for the purpose of which certificate required</i>
	Social Security Contributions and Benefits Act 1992
	Social Security Act 1998
2. To establish pregnancy for the purpose of obtaining welfare foods	Section 13 of the Social Security Act 1988 (schemes for distribution etc of welfare foods)
3. To secure registration of still-birth	Section 11 of the Births and Deaths Registration Act 1953 (special provision as to registration of still-birth)
4. To enable payment to be made to an institution or other person in case of mental disorder of persons entitled to payment from public funds.	Section 142 of the Mental Health Act 1983 (pay, pensions etc of mentally disordered persons)
5. To establish unfitness for jury service	Juries Act 1974
6. To support late application for reinstatement in civil employment or notification of non-availability to take up employment owing to sickness.	Reserve Forces (Safeguarding of Employment) Act 1985.
7. To enable a person to be registered as an absent voter on grounds of physical incapacity	Representation of the People Act 1983
8. To support applications for certificates conferring exemption from charges in respect of drugs, medicines and appliances.	National Health Service Act 1977
9. To support a claim by or on behalf of a severely mentally impaired person for exemption from liability to pay the Council Tax or eligibility for a discount in respect of the amount of Council Tax payable.	Local Government Finance Act 1992.

## 18 PART 18<sup>82</sup>

### 18.1 Payment under the Contract

18.1.1. The Board and the Contractor shall make any payments under the Contract promptly and in accordance with both the terms of the Contract (including, for the avoidance of doubt, any payment due pursuant to clause 18.1.2), and any other conditions relating to the payment contained in directions given by *the Secretary of State* under section 87 of *the 2006 Act*, subject to any right the Board may have to set off against any amount payable to the Contractor under the Contract any amount-

- (a) that is owed by the Contractor to the Board under the Contract; or
- (b) that the Board may withhold from the Contractor in accordance with the terms of the Contract or any other applicable provisions contained in directions given by *the Secretary of State* under section 87 of *the 2006 Act*.

18.1.2. [Subject to clause 18.1.3]<sup>83</sup> The Board shall make payments to the Contractor in such amount and in such manner as specified in any directions for the time being in force under section 87 or 98A of *the 2006 Act*. Where, pursuant to directions made under section 87 or 98A of *the 2006 Act*, the Board is required to make a payment to the Contractor under the Contract but subject to conditions, those conditions are to be a term of the Contract.

18.1.3. [Payments to be made to the Contractor (and any relevant conditions to be met by the Contractor in relation to such payments) in respect of services where payments, or the amount of any such payments, are not specified in directions pursuant to clause 18.1.2, are set out in Schedule 6 to this Contract.]<sup>84</sup>

### 18.2. [Payment provisions specific to a Contractor entering into the Contract following a *default contract* with the Board]<sup>85</sup>

18.2.1. As a condition of entering into the Contract, the Contractor has surrendered all rights to further payments under the *default contract* to which the Contractor and the Board were parties prior to entering into the Contract, and the Contractor acknowledges that any such rights were extinguished when the Contractor entered into the Contract.

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<sup>82</sup> Part 18 is required by regulations 22 and 23 of *the Regulations* and section 87(2) of *the 2006 Act*.

<sup>83</sup> The words in square brackets only need to be included if clause 18.1.3 is to be included.

<sup>84</sup> Clause 18.1.3 needs to be included if, pursuant to the Contract (Parts 9, 10 or 12), the Contractor is providing:-

- *additional services* that are not funded by the *global sum* or *out of hours services*; and/or
- *enhanced services*

and in either case, the payments to be made in respect of such services, and the conditions upon which payment is to be made, are not specified in Directions made under section 87 or 98A of *the 2006 Act*.

It will also need to be included if there are any other payments to be made where the detail of such payments is not specified in directions, for example payments in respect of premises.

<sup>85</sup> See article 10 of the National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235).

- 18.2.2. For the purposes of payment under the Contract, the Contract shall be treated as if it commenced on 1<sup>st</sup> April 2004.
- 18.2.3. Any payment that has been made under the *default contract* to which the Contractor and the Board were parties prior to entering into the Contract, that could have been made if the Contractor had entered into the Contract on or before 31<sup>st</sup> March 2004-
- (a) as a payment on account under the Contract, shall be treated as a payment on account under the Contract (and for these purposes any payment of one twelfth of a final *global sum* equivalent under that *default contract* shall be treated as a payment on account in respect of a payable *global sum* monthly payment);
  - (b) as a payment under the Contract, shall be treated as a payment under the Contract,
- and accordingly any condition that attaches, or is to be attached, to such a payment when made under the Contract, by virtue of the *GMS Statement of Financial Entitlements* or any other relevant Directions given by *the Secretary of State*, is attached to that payment.
- 18.2.4. Any other payment that has been made under the *default contract* to which the Contractor and the Board were parties prior to entering into the Contract, shall be set off, equitably, against any payment for equivalent services provided under the Contract.]<sup>86</sup>
- 18.3. **[Payment provisions specific to a Contractor entering into the Contract where the Board has previously made payments to the Contractor under article 41(1) of *the Transitional Order***
- 18.3.1. As a condition of entering into the Contract, the Contractor has surrendered all rights to further payments from the Board under article 41(1) of *the Transitional Order*, and the Contractor acknowledges that any such rights were extinguished when the Contractor entered into the Contract.
- 18.3.2. For the purposes of payment under the Contract, the Contract shall be treated as if it commenced on 1<sup>st</sup> April 2004.
- 18.3.3. Any payment that has been made under article 41(1) of *the Transitional Order* that could have been made-
- (a) as a payment on account under the Contract, shall be treated as a payment on account under the Contract (and for these purposes any payment of one twelfth of a final *global sum* equivalent under article 41(1) shall be treated as a payment on account in respect of a payable *global sum* monthly payment);

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<sup>86</sup> Clauses 18.2.1 to 18.2.4 are required by article 40 of *the Transitional Order* only where the Contractor has been a party to a *default contract* with the Board and the Contract takes effect immediately after the *default contract* ceases to have effect.

- (b) as a payment under the Contract, shall be treated as a payment under the Contract,

and accordingly any condition that attaches, or is to be attached, to such a payment when made under the Contract, by virtue of the *GMS Statement of Financial Entitlements*, the National Health Service (General Medical Services – Premises Costs) (England) Directions 2013, or any other relevant Directions given by *the Secretary of State*, is attached to that payment.]<sup>87</sup>

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<sup>87</sup> Clauses 18.3.1 to 18.3.3 are required by article 41(2) of *the Transitional Order* only where payments have been made to the Contractor by the Board pursuant to article 41(1) of *the Transitional Order* prior to the Contract being entered into. *See also* article 10 of the National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235).

## 19 PART 19<sup>88</sup>

### 19.1 Fees and Charges

- 19.1.1. The Contractor shall not, either itself or through any other person, demand or accept from any patient of its a fee or other remuneration for its own or another's benefit-
- (a) for the provision of any treatment whether under the Contract or otherwise, or
  - (b) for any prescription or repeat prescription for any drug, medicine or appliance,
- except in the circumstances set out in clause 19.1.2.
- 19.1.2. The Contractor may demand or accept a fee or other remuneration—
- (a) from any statutory body for services rendered for the purposes of that body's statutory functions;
  - (b) from any body, employer or school for a routine medical examination of persons for whose welfare the body, employer or school is responsible, or an examination of such persons for the purpose of advising the body, employer or school of any administrative action they might take;
  - (c) for treatment which is not primary medical services or otherwise required to be provided under the Contract and which is given-
    - (i) pursuant to the provisions of paragraph 11 of Schedule 6 to *the 2006 Act*, or
    - (ii) in a registered nursing home which is not providing services under that Act,
- if, in either case, the person administering the treatment is serving on the staff of a hospital providing services under *the 2006 Act* as a specialist providing treatment of the kind the patient requires and if, within 7 days of giving the treatment, the Contractor or the person providing the treatment supplies the Board, on a form provided by it for the purpose, with such information about the treatment as it may require;
- (d) under section 158 of the Road Traffic Act 1988;
  - (e) when it treats a patient under clause 19.1.3, in which case it shall be entitled to demand and accept a reasonable fee from the patient (recoverable in certain circumstances under clause 19.1.4) for any treatment given, if it gives the patient a receipt;

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<sup>88</sup> This Part is required by *the Regulations* (see regulation 24 and Schedule 5).



- (f) for attending and examining (but not otherwise treating) a patient-
  - (i) at his request at a police station in connection with possible criminal proceedings against him,
  - (ii) at the request of a commercial, educational or not-for-profit organisation for the purpose of creating a medical report or certificate, or
  - (iii) for the purpose of creating a medical report required in connection with an actual or potential claim for compensation by the patient;
- (g) for treatment consisting of an immunisation for which no remuneration is payable by the Board and which is requested in connection with travel abroad;
- (h) for prescribing or providing drugs, medicines or appliances (including a collection of such drugs, medicines or appliances in the form of a travel kit) which a patient requires to have in his possession solely in anticipation of the onset of an ailment or occurrence of an injury while he is outside the United Kingdom but for which he is not requiring treatment when the medicine is prescribed;
- (i) for a medical examination to enable a decision to be made whether or not it is inadvisable on medical grounds for a person to wear a seat belt, or for the purpose of creating a report relating to a road traffic accident or criminal assault, or that offers an opinion as to whether a patient is fit to travel;
- (j) for testing the sight of a person to whom none of paragraphs (a), (b), (c), (d) or (e) of section 115(2) of *the 2006 Act* applies (including by reason of regulations under section 115(9) of that Act);
- (k) where the Contractor is authorised or required in accordance with arrangements made with the Board under section 126 and in accordance with regulations made under section 129 of *the 2006 Act* to provide drugs, medicines or appliances to a patient and provides for that patient, otherwise than by way of *dispensing services*, any *Scheduled drug*;
- (l) for prescribing or providing drugs for malaria chemoprophylaxis.

19.1.3. Where a person applies to the Contractor for the provision of *essential services* and claims to be on the *Contractor's list of patients*, but fails to produce his *medical card* on request and the Contractor has reasonable doubts about that person's claim, the Contractor shall give any necessary treatment and shall be entitled to demand and accept a reasonable fee in accordance

with clause 19.1.2(e), subject to the provision for repayment contained in clause 19.1.4.

- 19.1.4. Where a person from whom the Contractor received a fee under clause 19.1.2(e) applies to the Board for a refund within 14 days of payment of the fee (or such longer period not exceeding a month as the Board may allow if it is satisfied that the failure to apply within 14 days was reasonable) and the Board is satisfied that the person was on the *Contractor's list of patients* when the treatment was given, the Board may recover the amount of the fee from the Contractor, by deduction from its remuneration or otherwise, and shall pay that amount to the person who paid the fee.
- 19.1.5. Part 19 shall survive the expiry or termination of the Contract to the extent that it prohibits the Contractor from, either itself or through any other person, demanding or accepting from any patient of its a fee or other remuneration for its own or another's benefit-
- (a) for the provision of any treatment, whether under the Contract or otherwise, that was provided during the existence of the Contract; or
  - (b) for any prescription or repeat prescription for any drug, medicine or appliance, that was provided during the existence of the Contract<sup>89</sup>.

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<sup>89</sup> This clause is not mandatory but it is recommended.

## 20 **PART 20**<sup>90</sup>

### 20.1 **Clinical Governance**

- 20.1.1. The Contractor shall have an effective *system of clinical governance* which shall include appropriate standard operating procedures in relation to the management and use of controlled drugs. The Contractor shall nominate a person who will have responsibility for ensuring the effective operation of the *system of clinical governance*. The person nominated shall be a person who performs or manages services under the Contract.
- 20.1.2. The Contractor shall co-operate with the Board in the discharge of any obligation of the Board or its accountable officer under section 17 and section 18 of the Health Act 2006.

### 20.2. **Duty as to Education and Training**

- 20.2.1. The Contractor must co-operate with the *Secretary of State* in the discharge of the duty under section 1F of *the 2006 Act*, or co-operate with Health Education England where Health Education England is discharging that duty by virtue of a direction under section 7 of that Act.

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<sup>90</sup> This Part is required by *the Regulations* (see paragraphs 121, 121A and 121B of Schedule 6).

## **21 PART 21<sup>91</sup>**

### **21.1 Insurance**

- 21.1.1. The Contractor shall at all times have in force in relation to it an indemnity arrangement which provides appropriate cover.
- 21.1.2. The Contractor shall not sub-contract its obligations to provide clinical services under the Contract unless it is satisfied that the sub-contractor has in force in relation to it an indemnity arrangement which provides appropriate cover.
- 21.1.3. For the purposes of clauses 21.1.1 to 21.1.2-
  - (a) “indemnity arrangement” means a contract of insurance or other arrangement made for the purpose of indemnifying the Contractor;
  - (aa) “appropriate cover” means cover against liabilities that may be incurred by the Contractor in the performance of clinical services under the Contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services; and
  - (b) the Contractor shall be regarded as having in force in relation to it an indemnity arrangement if there is an indemnity arrangement in force in relation to a person employed or engaged by it in connection with clinical services which that person provides under the Contract or, as the case may be, sub-contract.
- 21.1.4. The Contractor shall at all times hold adequate public liability insurance in relation to liabilities to third parties arising under or in connection with the Contract which are not covered by an indemnity arrangement referred to in clause 21.1.1.

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<sup>91</sup> This Part is required by *the Regulations* (see paragraph 122 and 123 of Schedule 6).

## 22 PART 22<sup>92</sup>

### 22.1 Gifts

- 22.1.1. The Contractor shall keep a register of gifts which-
- (a) are given to any of the persons specified in clause 22.1.2 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
  - (b) have, in its reasonable opinion, a value of more than £100.00.
- 22.1.2. The persons referred to in clause 22.1.1 are-
- (a) the Contractor;
  - (b) if the Contractor is a partnership, any partner;
  - (c) if the Contractor is a company, any person both legally and beneficially holding a share in the company, or a director or secretary of the company;
  - (d) any person employed by the Contractor for the purposes of the Contract;
  - (e) any *general medical practitioner* engaged by the Contractor for the purposes of the Contract;
  - (f) any spouse or civil partner of the Contractor (if the Contractor is an individual medical practitioner) or of a person specified in sub-clauses (b) to (e); or
  - (g) any person (whether or not of the opposite sex) whose relationship with the Contractor (where the Contractor is an individual medical practitioner) or with a person specified in sub-clauses (b) to (e) has the characteristics of the relationship between husband and wife.
- 22.1.3. Clause 22.1.1 does not apply where-
- (a) there are reasonable grounds for believing that the gift is unconnected with services provided or to be provided by the Contractor;
  - (b) the Contractor is not aware of the gift; or
  - (c) the Contractor is not aware that the donor wishes to provide services to the Contractor.
- 22.1.4. The Contractor shall take reasonable steps to ensure that it is informed of gifts which fall within clause 22.1.1 and which are given to the persons specified in clauses 22.1.2(b) to 22.1.2(g).

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<sup>92</sup> This Part is mandatory: see paragraph 124 of Schedule 6 to *the Regulations*.

- 22.1.5. The register referred to in clause 22.1.1 shall include the following information-
- (a) the name of the donor;
  - (b) 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;
  - (c) in any other case, the address of the donor;
  - (d) the nature of the gift;
  - (e) the estimated value of the gift; and
  - (f) the name of the person or persons who received the gift.
- 22.1.6. The Contractor shall make the register available to the Board on request.

## **23 PART 23<sup>93</sup>**

### **23.1 Compliance with Legislation and Guidance**

- 23.1.1. The Contractor shall comply with all relevant legislation and have regard to all relevant guidance issued by the Board or the *Secretary of State* or Local Authorities in respect of the exercise of their functions under *the 2006 Act*.

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<sup>93</sup> This Part is required by *the Regulations* (see paragraph 124 of Schedule 6).

## **24 PART 24<sup>94</sup>**

### **24.1 Complaints**

#### **24.1. Complaints procedure**

- 24.1.1. The Contractor shall establish and operate a complaints procedure to deal with any complaints in relation to any matter reasonably connected with the provision of services under the Contract.
- 24.1.2. The complaints procedure referred to above shall, in respect of complaints made on or after 1st April 2009, comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

#### **24.2. Co-operation with investigations**

- 24.2.1. The Contractor shall co-operate with-
  - (a) any investigation of a complaint in relation to any matter reasonably connected with the provision of services under the Contract undertaken by the Board and the Health Service Commissioner; and
  - (b) any investigation of a complaint by an NHS body or local authority which relates to a patient or former patient of the Contractor.
- 24.2.2. In the previous clause 24.2.1 -
  - “NHS body” means the Board, a CCG, (in England and Wales and Scotland) an NHS trust, an NHS foundation trust, a *Local Health Board*, a *Health Board*, a *Health and Social Services Board* or a *Health and Social Services Trust*;
  - “local authority” means any of the bodies listed in section 1 of the Local Authority Social Services Act 1970, the Council of the Isles of Scilly or a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; and
  - “Health Service Commissioner” means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the Health Service Commissioners Act 1993.
- 24.2.3. In co-operating with any investigation, the Contractor shall, by way of example-
  - (a) answer questions reasonably put to the Contractor by the Board;
  - (b) provide any information relating to the complaint reasonably required by the Board; and

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<sup>94</sup> This Part is required by *the Regulations*: see Part 6 of Schedule 6.



- (c) 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 Board.

24.2.4. Part 24 of this Contract shall survive the expiry or termination of the Contract insofar as it relates to any complaint or investigation reasonably connected with the provision of services under the Contract before it terminated<sup>95</sup>.

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<sup>95</sup> This clause is not mandatory but it is recommended to ensure that the Contractor is still under an obligation to comply with the investigation of a complaint or with any relevant investigation where the Contract has terminated or expired.

## **25 PART 25<sup>96</sup>**

### **25.1 Dispute Resolution**

#### **25.1. Local resolution of contract disputes**

- 25.1.1. Subject to clause 25.1.3, in the case of any dispute arising out of or in connection with the Contract, the Contractor and the Board must make every reasonable effort to communicate and cooperate with each other with a view to resolving the dispute, before referring the dispute for determination in accordance with the *NHS dispute resolution procedure* (or, where applicable, before commencing court proceedings).
- 25.1.2. Either the Contractor or the Board may, if it wishes to do so, invite the *Local Medical Committee* for the area in which the Contractor provides primary medical services to participate in discussions which take place pursuant to clause 25.1.1.
- 25.1.3. In the case of a dispute which falls to be dealt with under the procedure specified in paragraph 36 of Schedule 6 to *the Regulations*, clause 25.1.1 does not apply where it is not practicable for the parties to attempt local resolution before the expiry of the 7-day period specified in paragraph 36(4) of Schedule 6 to *the Regulations*.

#### **25.2. Dispute resolution: non-NHS Contracts<sup>97</sup>**

- 25.2.1. Any dispute arising out of or in connection with the Contract, except matters dealt with under the complaints procedure set out in clauses 24.1.1 to 24.2.4 of this Contract, may be referred for consideration and determination to *the Secretary of State*, if:
  - (a) if it relates to a period when the Contractor was treated as a *health service body*, by the Contractor or by the Board; or
  - (b) in any other case, by the Contractor or, if the Contractor agrees in writing, by the Board.
- 25.2.2. In the case of a dispute referred to *the Secretary of State* under clause 25.2.1, the procedure to be followed is the *NHS dispute resolution procedure*, and the parties agree to be bound by a determination made by the *adjudicator*.

#### **25.3. NHS dispute resolution procedure**

- 25.3.1. Subject to clause 25.3.2, the *NHS dispute resolution procedure* applies in the case of any dispute arising out of or in connection with the Contract which is referred to *the Secretary of State* in accordance with [section 9(5) and (6) of *the 2006 Act* / clause

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<sup>96</sup> Except where specifically indicated in the footnotes, this Part is required by *the Regulations* (see Part 7 of Schedule 6).

<sup>97</sup> These clauses are mandatory terms only if the contract is not an *NHS contract*. Otherwise, the clauses should be deleted from the Contract.

25.2.1 above]<sup>98</sup>, and the Board and the Contractor shall participate in the *NHS dispute resolution procedure* as set out in paragraphs 101 and 102 of Schedule 6 to *the Regulations*.

- 25.3.2. The *NHS dispute resolution procedure* does not apply where the Contractor refers a matter for determination in accordance with clause 13.27.1, and in such a case the procedure specified in paragraph 36 of Schedule 6 to *the Regulations* shall apply instead.
- 25.3.3. Any party wishing to refer a dispute shall send to *the Secretary of State* a written request for dispute resolution which shall include or be accompanied by-
- (a) the names and addresses of the parties to the dispute;
  - (b) a copy of the Contract; and
  - (c) a brief statement describing the nature and circumstances of the dispute.
- 25.3.4. Any party wishing to refer a dispute as mentioned in clause 25.3.1 must send the request under clause 25.3.3 within a period of three years beginning with the date on which the matter giving rise to the dispute happened or should reasonably have come to the attention of the party wishing to refer the dispute.
- 25.3.5. In clauses 25.1.1 to 25.3.4 any dispute arising out of or in connection with the Contract includes any dispute arising out of or in connection with the termination of the Contract.
- 25.3.6. Part 25 shall survive the expiry or termination of the Contract.

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<sup>98</sup> If the contract is an *NHS contract*, the parties must select the phrase "section 9(5) and (6) of *the 2006 Act*". If the contract is not an *NHS contract*, the parties must select the phrase "clause 25.2.1 above".

## **26 PART 26<sup>99</sup>**

### **26.1 Variation and Termination of the Contract**

#### **26.1. Variation of the Contract: general**

26.1.1. Subject to Part 11 of the Contract (opts outs of *additional* and *out of hours services*), clauses 10.2.8, 10.2.9, 15.9.8, and 15.10.8 and this Part (variation and termination of the Contract), no amendment or variation shall have effect unless it is in writing and signed by or on behalf of the Board and the Contractor.

26.1.2. In addition to the specific provision made in clauses 26.2.6, 26.3.10 and 26.16, the Board may vary the Contract without the Contractor's consent so as to comply with *the 2006 Act*, any regulations made pursuant to that Act, or any direction given by *the Secretary of State* pursuant to that Act where it-

- (a) is reasonably satisfied that it is necessary to vary the Contract in order so to comply; and
- (b) notifies the Contractor in writing of the wording of the proposed variation and the date upon which that variation is to take effect.

26.1.3. Where it is reasonably practicable to do so, the date that the proposed variation is to take effect shall be not less than 14 days after the date on which the notice under clause 26.1.2(b) is served on the Contractor.

#### **26.2. Variation provisions specific to a contract with an individual medical practitioner<sup>100</sup>**

26.2.1. Where the Contractor is an individual medical practitioner and proposes to practise in partnership with one or more persons during the existence of the Contract, the Contractor shall notify the Board in writing of-

- (a) the name of the person or persons with whom it proposes to practise in partnership;
- (b) the date on which the Contractor wishes to change its status from that of an individual medical practitioner to that of a partnership, which shall be not less than 28 days after the date upon which it has served the notice on the Board pursuant to this clause.

26.2.2. Notice under clause 26.2.1 shall, in respect of the person or each of the persons with whom the Contractor is proposing to practise in partnership, and also in respect of the Contractor as regards the matters specified in sub-clause (c)-

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<sup>99</sup> Except where it is indicated in a footnote that a particular provision is only required in certain types of contract, this Part is required by *the Regulations*: see Part 8 of Schedule 6.

<sup>100</sup> If the Contractor is not an individual medical practitioner, then this clause does not need to be included.

- (a) confirm that he is either a medical practitioner or a person who satisfies the conditions specified in section 86(2)(b)(i) to (iv) of *the 2006 Act*;
- (b) confirm that he is a person who satisfies the conditions imposed by regulations 4 and 5 of *the Regulations*; and
- (c) state whether or not it is to be a *limited partnership*, and if so, who is to be a limited partner and who a general partner,

and the notice shall be signed by the Contractor, and by the person or each of the persons with whom it is proposing to practise in partnership.

26.2.3. The Contractor shall ensure that any person who will practise in partnership with it is bound by the Contract, whether by virtue of a partnership deed or otherwise.

26.2.4. If the Board is satisfied as to the accuracy of the matters specified in the notice referred to in clause 26.2.1, the Board shall give notice in writing to the Contractor confirming that the Contract shall continue with the partnership entered into by the Contractor and its partners, from a date that the Board specifies in that notice.

26.2.5. The date specified by the Board pursuant to clause 26.2.4 shall be the date requested in the notice served by the Contractor pursuant to clause 26.2.1, or, where that date is not reasonably practicable, the date closest to the requested date as is reasonably practicable.

26.2.6. Where the Contractor has given notice to the Board pursuant to clause 26.2.1, the Board may vary the Contract but only to the extent that it is satisfied is necessary to reflect the change in status of the Contractor from an individual medical practitioner to a partnership. If the Board does propose to so vary the Contract, it shall include in the notice served on the Contractor pursuant to clause 26.2.4 the wording of the proposed variation and the date upon which that variation is to take effect.

26.3. **Variation provisions specific to a contract with a Partnership**<sup>101</sup>

26.3.1. Subject to clause 26.3.3, where the Contractor consists of two or more individuals practising in partnership, in the event that the partnership is terminated or dissolved, the Contract shall only continue with one of the former partners if that partner is-

- (a) nominated in accordance with clause 26.3.2; and
- (b) a medical practitioner who meets the condition in regulation 4(2)(a) of *the Regulations*,

and provided that the other requirements in clause 26.3.2 are met.

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<sup>101</sup> If the Contractor is not a partnership, then this clause does not need to be included.

- 26.3.2. The Contractor shall notify the Board in writing at least 28 days in advance of the date on which the Contractor proposes to change its status from that of a partnership to that of an individual medical practitioner. The notice shall:
- (a) specify the date on which the Contractor proposes to change its status from that of a partnership to that of an individual medical practitioner;
  - (b) specify the name of the medical practitioner with whom the Contract will continue, which must be one of the partners; and
  - (c) be signed by all the persons who are practising in partnership.
- 26.3.3. If the partnership is terminated or dissolved because, in a partnership consisting of two individuals practising in partnership, one of the partners has died, the remaining individual shall notify the Board in writing as soon as is reasonably practicable of the death of his partner and clause 26.3.4 or 26.3.5 shall apply.
- 26.3.4. If the remaining individual is a *general medical practitioner*, the Contract shall continue with that individual.
- 26.3.5. If clause 26.3.4 does not apply, the Board—
- (a) must enter into discussions with the remaining individual referred to in clause 26.3.3 and use its reasonable endeavours to reach an agreement to enable the provision of clinical services to continue under the Contract;
  - (b) if it considers it appropriate, may consult the *Local Medical Committee* for the area in which the partnership was providing clinical services under the Contract or such other person as the Board considers necessary;
  - (c) may, if it considers it appropriate to enable clinical services under the Contract to continue, offer the remaining individual reasonable support; and
  - (d) must notify the remaining individual if agreement has been reached in accordance with clause 26.3.6 or if agreement cannot be reached in accordance with clause 26.3.7.
- 26.3.6. If the Board reaches an agreement, the Board must serve notice in writing on the remaining individual confirming—
- (a) the terms upon which the Board agrees to the Contract continuing with that individual including the period during which the Contract is to continue, such period as specified by the Board (“the interim period”) which must not be a period that exceeds six months;
  - (b) that the remaining individual agrees to employing or engaging a *general medical practitioner* for the interim

period to assist in the provision of clinical services under the Contract; and

- (c) the support, if any, which the Board is to provide to enable clinical services under the Contract to continue during the interim period.

26.3.7. If—

- (a) the remaining individual referred to in clause 26.3.3 does not wish to employ or engage a medical practitioner;
- (b) an agreement in accordance with clause 26.3.5 cannot be reached; or
- (c) the remaining individual wishes to withdraw from the agreed arrangements at any stage during the interim period,

the Board must serve notice in writing on the remaining individual terminating the Contract forthwith.

26.3.8. If, at the end of the interim period, the Contractor has not entered into partnership with a *general medical practitioner* who is not a limited partner, the Board shall serve notice on the Contractor terminating the Contract forthwith.

26.3.9. When the Board receives a notice pursuant to clause 26.3.2 or 26.3.3, it must acknowledge in writing receipt of the notice; and in relation to a notice served pursuant to clause 26.3.2, the Board must acknowledge receipt of the notice before the date specified pursuant to clause 26.3.2(a).

26.3.10. Where the Contractor gives notice to the Board pursuant to clause 26.3.2 or 26.3.3, the Board may vary the Contract but only to the extent that it is satisfied is necessary to reflect the change in status of the Contractor from a partnership to an individual medical practitioner. If the Board varies the Contract, it shall notify the Contractor in writing of the wording of the proposed variation and the date upon which that variation is to take effect.

26.3.11. In clauses 26.3.4, 26.3.6, and 26.3.8, “general medical practitioner” has the same meaning as in regulation 4(1) of *the Regulations*.

26.3.12. Clauses 26.3.5 to 26.3.7 do not affect any other remedies which the Board may have under the Contract to vary or terminate the Contract.

26.4. **Termination by agreement**

26.4.1. The Board and the Contractor may 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.

26.5. **Termination on the death of an individual medical practitioner**<sup>102</sup>

- 26.5.1. Where the Contractor is an individual medical practitioner and the Contractor dies, the Contract must terminate at the end of the period of 7 days after the death of the Contractor unless, before the end of that period, clause 26.5.2 applies.
- 26.5.2. This clause 26.5 applies where the Contractor's personal representatives have confirmed in writing to the Board that they wish to employ or engage one or more *general medical practitioners* to assist in the continuation of the provision of clinical services under the Contract and after discussions with the Board—
- (a) the Board agrees to provide reasonable support which would enable the provision of clinical services under the Contract to continue;
  - (b) the Board and the personal representatives agree the terms upon which clinical services under the Contract can continue to be provided; and
  - (c) the Board and the personal representatives agree the period during which clinical services must continue to be provided and such a period must not exceed 28 days starting on the day after the end of the period of 7 days referred to in clause 26.5.1.
- 26.5.3. In clauses 26.5.1 and 26.5.2 "general medical practitioner" has the same meaning as in regulation 4(1) of *the Regulations*.
- 26.5.4. Clause 26.5.1 does not affect any other rights to terminate the Contract which the Board may have under clauses 26.9.1 to 26.13.8.

26.6. **Termination by the Contractor**

- 26.6.1. The Contractor may terminate the Contract by serving notice in writing on the Board at any time.
- 26.6.2. [Where the Contractor serves notice pursuant to clause 26.6.1, the Contract shall terminate six months after the date on which the notice is served ("the termination date"), save that if the termination date is not the last calendar day of a month, the Contract shall instead terminate on the last calendar day of the month in which the termination date falls.]<sup>103</sup>
- 26.6.3. [Where the Contractor serves notice pursuant to clause 26.6.1, the Contract shall terminate three months after the date on which the notice is served ("the termination date"), save that if the termination date is not the last calendar day of a month, the

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<sup>102</sup> If the Contractor is not an individual medical practitioner, then this clause does not need to be included.

<sup>103</sup> This clause should be included where the Contractor is a partnership or a limited company. Where the Contractor is an individual medical practitioner, this clause should be deleted.



Contract shall instead terminate on the last calendar day of the month in which the termination date falls.]<sup>104</sup>

- 26.6.4. The Contractor may give notice in writing (“late payment notice”) to the Board if the Board has failed to make any payments due to the Contractor in accordance with Part 18 of this Contract. The Contractor shall specify in the late payment notice the payments that the Board has failed to make in accordance with Part 18 of the Contract.
- 26.6.5. The Contractor may, at least 28 days after having served a late payment notice, terminate the Contract by a further written notice if the Board has still failed to make payments due to the Contractor, and that were specified in the late payment notice served on the Board pursuant to clause 26.6.4.
- 26.6.6. If, following receipt of a late payment notice, the Board refers the matter to the *NHS dispute resolution procedure* within 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 26.6.5 until-
- (a) there has been a determination of the dispute pursuant to paragraph 101 of Schedule 6 to *the Regulations*; or
  - (b) the Board ceases to pursue the *NHS dispute resolution procedure*,
- whichever is the sooner.
- 26.6.7. Clauses 26.6.1 to 26.6.6 are without prejudice to any other rights to terminate the Contract that the Contractor may have.

26.7. **Termination by the Board: general**

- 26.7.1. The Board may only terminate the Contract in accordance with the provisions of Part 26 of this Contract.

26.8. **Termination by the Board for breach of conditions in regulation 4 of *the Regulations***

- 26.8.1. Subject to clauses 26.8.2 and 26.8.11, the Board shall serve notice in writing on the Contractor terminating the Contract forthwith if the Contractor is an individual medical practitioner, and the medical practitioner no longer satisfies the condition specified in regulation 4(1) of *the Regulations*.
- 26.8.2. Where the failure of an individual medical practitioner to continue to satisfy the condition specified in regulation 4(1) of *the Regulations* is the result of a suspension specified in clause 26.8.6, clause 26.8.1 shall not apply unless—

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<sup>104</sup> This clause should be included where the Contractor is an individual medical practitioner. Where the Contractor is a partnership or a limited company, this clause should be deleted.

- (a) the Contractor is unable to satisfy the Board that it has in place adequate arrangements for the provision of clinical services under the Contract for so long as the suspension continues; or
  - (b) the Board is satisfied that the circumstances of the suspension are such that if the Contract is not terminated forthwith—
    - (i) the safety of the Contractor's patients is at serious risk; or
    - (ii) the Board is at risk of material financial loss.
- 26.8.3. Subject to clause 26.8.11, and except in a case to which clause 26.3.3 applies, where the Contractor is—
  - (a) two or more persons practising in partnership, and the condition specified in regulation 4(2)(a) of *the Regulations* is no longer satisfied; or
  - (b) a company limited by shares, and the condition specified in regulation 4(3)(a) of *the Regulations* is no longer satisfied,clause 26.8.4 shall apply.
- 26.8.4. Where clause 26.8.3 applies, the Board shall—
  - (a) serve notice in writing on the Contractor terminating the Contract forthwith; or
  - (b) serve notice in writing on the Contractor confirming that the Board will allow the Contract to continue, for a period specified by the Board in accordance with clause 26.8.2 (the "interim period"), during which time the Board shall, with the consent of the Contractor, employ or supply one or more *general medical practitioners* to the Contractor for the interim period to assist the Contractor in the provision of clinical services under the Contract.
- 26.8.5. The period specified by the Board under clause 26.8.4(b) shall not exceed—
  - (a) six months; or
  - (b) in a case where the failure of the Contractor to continue to satisfy the condition in regulation 4(2)(a) or, as the case may be, 4(3)(a) of *the Regulations*, is the result of a suspension referred to in clause 26.8.6, the period for which that suspension continues.
- 26.8.6. The suspensions referred to in clauses 26.8.2 and 26.8.5(b) are suspension—
  - (a) by a Fitness to Practise Panel under—

- (i) section 35D of the Medical Act 1983 in a health case, other than an indefinite suspension under section 35D(6) of that Act; or
    - (ii) section 38(1) of that Act; or
  - (b) by a Fitness to Practise Panel or an Interim Orders Panel under section 41A of that Act.
- 26.8.7. In clause 26.8.6(a)(i), “health case” has the meaning given in section 35E(4) of the Medical Act 1983.
- 26.8.8. Before deciding which of the options in clause 26.8.4 to pursue, the Board must, whenever it is reasonably practicable to do so, consult the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract.
- 26.8.9. If the Contractor does not, pursuant to clause 26.8.4(b), consent to the Board employing or supplying a *general medical practitioner* during the interim period, the Board shall serve notice in writing on the Contractor terminating the Contract forthwith.
- 26.8.10. If, at the end of the interim period, the Contractor still falls within clause 26.8.3(a) or 26.8.3(b), the Board shall serve notice in writing on the Contractor terminating the Contract forthwith.
- 26.8.11. [Clauses 26.8.1 to 26.8.4 shall not apply to the Contractor where regulation 19 of the National Health Service (Primary Medical Services) (Miscellaneous Amendments) Regulations 2004 applies.]
- 26.8.12. In clauses 26.8.4 and 26.8.9, “general medical practitioner” has the same meaning as in regulation 4(1) of *the Regulations*.
- 26.9. **Termination by the Board for provision of untrue etc information**
  - 26.9.1. The Board 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 this Contract was entered into, it has come to the attention of the Board that written information provided to the Board by the Contractor—
    - (a) before the Contract was entered into; or
    - (b) pursuant to clauses 16.13.2, 16.13.3, or 16.14.2,in relation to the conditions set out in regulation 4 and 5 of *the Regulations* (and compliance with those conditions) was, when given, untrue or inaccurate in a material respect.
- 26.10. **Other grounds for termination by the Board**
  - 26.10.1. The Board may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if-
    - (a) in the case of a contract with a medical practitioner, that medical practitioner;

- (b) in the case of a contract with two or more individuals practising in partnership, any individual or the partnership; and
- (c) in the case of a contract with a company limited by shares, the company, any person both legally and beneficially owning a share in the company, or any director or secretary of the company,

falls within clause 26.10.2 during the existence of the Contract or, if later, on or after the date on which a notice in respect of his compliance with the conditions in regulation 5 of *the Regulations* was given under clauses 16.13.2, 16.13.3, or 16.14.2.

26.10.2. A person falls within this clause if-

- (a) it does not satisfy the conditions prescribed in section 86(2)(b) or (3)(b) of *the 2006 Act*;
- (b) he or it is the subject of a *national disqualification*;
- (c) subject to clause 26.10.3, 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;
- (d) subject to clause 26.10.4, he has been dismissed (otherwise than by reason of redundancy) from any employment by a *health service body* unless before the Board has served a notice terminating the Contract pursuant to this clause, he is employed by the *health service body* that dismissed him or by another *health service body*;
- (e) 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;
- (f) 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;
- (g) 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 months;
- (h) subject to clause 26.10.6, he has been convicted elsewhere of an offence which would, if committed in England and Wales-
  - (i) constitute murder, or

- (ii) constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;
- (i) he or it has-
  - (i) been adjudged bankrupt or had sequestration of his estate awarded unless (in either case) he has been discharged or the bankruptcy order has been annulled,
  - (ii) 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, unless that order has ceased to have effect or has been annulled,
  - (iii) 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,
  - (iv) been wound up under Part IV of the Insolvency Act 1986,
  - (v) had an administrator, administrative receiver or receiver appointed in respect of it, or
  - (vi) had an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986;
- (j) that person is a partnership and-
  - (i) a dissolution of the partnership is ordered by any competent court, tribunal or arbitrator, or
  - (ii) 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 partnership together;
- (k) he has been-
  - (i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners 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, or
  - (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 or 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;

- (l) he is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986;
  - (m) he has refused to comply with a request by the Board 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, in a case where the Contract is with two or more individuals practising in partnership or with a company, the Board is not satisfied that the Contractor is taking adequate steps to deal with the matter.
- 26.10.3. The Board shall not terminate the Contract pursuant to clause 26.10.2(c) where the Board 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, a partner, a person both legally and beneficially holding a share in the company, or a director or secretary of the company, as the case may be.
- 26.10.4. The Board shall not terminate the Contract pursuant to clause 26.10.2(d) until a period of at least three 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 Board may only terminate the Contract in the latter situation if there is no finding of unfair dismissal at the end of those proceedings.
- 26.10.5. [Where the Board has entered into the Contract-
- (a) following a *default contract* with the Contractor; or
  - (b) pursuant to an entitlement on the part of the Contractor under Part 2 of *the Transitional Order*, after 31<sup>st</sup> March 2004 other than following a *default contract*, clause 26.10.1 shall apply as if it enabled the Board to serve notice of termination on the Contractor on the grounds of a person falling within clause 26.10.2(d) at any time after 31<sup>st</sup> March 2004.]<sup>105</sup>
- 26.10.6. The Board shall not terminate the Contract pursuant to clause 26.10.2(h) where the Board is satisfied that the conviction does not make the person unsuitable to be a contractor, a partner, a person both legally and beneficially holding a share in the company, or a director or secretary of the company, as the case may be.

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<sup>105</sup> This clause only needs to be included if the Contractor falls within 26.10.5(a) or 26.10.5(b). If not, this clause can be deleted.

**26.11. Termination by the Board for a serious breach**

26.11.1. The Board 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-

- (a) the Contractor has breached the Contract and the Board considers that as a result of that breach, the safety of the Contractor's patients is at serious risk if the Contract is not terminated; or
- (b) the Contractor's financial situation is such that the Board considers that the Board is at risk of material financial loss.

**26.12. Termination by the Board for unlawful sub-contracting**

26.12.1. If the Contractor breaches the condition specified in clause 15.9.10 and it comes to the attention of the Board that the Contractor has done so, the Board shall serve a notice in writing on the Contractor-

- (a) terminating the Contract forthwith; or
- (b) instructing the Contractor to terminate the sub-contracting arrangements that give rise to the breach forthwith.

26.12.2. If the Contractor fails to comply with any instruction given to it under clause 26.12.1(b), the Board shall serve a notice in writing on the Contractor terminating the Contract forthwith.

**26.13. Termination by the Board: remedial notices and breach notices**

26.13.1. Where the Contractor has breached the Contract other than as specified in clauses 26.8.1 to 26.12.2 and the breach is capable of remedy, the Board 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").

26.13.2. A remedial notice shall specify-

- (a) details of the breach;
- (b) the steps the Contractor must take to the satisfaction of the Board in order to remedy the breach; and
- (c) the period during which the steps must be taken ("the notice period").

26.13.3. The notice period shall, unless the Board 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 28 days from the date that notice is given.

26.13.4. Where the Board is satisfied that the Contractor has not taken the required steps to remedy the breach by the end of the notice period, the Board may terminate the Contract with effect from such date as the Board may specify in a further notice to the Contractor.

- 26.13.5. Where the Contractor has breached the Contract other than as specified in clauses 26.8.1 to 26.12.2 and the breach is not capable of remedy, the Board may serve notice on the Contractor requiring it not to repeat the breach (“breach notice”).
- 26.13.6. If, following a breach notice or a remedial notice, the Contractor-
- (a) repeats the breach that was the subject of the breach notice or the remedial notice; or
  - (b) otherwise breaches the Contract resulting in either a remedial notice or a further breach notice,
- the Board may serve notice on the Contractor terminating the Contract with effect from such date as may be specified in that notice.
- 26.13.7. The Board shall not exercise its right to terminate the Contract under the previous clause unless it is satisfied that the cumulative effect of the breaches is such that it would be prejudicial to the efficiency of the services to be provided under the Contract to allow the Contract to continue.
- 26.13.8. If the Contractor is in breach of any obligation and a breach notice or a remedial notice in respect of that default has been given to the Contractor, the Board 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.
- 26.14. **Termination by the Board: additional provisions specific to Contracts with companies limited by shares<sup>106</sup>**
- 26.14.1. If the Board becomes aware that the Contractor is carrying on any business which the Board considers to be detrimental to the Contractor’s performance of its obligations under the Contract-
- (a) the Board shall be entitled to give notice to the Contractor requiring that it ceases carrying on that business before the end of a period of not less than 28 days beginning on the day on which the notice is given (“the notice period”); and
  - (b) if the Contractor has not satisfied the Board that it has ceased carrying on that business by the end of the notice period, the Board may, by a further written notice, terminate the Contract forthwith or from such date as may be specified in the notice.
- 26.15. **Termination by the Board: additional provisions specific to Contracts with two or more individuals practising in partnership<sup>107</sup>**
- 26.15.1. Where the Contractor is two or more persons practising in partnership, the Board shall be entitled to terminate the Contract

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<sup>106</sup> If the Contractor is not a company limited by shares, this clause should be deleted.

<sup>107</sup> If the Contractor is not two or more individuals practising in partnership, this clause should be deleted.



by notice in writing on such date as may be specified in that notice where one or more partners have left the *practice* during the existence of the Contract if in its reasonable opinion, the Board considers that the change in membership of the partnership is likely to have a serious adverse impact on the ability of the Contractor or the Board to perform its obligations under the Contract.

26.15.2. A notice given to the Contractor pursuant to clause 26.15.1 shall specify-

- (a) the date upon which the Contract is to be terminated; and
- (b) the Board's reasons for considering that the change in the membership of the partnership is likely to have a serious adverse impact on the ability of the Contractor or the Board to perform its obligations under the Contract.

26.16. **Contract sanctions**

26.16.1. In clauses 26.16.2 to 26.17.4, "contract sanction" means-

- (a) termination of specified reciprocal obligations under the Contract;
- (b) suspension of specified reciprocal obligations under the Contract for a period of up to six months; or
- (c) withholding or deducting monies otherwise payable under the Contract.

26.16.2. Where the Board is entitled to terminate the Contract pursuant to clauses 26.9.1 to 26.11.1, 26.13.4, 26.13.6 and 26.14.1 to 26.15.2, it may instead impose any of the contract sanctions if the Board is reasonably satisfied that the contract sanction to be imposed is appropriate and proportionate to the circumstances giving rise to the Board's entitlement to terminate the Contract.

26.16.3. The Board shall not, under clause 26.16.2, be entitled to impose any contract sanction that has the effect of terminating or suspending any obligation to provide, or any obligation that relates to, *essential services*.

26.16.4. If the Board decides to impose a contract sanction, it must notify the Contractor of the contract sanction that it proposes to impose, the date upon which that sanction will be imposed and provide in that notice an explanation of the effect of the imposition of that sanction.

26.16.5. Subject to clauses 26.17.1 to 26.17.4 the Board shall not impose the contract sanction until at least 28 days after it has served notice on the Contractor pursuant to clause 26.16.4 unless the Board is satisfied that it is necessary to do so in order to protect the safety of the Contractor's patients, or protect itself from material financial loss.

- 26.16.6. Where the Board imposes a contract sanction, the Board shall be entitled to charge the Contractor the reasonable costs of additional administration that the Board has incurred in order to impose, or as a result of imposing, the contract sanction.

26.17. **Contract sanctions and the *NHS dispute resolution procedure***

- 26.17.1. If there is a dispute between the Board and the Contractor in relation to a contract sanction that the Board is proposing to impose, the Board shall not, subject to clause 26.17.4, impose the proposed contract sanction except in the circumstances specified in clause 26.17.2(a) or 26.17.2(b).
- 26.17.2. If the Contractor refers the dispute relating to the contract sanction to the *NHS dispute resolution procedure* within 28 days beginning on the date on which the Board served notice on the Contractor in accordance with clause 26.16.4 (or such longer period as may be agreed in writing with the Board), and notifies the Board in writing that it has done so, the Board shall not impose the contract sanction unless-
- (a) there has been a determination of the dispute pursuant to paragraph 101 of Schedule 6 to *the Regulations* and that determination permits the Board to impose the contract sanction; or
  - (b) the Contractor ceases to pursue the *NHS dispute resolution procedure*,
- whichever is the sooner.
- 26.17.3. If the Contractor does not invoke the *NHS dispute resolution procedure* within the time specified in clause 26.17.2, the Board shall be entitled to impose the contract sanction forthwith.
- 26.17.4. If the Board is satisfied that it is necessary to impose the contract sanction before *the NHS dispute resolution procedure* is concluded in order to protect the safety of the Contractor's patients or protect itself from material financial loss, the Board shall be entitled to impose the contract sanction forthwith, pending the outcome of that procedure.

26.18. **Termination and the *NHS dispute resolution procedure***

- 26.18.1. Where the Board is entitled to serve written notice on the Contractor terminating the contract pursuant to clauses 26.9.1 to 26.11.1, 26.13.4, 26.13.6 and 26.15.1, the Board 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 28 days after the date on which the Board has served that notice on the Contractor unless clause 26.18.2 applies.
- 26.18.2. This clause applies if the Board is satisfied that a period less than 28 days is necessary in order to protect the safety of the Contractor's patients or protect itself from material financial loss.

- 26.18.3. In a case falling within clause 26.18.1 where the exception in clause 26.18.2 does not apply, where the Contractor invokes the *NHS dispute resolution procedure* before the end of the period of notice referred to in clause 26.18.1, and it notifies the Board 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 26.18.4.
- 26.18.4. The Contract shall only terminate pursuant to this clause if and when there has been a determination of the dispute pursuant to paragraph 101 of Schedule 6 to *the Regulations* and that determination permits the Board to terminate the Contract or the Contractor ceases to pursue the *NHS dispute resolution procedure*, whichever is the sooner.
- 26.18.5. If the Board is satisfied that it is necessary to terminate the Contract before the *NHS dispute resolution procedure* is concluded in order to protect the safety of the Contractor's patients or protect itself from material financial loss, clauses 26.18.3 and 26.18.4 shall not apply and the Board 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 26.9.1, 26.10.1, 26.11.1, 26.13.4, 26.13.6, 26.14.1 and 26.15.1 to 26.15.2.

26.19. **Consultation with the *Local Medical Committee***

- 26.19.1. Whenever the Board is considering—
- (a) terminating the Contract pursuant to clauses 26.9.1, 26.10.1 to 26.10.6, 26.11.1, 26.13.4, 26.13.6, 26.14.1 or 26.15.1 to 26.15.2,
  - (b) which of the alternative notices in writing available under the provisions of clauses 26.12.1 to 26.12.2 it will serve, or
  - (c) imposing a contract sanction,
- it shall, whenever it is reasonably practicable to do so, consult the *Local Medical Committee* (if any) for the area in which the Contractor provides services under the Contract before it terminates the Contract or imposes a contract sanction.
- 26.19.2. Whether or not the *Local Medical Committee* has been consulted pursuant to clause 26.19.1, whenever the Board imposes a contract sanction on the Contractor or terminates the Contract pursuant to this Part, it shall, as soon as reasonably practicable, notify the *Local Medical Committee* in writing of the contract sanction imposed or of the termination of the Contract (as the case may be). The obligation to notify the *Local Medical Committee* of the matters set out in this clause shall survive the termination of the Contract.

26.20. **Consequences of termination**<sup>108</sup>

- 26.20.1. The termination of the Contract, for whatever reason, is without prejudice to the accrued rights of either party under the Contract.
- 26.20.2. On the termination of the Contract for any reason, the Contractor shall-
- (a) subject to the requirements of this clause, cease performing any work or carrying out any obligations under the Contract;
  - (b) co-operate with the Board to enable any outstanding matters under the Contract to be dealt with or concluded in a satisfactory manner;
  - (c) co-operate with the Board to enable the Contractor's patients to be transferred to one or more other contractors or providers of *essential services* (or their equivalent), which shall include-
    - (i) providing reasonable information about individual patients, and
    - (ii) delivering patient records,to such other appropriate person or persons as the Board specifies;
  - (d) deliver up to the Board all property belonging to the Board including all documents, forms, computer hardware and software, drugs, appliances or medical equipment which may be in the Contractor's possession or control.
- 26.20.3. Subject to clauses 26.20.4 to 26.20.6 the Board's obligation to make payments to the Contractor in accordance with the Contract shall cease on the date of termination of the Contract.
- 26.20.4. On termination of the Contract or termination of any obligations under the Contract for any reason, the Board shall perform a reconciliation of the payments made by the Board to the Contractor and the value of the work undertaken by the Contractor under the Contract. The Board shall serve the Contractor with written details of the reconciliation as soon as reasonably practicable, and in any event no later than 28 days after the termination of the Contract.
- 26.20.5. If the Contractor disputes the accuracy of the reconciliation, the Contractor may refer the dispute to the *NHS dispute resolution procedure* in accordance with the terms of the Contract within 28 days beginning on the date on which the Board served the

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<sup>108</sup> The parties are required to make suitable provision for arrangements on the termination of the Contract, including the consequences (whether financially or otherwise) of the Contract ending, subject to any specific requirements of *the Regulations*: see paragraph 116 of Schedule 6 to *the Regulations*. Subject to this requirement, the parties could draft their own provisions dealing with the consequences of termination.

Contractor with written details of the reconciliation. The parties shall be bound by the determination of the dispute.

- 26.20.6. Each party shall pay the other any monies due within three months of the date on which the Board served the Contractor with written details of the reconciliation, or the conclusion of the *NHS dispute resolution procedure*, as the case may be.
- 26.20.7. The obligations contained in clauses 26.20.1 to 26.20.6 shall continue to apply notwithstanding the termination of the Contract.

## 27 PART 27

### 27.1 Non-Survival of Terms<sup>109</sup>

- 27.1.1. Unless expressly provided, no term of this Contract shall survive expiry or termination of this Contract. Express provision is made in relation to-
- (a) clauses 16.1.6 and 16.1.7 (patient records);
  - (b) Part 19 (fees and charges), to the extent specified in clause 19.1.5;
  - (c) Part 24 (complaints);
  - (d) Part 25 (dispute resolution procedures);
  - (e) clause 26.19.2 (notifications to the *Local Medical Committee*);
  - (f) clauses 26.20.1 to 26.20.6 (consequences of termination); and
  - (g) clauses 27.3.1 and 27.3.2 (governing law and jurisdiction).

### 27.2 Entire Agreement<sup>110</sup>

- 27.2.1. Subject to Part 11 (opts outs of *additional* and *out of hours services*), clauses 15.9.8 and 15.10.8 and any variations made in accordance with Part 26, this Contract constitutes the entire agreement between the parties with respect to its subject matter.
- 27.2.2. The Contract supersedes any prior agreements, 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 this Contract purports to exclude liability on the part of either party for fraudulent misrepresentation.

### 27.3 Governing Law and Jurisdiction<sup>111</sup>

- 27.3.1. This Contract shall be governed by and construed in accordance with English law.
- 27.3.2. Without prejudice to the dispute resolution procedures contained in this Contract, in relation to any legal action or proceedings to enforce this Contract or arising out of or in connection with this Contract, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.
- 27.3.3. Clauses 27.3.1 and 27.3.2 shall continue to apply notwithstanding the termination of the Contract.

### 27.4 Waiver, Delay or Failure to Exercise Rights<sup>112</sup>

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<sup>109</sup> This clause is not required by *the Regulations*, but is recommended.

<sup>110</sup> This clause is not required by *the Regulations*, but is recommended.

<sup>111</sup> This clause is not required by *the Regulations*, but is recommended.

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

27.5. **Force Majeure**<sup>113</sup>

- 27.5.1. Neither party shall be responsible to the other for any failure or delay in performance of its obligations and duties under this Contract which is caused by circumstances or events beyond the reasonable control of a party. However, the affected party must promptly on the occurrence of such circumstances or events:
- (a) inform the other party in writing of such circumstances or events and of what obligation or duty they have delayed or prevented being performed; and
  - (b) take all action within its power to comply with the terms of this Contract as fully and promptly as possible.
- 27.5.2. Unless the affected party takes such steps, clause 27.5.1 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, unless the cause of failure was beyond reasonable control.
- 27.5.3. If the affected party is delayed or prevented from performing its obligations and duties under the Contract for a continuous period of 3 months, then either party may terminate this Contract by notice in writing within such period as is reasonable in the circumstances (which shall be no shorter than 28 days).
- 27.5.4. 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 27.5.3 above, or if the other party otherwise consents.

27.6. **Severance**<sup>114</sup>

- 27.6.1. Subject to clauses 27.6.2 and 27.6.3, if any term of this Contract, other than a *mandatory term*, 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 this Contract and shall not affect the validity, lawfulness or enforceability of any other terms of the Contract.

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<sup>112</sup> This clause is not required by *the Regulations*, but is recommended.

<sup>113</sup> This clause is not required by *the Regulations*, but is recommended.

<sup>114</sup> This clause is not required by *the Regulations*, but is recommended.

- 27.6.2. 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.
- 27.6.3. 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 *NHS dispute resolution procedure* set out in clauses 25.3.1 to 25.3.6.

27.7. **Service of Notice**<sup>115</sup>

- 27.7.1. Save as otherwise specified in this Contract or where the context otherwise requires, any notice or other information required or authorised by this Contract to be given by either party to the other party must be in writing and may be served:
- (a) personally;
  - (b) by post, or in the case of any notice served pursuant to Part 26, registered or recorded delivery post;
  - (c) by telex, or facsimile transmission (the latter confirmed by telex or post);
  - (d) unless the context otherwise requires and except in clause 26.1.1, electronic mail; or
  - (e) by any other means which the Board specifies by notice to the Contractor.
- 27.7.2. Any notice or other information shall be sent to the address specified in the Contract or such other address as the Board or the Contractor has notified to the other.
- 27.7.3. Any notice or other information shall be deemed to have been served or given:
- (a) if it was served personally, at the time of service;
  - (b) if it was served by post, two *working days* after it was posted; and
  - (c) if it was served by telex, electronic mail or facsimile transmission, if sent during *normal hours* then at the time of transmission and if sent outside *normal hours* then on the following *working day*.
- 27.7.4. Where notice or other information is not given or sent in accordance with clauses 27.7.1 to 27.7.3, such notice or other information is invalid unless the person receiving it elects, in writing, to treat it as valid.

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<sup>115</sup> This clause is not required by *the Regulations*, but is recommended.



## 28 PART 28<sup>116</sup>

### 28.1 Registered patients from outside practice area

#### 28.1. Variation of contractual terms

- 28.1.1. This Part applies on or after 1 October 2014 where the Contractor accepts onto its list of patients a person who resides outside of the *practice area*.
- 28.1.2. The terms of the Contract—
- (a) which are specified in clause 28.1.3 are varied in accordance with clause 28.1.4; and
  - (b) which are specified in clause 28.1.5 are included in this Contract.
- 28.1.3. The terms of the contract specified are—
- (a) clauses 8.1.1 to 8.1.8 (*essential services*);
  - (b) clauses 8.1 and 9.1 (arrangements for access to services during core hours)
  - (c) [Where the contractor provides *out of hours services* in accordance with the terms of the Contract specified in Part 10, those terms in Part 10 which are included must be specified in this sub-clause];
  - (d) clause 7.5.1 (attendance at *practice premises*);
  - (e) clause 7.6.1(a) (attendance outside *practice premises*);
  - (f) clause 13.7.2 (refusal of application for inclusion in the *list of patients*).
- 28.1.3A Where, under clause 28.1.1, a Contractor accepts onto its *list of patients* a person who resides outside of the Contractor's *practice area* and the Contractor subsequently considers that it is not clinically appropriate or practical to continue to provide that patient with services in accordance with the terms specified in clause 28.1.3, or to comply with those terms, the Contract must be varied so as to include a term which has the effect of modifying the application of clause 13.10 (which relates to the removal of a patient from the list at the Contractor's request) in relation to that patient so that—
- (a) in clause 13.10.1, the reference to the patient's disability or medical condition is removed; and
  - (b) clause 13.10.4 applies as if, after clause 13.10.4(a), there were inserted the following paragraph—

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<sup>116</sup> This Part was introduced with effect from 1 April 2014 by regulation 26B of *the Regulations*.

“(aa) the reason for the removal is that the Contractor considers that it is not clinically appropriate or practical to continue to provide services under the Contract to the patient which do not include the provision of such services at the patient’s home address”.

28.1.4. The Contractor and the Board are (for such period of time as a patient so registered under Part 28.1 remains so registered) released from all obligations, rights and liabilities relating to the terms (and to only those terms), contained in clause 28.1.3 —

- (a) including any right to enforce those terms only in respect of the provision of primary medical services to patients who wish to receive such services under arrangements made in accordance with Part 28.1; and
- (b) only where, in the opinion of the Contractor, it is not clinically appropriate or practical to provide the services or access to such services in accordance with those terms or comply with those terms.

28.1.5. The Contractor must notify a person in writing where the Contractor is minded to accept a person onto its list of patients in accordance with Part 28.1 that the Contractor is under no obligation to provide—

- (a) *essential services* if, in a case where at the time treatment is required, it is not clinically appropriate or practical to provide primary medical services given the particular circumstances of the patient;
- (b) *out of hours services* if, in a case where at the time treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient; and
- (c) *additional services* to the patient if it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient.

28.2. **Savings in respect of the Patient Choice Extension Scheme**

28.2.1. Where, before 1 April 2014:

- (a) a patient is included in the *Contractor’s list of patients* pursuant to arrangements entered into by the Contractor and the Board under the Patient Choice Extension Scheme; and
- (b) the terms of the Contractor’s contract were varied pursuant to the provisions of regulation 26B of the Regulations as it had effect immediately before that date,

the patient may remain on the *Contractor’s list of patients* and any variation to the Contractor’s contract which exempts the Contractor from any obligations or liabilities under those

arrangements continues to operate for such period as the patient remains so registered.

- 28.2.2. Paragraph (6) of regulation 26B of the Regulations, as it had effect immediately before 1 April 2014, continues to have effect in relation to a contract where, before that date, the Contractor entered into arrangements with the Board under the Patient Choice Extension Scheme.

**SCHEDULE 1<sup>117</sup>**  
**(Individual)**

**Part 1**

The Board whose name, address, telephone number, fax number and email address (if any) is:

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**Part 2**

The Contractor is a medical practitioner whose name, address, telephone number, fax number (if any) and email address (if any)<sup>118</sup> is:

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If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

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<sup>117</sup> Please use this form of Schedule if the Contractor is an individual medical practitioner.

<sup>118</sup> Please provide the address to which official correspondence and notices should be sent.

**SCHEDULE 1<sup>119</sup>**  
**(Partnership)**

**Part 1**

The Board whose name, address, telephone number, fax number and email address (if any) is:

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**Part 2**

The Contractor is a [limited]<sup>120</sup> partnership under the name of [ ] carrying on business at [address of place of business]

The telephone number, fax number (if any) and email address (if any) of the Contractor are as follows:-

[insert details here]

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

The names of the partners at the date of signature of this Contract are:

	GENERAL / LIMITED <sup>121</sup>
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<sup>119</sup> Please use this form of Schedule if the Contractor is a general or *limited partnership*.

<sup>120</sup> Please delete if this is not applicable. Regulation 11(b)(i) of *the Regulations* requires that the Contract specify in the case of a partnership whether or not it is a *limited partnership*.

<sup>121</sup> Please delete whichever is not applicable. Regulation 11(b)(ii) requires that the Contract specify in the case of a partnership the names of the partners and, in the case of a *limited partnership*, their status as a general or limited partner.

	GENERAL / LIMITED
	GENERAL / LIMITED
	GENERAL / LIMITED
	GENERAL / LIMITED
	GENERAL / LIMITED
	GENERAL / LIMITED

The Contract is made with the partnership as it is from time to time constituted and shall continue to subsist notwithstanding:

(1) the retirement, death or expulsion of any one or more partners; and/or

(2) the addition of any one or more partners.<sup>122</sup>

The Contractor shall ensure that any person who becomes a member of the partnership after the Contract has come into force is bound automatically by the Contract whether by virtue of a partnership deed or otherwise.

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<sup>122</sup> This provision is required by Regulation 13 of *the Regulations*.

**SCHEDULE 1<sup>123</sup>**  
**(Company)**

**Part 1**

The Board whose name, address, telephone number, fax number and email address (if any) is:

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**Part 2**

The Contractor is a company limited by shares whose name and registered office is:

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The address to which official correspondence and notices may be sent is, and the contact telephone number, fax number (if any) and email address (if any) is:

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<sup>123</sup> Please use this form of Schedule if the Contractor is a company limited by shares.

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.



**SCHEDULE 2**  
**Signatures of the Parties to the Agreement**

**Signed by**

For and on behalf of the BOARD

**Signed by**

In the presence of

[The Contract must be signed by a person with power to bind the Contractor. If the Contractor is a partnership, it is recommended that all of the partners comprising the partnership at the date the Contract is signed (whether those partners are general partners or limited partners) sign the Contract]

**SCHEDULE 3**  
**Information to be included in Practice Leaflets**

A *practice leaflet* shall include—

1. The name of the Contractor.
2. In the case of a Contract with a partnership—
  - (a) whether or not it is a *limited partnership*; and
  - (b) the names of all the partners and, in the case of a *limited partnership*, their status as a general or limited partner.
3. 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.
4. The full name of each person performing services under the Contract.
5. In the case of each *health care professional* performing services under the Contract his professional qualifications.
6. Whether the Contractor undertakes the teaching or training of *health care professionals* or persons intending to become *health care professionals*.
7. The Contractor's *practice area*, including the area known as the outer boundary area, by reference to a sketch diagram, plan or postcode.
8. The address of each of the *practice premises*.
9. The Contractor's telephone and fax numbers and the address of its website (if any).
10. Whether the *practice premises* have suitable access for all disabled patients and, if not, the alternative arrangements for providing services to such patients.
11. How to register as a patient.
12. The right of patients to express a preference of practitioner in accordance with clause 13.8 and the means of expressing such a preference.
13. The services available under the Contract.
14. The opening hours of the *practice premises* and the method of obtaining access to services throughout the *core hours*.
15. The criteria for home visits and the method of obtaining such a visit.
16. The consultations available to patients under clauses 7.8.1 and 7.8.2, and 7.9.1 and 7.9.2.
17. The arrangements for services in the *out of hours period* and how the patient may contact such services.
18. If the services in paragraph 17 are not provided by the Contractor, the fact that the Board referred to in paragraph 26 is responsible for commissioning the services.

19. The method by which patients are to obtain repeat prescriptions.
20. If the Contractor offers *repeatable prescribing services*, the arrangements for providing such services.
21. If the Contractor is a dispensing contractor the arrangements for dispensing prescriptions.
22. How patients may make a complaint or comment on the provision of service.
23. The rights and responsibilities of the patient, including keeping appointments.
24. The action that may be taken where a patient is violent or abusive to the Contractor, its staff or other persons present on the *practice premises* or in the place where treatment is provided under the Contract or other persons specified in clause 13.11.2.
25. 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.
26. The full name, postal and email address and telephone number of the Board.
27. Information about the assignment by the Contractor to its new and existing patients of an *accountable GP* in accordance with clause 7.7B.
28. Information about the assignment by the Contractor to its patients aged 75 and over of an *accountable GP* under clause 7.9.

**SCHEDULE 4**  
**Reserved**

**SCHEDULE 5**  
**Plan for Improvement of Premises**

**SCHEDULE 6**  
**Payment Schedule**

**SCHEDULE 7<sup>124</sup>**  
**Dispensing Doctors**

**Arrangements for Pharmaceutical services**

1. The Contractor undertakes to provide pharmaceutical services in accordance with such provisions as are appropriate affecting the Contractor's rights and obligations that—
  - (a) are included in the *Pharmaceutical Regulations*;
  - (b) are contained in the terms set out in paragraphs 5 to 31;
  - (c) are contained in paragraphs 3 and 4;
  - (d) were imposed, in relation to the ***dispensing doctor's*** ability to provide pharmaceutical services, by virtue of regulation 20(2) of the National Health Service (Pharmaceutical Services) Regulations 2005 (imposition of conditions) (S.I. 2005/641);
  - (e) are included in Part 19 of this Contract; and
  - (f) are-
    - (i) included in regulations under section 225 of the Local Government and Public Involvement in Health Act 2007 (duties of services-providers to allow entry by Local Healthwatch organisations or contractors), and
    - (ii) made for the purpose of imposing on a services-provider (within the meaning of that section) a duty to allow authorised representatives (within the meaning of that section) to enter and view, and observe the carrying-on of activities on, premises owned or controlled by the services-provider.
2. The terms set out in bold italics in this Schedule have the same meaning as in the *Pharmaceutical Regulations*.

***Dispensing doctor lists***

3. Where a Contractor is listed in a ***dispensing doctor list***—
  - (a) the Contractor must notify the Board of the matters referred to in paragraph 4; and
  - (b) as part of the listing of the Contractor in its ***dispensing doctor list***, the Board must include the names of any ***general practitioner*** notified under paragraph 4(a), unless the Board has received a further notification in respect of that ***general practitioner*** under paragraph 4(b).
4. The matters referred to in paragraph 3(a) are—
  - (a) any ***general practitioner*** who performs primary medical services on behalf of the Contractor who will also provide pharmaceutical services; and

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<sup>124</sup> Clause 14.10.1 applies the provisions in this Schedule to contractors who are *dispensing doctors*.

- (b) for a **general practitioner** about whom the Board has been notified under paragraph (a), when the Contractor no longer anticipates that the **general practitioner** will provide pharmaceutical services on behalf of the Contractor.

**Persons duly authorised to dispense on behalf of *dispensing doctors***

- 5. Where paragraphs 6 to 31 impose a requirement on a **dispensing doctor** in respect of an activity which that **dispensing doctor** has duly authorised another person to undertake, if that other person undertakes that activity instead of the **dispensing doctor**—
  - (a) that other person must comply with that requirement; and
  - (b) the **dispensing doctor** must secure compliance with that requirement by that other person.
- 6. Where reference is made in paragraph 5 and paragraphs 7 to 31 to the **dispensing doctor**—
  - (a) being the subject of an activity, and in fact a person duly authorised by the **dispensing doctor** is the subject of that activity; or
  - (b) forming a view, and in fact a person duly authorised by the **dispensing doctor** is to form that view,that reference is to be construed as referring, as appropriate, to that duly authorised person.
- 7. References in paragraphs 5 to 31 to a **dispensing doctor** are to be construed in accordance with paragraphs 5 and 6.

**Dispensing of drugs and *appliances* by another *prescriber***

- 8. In paragraphs 9 and 10, “signed” includes signature with a **prescriber’s advanced electronic signature**.
- 9. Subject to paragraphs 10 to 31, where—
  - (a) any person presents to a **dispensing doctor** a **non-electronic prescription form** which contains—
    - (i) an order for drugs, not being **Scheduled drugs**, or for **appliances**, not being **restricted availability appliances**, signed by a **prescriber** other than the **dispensing doctor**;
    - (ii) an order for drugs specified in Schedule 2 to the *Prescription of Drugs Regulations* (drugs, medicines and other substances that may be ordered only in certain circumstances), signed by a **prescriber** other than the **dispensing doctor**, and including the reference “SLS”; or
    - (iii) an order for **restricted availability appliances**, signed by a **prescriber** other than the **dispensing doctors** and including the reference “SLS”; or
  - (b) subject to paragraph 11, the **dispensing doctor** receives from the *Electronic Prescription Service* an **electronic prescription form**



which contains an order of a kind specified in paragraphs (a)(i) to (a)(iii) and—

- (i) any person requests the provision of drugs or **appliances** in accordance with that prescription; or
- (ii) the **dispensing doctor** has previously arranged with the patient that the **dispensing doctor** will dispense that prescription on receipt,

and the **dispensing doctor** is authorised or required by virtue of Part 8 of the *Pharmaceutical Regulations* to provide the drugs or **appliances** so ordered, the **dispensing doctor** must, with reasonable promptness, provide the drugs so ordered, and such of the **appliances** so ordered as the **dispensing doctor** supplies in the normal course of business.

10. Subject to paragraphs 11 to 31, where—

- (a) any person presents to the **dispensing doctor** a **non-electronic repeatable prescription** which contains—
  - (i) an order for drugs, not being **Scheduled drugs** or controlled drugs within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001 (S.I. 2001/3998) (which relate to controlled drugs excepted from certain prohibitions under those regulations), signed by a **prescriber** other than the **dispensing doctor**;
  - (ii) an order for a drug specified in Schedule 2 to the *Prescription of Drugs Regulations*, not being a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001, signed by a **prescriber** other than the Contractor and including the reference “SLS”;
  - (iii) an order for **appliances**, not being **restricted availability appliances**, signed by a **prescriber** other than the **dispensing doctor**; or
  - (iv) an order for a **restricted availability appliance**, signed by a **prescriber** other than the **dispensing doctor** and including the reference “SLS”,

and also presents an associated **batch issue**; or

- (b) the **dispensing doctor** receives an **electronic repeatable prescription** from the *Electronic Prescription Service* which contains an order of a kind specified in sub-paragraphs (a)(i) to (a)(iv) and—
  - (i) any person requests the provision of drugs or **appliances** in accordance with that **repeatable prescription**; or
  - (ii) the **dispensing doctor** has previously arranged with the patient that the **dispensing doctor** will dispense that **repeatable prescription** on receipt,

and the **dispensing doctor** is authorised or required by virtue of Part 8 of the *Pharmaceutical Regulations* to provide the drugs or **appliances** so ordered, the **dispensing doctor** must, with reasonable promptness, provide the drugs so ordered, and such of the **appliances** so ordered as the Contractor supplies in the normal course of business.

11. The **dispensing doctor** must not provide under an **electronic prescription form** a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001.
12. For the purposes of paragraphs 8 to 11, a **non-electronic repeatable prescription** for drugs or **appliances** shall be taken to be presented even if the person who wishes to obtain the drugs or **appliances** does not present that prescription, where—
  - (a) the **dispensing doctor** has that prescription in their possession; and
  - (b) that person presents, or the **dispensing doctor** has in their possession, an associated **batch issue**.
13. Drugs and **appliances** provided under paragraphs 8 to 12 must be provided in a suitable container.

#### **Dispensing of drugs and appliances ordered by the Contractor**

14. In the circumstances where paragraphs 8 to 13 do not apply and subject to paragraphs 15 to 31, where the **dispensing doctor** is authorised or requested by virtue of Part 8 of the *Pharmaceutical Regulations* to provide a drug or **appliance** to a person—
  - (a) the **dispensing doctor** must record any order for the provision of any drugs or **appliances** which are needed for the treatment of the patient, before the drugs or **appliances** are dispensed (unless it is personally administered)—
    - (i) on a **prescription form** completed in accordance with clause 14.2.2 to clause 14.2.15;
    - (ii) if clause 14.3 applies, on an **electronic prescription form**; or
    - (iii) in the case of a personally administered vaccine in respect of which the **NHS BSA** does not require an individual **prescription form** in order to process payment, on the form provided by the **NHS BSA** for the purposes of claiming payments for administering that vaccine (as well, potentially, as claiming other payments), and in the manner required by the **NHS BSA** (which may be part of an aggregate total);
  - (b) the **dispensing doctor** must provide those drugs or **appliances** in a suitable container (unless it is personally administered);
  - (c) the **dispensing doctor** must provide for the patient a drug specified in Schedule 2 to the *Prescription of Drugs Regulations* (drugs, medicines and other substances that may be ordered only in certain circumstances) only where clause 14.6.2 is satisfied; and

- (d) the **dispensing doctor** must provide for the patient a **restricted availability appliance** only if the patient is a person, or it is for a purpose, specified in the *Drug Tariff*.

**Preliminary matters before providing ordered drugs or appliances**

15. Before providing any drugs or **appliances** in accordance with paragraph 14, or in the circumstances set out in paragraph 17—

- (a) a **dispensing doctor** must ask any person who makes a declaration that the patient does not have to pay the charges specified in regulation 4(1) of the *Charges Regulations* (supply of drugs and appliances by doctors) by virtue of either—
  - (i) entitlement to exemption under regulation 7(1) of the *Charges Regulations* (exemptions), or
  - (ii) entitlement to remission of charges under regulation 5 of the *Remission of Charges Regulations* (entitlement to full remission and payment),

to produce satisfactory evidence of such entitlement, unless the declaration is in respect of entitlement to exemption by virtue of regulation 7 of the *Charges Regulations* or in respect of entitlement to remission by virtue of regulation 5 of the *Remission Charges Regulations*, and at the time of the declaration the **dispensing doctor** has such evidence available to them;

- (b) if in the case of a **non-electronic prescription form** or **non-electronic repeatable prescription**, no satisfactory evidence, as required by sub-paragraph (a), is produced to the **dispensing doctor**, the **dispensing doctor** must endorse the form on which the declaration is made to that effect; and
- (c) in the case of an **electronic prescription**, the **dispensing doctor** must transmit to the *Electronic Prescription Service* the records and confirmations referred to in paragraph 16.

16. The records and confirmations referred to in sub-paragraph 15(c) are—

- (a) in a case where the exemption from or remission of charges is claimed for all or some of the items included in the prescription, a record of—
  - (i) the exemption category specified in regulation 7(1) of the *Charges Regulations* or the ground for remission under regulation 5 of the *Remission of Charges Regulations* which it is claimed applies to the case; and
  - (ii) whether or not satisfactory evidence was produced to the **dispensing doctor** as required by sub-paragraph 15(a);
- (b) in any case where a charge is due, confirmation that the relevant charge was paid; and
- (c) in the case of a prescription for or including contraceptive substances, confirmation that no charge was payable in respect of those substances.

### Provision of *Scheduled drugs*

17. The ***dispensing doctor*** must only provide for a patient any ***Scheduled drug*** if—
- (a) it is ordered as specified in paragraph 18 or 20; or
  - (b) in the case of a drug specified in Schedule 2 to the *Prescription of Drugs Regulations* (drugs, medicines and other substances that may be ordered only in certain circumstances), it is ordered in the circumstances prescribed in that Schedule.
18. A ***Scheduled drug*** that is a drug with an appropriate ***non-propriety name*** may be provided in response to an order on a ***prescription form*** or ***repeatable prescription*** for a drug (“the prescribed drug”) that is not a ***Scheduled drug*** but which has the same ***non-proprietary name*** as the ***Scheduled drug*** if—
- (a) the prescribed drug is ordered by that ***non-proprietary name*** or by its formula; and
  - (b) the prescribed drug has the same specification as the ***Scheduled drug*** (so the ***Scheduled drug*** may be dispensed generically).
19. If a ***Scheduled drug*** is a combination of more than one drug, it can only be ordered as specified in paragraph 18 if the combination has an appropriate ***non-proprietary name***, whether or not the drugs in the combination each have such names.
20. Nothing in paragraphs 5 to 19 and paragraphs 21 to 31 prevents the ***dispensing doctor*** from providing, otherwise than under pharmaceutical services, a ***Scheduled drug*** or a ***restricted availability appliance*** for a patient.

### Refusal to provide drugs or *appliances* ordered

21. The ***dispensing doctor*** may refuse to provide the drugs or ***appliances*** ordered on a ***prescription form*** or ***repeatable prescription*** where—
- (a) the ***dispensing doctor*** reasonably believes that it is not a genuine order for the person named on the ***prescription form*** or the ***repeatable prescription*** (for example because the ***dispensing doctor*** reasonably believes it has been stolen or forged);
  - (b) it appears to the ***dispensing doctor*** that there is an error on the ***prescription form*** or on the ***repeatable prescription*** or, in the case of a ***non-electronic repeatable prescription***, its associated ***batch issue*** (including a clinical error made by the ***prescriber***) or that, in the circumstances, providing the drugs or ***appliances*** would be contrary to the ***dispensing doctor’s*** clinical judgement; or
  - (c) where the ***prescription form*** or ***repeatable prescription*** is incomplete because it does not include the information relating to the identification of the ***prescriber*** that the Board (or the person exercising its functions) requires in order to perform its functions relating to-

- (i) the remuneration of persons providing pharmaceutical services, and
- (ii) any apportionment of, or any arrangements for recharging in respect of, that remuneration,

unless the **dispensing doctor** (or the person who employs or engages the **dispensing doctor**) is to receive no pharmaceutical remuneration of any kind in respect of the drug or **appliance**.

22. The **dispensing doctor** must refuse to provide drugs or **appliances** ordered on a **repeatable prescription** where—

- (a) the **dispensing doctor** has no record of that prescription;
- (b) the **dispensing doctor** does not, in the case of a **non-electronic repeatable prescription**, have any associated **batch issue** and it is not presented to the **dispensing doctor**;
- (c) it is not signed by a **prescriber**;
- (d) to do so would not be in accordance with any intervals specified in the prescription;
- (e) it would be the first time a drug or appliance had been provided pursuant to the prescription and the prescription was signed (whether electronically or otherwise) more than 6 months previously;
- (f) the **repeatable prescription** was signed (whether electronically or otherwise) more than one year previously;
- (g) the expiry date on the **repeatable prescription** has passed; or
- (h) the **dispensing doctor** has been informed by the **prescriber** that the prescription is no longer required.

23. Where a patient requests the supply of drugs or **appliances** ordered on a **repeatable prescription** (other than on the first occasion that the patient makes such a request), the **dispensing doctor** must only provide the drugs or **appliances** ordered if the **dispensing doctor** is satisfied that the patient to whom the prescription relates—

- (a) is taking or using, and is likely to continue to take or use, the drug or **appliance** appropriately; and
- (b) is not suffering from any side effects of the treatment which indicates the need or desirability of reviewing the patient's treatment,

and that the conditions in paragraph 24 are also satisfied.

24. The conditions referred to in paragraph 23 with which the dispensing doctor must be satisfied are—

- (a) that the medication regimen of the patient to whom the prescription relates has not altered in a way which indicates the need or desirability of reviewing the patient's treatment; and

- (b) there have been no changes to the health of the patient to whom the prescription relates which indicate the need or desirability of reviewing the patient's treatment.

***Dispensing doctors issuing prescription forms which may be presented to an NHS chemist***

25. Notwithstanding the existence of arrangements under which the ***dispensing doctor*** is to provide pharmaceutical services to a patient, if the ***dispensing doctor*** determines that the patient requires a drug or ***appliance*** that is available on prescription from an ***NHS chemist***—
- (a) the ***dispensing doctor*** may with the agreement of the patient issue; or
  - (b) if the patient so requests, the ***dispensing doctor*** must not unreasonably refrain from issuing, a ***prescription form*** that the patient may present to any ***NHS chemist*** instead of the ***dispensing doctor*** supplying that drug or appliance to the patient.

**Complaints procedures**

26. The complaints procedure established in accordance with Part 24 is also to apply in relation to a complaint about any matter reasonably connected with the provision of pharmaceutical services by the Contractor or individual.

**Inspections and access to information**

27. In addition to the requirements relating to inspections and access to information in Part 16, the ***dispensing doctor*** must allow persons authorised in writing by the Board to enter and inspect any premises the ***dispensing doctor*** uses for the provision of pharmaceutical services at any reasonable time, for the purposes of —
- (a) ascertaining whether or not the ***dispensing doctor*** is complying with the requirements of paragraphs 5 to 31;
  - (b) auditing, monitoring and analysing—
    - (i) the provision made by the ***dispensing doctor***, in the course of providing pharmaceutical services, for patient care and treatment; and
    - (ii) the management by the ***dispensing doctor*** of the pharmaceutical services the ***dispensing doctor*** provides,where the conditions in paragraph 28 are satisfied.
28. The conditions referred to in paragraph 27 are that—
- (a) reasonable notice of the intended entry has been given;
  - (b) the *Local Medical Committee* for the area where the premises are situated have been invited to be present at the inspection, where this is requested by the ***dispensing doctor***;

- (c) the person authorised in writing carries written evidence of their authorisation, which they must produce on request; and
  - (d) the person authorised in writing does not enter any part of the premises used solely as residential accommodation without the consent of the resident.
29. The **dispensing doctor** must, at the request of the Board or the person authorised in writing, allow the Board or that authorised person access to any information which either reasonably requires—
- (a) for the purposes mentioned in paragraph 27; or
  - (b) in the case of the Board, in connection with its functions that relate to pharmaceutical services.

### **Voluntary closure of premises**

30. Where the **dispensing doctor** wishes—
- (a) to withdraw from a **dispensing doctor list**, or
  - (b) except in the circumstances described in paragraph 31, for particular listed dispensing premises no longer to be listed in relation to the **dispensing doctor**,
- the **dispensing doctor** must notify the Board of that wish at least 3 months in advance of the date on which pharmaceutical services are no longer to be provided, unless it is impracticable for the **dispensing doctor** to do so, in which case the **dispensing doctor** must notify the Board as soon as it is practicable.
31. If particular listed dispensing premises no longer need to be listed in relation to the **dispensing doctor** as a consequence of a relocation application under regulation 55 of the *Pharmaceutical Regulations*, before the date on which the **dispensing doctor** commences the provision of pharmaceutical services at the new premises, the **dispensing doctor** must give notice to the Board of when, before that date, the **dispensing doctor** is to cease to provide pharmaceutical services at the existing premises.