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NHS Standard Contract (full length) 2017-19 (January 2018 edition)

National Variation Agreement for existing 2015/16, 2016/17 and 2017-19 (November 2016 edition) form contracts

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# NATIONAL VARIATION AGREEMENT

**Contract/Variation Reference**: [Include local reference number here]

**Proposed by**: Co-ordinating Commissioner on behalf of NHS England

**Date of Variation Agreement**: [Include date here]

Capitalised words and phrases in this Variation Agreement have the meanings given to them in the Contract referred to above.

1. In consideration of their respective obligations under the Contract (as varied by this Variation Agreement) the Parties have agreed the Variation summarised below.

**Ambulance Service Response Time Standards**

With effect from1 February 2018, the following wording at the foot of Schedule 4A of the Particulars is deleted:

\*\* (The Co-ordinating Commissioner has discretion to vary the consequence of breach, in agreement with the Provider, where it is appropriate to do so to take account of the operation of a nationally-approved pilot project.)

and replaced by

\*\* as further described in *Ambulance System Indicators*, available at <https://www.england.nhs.uk/statistics/wp-content/uploads/sites/2/2013/04/20170926-Ambulance-System-Indicators.docx>

and Operational Standards E.B.15.i, E.B.15 ii and E.B.16 in Schedule 4A are deleted and replaced by the table below

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| Ref | **Operational Standards** | **Threshold** | **Method of Measurement** | **Consequence of breach** | **Timing of application of consequence** | **Application** |
|  | **Ambulance service response times** |  |  |  |  |  |
|  | ***(With effect from 1 April 2018) Category 1 (life-threatening) calls – percentage of calls resulting in a response arriving within 15 minutes\*\**** | ***Operating standard that 90th centile is no greater than 15 minutes*** | ***Review of Service Quality Performance Reports*** | ***Issue of a Contract Performance Notice and subsequent process in accordance with GC9*** | ***Quarterly*** | ***AM*** |
|  | ***(With effect from 1 April 2018) Category 1 (life-threatening) calls – mean time taken for a response to arrive\*\**** | ***Mean is no greater than 7 minutes*** | ***Review of Service Quality Performance Reports*** | ***Issue of a Contract Performance Notice and subsequent process in accordance with GC9*** | ***Quarterly*** | ***AM*** |
|  | ***(With effect from 1 April 2018) Category 2 (emergency) calls – percentage of calls resulting in an appropriate response arriving within 40 minutes\*\**** | ***Operating standard that 90th centile is no greater than 40 minutes*** | ***Review of Service Quality Performance Reports*** | ***Issue of a Contract Performance Notice and subsequent process in accordance with GC9*** | ***Quarterly*** | ***AM*** |
|  | ***(With effect from 1 April 2018) Category 2 (emergency) calls – mean time taken for an appropriate response to arrive\*\**** | ***Mean is no greater than 18 minutes*** | ***Review of Service Quality Performance Reports*** | ***Issue of a Contract Performance Notice and subsequent process in accordance with GC9*** | ***Quarterly*** | ***AM*** |
|  | ***(With effect from 1 April 2018) Category 3 (urgent) calls – percentage of calls resulting in an appropriate response arriving within 120 minutes\*\**** | ***Operating standard that 90th centile is no greater than 120 minutes*** | ***Review of Service Quality Performance Reports*** | ***Issue of a Contract Performance Notice and subsequent process in accordance with GC9*** | ***Quarterly*** | ***AM*** |
|  | ***(With effect from 1 April 2018) Category 4 (non-urgent “assess, treat, transport” calls only) – percentage of calls resulting in an appropriate response arriving within 180 minutes\*\**** | ***Operating standard that 90th centile is no greater than 180 minutes*** | ***Review of Service Quality Performance Reports*** | ***Issue of a Contract Performance Notice and subsequent process in accordance with GC9*** | ***Quarterly*** | ***AM*** |

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| **Learning From Deaths**With effect from 1 February 2018, Service Condition 3 is varied to include the additional provision below:

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| 3.4A | The Provider must implement policies and procedures for reviewing deaths of Service Users whilst under the Provider’s care and for engaging with bereaved families and Carers. | **All** |
| 3.4B | The Provider must comply with National Guidance on Learning from Deaths where applicable. | **NHS Trust/FT** |

and the definitions in the General Conditions are varied to include the following additional definition:**National Guidance on Learning from Deaths** guidance published by the National Quality Board to help standardise and improve the way acute, mental health and community NHS Trusts and Foundation Trusts identify, report, review, investigate and learn from deaths, and engage with bereaved families and carers, available at:<https://www.england.nhs.uk/publication/national-guidance-on-learning-from-deaths/>**GP referrals not made via the NHS e-Referral Service**With effect from 1 February 2018, Service Condition 6.2A is deleted and replaced by the following:

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| 6.2A | With effect from 1 October 2018, subject to the provisions of NHS e-Referral Guidance: 6.2A.1 the Provider need not accept (and will not be paid for any first outpatient attendance resulting from) Referrals by GPs to Consultant-led acute outpatient Services made other than through the NHS e-Referral Service; 6.2A.2 the Provider must implement a process through which the non-acceptance of a Referral under this Service Condition 6.2A will, in every case, be communicated without delay to the Service User’s GP, so that the GP can take appropriate action; and6.2A.3 each Commissioner must ensure that GPs within its area are made aware of this process. | **A** |

and the definition of NHS e-Referral Guidance is deleted and replaced by the following:**NHS e-Referral Guidance** guidance in relation to best practice use of the NHS e-Referral Service, available at: [eRS Best-Practice-Guidelines](http://www.hscic.gov.uk/media/18859/Best-Practice-Guidelines/pdf/Best_Practice_Guidelines_all_102015.pdf) and on management of referrals (e-Referral Service: guidance for managing referrals), available at <https://www.england.nhs.uk/digitaltechnology/nhs-e-referral-service/>**National Workforce Disability Equality Standard**With effect from 1 February 2018, Service Condition 13.7 is deleted and replaced by the following:

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| 13.7 | In accordance with the timescale and guidance to be published by NHS England, the Provider must:13.7.1 implement the National Workforce Disability Equality Standard; and 13.7.2 report to the Co-ordinating Commissioner on its progress. | **NHS Trust/FT** |

The first column of row 12 of Schedule 6A of the Particulars is amended to read Report on compliance with the National Workforce Race Equality StandardThe wording at the foot of Schedule 6A (\*\* As set out in SC13.7, the first annual report on the Provider’s progress in implementing the Workforce Disability Equality Standard must be supplied by 31 March 2019.) is deleted.**Places of Safety**With effect from 1 February 2018, Service Condition 15 is deleted and replaced by the following:

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| 15.1 | **SC15** **Urgent Access to Mental Health Care**The Parties must have regard to the Mental Health Crisis Care Concordat and must reach agreement on the identification of, and standards for operation of, Places of Safety in accordance with the Law, the 1983 Act Code, the Royal College of Psychiatrists Standards and the Urgent and Emergency Mental Health Care Pathways. | **A, A&E, MH, MHSS, U** |
| 15.2 | The Parties must co-operate to ensure that individuals under the age of 18 with potential mental health conditions are referred for, and receive, age-appropriate assessment, care and treatment in accordance with the 1983 Act and with the Urgent and Emergency Mental Health Care Pathway for Children and Young People. | **A, A&E, MH, MHSS, U** |
| 15.3 | The Parties must use all reasonable endeavours to ensure that, where an individual under the age of 18 requires urgent mental health assessment, care or treatment, that individual is not:15.3.1 held in police custody in a cell or station; or15.3.2 admitted to an adult inpatient service (unless this is clinically appropriate in line with the requirements of the 1983 Act); or15.3.3 admitted to an acute paediatric ward (unless this is required in accordance with NICE Guideline CG16 (Self-harm in over 8s) or if the individual has an associated physical health or safeguarding need). | **A, A&E, MH, MHSS, U** |
| 15.4 | The Parties must use all reasonable endeavours to ensure that, where an individual under the age of 18 requiring urgent mental health assessment, care or treatment attends or is taken to an accident and emergency department:15.4.1 a full biopsychosocial assessment is undertaken and an appropriate care plan is put in place within the timescale set out in the Urgent and Emergency Mental Health Care Pathway for Children and Young People; and15.4.2 the individual is not held within the accident and emergency department beyond the point where the actions in 15.4.1 have been completed. | **A, A&E, MH, MHSS, U** |

and the definitions in the General Conditions are varied to include the following additional definitions:**Urgent and Emergency Mental Health Care Pathways** the evidence-based treatment pathways for urgent and emergency mental health care, developed by NHS England, NICE and the National Collaborating Centre for Mental Health and published at <https://www.england.nhs.uk/mental-health/adults/crisis-and-acute-care/>**Urgent and Emergency Mental Health Care Pathway for Children and Young People** the evidence-based treatment pathway for urgent and emergency mental health care for children and young people, developed by NHS England, NICE and the National Collaborating Centre for Mental Health and available at <https://www.england.nhs.uk/mental-health/adults/crisis-and-acute-care/>**Provision of legal services**With effect from 1 February 2018, Service Condition 17 is varied to include the following additional provisions:

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| 17.4 | The Provider must comply with the requirements of Department of Health HBN 00-08 in relation to advertising of legal services. | **NHS Trust/FT** |
| 17.5 | Without prejudice to SC17.4, the Provider must not enter into, extend or renew any contractual arrangement under which a Legal Services Provider is permitted to provide, promote, arrange or advertise any legal service to Service Users, their relatives, Carers or Legal Guardians, whether:17.5.1 at the Provider’s Premises (whether or not those premises are set out or identified in a Service Specification); or17.5.2 on the Provider’s website; or17.5.3 through written material sent by the Provider to Service Users, their relatives, Carers or Legal Guardians,if and to the extent that that legal service would or might relate to or lead to the pursuit of a claim against the Provider, any other provider or any commissioner of NHS services. | **NHS Trust/FT** |
| 17.6 | The Provider must use all reasonable endeavours to ensure that no Legal Services Provider makes any unsolicited approach to any Service User or their relatives, Carer or Legal Guardian while at the Provider’s Premises. | **NHS Trust/FT** |

and the definitions in the General Conditions are varied to include the following additional definition:**Legal Services Provider** a solicitor or firm of solicitors, claims management organisation or other provider, promoter or arranger of legal services**Sales of Sugar-Sweetened Beverages**With effect from 1 February 2018, Service Condition 19 is varied to include the following additional provisions:

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| 19.4 | **Sales of Sugar-Sweetened Beverages**With effect from 1 July 2018, the Provider must not itself sell or offer for sale any Sugar-Sweetened Beverage at the Provider’s Premises. | **NHS Trust/FT** |
| 19.5 | The Provider must use all reasonable endeavours to ensure that, with effect from 1 July 2018, its tenants, sub-tenants, licensees, contractors, concessionaires and agents do not sell or offer for sale any Sugar-Sweetened Beverage at the Provider’s Premises. | **NHS Trust/FT** |
| 19.6 | The Provider must make it a condition of any relevant lease, licence, contract or concession agreement taking effect or varied on or after 1 July 2018 that the tenant (and any sub-tenant), licensee, contractor or concessionaire does not sell or offer for sale any Sugar-Sweetened Beverage at the Provider’s Premises on or after 1 July 2018. | **NHS Trust/FT** |

and the definitions in the General Conditions are varied to include the following additional definition:**Sugar-Sweetened Beverage** any drink, hot or cold, carbonated or non-carbonated, containing 5 grams or more of added sugar per 100ml. For the purposes of this definition, added sugars:1. include sugars added to pre-packaged drinks or added to made-to-order drinks (including without limitation sugar syrup, hot chocolate powder, sweetened milk alternatives and whipped cream);
2. do not include sugars naturally occurring in fruit juices and fruit nectars. Where products described in the Fruit Juices and Fruit Nectars (England) Regulations 2013 (S.I. 2013/2775) are used to sweeten drinks, such products do not constitute added sugar for the purposes of  this definition;
3. do not include sugars naturally occurring in milk. A drink which contains 95-100% milk is not considered a sugar-sweetened beverage for the purpose of this definition. A drink which contains either between 0% and 49.9% of milk and more than 5g/100ml of total sugars or  between 50% and 94.9% milk and more than 10g/100ml of total sugars is considered a sugar-sweetened beverage for the purpose of this definition;
4. do not include sugar added by the customer after the point of sale.

For further information see Annex B of Action to reduce sales of sugar-sweetened drinks on NHS premises: Consultation response and next steps, published by NHS England at [https://www.england.nhs.uk/publication/sugar-action.](https://www.england.nhs.uk/publication/sugar-action)**NHS Counter Fraud and Security Management**With effect from 1 February 2018, Service Conditions 24.1 to 24.6 are deleted and replaced by the following:

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| 24.1 | **SC24** **NHS Counter Fraud and Security Management**The Provider must put in place and maintain appropriate arrangements to address: 24.1.1 counter fraud issues, having regard to NHSCFA Standards; and24.1.2 security management issues, having regard to NHS Security Management Standards. | **All** |
| 24.2 | If the Provider:24.2.1 is an NHS Trust; or24.2.2 holds Monitor’s Licence (unless required to do so solely because it provides Commissioner Requested Services as designated by the Commissioners or any other commissioner),it must take the necessary action to meet NHSCFA Standards. | **All** |
| 24.3 | If requested by the Co-ordinating Commissioner or the NHSCFA, the Provider must allow a person duly authorised to act on behalf of NHSCFA or on behalf of any Commissioner to review, in line with the appropriate standards, security management and counter-fraud arrangements put in place by the Provider. | **All** |
| 24.4 | The Provider must implement any reasonable modifications to its security management and counter-fraud arrangements required by a person referred to in SC24.3 in order to meet the appropriate standards within whatever time periods as that person may reasonably require. | **All** |
| 24.5 | The Provider must: 24.5.1 on becoming aware of any suspected or actual bribery, corruption or fraud involving a Service User or public funds, promptly report the matter to the Local Counter Fraud Specialist of the relevant NHS Body and to the NHSCFA; and24.5.2 on becoming aware of any suspected or actual security incident or security breach involving staff who deliver NHS funded services or involving NHS resources, promptly report the matter to the Local Security Management Specialist of the relevant NHS Body. | **All** |
| 24.6 | On the request of the Department of Health, NHS England, the NHSCFA or the Co-ordinating Commissioner, the Provider must allow the NHSCFA or any Local Counter Fraud Specialist or any Local Security Management Specialist appointed by a Commissioner, as soon as it is reasonably practicable and in any event not later than 5 Operational Days following the date of the request, access to:24.6.1 all property, premises, information (including records and data) owned or controlled by the Provider; and24.6.2 all Staff who may have information to provide,relevant to the detection and investigation of cases of bribery, fraud or corruption, or security incidents or security breaches directly or indirectly in connection with this Contract. | **All** |

and the definitions in the General Conditions are varied to include the following additional definitions:**NHSCFA** the NHS Counter Fraud Authority, the special health authority charged with identifying, investigating and preventing fraud and other economic crime within the NHS and the wider health group**NHSCFA Standards** the counter-fraud standards and guidance issued from time to time by the NHSCFA, available at <https://cfa.nhs.uk/counter-fraud-standards>**NHS Security Management Standards** the standards and guidance on security management made available to commissioners and providers at <http://www.nahs.org.uk/>, previously published by NHS Protect (a division of the NHS Business Services Authority abolished with effect from 1 November 2017)and the definitions in the General Conditions of **NHS Protect** and **NHS Protect Standards** are deleted. **Never Events**With effect from 1 February 2018, the heading ‘Never Events’ and Service Condition 36.38 is deleted and is replaced with ‘Intentionally Omitted’**Financial reconciliation**With effect from 1 February 2018, Service Condition 36.45.1.1 is deleted and replaced by the following:

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| 36.45.1.1 | within 5 Operational Days of the receipt of the reconciliation account in accordance with SC36.31, or the final reconciliation account in accordance with SC36.30 (as appropriate); or | **All** |

**Nationally Contracted Products Programme**With effect from 1 February 2018, Service Condition 36 is varied to include the additional provision below:

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| 36.51 | The Provider must use all reasonable endeavours to co-operate with NHS Improvement and NHS Supply Chain to implement in full the requirements of the Nationally Contracted Products Programme. | **NHS Trust/FT** |

and the definitions in the General Conditions are varied to include the following additional definitions:**Nationally Contracted Products Programme** the procurement programme operated by NHS Improvement and NHS Supply Chain which aims to consolidate purchasing power in order to purchase products on a better-value basis for NHS Trusts and Foundation Trusts, as described at <https://improvement.nhs.uk/resources/core-set-nhs-products-be-used-all-nhs-providers/>**NHS Supply Chain** the organisation run by DHL Supply Chain on behalf of the NHS Business Services Authority, providing a dedicated supply chain to the NHS in England**Midwifery supervision**With effect from 1 February 2018, General Condition 5.4 is deleted and replaced by the following:5.4 The Provider must have in place systems for seeking and recording specialist professional advice and must ensure that every member of Staff involved in the provision of the Services receives:5.4.1 proper and sufficient induction, continuous professional and personal development, clinical supervision, training and instruction;5.4.2 full and detailed appraisal (in terms of performance and on-going education and training) using where applicable the Knowledge and Skills Framework or a similar equivalent framework; and5.4.3 professional leadership appropriate to the Services,each in accordance with Good Practice and the standards of their relevant professional body, if any, and, in relation to clinical supervision for midwives, A-EQUIP Guidance.and the definitions in the General Conditions are varied to include the following additional definition:**A-EQUIP Guidance** the model of clinical midwifery supervision published by NHS England and available at <https://www.england.nhs.uk/publication/a-equip-a-model-of-clinical-midwifery-supervision/>**Freedom to Speak Up Guardians**With effect from 1 February 2018, General Condition 5.8 is deleted and replaced by the following:5.8 The Provider must 5.8.1 appoint one or more Freedom To Speak Up Guardians to fulfil the role set out in and otherwise comply with the requirements of National Guardian’s Office Guidance;5.8.2 ensure that the Co-ordinating Commissioner is kept informed at all times of the person or persons holding this position;5.8.3 have in place, promote and operate (and must ensure that all Sub-Contractors have in place, promote and operate) a policy and effective procedures, in accordance with Raising Concerns Policy for the NHS, to ensure that Staff have appropriate means through which they may raise any concerns they may have in relation to the Services; and5.8.4 ensure that nothing in any contract of employment or contract for services or any other agreement entered into by it or any Sub-Contractor with any member of Staff will prevent or inhibit, or purport to prevent or inhibit, the making of any protected disclosure (as defined in section 43A of the Employment Rights Act 1996) by that member of Staff nor affect the rights of that member of Staff under that Act in relation to protected disclosures.and the definitions in the General Conditions are varied to include the following additional definitions:**National Guardian’s Office** the office of the National Guardian, which provides advice on the freedom to speak up guardian role and supports the freedom to speak up guardian network: <http://www.cqc.org.uk/national-guardians-office/content/national-guardians-office>**National Guardian’s Office Guidance** the example job description for a freedom to speak up guardian and other guidance published by the National Guardian’s Office, available at <http://www.cqc.org.uk/national-guardians-office/content/publications>**Raising Concerns Policy for the NHS** the model whistleblowing policy for NHS organisations, published by NHS Improvement and NHS England, available at <https://improvement.nhs.uk/resources/freedom-to-speak-up-whistleblowing-policy-for-the-nhs/>and the Governance and Regulatory section on page 11 of the Particulars is amended to read:Provider’s Freedom To Speak Up Guardian(s)**Data Security Standards**With effect from 1 February 2018, General Condition 21.4 is deleted and replaced by the following:21.4 The Provider must adopt and implement the National Data Guardian’s Data Security Standards and must comply with further Guidance issued by the Department of Health, NHS England and/or NHS Digital pursuant to or in connection with the Standards. The Provider must be able to demonstrate its compliance with the Standards in accordance with the requirements and timescales set out in such Guidance, including requirements for enabling patient choice.and the definitions in the General Conditions are varied to include the following additional definition:**National Data Guardian’s Data Security Standards** the standards recommended by the National Data Guardian and approved by the Department of Health, as set out in Annex D of *Your Data: Better Security, Better Choice, Better Care*, available at <https://www.gov.uk/government/consultations/new-data-security-standards-for-health-and-social-care>**Electronic invoicing**With effect from 1 February 2018, the definition in the General Conditions of e-Invoicing Guidance is deleted and replaced by the following:**e-Invoicing Guidance** guidance relating to the application and use of the NHS Shared Business Services e-Invoicing Platform, available at: <https://www.sbs.nhs.uk/media/6204/Tradeshift-Supplier-Training-Guide/pdf/New_Supplier_Training_Guide1.pdf>**Overseas visitor charging**With effect from 1 February 2018, the definitions in the General Conditions of Overseas Visitor Charging Guidance and Overseas Visitor Charging Regulations are deleted and replaced by the following:**Overseas Visitor Charging Guidance** any guidance issued from time to time by the Secretary of State or by NHS England on the making and recovery of charges under the Overseas Visitor Charging Regulations, including that available via:[www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations](http://www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations)and<https://www.england.nhs.uk/wp-content/uploads/2015/05/guidance-chargeable-overseas-visitor.pdf>**Overseas Visitor Charging Regulations** the regulations made by the Secretary of State under section 175 of the National Health Service Act 2006, available via: <http://www.legislation.gov.uk/uksi/2015/238/contents/made> and <http://www.legislation.gov.uk/uksi/2017/756/contents/made>**Prevent**With effect from 1 February 2018, the definition in the General Conditions of the NHS England Prevent Training and Competencies Framework is deleted and replaced by the following:**NHS England Prevent Training and Competencies Framework** the framework available at: <https://www.england.nhs.uk/ourwork/safeguarding/our-work/prevent/>**Staffing Guidance**With effect from 1 February 2018, the definitions in the General Conditions are varied to remove the existing definition of Staffing Guidance and replace it with the following:**Staffing Guidance** any Guidance applicable to the Services in relation to Staff numbers or skill-mix, including the National Quality Board publication *Supporting NHS providers to deliver the right staff, with the right skills, in the right place at the right time*, available at <https://www.england.nhs.uk/wp-content/uploads/2013/04/nqb-guidance.pdf> |

1. The Parties agree that the Contract is varied accordingly.

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| **SIGNED by** | ……………………………………………..Signature |
| **[INSERT AUTHORISED****SIGNATORY’S NAME]****for and on behalf of** **the Co-ordinating Commissioner** | ………………………………………………Title………………………………………………Date |
|  |  |
| **SIGNED by****[INSERT AUTHORISED****SIGNATORY’S NAME]****for and on behalf of** **[INSERT PROVIDER NAME]** | ……………………………………………..Signature……………………………………………..Title………………………………………………Date |