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# Standard Alternative Provider Medical Services Contract

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# Standard Alternative Provider Medical Services (APMS) Contract

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Prepared by Hill Dickinson on behalf of NHS England

## **Equalities and health inequalities statement**

"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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## **PARTIES**

**(1) The Commissioner<sup>1</sup>**

**(2) The Contractor<sup>1</sup>**

## **BACKGROUND:**

- A. The Commissioner is an Integrated Care Board established under Chapter A3 of Part 2 of the National Health Service Act 2006.<sup>2</sup>
- B. NHS England is a statutory body established pursuant to section 1H of the National Health Service Act 2006. It is the duty of NHS England to exercise its powers so as to secure the provision of primary medical care services
- C. In order to achieve this objective NHS England is empowered under section 83 of the National Health Service Act 2006 to make such arrangements for the provision of primary medical care services as it thinks fit.
- D. Under section 65Z5(1) of the National Health Service Act 2006, NHS England has arranged for such functions to be exercised by the Commissioner in respect of the area for which the Commissioner is established. The details of those functions delegated by NHS England to the Commissioner, those functions reserved to NHS England, and on what terms, are set out within the delegation agreement between NHS England and the Commissioner as in force from time to time.
- E. The Commissioner is now entering into this Contract for the provision of the Services with the Contractor from and including the Commencement Date.

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<sup>1</sup> Insert details in Schedule 1.

<sup>2</sup> Chapter A3 of Part 2 is inserted by section 19(2) of the Health and Care Act 2022.

In consideration of the mutual covenants and undertakings set out below **THE PARTIES AGREE** as follows:

## **1 Status of Contract**

- 1.1 The Contractor [is/is not]<sup>3</sup> a Health Service Body for the purposes of section 9 of the 2006 Act. Accordingly, the Contract [is/is not]<sup>4</sup> an NHS Contract.<sup>5</sup>

## **2 Commencement and Duration of the Contract**

- 2.1 The Contract shall commence on the Commencement Date<sup>6</sup>.
- 2.2 Unless terminated earlier in accordance with Clauses 58 to 62 or other prior lawful termination and subject to Clause 2.3, the Contract will terminate on the Expiry Date<sup>7</sup>.
- 2.3 The Commissioner may, no later than [nine (9) months]<sup>8</sup> prior to the Expiry Date, serve notice on the Contractor to extend the Contract by a maximum of [one (1) year]<sup>9</sup>, such extension commencing on the day after the Expiry Date.
- 2.4 Without prejudice to any other term of the Contract, the Commissioner may terminate the Contract at any time on [nine (9) months]<sup>10</sup> notice.

## **3 Services and Attendance on Patients**

- 3.1 The Commissioner appoints the Contractor to provide the Services in accordance with the Service Specification set out in Schedule 2 commencing on the Commencement Date and continuing for the

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<sup>3</sup> Amend according to pre-existing status of Contractor. There is no ability to opt to be a NHS body under this Contract.

<sup>4</sup> Amend according to status of Contractor

<sup>5</sup> This is a requirement of the APMS Directions

<sup>6</sup> Insert details on P.99

<sup>7</sup> Insert details on P.103

<sup>8</sup> For local determination

<sup>9</sup> For local determination

<sup>10</sup> For local determination

duration of the Contract and in accordance with and subject to the provisions of the Contract.

3.2 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 Core Hours for Essential Services is provided with such services by an appropriate Health Care Professional during that period except where:

3.2.1 it is more appropriate for the Patient to be referred elsewhere for services under the 2006 Act or the 2012 Act (as the case may be); or

3.2.2 the Patient is:

3.2.2.1 offered an appointment, for a time which is appropriate and reasonable having regard to all the circumstances, to attend the Contractor's Practice Premises again or participate in a telephone consultation or Video Consultation; or

3.2.2.2 invited to make a request via an online consultation system, and the Patient's health would not thereby be jeopardised.

3.3 In the case of a Patient whose medical condition is such that, in the reasonable opinion of the Contractor, the provision of Services in Core Hours is needed and it would be inappropriate for the Patient to attend the Practice Premises during Core Hours, the Contractor shall provide Services to that Patient at whichever is appropriate of the following places:

3.3.1 the place recorded in the Patient's medical records as being his last home address;

3.3.2 such other place as the Contractor has informed the Patient and the Commissioner is the place where it has agreed to visit and treat the Patient;

- 3.3.3 some other place in the Patient Registration Area.
- 3.4 Nothing in this Clause 3 prevents the Contractor from:
  - 3.4.1 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
  - 3.4.2 visiting the Patient in circumstances where this Clause 3 does not place it under an obligation to do so.
- 3.5 Where the Contractor provides Out of Hours Services under this Contract, (as set out in Schedule 2), the Contractor will (to the extent that they are relevant to the provision of the Services):
  - 3.5.1 meet the quality requirements set out in the Integrated Urgent Care Key Performance Indicators published on 25<sup>th</sup> June 2018 (or any subsequent successor publication);
  - 3.5.2 comply with any requests for information which it receives from or on behalf of the Commissioner 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.
- 3.6 Where the Contractor proposes to provide Private Services in addition to Primary Medical Services to persons other than its Patients, the provision of such Private Services must take place:
  - 3.6.1 outside of the hours the Contractor has agreed to provide Primary Medical Services; and
  - 3.6.2 on no part of any Practice Premises in respect of which the Commissioner has agreed with the Contractor to make payments in relation to the costs of those Practice Premises, save where the Private Services are those specified in Clauses 49.5B.1 and 49.5B.2.

3.7 Where the Contractor proposes to provide Private Services in addition to Primary Medical Services to persons other than its Patients, the provision of such Private Services must take place:

3.7.1 outside of the hours the Contractor has agreed to provide Primary Medical Services; and

3.7.2 on no part of any Practice Premises in respect of which the Commissioner has agreed with the Contractor to make payments in relation to the costs of those Practice Premises, save where the Private Services are those specified in Clauses 49.5B.1 and 49.5B.2.

### **3.8 Services: remote provision outside Practice Premises**

3.8.1 Without prejudice to regulation 17(7) (essential services) of the General Medical Services Contracts Regulations (which forms part of the definition of Essential Services under this Contract), where applicable, the Contractor and any sub-contractor may provide a Remote Service from a location which does not constitute Practice Premises, if the requirements in clause 3.8.2 are met.

3.8.2 The requirements referred to in clause 3.8.1 are that:

3.8.2.1 the service is provided from an appropriate location;

3.8.2.2 the service is provided through an appropriate digital or telecommunications method; and

3.8.2.3 the service is appropriate for provision outside of Practice Premises.

3.8.3 For the purposes of clause 3.8.2.1, a location is not appropriate if:

- 3.8.3.1 the location or its environment is not conducive to ensuring the confidentiality of Patient information, in connection with the service to be provided from that location; or
  - 3.8.3.2 the location or its environment is not conducive to ensuring appropriate provision of the service from that location.
- 3.8.4 For the purposes of clause 3.8.2.2, a digital or telecommunications method is appropriate if it meets:
- 3.8.4.1 the requirements in the GPIT Operating Model relevant to that method, including any requirements as to software; or
  - 3.8.4.2 requirements which are equivalent in their effect to the relevant requirements in the GPIT Operating Model.
- 3.8.5 For the purposes of clause 3.8.2.3, the service is not appropriate for provision outside of Practice Premises if:
- 3.8.5.1 it would not be clinically appropriate for the Patient on that occasion; or
  - 3.8.5.2 it is otherwise not appropriate to the needs or circumstances of the Patient.
- 3.8.6 For the purposes of clause 3.8.3.1, “Patient information” means information which relates to the physical or mental health or condition of a Patient, to the diagnosis of their condition, to their care and treatment, or information which is to any extent derived, directly or indirectly, from such information.

## **3A Vaccines and immunisations**

### **3A.1 Interpretation**

#### **3A.1.1 In this Clause 3A:**

“GMS Statement of Financial Entitlements” means the directions given by the Secretary of State under section 87 of the 2006 Act (GMS

contracts: payments); and

“Vaccine and Immunisations Services” has the meaning given in regulation 3(7) of the General Medical Services Contracts Regulations.

### **3A.2 Vaccines and immunisations: duty of co-operation**

3A.2.1 The Contractor must co-operate, in so far as is reasonable, with Relevant Persons:

3A.2.1.1 to understand the current uptake, and barriers to uptake, of offers to provide or administer vaccines and immunisations of the type specified in the GMS Statement of Financial Entitlements (“Relevant Vaccines and Immunisations”) to Patients; and

3A.2.1.2 to develop (if necessary) a strategy for improving their immunisation programme.

3A.2.2 For the purposes of Clause 3A.2.1 “Relevant Persons” means:

3A.2.2.1 other persons who administer Relevant Vaccines and Immunisations to Patients;

3A.2.2.2 NHS England;

3A.2.2.3 the Secretary of State;

3A.2.2.4 local authorities; and

3A.2.2.5 Integrated Care Boards.

### **3A.3 Vaccines and immunisations: appointments**

3A.3.1 The Contractor must ensure that they have in place a system for delivering appointments at which Relevant Vaccines or Immunisations are administered to Patients (“Immunisation Appointments”) which meets the Vaccines and Immunisations Standards.

3A.3.2 In this Clause 3A.3:

3A.3.2.1 “Relevant Vaccine or Immunisation” means a vaccine or immunisation which is of a type specified in the GMS Statement of Financial Entitlements other than:

3A.3.2.1.1 an influenza vaccine;

3A.3.2.1.2 a vaccine or immunisation the purposes of travel other than overseas travel; or

3A.3.2.1.3 a vaccine or immunisation which is offered in response to a local outbreak.

3A.3.2.2 “The Vaccines and Immunisations Standards” means the standards determined by NHS England and which the Contractor is required to meet in relation to the following matters:

3A.3.2.2.1 the invitation of Patients for immunisation appointments when they first become eligible for Relevant Vaccines or Immunisations (“Newly Eligible Patients”);

3A.3.2.2.2 the steps to be taken if no response is received to an invitation falling within sub-Clause 3A.3.2.2.1;

3A.3.2.2.3 the provision of immunisation appointments to Newly Eligible Patients;

3A.3.2.2.4 the steps to be taken if a Newly Eligible Patient does not attend an immunisation appointment;

3A.3.2.2.5 requests for Relevant Vaccines or Immunisations made by Patients who are eligible for them but have not previously



received them for any reason;

3A.3.2.2.6 the identification of gaps in the vaccination records of registered Patients, and the offer, and provision of, immunisation appointments to those Patients.

### **3A.4 Vaccines and immunisations: catch-up campaigns**

3A.4.1 The Contractor must participate in a manner reasonably required by the Commissioner in one Vaccines and Immunisations Catch-up Campaign in each financial year.

3A.4.2 In this Clause 3A.4 “Vaccines and Immunisations Catch-up Campaign” means a campaign which is aimed at maximising the uptake of a particular vaccine or immunisation by Patients who are eligible for it but have not received that vaccine or immunisation for any reason (other than a decision to refuse the vaccine or immunisation).

### **3A.5 Vaccines and immunisations: additional staff training**

3A.5.1 The Contractor must ensure that all staff involved in the administration of vaccines and immunisations are trained in the recognition and initial treatment of anaphylaxis.

3A.5.2 This Clause does not affect the Contractor’s obligations under Part 13.

### **3A.6 Vaccines and immunisations: nominated person**

3A.6.1 The Contractor must nominate a person (a “V & I lead”) who is to have responsibility for:

3A.6.1.1 overseeing the provision of Vaccine and Immunisation Services by the Contractor;

3A.6.1.2 carrying out, on behalf of the Contractor, any of the Contractor’s functions under Clause 3A.2; and

3A.6.1.3 overseeing compliance with the requirements of Clauses 3A.2 to 3A.5.

3A.6.2 The Contractor must ensure that the V & I Lead:

3A.6.2.1 has regard to all guidance issued by NHS England which is relevant to that role; and

3A.6.2.2 if they are not a Health Care Professional, is directly supervised in that role by a Health Care Professional.

### **3A.7 Vaccines and immunisations: exception for private arrangements**

3A.7.1 Nothing in this Clause 3A applies in relation to the offer or administration of any vaccine or immunisation to a Patient under a private arrangement.

## **4 Quality Standards**

4.1 Without prejudice to the Contractor's obligations to meet all performance requirements under the Contract, the Contractor shall meet all NHS Requirements notified to it by the Commissioner and, in particular, the standards set out in Standards for Better Health (or any subsequent successor devised by the Care Quality Commission or otherwise).

4.2 The Contractor shall provide the Services in accordance with the Service Specification and to such standards as are more particularly described in the Service Specification set out in Schedule 2 and in accordance with all requirements of the Contract and its Schedules.

4.3 The Contractor shall participate, as the Commissioner may reasonably require, in any other locally agreed quality assurance schemes including (without limitation) significant event reporting.

## **5 Level of Skill**

- 5.1 Without prejudice to the Contractor's obligations to meet all performance requirements under the Contract, the Contractor shall carry out its obligations under the Contract in a timely manner and with reasonable care and skill, including where appropriate such level of care and skill as would be expected from a competent professional carrying out the relevant obligation and in any event in accordance with Good Practice.

## **6 Premises and Equipment**

- 6.1 The Contractor will provide the Services from the Practice Premises. The provisions of Schedule 3 shall apply to the Practice Premises.
- 6.2 Notwithstanding the provisions of Schedule 3, the Contractor shall ensure that the Premises used for the provision of the Services under the Contract are:
- 6.2.1 suitable for the delivery of the Services; and
  - 6.2.2 sufficient to meet the reasonable needs of the Contractor's patients.<sup>11</sup>

## **7 Loaned Equipment**

- 7.1 The Contractor shall satisfy itself that any Loaned Equipment (including without limitation that listed in Part 2 of Schedule 3) is suitable for the purpose intended and the provisions of Part 2 of Schedule 3 shall apply accordingly.

## **8 Telephone Services**

- 8.1 The Contractor shall not be a party to any contract or other arrangement under which the number for telephone services to be used by:

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<sup>11</sup> This is a requirement of the APMS Directions

8.1.1 Patients to contact the Practice for any purpose related to the Contract; or

8.1.2 any other person to contact the Practice in relation to services provided as part of the health service,

starts with the digits 087, 090 or 091, 0844, or any other premium rate numbers, or consists of a personal number, unless the service is provided free to the caller.

8.2 In this Clause 8, “personal number” means a telephone number which starts with the number 070 followed by a further 8 digits, or 07 followed by a further 9 digits.

## **9 Cost of Relevant Calls**

9.1 The Contractor must not enter into, renew or extend a contract or other arrangement for telephone services unless, having regard to the arrangement as a whole, persons will not pay more to make calls to the Practice Premises than they would to make equivalent calls to a Geographical Number.

9.2 Where the Contractor is party to an Existing Contract or Other Arrangement for a telephone service under which persons making Relevant Calls to the Practice Premises call a number which is not a Geographical Number, the Contractor must comply with Clause 9.3.

9.3 The Contractor must:

- (a) before the Commencement Date, 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 Clause 9.4, 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.

- 9.4 The matters referred to in Clause 9.3(b) are:
- (a) varying the terms of the contract or arrangement;
  - (b) renegotiating the terms of the contract or arrangement; and
  - (c) terminating the contract or arrangement.
- 9.5 If, despite taking all reasonable steps referred to in Clause 9.3(b), it has not been possible to ensure that, having regard to the arrangement as a whole, persons will not pay more to make Relevant Calls to the Practice Premises than they would to make equivalent calls to a Geographical Number, the Contractor must introduce a system under which if a caller asks to be called back, the Contractor will do so at the Contractor's expense.

## **10 Clinical Reports & Co-operation**

- 10.1 Where the Contractor provides any clinical services under this Contract, other than under a private arrangement to a patient who is not on its List of Patients, it shall prepare a clinical report relating to the consultation and any treatment provided and shall, as soon as reasonably practicable, provide a copy of the clinical report to the Commissioner. The Commissioner shall send any clinical report received to either:
- 10.1.1 the person with whom the Patient is registered for the provision of Essential Services (or their equivalent) or their equivalent; or
  - 10.1.2 if the person referred to in Clause 10.1.1 is not known to the Commissioner, Local Health Board, Health Board or Health and Social Services Board, in whose area the Patient is resident.

This clause 10.1 does not apply to Out of Hours Services to be provided by the Contractor.

- 10.2 The Contractor must take all reasonable steps to co-operate with other clinicians also providing clinical services to any Patient in the interests of providing an integrated pathway for a Patient.
- 10.3 Not used.
- 10.4 If the Contractor is not, pursuant to the Contract, providing to its Registered Patients or to persons whom it has accepted as Temporary Residents:
- 10.4.1 a particular Service, except in relation to one provided under the Network Contract Directed Enhanced Service Scheme which is a scheme provided for by direction 4 of the Primary Medical Services (Directed Enhanced Services) (No.2) Directions 2021; or
- 10.4.2 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 10.5.
- 10.5 The requirements referred to in Clause 10.4 are that the Contractor shall:
- 10.5.1 co-operate with any person responsible for the provision of that service or those services;
- 10.5.2 comply with any reasonable request for information from such a person or from the Commissioner relating to the provision of that Service or those Services.
- 10.5.3 In the case of Out of Hours Services:
- (i) take reasonable steps to ensure that any Patient who contacts the Practice 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 Working 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.

Nothing in Clauses 10.4 and 10.5 shall require the Contractor to make itself available during the Out of Hours Period.

- 10.5A The Contractor must comply with the requirements in Clause 10.5B where it is:
- 10.5A.1 signed up to the Network Contract Directed Enhanced Scheme ("the Scheme"); or
  - 10.5A.2 not signed up to the Scheme but its Registered Patients or Temporary Residents, are provided with services under the Scheme ("the Services") by a contractor which is a member of a Primary Care Network.
- 10.5B The requirements specified in this Clause are that the Contractor must:

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- 10.5B.1 co-operate, in so far as is reasonable, with any person responsible for the provision of the Services;
  - 10.5B.2 comply in Core Hours with any reasonable request for information from such a person or from the Commissioner relating to the provision of the Services;
  - 10.5B.3 have due regard to guidance published by NHS England;
  - 10.5B.4 participate in Primary Care Network meetings, in so far as is reasonable;
  - 10.5B.5 take reasonable steps to provide information to its Registered Patients about the Services, including information on how to access the services and any changes to them; and
  - 10.5B.6 ensure that it has in place suitable arrangements to enable the sharing of data to support the delivery of the Services, business administration and analysis activities.
- 10.5C For the purposes of Clauses 10.5A and 10.5B:
- 10.5C.1 "Primary Care Network" means a network of contractors and other providers of services which has been approved by the Commissioner, serving an identified geographical area; and
  - 10.5C.2 "the Scheme" and "the Services" have the meanings given in Clause 10.5A.
- 10.6 If the Contractor ceases to be required to provide to its Patients:
- 10.6.1 a particular Service; or
  - 10.6.2 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 Commissioner or by any person with whom the Commissioner intends to enter into a contract for the provision of such Services.



- 10.7 The Contractor shall be required to submit an Annual Report, on a date agreed with the Commissioner, but not more than 90 days after service commencement, and thereafter each anniversary which sets out how the Services will be delivered and local and national priorities met for the forthcoming 12 month period.
- 10.8 The Annual Report shall conform to the template set out in Schedule 6 Annex 1 Annual Report Template and Details.
- 10.9 The details as listed in Schedule 6, Annex 1 shall not be considered an exhaustive list of inclusions required in the Annual Report as required by the Commissioner. Annex 1 may be amended by the Commissioner on three (3) months' written notice to the Contractor.

## **11 Storage of Vaccines**

- 11.1 The Contractor shall ensure that:
- 11.1.1 all vaccines are stored in accordance with the manufacturer's instructions; and
  - 11.1.2 all refrigerators in which vaccines are stored have a maximum/minimum thermometer and that readings are taken on all Working Days. Such readings must be recorded in a maintenance log and an immediate response initiated (within agreed practice opening hours) if readings are outside the acceptable range. The maintenance log must be available for inspection at the relevant premises by the Commissioner at any time.

## **12 Infection Control**

- 12.1 The Contractor shall ensure that it has appropriate arrangements for infection control and decontamination, as reasonably determined by the Commissioner.

## **13 Persons who shall perform the Services**

- 13.1 The Contractor is required to comply with this Clause 13 in relation to all persons performing the Services.
- 13.2 Subject to Clauses 13.7.A, and 13.3, no medical practitioner shall perform primary medical services under the Contract unless he is:
- 13.2.1 included in the Medical Performers List and has provided documentary evidence of the same to the Contractor;
  - 13.2.2 not suspended from that list or from the Medical Register; and
  - 13.2.3 not subject to interim suspension under section 41A of the Medical Act 1983 (interim orders).
- 13.3 Clause 13.2.1 shall not apply in the case of:
- 13.3.1 a person who is provisionally registered under sections 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;
  - 13.3.2 a GP Specialty Registrar who has applied to NHS England to have his name included in its Medical Performers List until either NHS England notifies him of its decision on that application, or the end of a period of three (3) months, starting with the date on which that GP Specialty Registrar begins a postgraduate medical education and training scheme necessary for the award of a CCT; or
  - 13.3.3 a medical practitioner, who:
    - 13.3.3.1 is not a GP Specialty Registrar;
    - 13.3.3.2 is undertaking a programme of post-registration supervised clinical practice supervised by the General Medical Council (“a post-registration programme”);

13.3.3.3 has notified the Commissioner that he will be undertaking part or all of a post-graduate programme in England at least twenty-four (24) hours before commencing any part of that programme; and

13.3.3.4 has, with that notification, provided the Commissioner with evidence sufficient for it to satisfy itself that he is undertaking 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.

- 13.4 No Health Care Professional other than one to whom Clauses 13.2 and 13.3 apply shall perform clinical services under the Contract unless he is registered with his relevant professional body and his registration is not currently suspended.
- 13.5 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.
- 13.6 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.
- 13.7 Before employing or engaging any person to assist it in the provision of the Services under the Contract, the Contractor shall take reasonable care to satisfy itself that the person in question is both suitably qualified, including meeting the requirements in Clauses 13.2 and 13.4 and competent to discharge the duties for which he is to be employed or engaged.
- 13.7A Where the prospective employee is a GP Specialty Registrar, Clause

13.2.1 shall apply but subject to the following modifications:

13.7A.1 The GP Specialty Registrar is treated as having provided documentary evidence of the GP Specialty Registrar's Application to NHS England for inclusion in the medical performers list; and

13.7A.2 confirmation that the GP Specialty Registrar's name appears on that list is not required until the end of the first two (2) months of the GP Specialty Registrar's training period.

13.8 When considering the competence and suitability of any person for the purpose of Clause 13.7, the Contractor shall have regard, in particular, to:

13.8.1 that person's academic and vocational qualifications;

13.8.2 his education and training; and

13.8.3 his previous employment or work experience.

13.9 The Contractor shall notify the Commissioner as soon as possible in the event that any Health Care Professional is:

13.9.1 referred to the relevant professional body for alleged misconduct; or

13.9.2 removed from the Relevant Register.

13.10 The Contractor may use the Commissioner's commissioned occupational health service (at its own cost) in order to allow any staff or other persons employed or engaged by it, to undergo medical screening, immunisation or testing prior to their appointment or undertaking any work in connection with the Services.

13.11 The Contractor shall ensure (at its own cost) that all staff undergo reasonable medical screening, examination or tests if requested by the Commissioner at any time after their appointment and answer any

question or supply any information pertaining to their health which the Commissioner may reasonably ask or require.

13.12 The Contractor will maintain detailed records of staff employed or engaged in providing the Services including details of names and place of duty and starting and finishing times, training performance and disciplinary action and any other information relating to the Contractor's obligations in this Clause 13 as may be reasonably required and these records will be available to the Commissioner on reasonable request.

13.13 The Contractor will employ or engage sufficient employees or persons to ensure that all of the Services are provided at all times and in all respects in complete conformity with the Service Specification. This will include, but not be limited to, the Contractor providing a sufficient reserve of trained and competent staff to provide the Services during staff holidays or absence due to contractual or statutory leave entitlements, sickness or voluntary absence.

13.14 The Contractor shall at all times provide a sufficient number of staff of a supervisory and management level to ensure that all persons or staff employed or engaged in providing the Services are at all times adequately supervised and managed and properly perform their duties. The Contractor shall ensure that such supervisory and management level staff are sufficiently skilled, trained and instructed with regard to all matters under the Contract, including without limitation the performance of the Services.

13.15 The Contractor shall ensure that its staff are provided with all necessary and appropriate support to facilitate them in developing career progression pathways.

## **14 Training**

14.1 The Contractor shall ensure that for any Health Care Professional who is:

- 14.1.1 performing clinical services under the Contract; or
- 14.1.2 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. The Commissioner may require the Contractor, where the Contractor is legally able to do so, to restrict or suspend the performance of any named health professional from performing services under this Contract until the requirements of this clause have been satisfied. For the avoidance of doubt any costs associated with the restriction or suspension must be met by the Contractor unless the contract sanction is successfully challenged by the Contractor through the Dispute Resolution Procedure.

- 14.2 The Contractor shall afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence in addition to the Contractor's obligations as to training set out in the Service Specification.

- 14.3 The Contractor must co-operate with the Secretary of State in the discharge of the duty under section 1F (Duty as to Education and Training) 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 1F of the 2006 Act by virtue of its functions under section 97 (1) of the Care Act 2014 (planning education and training for health workers etc.)

- 14.4 The Contractor will employ only such persons as are careful, qualified, skilled and experienced in the duties required of them, and will ensure that every such person is properly and sufficiently trained and instructed (at the Contractor's expense) and carries out the Services with regard to:

- 14.4.1 the task or tasks that person has to perform;

- 14.4.2 all relevant provisions of the Contract and the Service Specification;
  - 14.4.3 all relevant policies, rules, procedures and standards of the Commissioner (including any health and safety at work, harassment, discrimination and equal opportunities policies);
  - 14.4.4 the need for those working in a health services environment to observe the highest standards of hygiene, customer care, courtesy and consideration;
  - 14.4.5 the need to keep confidential all information howsoever acquired whether relating to the Trust and its business, or relating to patients, including but not limited to patient identity, clinical conditions and treatment;
  - 14.4.6 the need to provide a suitably high standard of customer care through both initial and thereafter periodic training both in customer care and in communicating with and supporting Patients to include responding to Patient feedback;
  - 14.4.7 the need to be aware of and understand and recognise Patients' social and cultural diversity, values and beliefs which may influence any decisions taken by Patients and how they want to receive care, treatment and support.
- 14.5 The adherence of the Contractor's staff to required standards of performance shall be routinely monitored and the Contractor shall promptly take such remedial action as may be required where such standards are not attained. The Contractor shall ensure that its staff employed or engaged in providing the Services receive an annual individual appraisal to include the implementation of professional development plans.

## **15 Appraisal and Assessment**

The Contractor shall ensure that any medical practitioner performing

Services under the Contract participates in an appropriate appraisal system and co-operates with the Commissioner in relation to the Commissioner's patient safety functions.

## **16 Arrangements for GP Specialty Registrars**

- 16.1 The Contractor shall only employ a GP Specialty Registrar subject to the conditions in Clause 16.2.
- 16.2 The conditions referred to in Clause 16.1 are that the Contractor shall not, by reason only of having employed or engaged a GP Specialty 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.
- 16.3 Where the Contractor employs a GP Specialty Registrar, the Contractor must offer the GP Specialty Registrar terms of employment in accordance with such rates and subject to the conditions as are approved by the Secretary of State concerning the grants, fees, travelling and other allowances payable to GP Specialty Registrars; and take into account the guidance contained in the document entitled "A Reference Guide to Postgraduate Specialty Training in the UK".

## **17 Notification Requirements in Respect of Specified Prescribers**

- 17.1 Where:
- 17.1.1 the Contractor employs or engages a person who is specified in Clause 17.2.5 whose functions will include prescribing;
- 17.1.2 a party to the Contract is a person who is specified in Clause 17.2.5; or
- 17.1.3 the functions of a person who is a person specified in Clause 17.2.5 and is a person whom the Contractor already



employs or has already engaged are extended to include prescribing,

the Contractor shall notify the Commissioner within the period of seven (7) days beginning with the date on which the Contractor employed or engaged the person, the party to the Contract (unless immediately before becoming such a party, the person fell under Clause 17.1.1), or the person's functions were extended.

17.2 Where:

17.2.1 the Contractor ceases to employ or engage a person who is specified in Clause 17.2.5 whose functions included prescribing in its practice;

17.2.2 a party to the Contract who is a person who is specified in Clause 17.2.5 ceases to be a party to the Contract; or

17.2.3 the functions of a person who is specified in Clause 17.2.5 whom the Contractor employs or engages in its practice are changed so that they no longer include prescribing in its practice; or

17.2.4 the Contractor becomes aware that a person who is specified in Clause 17.2.5 whom it employs or engages has been removed or suspended from the Relevant Register,

the Contractor shall notify the Commissioner by the end of the second Working Day after the day on which the event occurred.

17.2.5 The specified persons are:

17.2.5.1 a Chiropodist or Podiatrist Independent Prescriber;

17.2.5.2 an Independent Nurse Prescriber;

17.2.5.3 a Pharmacist Independent Prescriber;

17.2.5.4 a Physiotherapist Independent Prescriber; and

17.2.5.5 a Supplementary Prescriber.

17.3 The Contractor shall provide the following information when it notifies the Commissioner in accordance with Clause 17.1:

- 17.3.1 the person's full name;
- 17.3.2 his professional qualifications;
- 17.3.3 his identifying number which appears in the Relevant Register;
- 17.3.4 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; and
- 17.3.5 the date on which he was employed or engaged, if applicable, or the date on which one of his functions became to prescribe in its Practice.

17.4 The Contractor shall provide the following information when it notifies the Commissioner in accordance with Clause 17.2:

- 17.4.1 the person's full name;
- 17.4.2 his identifying number which appears in the Relevant Register; and
- 17.4.3 the date on which he ceased to carry out prescribing functions.

## **18 Signing of Documents**

18.1 In addition to any other requirements relating to such documents whether in the Contract or otherwise, the Contractor shall ensure that:

- 18.1.1 the documents specified in Clause 18.2 include:
  - 18.1.1.1 the clinical profession of the Health Care Professional who signed the document; and
  - 18.1.1.2 the name of the Contractor on whose behalf it is signed; and

- 18.1.2 the documents specified in Clause 18.3, include the clinical profession of the Health Care Professional who signed the document.
- 18.2 The documents referred to in Clause 18.1.1 are:
- 18.2.1 certificates issued in accordance with Clause 47.1, unless regulations relating to particular certificates provide otherwise; and
- 18.2.2 any other clinical documents, apart from:
- 18.2.2.1 Home Oxygen Order Forms; and
- 18.2.2.2 those documents specified in Clause 18.1.2.
- 18.3 The documents referred to in Clause 18.1.2 are Batch Issues, Prescription Forms and Repeatable Prescriptions.
- 18.4 The Contractor shall keep an up to date register of authorised signatories and shall promptly notify the Commissioner in the event of any changes from time to time.

## **19 Prescribing**

- 19.1 The Contractor shall ensure that any Prescription Form or Repeatable Prescriptions for drugs, medicines or Appliances issued or created by a Prescriber, any Home Oxygen Order Form issued by a Health Care Professional and any Listed Medicines Voucher issued by a Prescriber or any other person acting under the Contract complies as appropriate with the requirements in Clauses 19.3 to 28.3.
- 19.2 For the purposes of Clauses 19.1 to 28.3 drugs include contraceptive substances and Appliances include contraceptive appliances.

### **Prescribing software and supply shortages etc. of medicines**

- 19.2A.1. This Clause applies where:
- 19.2A.1.1. the Secretary of State, in the exercise of the Secretary of State's obligations, duties or powers in respect of ensuring that

adequate supplies of English Health Service Medicines are available:

19.2A.1.1.1 has acquired information under Part 6 of the Health Service Products (Provision and Disclosure of Information) Regulations 2018 (information about price and availability of health service medicines) about a particular English Health Service Medicine; and

19.2A.1.1.2 authorises the disclosure of information derived from that information (“Relevant Communications Information”) to contractors for the purpose of ensuring, by the appropriate and effective management of:

19.2A.1.1.2.1 a supply shortage of that particular English Health Service Medicine; or

19.2A.1.1.2.2 the discontinuation of the production of that particular English Health Service Medicine;

that adequate supplies of English Health Service Medicines are available;

19.2A.1.2 the Contractor wishes to receive Relevant Communications Information via the prescribing software that it has to support the issuing of prescriptions for English Health Service Medicines (in addition to the other ways in which it may access that information); and

19.2A.1.3 there is a software programme available to the Contractor from its supplier of prescribing software (“SPS”) that would enable that.

- 19.2A.2 Where Clause 19.2A.1 applies, the Contractor must ensure that the arrangements it makes with a SPS to support the issuing of prescriptions for English Health Service Medicines:
- 19.2A.2.1 include appropriate provision requiring the updating of the software to take account of Relevant Communications Information about supply shortages of, or the discontinuation of the production of, particular English Health Service Medicines; and
  - 19.2A.2.2 are, as regards that inclusion, consistent with the authorisation referred to in Clause 19.2A.1.1.2.
- 19.2A.3 The disclosure of Relevant Communications Information by the Secretary of State or a person acting on the Secretary of State’s behalf to a SPS, or by a SPS to a contractor in a manner that is consistent with the authorisation referred to in Clause 19.2A.1.1.2, is not a disclosure of confidential or commercially sensitive information affected by Section 264B(2)(b) of the 2006 Act in a case where but for this Clause it would be if the disclosure is:
- 19.2A.3.1 for the purpose of ensuring, by the appropriate and effective management by the Secretary of State (and persons acting on the Secretary of State’s behalf) of:
    - 19.2A.3.1.1 a supply shortage of the particular English Health Service Medicine in question; or
    - 19.2A.3.1.2 the discontinuation of the production of the particular English Health Service Medicine in question;that adequate supplies of English Health Service Medicines are available; and
  - 19.2A.3.2 proportionate to that purpose.

- 19.2A.4 A disclosure of Relevant Communications Information as mentioned in Clause 19.2A.3 may be by way of permitting access to that information rather than proactive disclosure.
- 19.2A.5 A disclosure of Relevant Communications Information that is as mentioned in Clause 19.2A.3 is to be treated as neither constituting a breach of confidence nor prejudicing commercial interests in any case where, but for this Clause, it would be so treated.
- 19.2A.6 Section 264B(3)(f) of the 2006 Act applies to the Contractor in respect of Relevant Communications Information received as part of the arrangements mentioned in Clause 19.2A.2 as it would if the Secretary of State had disclosed that information to the Contractor directly instead of via an intermediary.
- 19.3 19.2A.7 A SPS must not disclose Relevant Communications Information, other than as provided for in Clause 19.2A.3, if it is confidential or commercially sensitive information that, when disclosed to a Contractor by the Secretary of State, is subject to the disclosure restriction in section 264B(2)(b) of the 2006 Act. Subject to Clauses 19.3.2A, 19.3.3 and 19.3.4 and to Clauses 24 and 25 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:
- 19.3.1 issuing to that Patient a Non-Electronic Prescription Form or Non-Electronic Repeatable Prescription completed in accordance with Clause 19.5; or
- 19.3.2 where Clause 20.1 applies, creating and transmitting an Electronic Prescription,
- and such a Non-Electronic Prescription Form, Non-Electronic Repeatable Prescription or Electronic Prescription shall not be used in any other circumstances.
- 19.3.2A If, on a particular occasion when a drug, medicine or appliance is needed as mentioned in clause 19.3—

- 19.3.2A.1 the prescriber is able, without delay, to order the drug, medicine or appliance by means of an electronic prescription;
  - 19.3.2A.2 the Electronic Prescription Service software that the prescriber would use for that purpose provides for the creation and transmission of electronic prescriptions without the need for a nominated dispenser; and
  - 19.3.2A.3 none of the reasons for issuing a non-electronic prescription form or a non-electronic repeatable prescription given in clause 19.3.2B apply,  
the prescriber must create and transmit an electronic prescription for that drug, medicine or appliance.
- 19.3.2B The reasons given in this clause are—
- 19.3.2B.1 although the prescriber is able to use the Electronic Prescription Service, the prescriber is not satisfied that—
    - 19.3.2B.1.1 the access that the prescriber has to the Electronic Prescription Service is reliable, or
    - 19.3.2B.1.2 the Electronic Prescription Service is functioning reliably;
  - 19.3.2B.2 the Patient, or where appropriate the Patient's authorised person, informs the prescriber that the Patient wants the option of having the prescription dispensed elsewhere than in England;
  - 19.3.2B.3 the Patient, or where appropriate the Patient's authorised person, insists on the Patient being issued with a non-electronic prescription form or a non-electronic repeatable prescription for a particular prescription and in the professional judgment of the prescriber the welfare of the Patient is likely to be in jeopardy unless a non-electronic prescription form or a non-electronic repeatable prescription is issued;

19.3.2B.4 the prescription is to be issued before the contractor's EPS phase 4 date or the contractor has no such date.

19.3.3 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.

19.3.4 During an outbreak of an illness for which a Listed Medicine may be used for treatment or for prophylaxis, if:

19.3.4.1 the Secretary of State or NHS England has made arrangements for the distribution of a Listed Medicine free of charge;

19.3.4.2 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;

19.3.4.3 a person acting on behalf of the Contractor, who is not a Prescriber but who is authorised to order Listed Medicines by NHS England, has applied the criteria referred to in paragraph 19.3.4.2 to any Patient who is receiving treatment under the Contract; and

19.3.4.4 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.



- 19.4 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.
- 19.4A.1 A Prescriber must only order one prescription item on a Prescription Form or Repeatable Prescription that is used by the Prescriber for ordering a Listed HRT Prescription Item.
- 19.4A.2 For the purposes of clause 19.4A.1, “Listed HRT Prescription Item” is to be construed in accordance with regulation 17A(1)(a) of the National Health Service (Charges for Drugs and Appliances) Regulations 2015, read with regulation 17A(7) of those Regulations.
- 19.5 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 and surname, or his 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, and:
- 19.5.1 the Prescription Form or Repeatable Prescription shall not refer to any previous Prescription Form or Repeatable Prescription; and
- 19.5.2 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 28.1 to 28.3; and
- 19.5.3 a Home Oxygen Order Form shall be signed by a Health Care Professional.
- 19.6 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:

- 19.6.1 use only the Prescription Form provided specially for the purposes of supply by instalments;
  - 19.6.2 specify the number of instalments to be dispensed and the interval between each instalment; and
  - 19.6.3 order only such quantity of the drug as will provide treatment for a period not exceeding fourteen (14) days.
- 19.7 The 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 19.6.
- 19.8 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:
- 19.8.1 that drug or medicine is not a Scheduled Drug;
  - 19.8.2 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
  - 19.8.3 he undertakes to furnish the Chemist, within seventy two (72) hours, with a Non-Electronic Prescription Form or Non-Electronic Repeatable Prescription completed in accordance with Clause 19.5 or transmit to the Electronic Prescription Service within seventy-two (72) hours an electronic prescription.
- 19.9 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:
- 19.9.1 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;

19.9.2 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

19.9.3 he undertakes to furnish the Chemist, within seventy two (72) hours, with a Non-Electronic Prescription Form or Non-Electronic Repeatable Prescription completed in accordance with Clause 19.5 or transmit to the Electronic Prescription Service within seventy-two (72) hours an Electronic Prescription.

19.10 When prescribing in relation to pandemic influenza both parties shall comply with the National Health Service (Prescribing and Charging Amendments Relating to Pandemic Influenza) Regulations 2009.

## **20 Electronic Prescriptions**

20.1 A Prescriber may only order drugs, medicines or Appliances by means of an Electronic Prescription if:

20.1.1 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 19.6; or
- (iii) a bulk prescription issued for a school or institution under Clause 28.

20.1A If a prescriber orders a drug, medicine or appliance by means of an electronic prescription, the prescriber must issue the Patient with—  
20.1A.1 subject to clause 20.1C, an EPS token; and

20.1A.2 if the Patient, or where appropriate an authorised person, so requests, a written record of the prescription that has been created.

20.1B On and after the contractor's EPS phase 4 date, if the order is eligible for Electronic Prescription Service use, the prescriber must ascertain if the Patient, or where appropriate the Patient's authorised person, wants to have the electronic prescription dispensed by a nominated dispenser.

20.1C The prescriber must not issue the Patient with an EPS token if the Patient, or where appropriate the Patient's authorised person, wants to have the electronic prescription dispensed by a nominated dispenser.

20.2 A Health Care Professional may not order Home Oxygen services by means of an Electronic Prescription.

## **21 Nomination of Dispensers for the Purpose of Electronic Prescriptions**

21.1 A Contractor which is authorised to use the Electronic Prescription Service for its Patients must, if a Patient, or where appropriate the Patient's authorised person, so requests, enter into the particulars relating to that Patient which is held in the Patient Demographic Service which is operated by the Information Centre for Health and Social Care:

21.1.1 where he does not have a Nominated Dispenser, the Dispenser chosen by the Patient, or where appropriate the Patient's authorised person; and

21.1.2 where he does have a Nominated Dispenser:

21.1.2.1 a replacement Dispenser; or

21.1.2.2 a further Dispenser,

chosen by that Patient.

- 21.2 Clause 21.1.2.2 shall not apply if the number of Nominated Dispensers would thereby exceed the maximum number permitted by the Electronic Prescription Service.
- 21.3 The Contractor:
- (a) shall not seek to persuade a Patient or a Patient's authorised person to nominate a Dispenser recommended by the Prescriber or the Contractor; and
  - (b) shall, if asked by the Patient or his authorised person to recommend a Chemist to whom he or his authorised person might nominate as his Dispenser, provide the Patient or, as the case may be, the Patient's authorised person with the list of all the Chemists in the area who provide an Electronic Prescription Service as given to the Contractor by the Commissioner.

## **22 Repeatable Prescribing Services**

- 22.1 The Contractor may only provide Repeatable Prescribing Services to any person on its List of Patients if it satisfies the conditions in Clause 22.2 and it serves notice on the Commissioner in accordance with the terms of Clauses 22.3 and 22.4.
- 22.2 The Conditions referred to in Clause 22.1 are:
- 22.2.1 the Contractor has access to computer systems and software which enable it to issue Non-Electronic Repeatable Prescriptions and Batch Issues; and
  - 22.2.2 the Practice Premises at which the Repeatable Prescribing Services are to be provided are located in the 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.
- 22.3 The notification referred to in Clause 22.1 is a notification, in writing, by the Contractor to the Commissioner that it:

- 22.3.1 wishes to provide Repeatable Prescribing Services;
  - 22.3.2 intends to begin to provide those services from a specified date; and
  - 22.3.3 satisfies the conditions in Clause 22.2.
- 22.4 The date specified by the Contractor pursuant to Clause 22.3.2 must be at least ten (10) days after the date on which the notification specified in Clause 22.1 is given.
- 22.5 Nothing in this clause requires a Contractor or Prescriber to provide Repeatable Prescribing Services to any person.
- 22.6 A Prescriber may only provide Repeatable Prescribing Services to a person on a particular occasion if:
- 22.6.1 that person has agreed to receive such services on that occasion; and
  - 22.6.2 the Prescriber considers that it is clinically appropriate to provide such services to that person on that occasion.
- 22.7 The Contractor may not provide Repeatable Prescribing Services to any Patient of its whom any of the persons specified in Clause 22.8, is authorised or required by the Commissioner in accordance with arrangements made under section 126 (Arrangements for Pharmaceutical Services) and section 129 (Regulations as to Pharmaceutical Services) of the 2006 Act.
- 22.8 The persons referred to in Clause 22.7 are:
- 22.8.1 a medical practitioner who is a party to the Contract
  - 22.8.2 in the case of a Contract with a company, any medical practitioner who is both a legal and beneficial shareholder in that body; or
  - 22.8.3 any medical practitioner employed by the Contractor.

## **23 Repeatable Prescriptions**

- 23.1 A Prescriber who issues a Non-Electronic Repeatable Prescription must at the same time issue the appropriate number of Batch Issues.
- 23.2 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 it must:
- 23.3 in the case of a Non-Electronic Repeatable Prescription:
- 23.3.1 notify the person; and
  - 23.3.2 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
- 23.4 in the case of an Electronic Repeatable Prescription:
- 23.4.1 arrange with the Electronic Prescription Service for the cancellation of the original Repeatable Prescription; and
  - 23.4.2 create a replacement Electronic Repeatable Prescription relating to that person and notify him that he has done so.
- 23.5 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:
- 23.5.1 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;

- 23.5.2 he has issued the person with a Non-Electronic Repeatable Prescription in place of the Electronic Repeatable Prescription; or
- 23.5.3 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.
- 23.6 Where a Prescriber has cancelled a person's Electronic Repeatable Prescription in accordance with Clause 23.5 he must, as soon as practicable, notify that person.
- 23.7 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:
- 23.7.1 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;
- 23.7.2 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 22.3 (for example, because the person wishes to obtain the drugs, medicines or Appliances from a different Chemist); or
- 23.7.3 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.
- 23.8 Where the circumstances in Clauses 23.7.1 to 23.7.3 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.

## **23A Prescribing for electronic repeat dispensing**

23A.1 Subject to Clauses 19.3 to 19.9, 20, 22 and 23.4 to 23.6, where a Prescriber orders a drug, medicine or Appliance by means of an Electronic Repeatable Prescription, the Prescriber must issue the prescription in a format appropriate for Electronic Repeat Dispensing where it is clinically appropriate to do so for that patient on that occasion.23A.2 In this clause 23A, "Electronic Repeat Dispensing" means dispensing as part of pharmaceutical services or local pharmaceutical services which involves the provision of drugs, medicines or Appliances accordance with an Electronic Repeatable Prescription.

## **24 Restrictions on Prescribing by Medical Practitioners**

24.1 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 a general medical services contract but may, subject to Clause 49.1.1.2, prescribe such a drug, medicine or other substance for that Patient in the course of that treatment under a private arrangement.

24.2 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:

- 24.2.1 that Patient is a person of the specified description;
- 24.2.2 that drug, medicine or other substance is prescribed for that Patient only for the specified purpose; and
- 24.2.3 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 NHS England for the distribution of a Listed Medicine free of charge, the reference “ACP”,

but may, subject to Clause 49.1.1.2, prescribe such a drug, medicine or other substance for that Patient in the course of that treatment under a private arrangement.

24.3 In the course of treating a Patient to whom he is providing treatment under the Contract, a medical practitioner shall not order on a Repeatable Prescription a Restricted Availability Appliance unless:

- 24.3.1 the Patient is a person, or it is for a purpose, specified in the applicable Drug Tariff; and
- 24.3.2 the practitioner includes on the Prescription Form with the reference “SLS”;

but may, subject to Clause 49.1.1.2, prescribe such an Appliance for that Patient in the course of that treatment under a private arrangement.

24.4 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 of the Misuse of Drugs Regulations

2001, but may, subject to Clause 49.1.1.2, prescribe such a drug for that Patient in the course of that treatment under a private arrangement.

24.5 Nothing in Clauses 24.1 to 24.4 prevents a medical practitioner, in the course of treating a Patient, from prescribing a drug, medicine or other substance or, as the case may be, a restricted availability appliance or a controlled drug within the meaning of section 2 of the Misuse of Drugs Act 1971 for the treatment of that Patient under a private arrangement.

24.6 Where under Clause 24.5, a drug, medicine or other substance is prescribed under a private arrangement, and the Order is not for a drug specified in Schedule 2 or 3 of the Misuse of Drugs Regulations 2001, it may be transmitted by the Electrical Prescription Service. If the order is for a drug specified in Schedule 2 or 3 of the Misuse of Drugs Regulations 2001, it must be transmitted by the Electronic Prescription Service.

## **25 Restrictions on Prescribing by Supplementary Prescribers**

25.1 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:

25.1.1 issue or create a prescription for a prescription only medicine;

25.1.2 administer a prescription only medicine for parenteral administration; or

25.1.3 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 25.2.

- 25.2 The conditions referred to in Clause 25.1 are that:
- 25.2.1 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;
  - 25.2.2 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 a general medical services contract;
  - 25.2.3 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:
    - 25.2.3.1 the Patient is a person of the specified description;
    - 25.2.3.2 the medicine is prescribed for that Patient only for the specified purposes; and
    - 25.2.3.3 if the Supplementary Prescriber is issuing or creating on a Prescription Form, the prescriber includes on the Prescription Form the reference “SLS” or, in the case of a Listed Medicine ordered under arrangements made by the Secretary of State or NHS England for the medicine’s distribution free of charge, the reference “ACP”.

## **26 Arrangements for Supplementary Prescribers**

- 26.1 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 an Appliance or a medicine which is not a prescription only medicine as a Supplementary Prescriber under the conditions set out in Clause 27.

## **27 Conditions applying to Clause 26**

The conditions referred to in Clause 26 are that:

- 27.1 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:
- 27.1.1 the name of the Patient to whom the plan relates;
  - 27.1.2 the illness or conditions which may be treated by the Supplementary Prescriber;
  - 27.1.3 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;
  - 27.1.4 reference to the class or description of medicines or types of Appliances which may be prescribed or administered under the plan;
  - 27.1.5 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;
  - 27.1.6 relevant warnings about known sensitivities of the Patient to, or known difficulties of the Patient with, particular medicines or Appliances;
  - 27.1.7 the arrangements for notification of:

- 27.1.7.1 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; and
  - 27.1.7.2 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
  - 27.1.7.3 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;
- 27.2 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;
- 27.3 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;
- 27.4 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:
  - 27.4.1 the Patient is a person of the specified description;
  - 27.4.2 the medicine is prescribed for that Patient only for the specified purposes; and

- 27.4.3 when issuing or creating a prescription he includes on the Prescription Form, the reference “SLS”;
- 27.5 if it is a prescription for an Appliance, the Appliance is listed in Part IX of the Drug Tariff; and
- 27.6 if it is a prescription for a Restricted Availability Appliance:
  - 27.6.1 the Patient is a person of a description mentioned in the entry in Part IX of the Drug Tariff in respect of that Appliance;
  - 27.6.2 the Appliance is prescribed only for the purposes specified in respect of that person in that entry; and
  - 27.6.3 when issuing or creating a prescription he includes on the prescription form the reference “SLS”.
- 27.7 In Clause 27.1 “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:
  - 27.7.1 the Patient to whom the plan relates;
  - 27.7.2 the medical practitioner or dentist who is a party to the plan; and
  - 27.7.3 any Supplementary Prescriber who is to prescribe, give directions for administration or administer under the plan.

## **28 Bulk Prescribing**

- 28.1 Where:
  - 28.1.1 the Contractor is responsible under the Contract for the treatment of ten (10) or more persons in a school or other institution in which at least twenty (20) persons normally reside; and
  - 28.1.2 a Prescriber orders, for any two (2) or more of those persons for whose treatment the Contractor is responsible,

drugs, medicines or Appliances to which this Clause 28 applies,

the Prescriber may use a single Non-Electronic Prescription Form for the purpose.

28.2 Where a Prescriber uses a single Non-Electronic Prescription Form for the purpose mentioned in Clause 28.1.2, 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:

28.2.1 the name of the school or institution in which those persons reside; and

28.2.2 the number of persons residing there for whose treatment the Contractor is responsible.

28.3 Clauses 28 applies to any drug, medicine or Appliance which can be supplied as part of pharmaceutical services or Local Pharmaceutical Services and which:

28.3.1 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 (medicinal products on prescription only); or

28.3.2 in the case of an Appliance, does not contain such a product.

## **29 Excessive Prescribing**

29.1 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.



29.2 In considering whether the Contractor has breached its obligations under Clause 29.1 the Commissioner may, if the Contractor consents, seek the views of the Local Medical Committee (if any) for the area in which the Contractor provides the Services.

29A. Where the Contractor is a dispensing doctor within the meaning of the Pharmaceutical Regulations,<sup>12</sup> the provisions in Schedule 12 will apply.

## **30 Provision of Drugs, Medicines and Appliances for Immediate Treatment or Personal Administration**

30.1 Subject to Clause 30.2, the Contractor:

30.1.1 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

30.1.2 may provide to a Patient any drug, medicine or Appliance, not being a Scheduled Drug, which a person employed or engaged by the Contractor 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.

30.2 Nothing in Clause 30.1 authorises a person to supply any drug or medicine to a Patient otherwise than in accordance with Part 3 of the Medicines Act 1968, or any regulations or orders made under that Act.

## **31 Patients**

### **Persons to whom Services are to be provided**

31.1 Except where specifically stated otherwise in respect of particular services, the Contractor shall provide Services under the Contract to:

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<sup>12</sup> See regulation 46(1) of the *Pharmaceutical Regulations*.

- 31.1.1 Registered Patients;
- 31.1.2 Temporary Residents;
- 31.1.3 persons to whom the Contractor is required to provide emergency or immediately necessary treatment;
- 31.1.4 any person for whom the Contractor is responsible under regulation 30 of the GMS Contracts Regulations;
- 31.1.5 any other person to whom the Contractor is responsible under arrangements made with another Contractor; and
- 31.1.6 any other person to whom the Contractor has agreed to provide Services under the Contract.

### **Patient Registration Area**

- 31.2 The Contractor is responsible for the provision of primary healthcare services in the Patient Registration Area which is defined in Annex 1 of Schedule 2.
- 31.3 Where a Patient:
  - 31.3.1 moves into the Outer Boundary Area to reside; and
  - 31.3.2 wishes to remain on the Contractor's List of Patients,the Patient may remain on the List of Patients if the Contractor so agrees, notwithstanding that the Patient no longer resides in the Patient Registration Area.
- 31.4 Where a Patient remains on the Contractor's List of Patients as a consequence of Clause 31.3, the Parties shall treat the Outer Boundary Area as part of the Patient Registration Area for the purposes of the application of any other terms and conditions of the Contract in respect of that Patient.

### **List of Patients**

- 31.5 The Contractor's List of Patients is open.
- 31.6 Not used.

- 31.7 The Commissioner shall prepare and keep up to date a List of the Patients:
- 31.7.1 who have been accepted by the Contractor for inclusion in its List of Patients under Clauses 31.8 to 31.12 and who have not subsequently been removed from that list under Clauses 31.23 to 31.58; and
  - 31.7.2 who have been assigned to the Contractor under Clauses 31.100A to 31.104 and whose assignment has not subsequently been rescinded.
- 31.7A The Contractor agrees, following receipt of a reasonable written request by the Commissioner:
- 31.7A.1 to take appropriate steps as soon as is reasonably practicable to correct and update Patient data held on the Contractor's computerised clinical systems, and where necessary register or deregister Patients to ensure the Patient list is accurate; and
  - 31.7A.2 to provide information relating to its List of Patients as soon as is reasonably practicable and, in any event, no later than thirty (30) days from the date on which the request was received by the Contractor, in order to assist the Commissioner in the exercise of its duties under clause 31.7.1, contacting Patients where reasonably necessary to confirm that their Patient data is correct.

### **Application for inclusion in a List of Patients**

- 31.8 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 the Patient Registration Area or included, at the time of that application, in the List of Patients of another Contractor or Contractor of primary medical services.

- 31.9 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 the Patient Registration Area or included, at the time of that application, in the List of Patients of another provider of primary medical services.
- 31.10 Subject to Clause 31.11, an application for inclusion in the Contractor's List of Patients may be made by the applicant or a person authorised by the applicant submitting a Medical Card or an application form, including an electronic application form, to the Contractor.
- 31.11 An application may be made:
- 31.11.1 on behalf of any Child:
    - 31.11.1.1 by either parent, or in the absence of both parents, the guardian or other adult who has care of the Child;
    - 31.11.1.2 by a person duly authorised by a local authority to whose care the Child has been committed under the Children Act 1989; or
    - 31.11.1.3 by a person duly authorised by a voluntary organisation by which the Child is being accommodated under the provisions of that Act; or
  - 31.11.2 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.
- 31.12 Where the Contractor has accepted an application for inclusion in its List of Patients, it shall:

- 31.12.1 notify the Patient (or, in the case of a Child or an adult who lacks capacity, the person who made 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
- 31.12.2 record in writing any such preference expressed by or on behalf of the Patient.

### **Temporary Residents**

- 31.13 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:
  - 31.13.1 temporarily resident away from his normal place of residence and is not being provided with Essential Services (or their equivalent) under any other arrangement in the locality where he is temporarily residing; or
  - 31.13.2 moving from place to place and not for the time being resident in any place.
- 31.14 For the purposes of Clause 31.13, 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 twenty four (24) hours but not more than three (3) months.
- 31.15 Where the Contractor wishes to terminate its responsibility for a person accepted as a Temporary Resident before the end of three (3) 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 seven (7) days after the date on which the notification was given.
- 31.16 At the end of three (3) months, or on such earlier date as its responsibility for the Patient has come to an end, the Contractor shall

notify the Commissioner in writing of any person whom it accepted as a Temporary Resident.

### **Refusal of applications for inclusion in the List of Patients or for acceptance as a Temporary Resident**

- 31.17 The Contractor shall only refuse an application made under Clauses 31.8 to 31.16 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.
- 31.18 The reasonable grounds referred to in Clause 31.17 shall, in the case of applications made under Clauses 31.8 to 31.12 include the ground that the applicant does not live in the Patient Registration Area, or lives in the Outer Boundary Area.
- 31.19 If the Contractor refuses an application made under Clauses 31.8 to 31.1.6, it shall, within fourteen (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.
- 31.20 The Contractor shall keep a written record of refusals of applications made under Clauses 31.8 to 31.12 and of the reasons for them and shall make this record available to the Commissioner on request.

### **Patient preference of practitioner**

- 31.21 Where the Contractor has accepted an application for inclusion in its List of Patients under clauses 31.8 to 31.12 (Application for inclusion in a List of Patients). 31.13 to 13.16 (Temporary Residents) or 31.63A.4 to 31.63A.7 (Crown servants and family members returning to the United Kingdom), it shall:
- 31.21.1 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

31.21.2 record in writing any such preference expressed by or on behalf of the Patient.

31.22 The Contractor must endeavour to comply with any reasonable preference expressed under Clause 31.21 but need not do so if the preferred performer:

31.22.1 has reasonable grounds for refusing to provide services to the person who expressed the preference; or

31.22.2 does not routinely perform the service in question within the Contractor's practice.

### **Removals from the list at the request of the Patient**

31.23 The Contractor shall notify the Commissioner in writing of any request for removal from its List of Patients received from a Registered Patient.

31.24 Where the Commissioner receives notification from the Contractor under Clause 31.23, 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.

31.25 A removal under Clause 31.24 shall take effect:

31.25.1 on the date on which the Commissioner receives notification of the registration of the person with another provider of Essential Services (or their equivalent); or

31.25.2 fourteen (14) days after the date on which the notification or request made under Clauses 31.23 or 31.24 respectively is received by the Commissioner,

whichever is the sooner.

31.26 The Commissioner shall, as soon as practicable, notify in writing:

31.26.1 subject to Clause 31.27, the Patient; and

31.26.2 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 31.25.

31.27 In Clauses 31.26, 31.28.2, 31.35.1, 31.41, 31.42, 31.47 31.54 and 31.61 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:

31.27.1 in the case of a Patient who is a Child, a parent or other person referred to in Clause 31.10; or

31.27.2 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.

### **Removals from the list at the request of the Contractor**

31.28 Subject to Clauses 31.36 to 31.43, where the Contractor has reasonable grounds for wishing a Patient to be removed from its List of Patients which do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition, the Contractor shall:

31.28.1 notify the Commissioner in writing that it wishes to have the Patient removed; and

31.28.2 subject to Clause 31.29, notify the Patient in writing of its specific reasons for requesting removal.

31.29 Where the circumstances of the removal are such that it is not appropriate for a more specific reason to be given, and in the reasonable opinion of the Contractor, there has been a breakdown of



trust between the Patient and the Contractor, the reason given under Clause 31.28 may consist of a statement that there has been an irrevocable breakdown in the relationship between the Patient and the Contractor.

31.30 Before the Contractor can request a removal in accordance with Clause 31.28, it shall issue a warning to the Patient that he is at risk of removal unless:

31.30.1 it 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 the Contractor, or other persons; or

31.30.2 the Contractor considers that it is not otherwise reasonable or practical for a warning to be given.

31.31 The Contractor shall record in writing the date of any warning given in accordance with Clause 31.30 or the reason why no such warning was given.

31.32 The Contractor shall keep a written record of removals under Clause 31.28 which shall include the reason for removal given to the Patient, the circumstances of the removal and in cases where Clause 31.29 applies, the grounds for a more specific reason not being appropriate, and the Contractor shall make this record available to the Commissioner on request.

31.33 A removal requested in accordance with Clause 31.28 shall, subject to Clause 31.34, take effect from the date on which the person is registered with another provider of Essential Services (or their equivalent), or the eighth day after the Commissioner receives the notice, whichever is the sooner.

31.34 Where, on the date on which the removal would take effect under Clause 31.33, the Contractor is treating the Patient at intervals of less than seven (7) days, the Contractor shall inform the Commissioner in writing of that fact and the removal shall take effect on the eighth (8th)

day after the Commissioner receives notification from the Contractor that the person no longer needs such treatment, or on the date on which the Commissioner receives notification that the person is registered with another provider of Essential Services (or their equivalent), whichever is the sooner.

31.35 The Commissioner shall notify in writing:

31.35.1 subject to Clause 31.28, the Patient; and

31.35.2 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 31.33 or 31.34.

### **Removal of violent Patients from the list**

31.36 Where the Contractor wishes a Patient to be removed from its List of Patients with immediate effect on the grounds that:

31.36.1 the Patient has committed an act of violence against any of the persons specified in Clause 31.37 or behaved in such a way that any such person has feared for his safety; and

31.36.2 it has reported the incident to the police,

the Contractor shall notify the Commissioner in accordance with Clause 31.37.

31.36A Subject to clause 31.36B, where the Contractor:

31.36A.1 accepts a person onto its List of Patients; and

31.36A.2 subsequently becomes aware that the person has previously been removed from the list of patients of another provider of primary medical services:

31.36A.2.1 because the person committed an act of violence against any of the persons specified in Clause 31.36 (as read with Clause

31.36A) or behaved in such a way that any of those persons feared for their safety; and

31.36A.2.2 the other provider of primary medical services reported the incident to the police,

the Contractor may give notice to the Commissioner in accordance with Clause 31.36 that it wants to have the person removed from its List of Patients with immediate effect.

31.36B The Contractor must not give notice to the Commissioner pursuant to clause 31.36B where:

31.36B.1 a person mentioned in clause 31.36A was allocated to a Violent Patient Scheme set up in accordance with direction 6 of the Primary Medical Services (Directed Enhanced Services) (No.2) Directions 2021 to receive Primary Medical Services under that scheme; and

31.36B.2 the provider of the Scheme discharged that person because they were not considered to pose a risk of violence; or

31.36B.3 that person successfully appealed their allocation to a Violent Patient Scheme.

31.37 The persons referred to in Clause 31.36 are:

31.37.1 a medical practitioner;

31.37.2 in the case of a Contract with a partnership, any partner in that partnership;

31.37.3 in the case of a Contract with a company, any legal and beneficial owner of shares in that company;

31.37.4 any member of the Contractor's staff;

- 31.37.5 any person employed or engaged by the Contractor to perform or assist in the performance of Services under the Contract; or
- 31.37.6 any other person present on the Practice Premises or in the place where the attendance of the medical practitioner or other Health Care Professional occurs.
- 31.37A For the purposes of Clause 31.36A, any reference to “the Contractor” in Clause 31.36 is to be read as a reference to the other provider of primary medical services referred to in Clause 31.37, and Clause 31.36A is to be construed accordingly.
- 31.38 Notification under Clause 31.36 or 31.36A may be given by any means including telephone or fax but if not given in writing such notification shall subsequently be confirmed in writing within seven (7) days (and for this purpose a faxed notification is not a written one).
- 31.39 The Commissioner shall acknowledge in writing receipt of a request from the Contractor under Clause 31.36 or 31.36A.
- 31.40 A removal requested in accordance with Clause 31.36 or 31.36A shall take effect at the time the Contractor makes the telephone call to the Commissioner, or sends or delivers the notification to the Commissioner.
- 31.41 Where, pursuant to Clauses 31.36 to 31.40, the Contractor has notified the Commissioner that it wishes to have a Patient removed from its List of Patients with immediate effect, it shall, subject to Clause 31.41, inform the Patient concerned unless:
- 31.41.1 it is not reasonably practicable for it to do so; or
- 31.41.2 it 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 the Contractor or other persons.

31.42 Where the Commissioner has removed a Patient from the Contractor's List of Patients in accordance with Clause 31.40 it shall, subject to Clause 31.37, give written notice of the removal to that Patient.

31.43 Where a Patient is removed from the Contractor's List of Patients in accordance with Clauses 31.36 to 31.42, the Contractor shall record in the Patient's medical records that the Patient has been removed under this Clause and the circumstances leading to his removal.

### **Removals from the list by the Commissioner**

31.44 The Commissioner must remove a Patient from the Contractor's List of Patients if that Patient has subsequently been registered with another provider of Essential Services (or their equivalent) within England, or it has received notice from a Health Board, a Local 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.

31.45 A removal in accordance with Clause 31.44 shall take effect on the date on which notification of acceptance by the new provider was received or with the consent of the Commissioner, on such other date as has been agreed between the Contractor and the new provider.

31.46 The Commissioner shall notify the Contractor in writing of persons removed from its List of Patients under Clause 31.44.

### **Removals from list of patients who have moved**

31.47 Subject to Clause 31.48, where the Commissioner is satisfied, or is notified by the Contractor, that a person on the Contractor's List of Patients no longer resides in the Patient Registration Area, the Commissioner shall, subject to Clause 31.37:

31.47.1 inform that Patient and the Contractor that the Contractor is no longer obliged to visit and treat the Patient;

31.47.2 advise the Patient 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

31.47.3 inform the Patient that if, after the expiration of thirty (30) days from the date of the letter of advice referred to in Clause 31.47.2, he has not acted in accordance with the advice and informed it accordingly, the Commissioner will remove him from the Contractor's List of Patients.

31.48 If, at the expiration of the period of thirty (30) days referred to in Clause 31.47.3, the Commissioner has not been notified of the action taken, it shall remove the Patient from the Contractor's List of Patients and, subject to Clause 31.37, inform him and the Contractor accordingly.

31.49 Where the address of a Patient who is on the Contractor's List of Patients is no longer known to the Commissioner, the Commissioner shall:

31.49.1 give to the Contractor notice in writing that it intends, at the end of the period of six (6) months commencing with the date of the notice, to remove the Patient from the Contractor's List of Patients; and

31.49.2 at the end of that period, remove the Patient from the Contractor's List of Patients unless, within that period, the Contractor satisfies the Commissioner that it is still responsible for providing Essential Services to that Patient.

### **Removal from the list of patients absent from the United Kingdom etc.**

31.50 The Commissioner shall remove a Patient from the Contractor's List of Patients where it receives notification that that Patient:

31.50.1 intends to be away from the United Kingdom for a period of at least three (3) months;

31.50.2 is in Armed Forces of the Crown (except in the case of a patient to whom clauses 31.142 to 31.146 apply);

- 31.50.3 is serving a prison sentence of more than two (2) years or sentences totalling in the aggregate more than that period;
- 31.50.4 has been absent from the United Kingdom for a period of more than three (3) months; or
- 31.50.5 has died.

31.51 A removal in accordance with Clause 31.50 shall take effect:

- 31.51.1 in the cases referred to in Clauses 31.50.1 to 31.50.3 from the date of the departure, enlistment or imprisonment or the date on which the Commissioner first receives notification of the departure, enlistment or imprisonment whichever is the later;
- 31.51.2 in the cases referred to in Clauses 31.50.4 and 31.50.5 from the date on which the Commissioner first receives notification of the absence or death.

31.52 The Commissioner shall notify the Contractor in writing of Patients removed from its List of Patients under Clause 31.50.

### **Removal from the List of Patients accepted elsewhere as Temporary Residents**

31.53 The Commissioner 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:

- 31.53.1 that the Patient's stay in the place of temporary residence has exceeded three (3) months; and
- 31.53.2 that the Patient has not returned to his normal place of residence or any other place within the Patient Registration Area.

31.54 The Commissioner shall notify the Contractor and, subject to Clause 31.27, where practicable, the Patient, of a removal under Clause 31.53.

31.55 A notification to the Patient under Clause 31.54 shall inform him of:

31.55.1 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

31.55.2 the name, postal and email address of the Commissioner.

### **Removal from a list of pupils at a school etc.**

31.56 Where the Contractor provides Essential Services under the Contract to pupils at, or staff of, a school, the Commissioner shall remove from the Contractor's List of Patients any such patients who do not appear on particulars of persons who are pupils at, or staff of, that school provided by that school.

31.57 Where the Commissioner has made a request to a school to provide the particulars mentioned in Clause 31.56 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 of, that school.

31.58 The Commissioner shall notify the Contractor in writing of Patients removed from its List of Patients under Clause 31.56

### **Termination of responsibility for Patients not registered with the Contractor**

31.59 Where the Contractor:

31.59.1 has received an application for the provision of medical services other than Essential Services:

31.59.1.1 from a person who is not included in the Contractor's List of Patients;



- 31.59.1.2 from a person whom it has not accepted as a Temporary Resident; or
  - 31.59.1.3 on behalf of a person mentioned in Clauses 31.59.1.1 and 31.59.1.2, from one of the persons specified in Clause 31.10; and
- 31.59.2 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 31.60.
- 31.60 The circumstances referred to in Clause 31.59 are:
- 31.60.1 the Patient informing the Contractor that he no longer wishes it to be responsible for provision of the service in question;
  - 31.60.2 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 informing the Patient that it no longer wishes to be responsible for providing him with the service in question; or
  - 31.60.3 it coming to the notice of the Contractor that the Patient:
    - 31.60.3.1 no longer resides in the Patient Registration Area for which the Contractor has agreed to provide the service; or
    - 31.60.3.2 is no longer included in the List of Patients of the other contractor to whose Registered Patients the Contractor has agreed to provide the service in question.

31.61 If the Contractor wishes to terminate its responsibility for a patient under Clause 31.60.2, it shall notify the Patient of the termination and the reason for it.

31.62 The Contractor shall keep a written record of terminations under Clause 31.59 to 31.61 and of the reasons for them and shall make this record available to the Commissioner on request.

31.63 A termination under Clause 31.60.2 shall take effect:

31.63.1 from the date on which the notice is given where the grounds for termination are those specified in Clause 31.36;  
or

31.63.2 in all other cases, fourteen (14) days from the date on which the notice is given.

## **31.63A List of patients: Crown Servants posted overseas and their family members**

### **31.63A.1 Meaning of “Qualifying Person”**

31.63A.1.1 A person (“P”) is a Qualifying Person for the purposes of Clause 31.63A if:

31.63A.1.1.1 P is returning, or has returned, to the United Kingdom; and

31.63A.1.1.2 Clause 31.63A.1.2, 31.63A.1.3, 31.63A.1.4 or 31.63A.1.5 applies to P.

31.63A.1.2 This Clause applies to P if:

31.63A.1.2.1 P is a Civil Servant who is, or, immediately before their return to the United Kingdom, was, posted overseas; or

31.63A.1.2.2 where P is returning, or has returned, to the United Kingdom for more than three months, P:

31.63A.1.2.2.1 was a Civil Servant who was posted overseas; and

31.63A.1.2.2.2 is returning, or has returned, to the United Kingdom (other than temporarily) for the first time since ceasing to be a Civil Servant.

31.63A.1.3 This Clause applies to P if P:

31.63A.1.3.1 is a relevant family member of a person to whom Clause 31.63A.1.2 applies (“R”); and

31.63A.1.3.2 is, or, immediately before their return to the United Kingdom, was, accompanying R on the posting mentioned in that Clause 31.63A.1.2.

31.63A.1.4 This Clause applies to P if P:

31.63A.1.4.1 is a relevant family member of a Civil Servant (“C”) who:

31.63A.1.4.1.1 is posted overseas; or

31.63A.1.4.1.2 where C is deceased, was at the time of their death posted overseas; and

31.63A.1.4.2 is, or, immediately before their return to the United Kingdom, was, accompanying C on the posting mentioned in sub-Clause 31.63A.1.4.1.1.

31.63A.1.5 This Clause applies to P if:

31.63A.1.5.1 P is a relevant family member of a person (“M”) who;

31.63A.1.5.1.1 is a member of the armed forces of the Crown who is, or, immediately

before their return to the United Kingdom, was, posted overseas;

31.63A.1.5.1.2 where M is returning, or has returned, to the United Kingdom for more than three months:

31.63A.1.5.1.2.1 was a member of the armed forces of the Crown who was posted overseas; and

31.63A.1.5.1.2.2 is returning, or has returned, to the United Kingdom (other than temporarily) for the first time since ceasing to be a member of those forces; or

31.63A.1.5.1.3 where M is deceased, was at the time of their death a member of the armed forces of the Crown posted overseas; and

31.63A.1.5.2 P is, or, immediately before their return to the United Kingdom, was, accompanying M on the posting mentioned in sub-Clause 31.63A.1.5.1.2.1.

31.63A.1.6 In this Clause 31.63A.1:

“Civil Servant” means a person employed in the civil service of the State;

“Crown Servant” means:

- (a) a Civil Servant; or
- (b) a member of the armed forces of the Crown.

31.63A.1.7 For the purposes of this Clause 31.63A.1 “Relevant Family Member”, in relation to a Crown Servant (including a Crown Servant who is deceased) (“C”), means:

31.63A.1.7.1 C’s spouse or civil partner;

31.63A.1.7.2 a person whose relationship with C has the characteristics of a relationship between spouses or civil partners;

31.63A.1.7.3 C’s former spouse or former civil partner;

31.63A.1.7.4 a person whose relationship with C had the characteristics of a relationship between spouses or civil partners but which has ended (for any reason);

31.63A.1.7.5 C’s widow, widower or surviving civil partner; or

31.63A.1.7.6 a Dependent Child.

31.63A.1.8 For the purposes of sub- Clause 31.63A.1.7.6, a person is a “Dependent Child” of a Crown Servant if they are a Child of the Crown Servant and:

31.63A.1.8.1 they:

- 31.63A.1.8.1.1 have not, or, when they departed the United Kingdom, had not, attained the Relevant Age; and

31.63A.1.8.1.2 are, or, where the Crown Servant is deceased, were, wholly or mainly financially dependent on the Crown Servant whilst accompanying the Crown Servant on their overseas posting; or

31.63A.1.8.2 they are, or, where the Crown Servant is deceased, were, wholly or mainly financially dependent on the Crown Servant because of a disability (within the meaning of section 6 of the Equality Act 2010).

31.63A.1.9 For the purposes of sub-Clause 31.63A.1.8.1.1 “Relevant Age”:

31.63A.1.9.1 in relation to a Child of a Civil Servant, means the age of 21;

31.63A.1.9.2 in relation to a Child of a member of the armed forces of the Crown, means the age of 25.

31.63A.2 **Qualifying Persons to be treated as previous Patients of contractors**

31.63A.2.1 For the purposes of Clause 31.63A, a Qualifying Person (“P”) is required to be treated as a previous Patient of the Contractor if:

31.63A.2.1.1 where Clause 31.63A.1.2 applies to P, P was removed from the Contractor’s, or a Predecessor Contractor’s, list of Patients under Clause 31.50.1 or 31.50.4 following the posting mentioned in Clause 31.63A.1.2 or a previous overseas posting;

31.63A.2.1.2 where Clause 31.63A.1.3 applies to P, R (within the meaning of that Clause) was removed from the Contractor’s, or a Predecessor Contractor’s, list of Patients under Clause 31.50.1 or 31.50.4 following the

posting mentioned in Clause 31.63A.1.2 or a previous overseas posting;

31.63A.2.1.3 where Clause 31.63A.1.4 applies to P, C (within the meaning of that Clause) was removed from the Contractor's, or a Predecessor Contractor's list of Patients under Clause 31.50.1 or 31.50.4 following the posting mentioned in Clause 31.63A.1.4 or a previous overseas posting;

31.63A.2.1.4 where Clause 31.63A.1.5 applies to P, P was removed from the Contractor's, or a Predecessor Contractor's, list of Patients under Clause 31.50.1 or 31.50.4 following P accompanying M (within the meaning of Clause 31.63A.1.5) on the posting mentioned in Clause 31.63A.1.5 or on a previous overseas posting.

31.63A.2.2 For the purposes of this Clause, a Contractor ("A") is a Predecessor Contractor in relation to another Contractor ("B") if B assumes any of the obligations of A to provide services which were originally provided by A under A's contract.

31.63A.3 **General interpretation of Clause 31.63A**

31.63A.3.1 In Clause 31.63A:

"Child" means:

- (a) a natural child;
- (b) an adopted child; or
- (c) a step-child;

"Planned Return Date" means the date on which a person intends to return to the United Kingdom;

“Qualifying Person” has the meaning given in Clause 31.63A.1;

“Relevant Family Member” has the meaning given in Clause 31.63A.1.

31.63A.3.2 For the purposes of Clause 31.63A, a Crown Servant is posted overseas if:

31.63A.3.2.1 they are performing overseas (but not in Northern Ireland) the duties of a Civil Servant or member of the armed forces of the Crown (as the case may be); and

31.63A.3.2.2 they were, immediately before their posting or the first of consecutive postings, ordinarily resident in the United Kingdom.

31.63A.3.3 For the purposes of Clause 31.63A, a relevant family member of a Crown Servant who has not resided in the United Kingdom and is coming, or has come, to the United Kingdom for the first time is to be treated as if they:

31.63A.3.3.1 are returning, or have returned, to the United Kingdom; and

31.63A.3.3.2 departed the United Kingdom on the day on which they became a relevant family member of the Crown Servant.

31.63A.3.4 For the purposes of Clause 31.63A, a person is to be regarded as temporarily resident in a place if, when that person arrives in that place, they intend to stay for more than 24 hours but not for more than three months.



**31.63A.4 Crown Servants and family members returning to the United Kingdom for more than three months: inclusion in list of original or successor practice**

31.63A.4.1 Subject to Clause 31.63A.4.4, the Contractor must include a Qualifying Person (“P”) in the Contractor’s list of patients if:

31.63A.4.1.1 P is not registered as a Patient with a provider of Primary Medical Services;

31.63A.4.1.2 P is required to be treated as a previous Patient of the Contractor;

31.63A.4.1.3 P is returning, or has returned, to the United Kingdom for a period of more than three months; and

31.63A.4.1.4 either:

31.63A.4.1.4.1 P makes an application for inclusion in the Contractor’s list of Patients (a “List Application”); or

31.63A.4.1.4.2 where P is a person to whom Clause 31.63A.4.2 applies, a List Application is made on their behalf by an Appropriate Person.

31.63A.4.2 This Clause applies to a person if they:

31.63A.4.2.1 have not attained the age of 16 years; or

31.63A.4.2.2 lack the capacity to make a List Application or to authorise a person to make such an application on their behalf.

31.63A.4.3 For the purposes of Clause 31.63A.4.1 it does not matter whether the Contractor’s list of Patients is open or closed.

31.63A.4.4 A List Application:

31.63A.4.4.1 may be made on or after the date which is one month before the Planned Return Date; but

31.63A.4.4.2 must be made before the end of the period of three months beginning with the day on which the person returns to the United Kingdom.

31.63A.4.5 Clause 31.50.1 or 31.50.4 does not apply in respect of a Qualifying Person who is included in the Contractor's list of Patients by virtue of Clause 31.63A.4.1 before their return to the United Kingdom.

31.63A.4.6 Where the Contractor accepts a List Application, the Contractor:

31.63A.4.6.1 must give notice in writing to the Commissioner of that acceptance (including the Planned Return Date, where the application is made and accepted before that date) as soon as possible; but

31.63A.4.6.2 is not required to provide Primary Medical Services to the Qualifying Person before they return to the United Kingdom.

31.63A.4.7 The Commissioner must, on receipt of a notice given under sub-Clause 31.63A.4.6.1:

31.63A.4.7.1 include the Qualifying Person in the Contractor's list of Patients from The Relevant Date; and

31.63A.4.7.2 give notice in writing to the Qualifying Person or the Appropriate Person (as the case may be) of the acceptance.

31.63A.4.8 For the purposes of Clause 31.63A.4.7.1 "The Relevant Date" is:

31.63A.4.8.1 where the relevant List Application is made after a person's return to the United Kingdom, the date on which the Commissioner receives the notice given under sub-Clause 31.63A.4.7.1;

31.63A.4.8.2 where the relevant List Application is made before a person's return to the United Kingdom, the later of:

31.63A.4.8.2.1 the planned return date; and

31.63A.4.8.2.2 the date on which the Commissioner receives the notice given under sub-Clause 31.63A.4.7.1.

31.63A.4.9 This Clause 31.63A.4 is subject to Clause 31.63A.8.

31.63A.5 **Persons returning to the United Kingdom for three months or less: temporary registration with original or successor practice**

31.63A.5.1 The Contractor must accept a Qualifying Person to whom Clause 31.63A.5.2 applies ("P") as a temporary resident provided that the Contractor is satisfied that:

31.63A.5.1.1 if P is in the United Kingdom, P is not being provided with Essential Services (or their equivalent) under any other arrangement in the locality where P is temporarily residing; or

31.63A.5.1.2 if P is not yet in the United Kingdom, when P arrives in the United Kingdom, P will not be provided with Essential Services (or their equivalent) under any other arrangement in the locality where P will be temporarily residing.

31.63A.5.2 This Clause applies to a Qualifying Person if:

31.63A.5.2.1 they are returning, or have returned, to the United Kingdom for a period of more than 24 hours but not more than three months;

31.63A.5.2.2 they are required to be treated as a previous Patient of the Contractor; and

31.63A.5.2.3 either:

31.63A.5.2.3.1 they make an application to be accepted as a Temporary Resident by the Contractor (a “Temporary Resident Application”); or

31.63A.5.2.3.2 where they are a person to whom Clause 31.63A.5.3 applies, a Temporary Resident Application is made on their behalf by an Appropriate Person.

31.63A.5.3 This Clause applies to a person if they:

31.63A.5.3.1 have not attained the age of 16 years; or

31.63A.5.3.2 lack the capacity to make a Temporary Resident Application or to authorise a person to make such an application on their behalf.

31.63A.5.4 For the purposes of Clause 31.63A.5.1 it does not matter whether the Contractor’s list of Patients is open or closed.

31.63A.5.5 A Temporary Resident Application may be made on or after the date which falls one month before the planned return date.

31.63A.5.6 Where the Contractor accepts a Temporary Resident Application, the Contractor’s responsibility for the relevant Qualifying Person does not begin until the Relevant Date.

31.63A.5.7 Where the Contractor wants to terminate its responsibility for a Qualifying Person accepted by it as a temporary resident under this Clause before the end of the Temporary Residence Period:

31.63A.5.7.1 the Contractor must give notice, either orally or in writing, of that fact to the Qualifying Person or an Appropriate Person (as the case may be); and

31.63A.5.7.2 the Contractor’s responsibility for the Qualifying Person is to cease seven days after the date on which the notice mentioned in sub-Clause 31.63A.5.7.1 is given.

31.63A.5.8 The Contractor must give notice in writing to the Commissioner of its acceptance of a Qualifying Person as a Temporary Resident:

31.63A.5.8.1 at the end of the period of three months beginning with the Relevant Date; or

31.63A.5.8.2 if the Contractor’s period of responsibility for that person as a Temporary Resident came to an end earlier than the end of the three month period referred to in Clause 31.63A.5.8.1, at the end of that period.

31.63A.5.9 In this Clause 31.63A.5:

“Relevant Date” means the later of:

- (a) the date on which the Contractor accepts the Qualifying Person as a Temporary Resident; and

- (b) the date on which the Qualifying Person returns to the United Kingdom;

“the Temporary Residence Period”, in relation to a Qualifying Person, means:

- (a) the period of three months beginning with the Relevant Date; or
- (b) such shorter period for which the Contractor agreed to accept that person as a temporary resident.

31.63A.5.10 Not Used.

31.63A.5.11 This Clause 31.63A.5 is subject to Clause 31.63A.8.

**31.63A.6 Crown Servants and family members returning to the United Kingdom for more than three months: inclusion in list of Patients of a new practice**

31.63A.6.1 The Contractor must, if the Contractor’s list of Patients is open, include a Qualifying Person (“P”) in the Contractor’s list of Patients if:

31.63A.6.1.1 P is not registered as a Patient with a provider of Primary Medical Services;

31.63A.6.1.2 P is returning, or has returned, to the United Kingdom for a period of more than three months;

31.63A.6.1.3 P is not required to be treated as a previous Patient of the Contractor; and

31.63A.6.1.4 either:

- 31.63A.6.1.4.1 P makes an application for inclusion in that list (a “List Application”); or

31.63A.6.1.4.2 where P is a person to whom Clause 31.63A.6.2 applies, a List Application is made on their behalf by an Appropriate Person.

31.63A.6.2 This Clause applies to a person if they:

31.63A.6.2.1 have not attained the age of 16 years; or

31.63A.6.2.2 lack the capacity to make a list application or to authorise a person to make such an application on their behalf.

31.63A.6.3 A List Application may be made during the period commencing one month prior to the planned return date and ending 24 hours prior to that date.

31.63A.6.4 Where the Contractor's list of Patients is closed, the Contractor may, by virtue of this Clause, accept a List Application if the applicant is an immediate family member of a registered Patient.

31.63A.6.5 Clause 31.50.1 or 31.50.4 does not apply in respect of a Qualifying Person who is included in the Contractor's list of Patients by virtue of Clause 31.63A.6.1 before their return to the United Kingdom.

31.63A.6.6 Where the Contractor accepts a List Application, the Contractor:

31.63A.6.6.1 must give notice in writing to the Commissioner of that acceptance (including the Planned Return Date) as soon as possible; but

31.63A.6.6.2 is not required to provide Primary Medical Services to the Qualifying Person before they return to the United Kingdom.

31.63A.6.7 The Commissioner must, on receipt of a notice given under sub-Clause 31.63A.6.6.1:

31.63A.6.7.1 include the Qualifying Person in the Contractor's list of Patients from the Relevant Date; and

31.63A.6.7.2 give notice in writing to the Qualifying Person or the Appropriate Person (as the case may be) of the acceptance.

31.63A.6.8 For the purposes of sub-Clause 31.63A.6.7.1 "The Relevant Date" is the later of:

31.63A.6.8.1 the date on which the Commissioner receives the notice given under sub-Clause 31.63A.6.6.1; and

31.63A.6.8.2 the Planned Return Date.

31.63A.6.9 This Clause is subject to Clause 31.63A.8.

31.63A.7 **Crown Servants and family members returning to the United Kingdom for three months or less: temporary registration with new practice**

31.63A.7.1 The Contractor must, if the Contractor's list of Patients is open, accept a Qualifying Person to whom Clause 31.63A.7.2 applies ("P") as a temporary resident provided that the Contractor is satisfied that:

31.63A.7.1.1 if P is in the United Kingdom, P is not being provided with Essential Services (or their equivalent) under any other arrangement in the locality where P is temporarily residing; or

31.63A.7.1.2 if P is not yet in the United Kingdom, when P arrives in the United Kingdom, P will not be provided with Essential Services (or their equivalent) under any other arrangement in the locality where P will be temporarily residing.



31.63A.7.2 This Clause applies to a Qualifying Person if:

31.63A.7.2.1 they are returning, or have returned, to the United Kingdom for a period of at least 24 hours but not more than three months;

31.63A.7.2.2 they are not required to be treated as a previous Patient of the Contractor; and

31.63A.7.2.3 either:

31.63A.7.2.3.1 they make an application to be accepted as a Temporary Resident by the Contractor (a “Temporary Resident Application”); or

31.63A.7.2.3.2 where they are a person to whom Clause 31.63A.7.3 applies, a temporary resident application is made on their behalf by an appropriate person.

31.63A.7.3 This Clause applies to a person if they:

31.63A.7.3.1 have not attained the age of 16 years; or

31.63A.7.3.2 lack the capacity to make a Temporary Resident Application or to authorise a person to make such an application on their behalf.

31.63A.7.4 A Temporary Resident Application may be made on or after the date which falls one month before the Planned Return Date.

31.63A.7.5 Where the Contractor accepts a Temporary Resident Application, the Contractor’s responsibility for the relevant Qualifying Person does not begin until the Relevant Date.

31.63A.7.6 Where the Contractor wants to terminate its responsibility for a Qualifying Person accepted by it as a Temporary Resident under this Clause before the end of the Temporary Residence Period:

31.63A.7.6 .1 the Contractor must give notice, either orally or in writing, of that fact to the Qualifying Person or an Appropriate Person (as the case may be); and

31.63A.7.6 .2 the Contractor's responsibility for the Qualifying Person is to cease seven days after the date on which the notice mentioned in sub-Clause 31.63A.7.6.1 is given.

31.63A.7.7 The Contractor must give notice in writing to the Commissioner of its acceptance of the Qualifying Person as a Temporary Resident:

31.63A.7.7.1 at the end of the period of three months beginning with the Relevant Date; or

31.63A.7.7.2 if the Contractor's period of responsibility for that person as a Temporary Resident came to an end earlier than the end of the three month period referred to in sub-Clause 31.63A.7.7.1, at the end of that period.

31.63A.7.8 In this Clause:

"Relevant Date" means the later of:

- (a) the date on which the Contractor accepts the Qualifying Person as a Temporary Resident; and
- (b) the date on which the Qualifying Person returns to the United Kingdom;

“the Temporary Residence Period”, in relation to a Qualifying Person,  
means:

- (a) the period of three months beginning with the Relevant Date; or
- (b) such shorter period for which the Contractor agreed to accept that person as a temporary resident.

31.63A.7.9 Not Used.

31.63A.7.10 This Clause 31.63A.7 is subject to Clause 31.63A.8.

**31.63A.8 Refusal of an application under Clauses 31.63A.4 to 31.63A.7**

31.63A.8.1 The Contractor may refuse a List Application, or a Temporary Residence Application, if (and only if) the Contractor has reasonable grounds for doing so which do not relate to the Qualifying Person’s age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class.

31.63A.8.2 The reasonable grounds referred to in Clause 31.63A.8.1 may, in the case of a List Application, include the ground that the Qualifying Person will not, on or after the Planned Return Date, live in, or does not intend to live in, either of the following areas:

31.63A.8.2.1 the Contractor’s Practice Area; or

31.63A.8.2.2 the outer boundary area (the area referred to in Clause 2.2).

31.63A.8.3 Where the Contractor refuses a List Application, or Temporary Resident Application, the Contractor must give a Refusal Notice to the

Relevant Person before the end of the period of 14 days beginning with the date of the decision to refuse the application.

31.63A.8.4 For the purposes of Clause 31.63A.8.3, the “Relevant Person” is:

31.63A.8.4.1 the applicant; or

31.63A.8.4.2 where the application was made on behalf of a person who has not attained the age of 16 years or a person who lacks capacity, the person who made the application on their behalf.

31.63A.8.5 The Contractor must:

31.63A.8.5.1 keep a written record of:

31.63A.8.5.1.1 the refusal of any List Application; and

31.63A.8.5.1.2 its reasons for that refusal; and

31.63A.8.5.2 make such records available to the Commissioner on request.

31.63A.8.6 In this Clause 31.63A.8:

“List Application” means an application under Clause 31.63A.4 or 31.63A.6;

“Refusal Notice” means a notice which:

(a) is in writing; and

(b) includes the reasons for the decision to refuse the relevant application; and

“Temporary Residence Application” means an application under Clause 31.63A.5 or 31.63A.7.

### **Application for Closure of Lists of Patients**

- 31.64 Where the Contractor which wishes to close its List of Patients, it must send a written application (the “Application”) to close its list to the Commissioner. The Application must include the following details:
- 31.64.1 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 of Patients and, if any of the options were implemented, the level of success in reducing or extinguishing such difficulties;
  - 31.64.2 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;
  - 31.64.3 any discussions between the Contractor and other providers in the Patient Registration Area and a summary of the opinion of the other providers as to whether the List of Patients should or should not be closed;
  - 31.64.4 the period of time during which the Contractor wishes its List of Patients to be closed and that period must not be less than three (3) months and not more than twelve (12) months;
  - 31.64.5 any reasonable support from the Commissioner which the Contractor considers would enable its List of Patients to remain Open or would enable the period of proposed closure to be minimised;
  - 31.64.6 any plans the Contractor may have to alleviate the difficulties mentioned in that Application during the period

- the List of Patients may be closed in order for that list to re-open at the end of the proposed closure period without the existence of those difficulties; and
- 31.64.7 any other information which the Contractor considers ought to be drawn to attention of the Commissioner.
- 31.65 The Commissioner must acknowledge receipt of the Application within a period of seven (7) days starting on the date the Application was received by the Commissioner.
- 31.66 The Commissioner must consider the Application and may request such other information from the Contractor which it requires to enable it to consider the Application.
- 31.67 The Commissioner must enter into discussions with the Contractor concerning:
- 31.67.1 the support which the Commissioner may give the Contractor; or
- 31.67.2 changes which the Commissioner or Contractor may make, to enable the Contractor to keep its List of Patients open.
- 31.68 The Commissioner and the Contractor must, throughout the discussions referred to in Clause 31.67, use its reasonable endeavours to achieve the aim of keeping the Contractor's List of Patients Open.
- 31.69 The Commissioner 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 to attend any meetings arranged between the Commissioner and the Contractor to discuss the Application.
- 31.70 The Commissioner may consult such persons as it appears to the Commissioner as may be affected by the closure of the Contractor's List of Patients, and if it does so, the Commissioner must provide to

the Contractor a summary of the views expressed by those consulted in respect of the Application.

- 31.71 The Commissioner must enable the Contractor to consider and comment on all the information before the Commissioner makes a decision in respect of the Application.
- 31.72 The Contractor may withdraw its Application at any time before the Commissioner makes a decision in respect of that Application.
- 31.73 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 Commissioner must make a decision:
- 31.73.1 to approve the Application and determine the date the closure is to take effect and the date the List of Patients is to re-open; or
  - 31.73.2 to reject the Application.
- 31.74 The Commissioner must notify the Contractor of its decision to approve the Application in accordance with Clauses 31.75 to 31.76, or in the case where the Application is rejected, in accordance with Clauses 31.82 to 31.84.
- 31.74.1 The Contractor must not submit more than one application to close its List of Patients in any period of 12 months starting on the date on which the Commissioner makes its decision on the Application unless:
    - 31.74.1.1 Clauses 31.82 to 31.84 apply; or
    - 31.74.1.2 there has been a change in circumstances of the Contractor which affects its ability to deliver the Services under the Contract.

## **Approval of Application to Close the Contractor's List of Patients**

- 31.75 Where the Commissioner approves the application to close the Contractor's List of Patients, it must--
- 31.75.1 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 31.76; and
  - 31.75.2 at the same time as it notifies 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 and to any person it consulted in accordance with Clause 31.70.
- 31.76 The Closure Notice must include:
- 31.76.1 the period of time for which the Contractor's List of Patients will be closed which must be:
    - 31.76.1.1 the period specified in the application to close the List of Patients; or
    - 31.76.1.2 in the case where the Commissioner and the Contractor have agreed in writing a different period, that different period,and in either case, the period must be not less than three (3) months and not more than 12 months;
  - 31.76.2 the date from which the closure of the List of Patients is to take effect; and
  - 31.76.3 the date from which the List of Patients is to re-open.
- 31.77 Subject to Clause 31.100, the 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.



- 31.78 Not used
- 31.79 Not used
- 31.80 Not used
- 31.81 Not used

### **Rejection of an Application to Close the Contractor's List of Patients**

- 31.82 Where the Commissioner rejects an application to close the Contractor's List of Patients it must--
  - 31.82.1 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
  - 31.82.2 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 and to any person it consulted in accordance with Clause 31.70.
- 31.83 Subject to Clause 31.84, if the Commissioner makes a decision to reject the Contractor's application to close its List of Patients, the Contractor must not make a further application until--
  - 31.83.1 the end of the period of three (3) months, starting on the date of the decision of the Commissioner to reject; or
  - 31.83.2 the end of the period of three (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 Dispute Resolution Procedure,whichever is the later.
- 31.84 The 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.

31.85 Not used

31.86 Not used

31.87 Not used

### **Application for an Extension of a closure period**

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

31.89 The application to extend the closure period must include:

- 31.89.1 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;
- 31.89.2 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;
- 31.89.3 details of any reasonable support from the Commissioner 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;
- 31.89.4 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
- 31.89.5 any other information which the Contractor considers ought to be drawn to the attention of the Commissioner.

- 31.90 The Commissioner must acknowledge receipt of the application for an extension of the closure period within a period of seven (7) days starting on the date the application was received by the Commissioner.
- 31.91 The Commissioner must consider the application for an extension of the closure period and may request such other information from the Contractor which it requires to enable it to consider that application.
- 31.92 The Commissioner may enter into discussions with the Contractor concerning--
- 31.92.1 the support which the Commissioner may give the Contractor; or
  - 31.92.2 changes which the Commissioner or Contractor may make to enable the Contractor to re-open its List of Patients.
- 31.93 Within a period of fourteen (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 Commissioner must make a decision as to whether to approve or reject the application to extend the closure period.
- 31.94 The Commissioner 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.
- 31.95 Where the Commissioner approves the application to extend the closure period, it must--
- 31.95.1 notify the Contractor of its decision in writing and the notification (the “Extended Closure Notice”) shall include the details referred to in Clause 31.96; and
  - 31.95.2 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 the Services under the Contract and to any person it consulted in accordance with Clause 31.70.

- 31.96 The Extended Closure Notice must include:
- 31.96.1 the period of time for which the Contractor's List of Patients will remain closed which must be--
    - 31.96.1.1 the period specified in the application to extend the closure period; or
    - 31.96.1.2 in the case where the Commissioner and the 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 not be less than three (3) months and not more than 12 months;
  - 31.96.2 the date from which the Extended Closure Period is to take effect; and
  - 31.96.3 the date on which the List of Patients is to re-open.
- 31.97 Where the Commissioner rejects an application to extend the closure period it must:
- 31.97.1 notify the Contractor of its decision in writing and the notification must include the reasons for the rejection of the application; and
  - 31.97.2 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 the Services under the Contract.
- 31.98 Where an application for an extension of the closure period is made in accordance with Clauses 31.88 and 31.89, the List of Patients will remain closed pending:
- 31.99 the determination by the Commissioner of the application for an extension of the closure period; or

- 31.99.1 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.

### **Re-opening of List of Patients**

- 31.100 The Contractor may re-open its List of Patients if, before the expiry of the closure period, the Commissioner and the Contractor agree that the Contractor should re-open its List of Patients.

### **Assignment of patients to lists - general**

- 31.100A Clauses 31.101 to 31.120 apply in respect of the assignment by the Commissioner of:

- 31.100A.1 a person as a new Patient to the Contractor's List of Patients where that person:

31.100A.1.1 has been refused inclusion in a contractor's list of patients or has not been accepted as a temporary resident by a contractor; and

31.100A.1.2 would like to be included in the list of a contractor in whose Integrated Care Board area that person resides;

- 31.100A.2 any person who is part of a List Dispersal resulting from the closure of a practice where that person:

31.100A.2.1 has not registered with another contractor, and

31.100A.2.2 would like to be included in the list of patients of a contractor in whose Integrated Care Board area that person resides; or

31.100A.3 any person who is part of a List Dispersal resulting from the closure of a practice where that person has not registered with another contractor and the Commissioner has been unable to contact that person.

31.100B In clause 31.100A, "List Dispersal" means the allocation of patients from a contractor's list of patients by the Commissioner following termination of the contract or during the period set out in the notice of termination or agreement to terminate.

### **Assignment of patients to lists - open lists**

31.101 The Commissioner may, subject to Clause 31.105, assign a new Patient to the Contractor whose List of Patients is open.

31.102 Not used.

### **Assignment of patients to lists - closed lists**

31.103 The Commissioner may not assign a Patient to the Contractor where it has closed its List of Patients except in the circumstances specified in Clause 31.104.

31.104 The Commissioner may, subject to Clause 31.105, assign a new patient to the Contractor when it has closed its List of Patients if:

31.104.1 the Assessment Panel has determined under the applicable provision of Schedule 5 of the PMS Agreements 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 or (where applicable) by a court; and

- 31.104.2 the Commissioner has entered into discussions with the Contractor regarding the assignment of a patient if such discussions are required under Clauses 31.118 to 31.120.

### **Factors relevant to assignments**

- 31.105 In making an assignment to the Contractor under Clauses 31.101 to 31.104, the Commissioner shall have regard to:
- 31.105.1 the wishes and circumstances of the Patient to be assigned;
  - 31.105.2 the distance between the Patient's place of residence and the Practice Premises;
  - 31.105.3 any request made by the Contractor to remove the Patient from its List of Patients within the preceding period of six (6) months starting on the date on which the application for assignment is received by the Commissioner;
  - 31.105.4 whether, during the six (6) months ending on the date on which the application for assignment is received by the Commissioner, the Patient's name has been removed from the List of Patients on the grounds referred to in:
    - 31.105.4.1 Clauses 31.28 to 31.35 (Removals from the List at the request of the Contractor);
    - 31.105.4.2 Clauses 31.36 to 31.43 (Removal of Violent Patients from the List of Patients); or
    - 31.105.4.3 the equivalent provision in relation to arrangements made under section 83(2) of the 2006 Act, or under a contract made in accordance with the GMS Contracts Regulations;
  - 31.105.5 in a case in which Clause 31.105.4.2 applies (or the equivalent provisions as mentioned in Clause 31.105.4.3 apply) whether the Contractor has appropriate facilities to deal with such Patients; and

31.105.6 such other matters as the Commissioner considers to be relevant.

### **Assignment of patients from outside practice area**

31.105A Where the Commissioner has assigned a person to the Contractor's List of Patients in accordance with clauses 31.101 to 31.120, and that person resides outside the Contractor's Patient Registration Area, clauses 31.125C, 31.125D and 31.125E are to apply as if the Contractor had accepted that Patient onto its List of Patients in accordance with clause 31.125, unless the Contractor chooses to include that person in its List of Patients for its practice area on assignment by the Commissioner.

### **Assignments to closed lists: determination of the Assessment Panel**

31.106 If the Commissioner wishes to assign new patients to providers who have closed their list of patients (including the Contractor), it must prepare a proposal to be considered by the Assessment Panel.

31.107 The Commissioner must notify in writing:

31.107.1 providers (including the Contractor) who provide primary medical services under arrangements made under section 83(2) of the 2006 Act or under a Contract made in accordance with the GMS Contracts Regulations 2004, which:

31.107.1.1 have closed their list of patients; and

31.107.1.2 may, in the opinion of the Commissioner, be affected by the determination of the Assessment Panel; and

31.107.2 the Local Medical Committee (if any) for the area in which the providers (including the Contractor) referred to in clause 31.107.1 provide Essential Services (or their equivalent), that it has referred the matter to the Assessment Panel.



- 31.108 The Commissioner must ensure that the Assessment Panel is appointed to consider and determine its proposal made under Clause 31.106, and the composition of the Assessment Panel shall be as described in Clause 31.109.
- 31.109 The members of the Assessment Panel must be:
- 31.109.1 a member of the Commissioner who is a director;
  - 31.109.2 a patient representative who is a member of the Local Health and Wellbeing Commissioner or Local Healthwatch organisation; and
  - 31.109.3 a member of a Local Medical Committee but not a member of the Local Medical Committee formed for the area in which the Contractor provides Essential Services.
- 31.110 In reaching its determination, the Assessment Panel must have regard to relevant factors including:
- 31.110.1 whether the Commissioner has attempted to secure the provision of Essential Services (or their equivalent) for new patients other than by means of its proposed assignment to a provider (including the Contractor) with a closed list of patients; and
  - 31.110.2 whether the workload of those providers (including the Contractor) is likely to be affected by any decision to assign such patients to their list of patients.
- 31.111 The Assessment Panel must reach a determination within a period of 28 days starting on the date on which the Assessment Panel was appointed.
- 31.112 The Assessment Panel:
- 31.112.1 must determine whether the Commissioner may assign patients to a provider (including the Contractor) which has a closed list of patients; and

- 31.112.2 if it so determines that the Commissioner may make such an assignment, must determine in the case where there is more than one provider, those providers to which patients may be assigned.
- 31.113 The Assessment Panel may determine that the Commissioner may assign new patients to provider other than the providers (including the Contractor) specified in Clause 31.106, as long as the Contractors were notified under Clause 31.107.1.
- 31.114 The Assessment Panel's determination must include its comments on the matters referred to in Clause 31.110, and must be notified in writing to those Contractors referred to in Clause 31.107.1.

**Assignments to closed lists: Dispute Resolution  
Procedure relating to determinations of the Assessment  
Panel**

- 31.115 Where the Assessment Panel determines in accordance with the applicable provisions of Schedule 5 to the PMS Agreements Regulations that the Commissioner 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.
- 31.116 Where, pursuant to Clause 31.115, the Contractor wishes to refer the matter to the Secretary of State either by itself, or jointly with other provider specified in the determination of the Assessment Panel, it must, either by itself or together with the other providers, within the period of seven (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:
- 31.116.1 the names and addresses of the parties to the dispute;

- 31.116.2 a copy of the Contract (or contracts); and
- 31.116.3 a brief statement describing the nature and circumstances of the dispute.

31.117 Where a matter is referred to the Secretary of State in accordance with Schedule 5 to PMS Agreement Regulations it shall be reviewed in accordance with the procedure specified in Schedule 5, Part 2, paragraph 35.

### **Assignments to closed lists: assignments of patients by the Commissioner**

31.118 Before the Commissioner may assign a patient to the Contractor where it has closed its list, it shall, subject to Clause 31.120, enter into discussions with the Contractor regarding additional support that the Commissioner can offer the Contractor, and the Commissioner shall use its best endeavours to provide appropriate support.

31.119 In the discussions referred to in Clause 31.118, both parties shall use reasonable endeavours to reach agreement.

31.120 The requirement in Clause 31.118 to enter into discussions applies:

- 31.120.1 to the first assignment of a patient to the Contractor; and
- 31.120.2 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 31.118 took place.

### **Patients aged 75 and over: Accountable GP**

31.121 The Contractor must ensure that for each of its Registered Patients aged 75 and over there is assigned an Accountable GP.

31.122 The Accountable GP must:

- 31.122.1 take lead responsibility for ensuring that all Services are, to the extent that their provision is considered necessary to meet the needs of the patient, delivered to the Patient;
  - 31.122.2 take all reasonable steps to recognise and appropriately respond to the physical and psychological needs of the Patient in a timely manner;
  - 31.122.3 ensure that the Patient receives a Health Check if, and within a reasonable period after, one has been requested; and
  - 31.122.4 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
- 31.123 The Contractor must –
- 31.123.1 inform the Patient, in such manner as is considered appropriate by the Practice, 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;
  - 31.123.2 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
  - 31.123.3 where the Practice considers it to be necessary, assign a replacement Accountable GP to the Patient and give notice to the Patient accordingly.
- 31.124 The Contractor must comply with the requirement in clause 31.122.1:
- 31.124.1 in the case of any person who is included in the List of Patients immediately before 1 April 2014 and:

- 31.124.1.1 is aged 75 or over on or before that date, by 30 June 2014; or
- 31.124.1.2 who attains the age of 75 after that date, within 21 days from the date on which that person attained that age; or
- 31.124.2 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.

### **NHS e-Referral Service (e-RS)**

- 31.124A Except in the case of a contractor to which Clause 31.124A.1 or 31.124A.2 applies, the Contractor must require the use in its Practice of the system for electronic referrals known as the NHS e-Referral Service (“e-RS”) in respect of each referral of any of its registered patients to a first consultant-led out-patient appointment for medical services under the Act in respect of which the facility to use e-RS is available.
- 31.124A.1 This Clause applies to a contractor which does not yet have e-RS in place for use in the contractor’s Practice.
- 31.124A.2 This Clause applies to a contractor which:
- 31.124A.2.1 is experiencing technical or other practical difficulties which are preventing the use, or effective use, of e-RS in its Practice; and
- 31.124A.2.2 has notified the Commissioner that this is the case.
- 31.124A.3 A contractor to which Clause 31.124A.1 applies must require the use in its Practice of alternative means of referring its registered patients to a first consultant-led outpatient appointment for medical services under the Act until such time as the contractor has e-RS in place for use in its Practice.
- 31.124A.4 A contractor to which clause 31.124A.2 applies:

31.124A.4.1 must ensure that a plan is agreed between the contractor's Practice and the Commissioner for resolving the technical or other practical difficulties which are preventing the use, or effective use, of e-RS in the contractor's Practice; and;

31.124A.4.2 must require the use in its Practice of alternative means of referring its registered patients to a first consultant-led out-patient appointment for medical services under the Act until such time as those technical or other practical difficulties have been resolved to the satisfaction of the Commissioner.

### **Direct booking by NHS 111 or via a Connected Service**

31.124B The Contractor must ensure that as a minimum the following number of appointments during Core Hours for its Registered Patients are made available per day for direct booking by or via a service ("a Connected Service") approved by NHS England that is or may be accessed via NHS 111:

31.124B.1 one, where a contractor has 3,000 Registered Patients or fewer; or

31.124B.2 one for each whole 3,000 Registered Patients, where a Contractor has more than 3,000 Registered Patients.

31.124C The Contractor must:

31.124C.1 configure its computerised systems to allow direct booking by NHS 111 or via a Connected Service;

31.124C.2 monitor its booking system for appointments booked by NHS 111 or via a Connected Service;

31.124C.3 assess the Post Event Message received from NHS 111 or via a Connected Service in order to decide whether an alternative to the booked appointment should be arranged, such as a telephone call to the Patient or an

appointment with another Health Care Professional and where appropriate, make those arrangements; and

31.124C.4 co-operate with NHS England in its oversight of direct booking by NHS 111 or via a Connected Service by providing any information relating to direct booking by NHS 111 or via a Connected Service which is reasonably required by NHS England.

31.124D The requirements in Clauses 31.124B and 31.124C do not apply where:

31.124D.1 NHS England and the Contractor have agreed to suspend the requirements for operational reasons; or

31.124D.2 the Contractor does not have access to computer systems and software which would enable it to offer the service described in Clause 31.124B.

31.124E In Clauses 31.124B to 31.124D, "Post Event Message" means the electronic message which is sent to a contractor at the end of a telephone call to NHS 111 or via a Connected Service.

31.124F In order to assist in the management of a serious or potentially serious risk to human health arising as a consequence of a disease being, or in anticipation of a disease being imminently:

31.124F.1 pandemic; and

31.124F2 a serious risk or potentially a serious risk to human health;

NHS England may with the agreement of the Secretary of State make an announcement to the effect that the minimum numbers of appointments mentioned in clause 31.124B are modified in the circumstances specified (which may limit the area to which the modification relates), and for the duration of the period specified, in the announcement, and where NHS England does so, the minimum numbers are as so modified.

**Registered Patients from outside Patient Registration Area; variation of contractual terms**

- 31.125 Where the Contractor provides Essential Services, the Contractor may accept on its List of Patients a person who resides outside of the Patient Registration Area. Where the Contractor accepts any such person in accordance with this clause 31.125, clauses 31.125A to 31.125E shall apply.
- 31.125A Subject to clauses 31.125D and 31.125E, the terms of the Contract specified in clause 31.125B are varied so as to require the Contractor to provide to the person any services which the Contractor is required to provide to its Registered Patients under the Contract as if the person resided within the Patient Registration Area.
- 31.125B The terms of the Contract specified for the purposes of clauses 31.125 to 31.125E are:
- 31.125B.1 the terms under which the Contractor is to provide Essential Services;
- 31.125B.2 any terms under which the Contractor is required to provide Out of Hours Services to patients to whom it provides Essential Services; and
- 31.125B.3 clause 3.2 (attendance at practice premises).
- 31.125C Where, under clause 31.125, a Contractor accepts onto its List of Patients a person who resides outside of the Patient Registration 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 31.125B, or to comply with those terms, clause 31.28 (which relates to the removal of a patient from the list at the Contractor's request) is deemed modified in relation to that patient so that:



31.125C.1 in clause 31.28 the Contractor is permitted to remove a Patient on the grounds of the Patient's disability or medical condition if 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.

31.125D Where the Contractor accepts a Patient in accordance with clause 31.125, the Contractor and the Commissioner are each released, in relation to that Patient, from all obligations, rights and liabilities relating to the terms specified in clause 31.125B (including any right to enforce those terms) where, in the opinion of the Contractor, it is not clinically appropriate or practical under those arrangements:

31.125D.1 to provide the services or access to services in accordance with those terms; or

31.125D.2 to comply with those terms.

31.125E The Contractor must notify a person in writing, where the Contractor is minded to accept that person on its List of Patients in accordance with clause 31.125, that the Contractor is under no obligation to provide:

31.125E.1 Essential Services, and any other service in Core Hours, if, 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; or

31.125E.2 Out of Hours Services if, at the time treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the Patient.

## **Savings in respect of the Patient Choice Extension Scheme**

- 31.126 Where, before 1 April 2014 a Patient is included in the Contractor's List of Patients pursuant to arrangements entered into by the Contractor and the Commissioner under the Patient Choice Extension Scheme and the terms of the Contract were varied pursuant to Direction 14 of the APMS Directions as it had effect immediately before that date,<sup>13</sup> the Patient may remain registered with the Contractor's Practice and any variation to the Contract which exempts the Contractor's Practice from obligations or liabilities under those arrangements continues to operate for such period as the patient remains so registered and paragraph 6 of the above mentioned Direction 14 as it had effect immediately before 1 April 2014 continues to have effect in relation to an APMS contract where, before that date, the Contractor had entered into arrangements with the Commissioner under the Patient Choice Extension Scheme.

## **Newly registered patients – alcohol dependency screening**

- 31.127 Where under clause 31.7 a Patient has been:
- 31.127.1 accepted onto the Contractor's List of Patients; or
  - 31.127.2 assigned to that list by the Commissioner,
- the Contractor must 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.
- 31.128 The Contractor must comply with the requirement in clause 31.127 by screening the Patient using either one of the two shortened versions of

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<sup>13</sup> i.e. Direction 14 (Mandatory terms for an APMS contract under which Patient Choice Extension Scheme arrangements are to be provided) of the Alternative Provider Medical Services Directions 2013.

the World Health Organisation Alcohol Use Disorders Identification ("AUDIT") questionnaire<sup>14</sup> which are known as:

31.128.1 FAST (which has four questions); or

31.128.2 AUDIT-C (which has three questions).

31.129 Where, under clause 31.128, the Contractor identifies a Patient as positive using either of the shortened versions of the AUDIT questionnaire specified in clause 31.128, 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.

31.130 Where a Patient is identified as drinking at increasing or higher risk levels, the Contractor must:

31.130.1 offer the Patient appropriate advice and lifestyle counselling;

31.130.2 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

31.130.3 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.

31.131 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:

31.131.1 assessed for anxiety and depression;

31.131.2 offered screening for anxiety or depression; and

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<sup>14</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, are available in hard copy from NHS England, PO Box 16738, Redditch, B97 7PT

31.131.3 where anxiety or depression is diagnosed, provided with any treatment and support which may be required under the agreement, including referral for specialist mental health treatment.

31.132 The Contractor must make relevant entries, including the results of the completed questionnaire referred to in clause 31.128, in the Patient's record that the Contractor is required to keep under clause 32.

### **Patients Living with Frailty**

31.132A The Contractor must take steps each year to identify any Registered Patient aged 65 years and over who is living with moderate to severe frailty.

31.132B The Contractor must comply with the requirements of Clause 31.132A by using the Electronic Frailty Index <sup>15</sup> or any other appropriate assessment tool.

31.132C Where the Contractor identifies a Patient aged 65 or over who is living with severe frailty, the Contractor must:

31.132C.1 undertake a clinical review in respect of the Patient which includes:

- (a) an annual review of the Patient's medication; and
- (b) where appropriate, a discussion with the Patient about whether the Patient has fallen in the last 12 months,

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<sup>15</sup> Information about the Electronic Frailty Index is available in guidance published by NHS England entitled "Supporting Routine Frailty Identification through the GP Contract 2017/18". This guidance is available at: <https://www.england.nhs.uk/publication/supportingroutine-frailty-identification-and-frailty-through-the-gp-contract-20172018/> or from NHS England, PO Box 16738, Redditch, B97 7PT.

31.132C.2 provide the Patient with any other clinically appropriate interventions; and

31.132C.3 where the Patient does not have an enriched Summary Care Record<sup>16</sup>, advise the Patient about the benefits of having an enriched Summary Care Record and activate that record at the Patient's request.

31.132D The Contractor must, using codes agreed by NHS England for the purpose, record in the Patient's Summary Care Record any appropriate information relating to clinical interventions provided to a Patient under this Clause.

### **Accountable GPs**

31.133 A Contractor must ensure that for each of its Registered Patients (including patients under the age of 16) there is assigned an Accountable GP.

31.134 The Accountable GP must take the 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.

31.135 The Contractor must –

31.135.1 inform the Patient, as soon as 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;

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<sup>16</sup> Guidance about enriching a patient's Summary Care Record with additional information published by the Health and Social Care Information Centre is available at: <http://webarchive.nationalarchives.gov.uk/20160921135209/http://systems.digital.nhs.uk/scr/additional/patientconsent.pdf> or from NHS Digital, 4 Trevelyan Square, Boar Lane, Leeds LS1 6AA.

- 31.135.2 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
  - 31.135.3 where the Practice considers it to be necessary, assign a replacement Accountable GP to the Patient and give notice to the Patient accordingly.
- 31.136 The Contractor must comply with the requirement in sub-clause 31.135.1:
  - 31.136.1 by 30th June 2015, in the case of any person who is included in the Contractor's List of Patients immediately before 1 April 2015; or
  - 31.136.2 in the case of any person who is accepted by the Contractor as a Registered Patient on or after 1 April 2015, within 21 days from the date on which that patient is so accepted.
- 31.137 The requirement in clause 31.133 does not apply to:
  - 31.137.1 any Patient of the Contractor who is aged 75 or over, or who attains the age of 75, on or after 1 April 2015; or
  - 31.137.2 any other patient of the Contractor if the Contractor has been informed that the Patient does not wish to have an Accountable GP.
- 31.138 Where, under sub-clause 31.135.1, 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.
- 31.139 Where, under sub-clause 31.137.2, 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 32.

31.140 The Contractor must include information about the requirement to assign an Accountable GP to each of its new and existing Registered Patients:

31.140.1 on the Contractor's Practice Website or Online Practice Profile; and

31.140.2 in the Contractor's Practice Leaflet.

31.141 Not used.

### **Inclusion in list of patients: armed forces personnel**

31.142 The Contractor may, if its List of Patients is open, include a person to whom clause 31.143 applies in its List of Patients for a period of up to two years and clause 31.50.2 does not apply in respect of any person included in the Contractor's List of Patients by virtue of clauses 31.142 to 31.146.

31.143 This clause applies to a person who is:

31.143.1 a serving member of the Armed Forces of the Crown who has received written authorisation from defence Medical Services<sup>17</sup> to receive primary medical services from the Contractor's Practice; and

31.143.2 living or working within the Contractor's Patient Registration Area during the period in respect of which that written authorisation is given.

31.144 Where the Contractor has accepted a person to whom clause 31.143 applies onto its List of Patients, the Contractor must:

31.144.1 obtain a copy of the patient's medical record or a summary of that record from Defence Medical Services; and

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<sup>17</sup> Defence Medical Service is an umbrella organisation within the Ministry of Defence which is responsible for the provision of medical, dental and nursing services in the United Kingdom to members of the armed forces of the Crown.

- 31.144.2 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.
- 31.145 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:
- 31.145.1 Notify Defence Medical Services in writing that its responsibility for that person has come to an end; and
- 31.145.2 Update the Patient's medical record, or summary of that record, and return it to Defence Medical Services.
- 31.146 In clauses 31.142 to 31.145, "primary medical services" are the medical services which are provided by the Contractor's Practice under the Contract to which Part 4 of the 2006 Act applies.

### **Inclusion in List of Patients: Detained Persons**

- 31.147 The Contractor must, if the List of Patients is open, include a person to whom Clause 31.148 applies (a "detained person") in that list and Clause 31.50.2 does not apply in respect of a detained person who is included in the List of Patients by virtue of this Clause.
- 31.148 This Clause applies to a person who:
- 31.148.1 is serving a term of imprisonment of more than two (2) years, or more than one (1) term of imprisonment totalling, in the aggregate, more than two (2) years;
- 31.148.2 is not registered as a Patient with a provider of Primary Medical Services; and



- 31.148.3 makes an application under this Clause in accordance with Clause 31.149 to be included in the List of Patients by virtue of either Clause 31.147 or Clause 31.152 before the Scheduled Release Date.
- 31.149 An application under Clause 31.148.3 may be made during the period commencing one month prior to the Scheduled Release Date, and ending twenty-four (24) hours prior to that date.
- 31.150 Subject to Clauses 31.151 and 31.152, the Contractor may only refuse an application under Clause 31.148.3 if the Contractor has reasonable grounds for doing so which do not relate to the applicant's age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class.
- 31.151 The reasonable grounds referred to in Clause 31.150 may include the ground that the applicant will not, on or after the Scheduled Release Date, live in the Patient Registration Area or does not intend to live in that area.
- 31.152 Where the List of Patients is closed, the Contractor may, by virtue of this Clause, accept an application under Clause 31.148.3 if the applicant is an immediate family member of a Registered Patient.
- 31.153 Where the Contractor accepts an application from a person under Clause 31.148.3 for inclusion in the List of Patients, the Contractor:
- 31.153.1 must give notice in writing to the provider of the Detained Estate Healthcare Service or to the Commissioner of that acceptance as soon as possible, and

- 31.153.2 is not required to provide Primary Medical Services to that person until after the Scheduled Release Date.
- 31.154 The Commissioner must, on receipt of a notice given under Clause 31.153.1:
- 31.154.1 include the applicant in the List of Patients from the date notified to the Commissioner the provider of the Detained Estate Healthcare Service; and
- 31.154.2 give notice in writing to the provider of the Detained Estate Healthcare Service of that acceptance.
- 31.155 Where the Contractor refuses an application made under Clause 31.148.3, the Contractor must give notice in writing of that refusal, and the reasons for it, to the provider of the Detained Estate Healthcare Service or to the Commissioner before the end of the period of fourteen (14) days beginning with the date of the Contractor's decision to refuse.
- 31.156 The Contractor must:
- 31.156.1 keep a written record of:
- (a) the refusal of any application under Clause 31.148.3;  
and  
(b) the reasons for that refusal; and
- 31.156.2 make such records available to the Commissioner on request.

## RECORDS, INFORMATION, NOTIFICATION AND RIGHTS OF ENTRY

### 32 Patient Records

32.1 In this Clause “computerised records” means records created by way of entries on a computer.

32.2 The Contractor shall keep adequate records of its attendance on and treatment of its Patients and shall do so:

32.2.1 on forms supplied to it for the purpose by NHS England; or

32.2.2 with the written consent of the Commissioner, by way of computerised records; or

32.2.3 in a combination of those two (2) ways.

32.3 The Contractor shall include in the records referred to in Clause 32.2 clinical reports sent in accordance with Clause 10.1.

32.4 The consent of the Commissioner required by Clause 32.2.2 shall not be withheld or, once given, withdrawn provided the Commissioner is satisfied, and continues to be satisfied, that:

32.4.1 the computer system upon which the Contractor proposes to keep the records meets the requirements set out in the GPIT Operating Model;

32.4.2 the security measures audit and system management functions incorporated into the computer system and compliant with the GPIT Operating Model have been enabled; and

32.4.3 the Contractor is aware of, and has signed an undertaking that it will have regard to the guidelines contained in “the Good Practice Guidelines for GP Electronic Records (Version 4)”, published on 21 March 2011 or in any document which it has been notified by the Commissioner has replaced that document.

- 32.5 Where a Patient's records are computerised records the Contractor shall, as soon as possible following a request from the Commissioner, allow the Commissioner to access the information recorded on its computer system by means of the audit function referred to in Clause 32.4.2 to the extent necessary for the Commissioner to check that the audit function is enabled and functioning correctly.
- 32.6 The Contractor shall send the complete records relating to a Patient to the Commissioner:
- 32.6.1 as soon as possible, at the request of the Commissioner; or
  - 32.6.2 where a person on its list dies, before the end of the period of fourteen (14) days beginning with the date on which it was informed by the Commissioner 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 and the Contractor's obligations pursuant to this Clause, and Clause 32.7 below shall survive the termination or expiry of the Contract.
- 32.7 To the extent that a Patient's records are computerised records, the Contractor complies with Clause 32.6 if it sends to the Commissioner a copy of those records:
- 32.7.1 in written form; or
  - 32.7.2 with the written consent of the Commissioner in any other form.
- 32.8 The consent of the Commissioner to the transmission of information other than in written form for the purposes of Clause 32.7.2 shall not be withheld or withdrawn provided it is satisfied, and continues to be satisfied, with the following matters:
- 32.8.1 the Contractor's proposals as to how the record will be transmitted;

- 32.8.2 the Contractor’s proposals as to the format of the transmitted record;
- 32.8.3 how the Contractor will ensure that the record received by the Commissioner is identical to that transmitted; and
- 32.8.4 how a written copy of the record can be produced by the Commissioner.

32.9 Where the Contractor keeps 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 32.4.2.

### 32.9A **Record of Ethnicity Information**

32.9A.1 This Clause applies if the Contractor, or a person acting on behalf of the Contractor, makes a request to a Patient (“P”) for P to disclose their ethnicity to the Contractor so that information can be recorded in P’s medical record (a “Relevant Request”).

32.9A.2 If P, or where P is a person to whom Clause 32.9A.4 applies, an Appropriate Person acting on behalf of P, discloses P’s ethnicity in response to the Relevant Request, the Contractor must record P’s ethnicity in P’s medical record.

32.9A.3 If P, or where P is a person to whom Clause 32.9A.4 applies, an Appropriate Person acting on behalf of P, indicates that they would prefer not to disclose P’s ethnicity in response to the Relevant Request, the Contractor must record that response in P’s medical record.

32.9A.4 This Clause applies to a person if they:

32.9A.4.1 are a Child; or

32.9A.4.2 lack the capacity to respond to the Relevant Request.

32.9A.5 Any information recorded in accordance with this Clause may only be processed if the processing is necessary for medical purposes.

32.9A.6 Nothing in this Clause 32.9A authorises the Processing of Personal Data in a manner inconsistent with any provision of the Data Protection Legislation.

32.9A.7 In this Clause 32.9A:

“Data Protection Legislation”, “Personal Data” and “Processing” have the same meanings as in the Data Protection Act 2018 (see section 3 of that Act);

“Medical Purposes” has the meaning given for the purposes of section 251 of the 2006 Act.

### **Summary Care Record**

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

32.11 The requirement in clause 32.10 does not apply to the Contractor where:

32.11.1 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

32.11.2 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.

## **Electronic transfer of patient records**

- 32.12 The Contractor must use the GP2GP Facility for the safe and effective transfer of any Patient Records:
- 32.12.1 in a case where a new Patient registers with the Practice, to the Practice from another provider of primary medical services (if any) with which the Patient was previously registered; or
  - 32.12.2 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.
- 32.13 Not used.
- 32.13A Clause 32.12 does not apply in the case of a Temporary Resident.
- 32.13B **Transfer of patient records between GP practices: time limits**
- 32.13B.1 This Clause applies where:
- 32.13B.1.1 a Patient on the Contractor's list of Patients has registered with another provider of Primary Medical Services; and
  - 32.13B.1.2 the Contractor receives a request from that provider for the complete records relating to that Patient.
- 32.13B.2 The Contractor must, before the end of the period of 28 days beginning with the day on which it receives the request from the provider:
- 32.13B.2.1 send the complete records (other than any part of the records held only in paper form) to the provider via the GP2GP Facility in accordance with Clauses 32.12; and
  - 32.13B.2.2 send to the Commissioner in accordance with Clause 32.12, the complete records, or any part of the records:

32.13B.2.2.1 for which the Contractor does not receive a Confirmation; or

32.13B.2.2.2 held only in paper form.

32.13B.3 In this Clause 32.13B:

“Confirmation”, in relation to records sent via the GP2GP Facility, means Confirmation of safe and effective transfer via that facility.

### **Clinical correspondence: requirement for NHS number**

32.14 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 except where, in exceptional circumstances outside of the Contractor’s control, it is not possible for the Contractor to ascertain the patient’s NHS Number.

### **Use of fax machines**

32.14A Where the Contractor can transmit information by electronic means (other than facsimile transmission) securely and directly to a Relevant Person, the Contractor must not:

32.14A.1 transmit any information to that person by facsimile transmission; or

32.14A.2 agree to receive any information from that person by facsimile transmission.

32.14B Clause 32.14A does not apply to any information which relates solely to the provision of clinical services or treatment to a Patient under a private arrangement.

32.14C In clauses 32.14A to 32.14C, "Relevant Person" means:

32.14C.1 an NHS Body;

32.14C.1 another health service provider;

32.14C.1 a Patient; or



32.14C.1 a person acting on behalf of a Patient.

### **Patient online services: appointments and prescriptions**

32.15 The Contractor must promote and offer to its Registered Patients the facility for a Patient:

32.15.1 to book, view, amend, cancel and print appointments online;

32.15.2 to order repeat prescriptions for drugs, medicines or appliances online; and

32.15.3 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 Contractor using appropriate systems authorised by the Commissioner.

32.15A The Contractor must, when complying with the requirements in Clause 32.15.1:

32.15A.1 ensure that all of its Directly Bookable Appointments are made available for online booking, whether or not those appointments are booked online, by telephone or in person, to include all appointments which must be made available for direct booking by NHS 111 in accordance with Clauses 31.124B to 31.124E); and

32.15A.2 consider whether it is necessary, in order to meet the needs of its Registered Patients, to increase the proportion of appointments which are available for its Registered Patients to book online and, if so, increase that number.

32.15B In the case of appointments required to be made available for direct booking by NHS 111 in accordance with Clauses 31.124B to 31.124E, those appointments can be released to be booked by a Contractor's Registered Patients by any means in the two hour period within Core Hours prior to the appointment time, or such other period agreed

pursuant to a Local Arrangement, if they have not been booked by NHS 111 prior to this time.

- 32.16 Not used.
- 32.16A Not used.
- 32.16B Not used.
- 32.17 The Contractor must also promote and offer to its Registered Patients the facility referred to in clauses 32.15.1 and 32.15.2 on the home page (or equivalent) of its Practice Website or Online Practice Profile.
- 32.18 The requirements in clause 32.15 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 32.15 to its Registered Patients.
- 32.18A In Clauses 32.15 to 32.18:
- 32.18A.1 "Local Arrangement" means an arrangement between the Contractor and the Commissioner as to the timeframe within which appointments not booked by NHS 111 can be released for booking by the Contractor's Registered Patients.
- 32.18A.2 Not used.
- 32.19 Not used.
- 32.20 Not used.

### **Patient online services: provision of online access to coded information in medical record and Prospective Medical Record**

- 32.20A Where the Contractor holds the medical record of a Registered Patient ("P") on its computerised clinical systems, the Contractor must promote

and offer to P the facility to access online the information from P's medical record which is held in coded form other than:

- 32.20A.1 any Excepted Information; or
  - 32.20A.2 any information which the Contractor's computerised clinical systems cannot separate from any free-text entry in P's medical record.
- 32.20B The Contractor must, if its computerised clinical systems and redaction software allow, offer to P the facility to access online the information (other than any Excepted Information) entered onto P's medical record on or after the relevant date (the "Prospective Medical Record").
- 32.20C If P accepts an offer made under clause 32.20B, the Contractor must, as soon as possible, provide P with the facility to access online P's Prospective Medical Record.
- 32.20D But the Contractor may:
- 32.20D.1 delay providing the facility to P, if the Contractor considers that providing P with it is likely to have an adverse impact on its provision of Essential Services;
  - 32.20D.2 delay giving P online access to any information added to P's Prospective Medical Record after the facility is provided to P, if the Contractor considers that providing P with access to that information is likely to have an adverse impact on its provision of Essential Services.
- 32.20E If the Contractor decides to delay providing P with access to the facility or giving P access to any information, it must notify P:
- 32.20E.1 of that decision (including the period for which it anticipates access will be delayed); and
  - 32.20E.2 when the facility, or that information, becomes available.
- 32.20F In clauses 32.20A to 32.20H, "Relevant Date" means:

32.20F.1 1 April 2020, where P became a registered patient before 1 October 2019;

32.20F.2 in any other case, 1 October 2019.

32.20G For the purposes of clauses 32.20A to 32.20J, information is "Excepted Information" if the Contractor would not be required to disclose it to P in response to a request made by P in exercise of a right under Article 15 of the GDPR.

32.20H For the purposes of clause 32.20G, "GDPR" has the meaning given in section 3(10) of the DPA 2018.

### **Patient online services: provision of online access to full digital medical record**

32.20I The Contractor must provide a Registered Patient ("P") with the facility to access online Relevant Medical Information if:

32.20I.1 its computerised clinical systems and redaction software allow it to do so; and

32.20I.2 P requests, in writing, that it provide that facility.

32.20J In clauses 32.20I and 32.20J "Relevant Medical Information" means any information entered on P's medical record other than:

32.20J.1 any information which P can access online via a facility offered in accordance with clauses 32.20A or 32.20B; or

32.20J.2 any Excepted Information.

### **32.20K Patient online services: providing and updating personal or contact information**

32.20K.1 The Contractor must offer and promote to its registered Patients a facility for providing their personal or contact information or informing the Contractor of a change to that information, which meets the condition in

Clause 32.20K.2.

32.20K.2 A facility meets the condition in this Clause if it enables:

32.20K.2.1 P; or

32.20K.2.2 where P is a person to whom Clause 32.20K.3 applies, an Appropriate Person acting on behalf of P;

to provide the Contractor with, or inform it of any change to, P's personal or contact information in P's medical record, either online or by other electronic means.

32.20K.3 This Clause applies to a person if they:

32.20K.3.1 are a Child; or

32.20K.3.2 lack the capacity to provide the Contractor with their personal or contact information or to authorise a person to provide such information on their behalf.

32.20K.4 For the purposes of this Clause, P's personal and contact information is:

32.20K.4.1 their name;

32.20K.4.2 their ethnicity;

32.20K.4.3 their address;

32.20K.4.4 their telephone number or mobile telephone number (if any); and

32.20K.4.5 their electronic mail address (if any).

## **32.20L Patient online services: provision of an online consultation tool**

32.20L.1 The Contractor must offer and promote an Online Consultation Tool to its registered Patients.

32.20L.2 An Online Consultation Tool is an online facility provided using Appropriate Software:

32.20L.2.1 through which:

32.20L.2.1.1 a Patient; or

32.20L.2.1.2 where the Patient is a person to whom Clause 32.20L.4 applies, an Appropriate Person acting on behalf of the Patient;

may, in writing in electronic form, seek advice or information related to the Patient's health or make a clinical or administrative request; but

32.20L.2.2 which does not require the response to be given by the Contractor in real time.

32.20L.3 An Online Consultation Tool may incorporate:

32.20L.3.1 any of the facilities which the Contractor is required to offer under Clauses 32.15 to 32.20K; or

32.20L.3.2 the communication method which the Contractor is required to offer under Clause 32.20M.

32.20L.4 This Clause applies to a person if they:

32.20L.4.1 are a Child; or

32.20L.4.2 lack the capacity to communicate with the Contractor through an online facility or to authorise a person to communicate with the Contractor through such a facility on their behalf.

## **32.20M Secure electronic communications**

32.20M.1 The Contractor must:

32.20M.1.1 offer and promote to its registered Patients a Relevant Electronic Communication Method; and

32.20M.1.2 use the Relevant Electronic Communication Method to communicate with:

32.20M.1.2.1 a registered Patient; or

32.20M.1.2.2 where the registered Patient is a person to whom Clause 32.20M.4 applies, an Appropriate Person acting on behalf of the Patient.

32.20M.2 But Clause 32.20M.1.2 does not require the Contractor to use the Relevant Electronic Communication Method where:

32.20M.2.1 it would not be clinically appropriate to do so for the Patient on that occasion; or

32.20M.2.2 it is otherwise not appropriate to the needs or circumstances of the Patient.

32.20M.3 For the purposes of this regulation, a “Relevant Electronic Communication Method” is a method of electronic communication which is provided using Appropriate Software and which can be used:

32.20M.3.1 by the Contractor to respond, in writing in electronic form, to requests made through the Online Consultation Tool; and

32.20M.3.2 by the Contractor and its registered Patients or Appropriate Persons acting on behalf of registered Patients (as the case may be) to otherwise communicate with each other, in writing in electronic form.

32.20M.4 This Clause applies to a person if they:

32.20M.4.1 are a Child; or

32.20M.4.2 lack the capacity to communicate with the Contractor using the Relevant Electronic Communication Method or to authorise a person to do so on their behalf.

## **32.20N Video Consultations**

32.20N.1 The Contractor must offer and promote to its registered Patients the facility of participating in their consultations with the Contractor by video conference provided using Appropriate Software (“Video Consultations”).

32.20N.2 But Clause 32.20N.1 does not require the Contractor to offer a Patient a Video Consultation where:

32.20N.2.1 it would not be clinically appropriate to do so for the Patient on that occasion; or

32.20N.2.2 it is otherwise not appropriate to the needs or circumstances of the Patient.

32.20N.3 The Contractor must not be party to a contract or other arrangement under which the software mentioned in Clause 32.20N.1 is provided unless:

32.20N.3.1 it is satisfied that any software which a Patient needs to participate in a Video Consultation with the Contractor’s practice is available free of charge to the Patient; and

32.20N.3.2 it has taken reasonable steps, having regard to the arrangement as a whole and disregarding the costs of any software, to satisfy itself that Patients will not have to pay more to participate in Video Consultations with the Contractor’s practice than they would to participate in a meeting by video conference with any other person in the Contractor’s area.



## **32.200 Meaning of appropriate software for the purposes of clauses 32.20L, 32.20M and 32.20N**

32.200.1 For the purposes of Clauses 32.20L, 32.20M and 32.20N software which is used to provide a method of communication or facility (as the case may be) is appropriate if the software meets:

32.200.1.1 the requirements in the GPIT Operating Model relevant to that software; or

32.200.1.2 requirements which are equivalent in their effect to the relevant requirements in the GPIT Operating Model.

32.200.2 Not used.

## **Patient access to online services**

32.21 This Clause applies to any contractor which has less than ten per cent of its registered patients registered with the contractor's practice to use the online services which the contractor is required under Clauses 32.15 - 32.17 or clauses 32.20A or 32.20B to promote and offer to its registered patients ("patient online services").

32.22 A contractor to which this Clause applies must agree a plan with the Commissioner aimed at increasing the percentage of the contractor's registered patients who are registered with the contractor's practice to use patient online services.

## **33 Confidentiality of Personal Data**

33.1 The Contractor shall nominate a person with responsibility for practices and procedures relating to the confidentiality of Personal Data (as defined in the Data Protection Legislation) held by it.

33.2 The Contractor shall maintain the confidentiality of Personal Data entrusted to it in accordance with the provisions of the Data Protection Legislation.

33.3 The Contractor shall have regard to the Provisions of the Confidentiality and Disclosure of Information: General Medical Services, Personal Medical Services and Alternative Contractor Medical Services Code of Practice (as amended or reissued from time to time).

### **33A Requirement to have and maintain an online presence**

33A.1 The Contractor must have:

32A.1.1 a Practice Website; or

32A.1.2 an Online Practice Profile.

33A.2 The Contractor must publish on its Practice Website or Online Practice Profile (as the case may be) all the information which is required to be included in its Practice Leaflet.

33A.3 The Contractor must publish that information otherwise than by making its Practice Leaflet available for viewing or downloading.

33A.4 The Contractor must review the information available on its Practice Website or Online Practice Profile at least once in every period of (twelve)12 months.

33A.5 The Contractor must make any amendments necessary to maintain the accuracy of the information on its Practice Website or Online Practice Profile following:

33A.5.1 a review under clause 33A.4;

33A.5.2 a change to:

- 33A.5.2.1 the address of any of the Contractor's Practice Premises,
  - 33A.5.2.2 the Contractor's telephone number,
  - 33A.5.2.3 the Contractor's electronic-mail address (if made available on its Practice Website or Online Practice Profile); or
  - 33A.5.2.4 any other stated means by which a Patient may contact the Contractor to book or amend an appointment, or to order repeat prescriptions for drugs, medicines or Appliances.
- 33.5A The Contractor must also ensure there are links on its Practice Website or Online Practice Profile which direct people to:
- 33.5A.1 its Online Consultation Tool; and
  - 33.5A.2 the symptom checker and self-care information available on the NHS website.<sup>18</sup>
- 33.5B The links mentioned in Clause 33.5A must be displayed prominently on the home page (or equivalent) of its Practice Website or Online Practice Profile (as the case may be).
- 33A.6 The requirements in this clause 33A are in addition to those in clauses 35B and 31.140.
- 33A.7 In this Contract, "Online Practice Profile" means a profile:
- 33A.7.1 which is on a website (other than the NHS website<sup>19</sup>), or an online platform, provided by another person for use by the Contractor; and

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<sup>18</sup> The symptom checker is currently available at: <https://www.nhs.uk/conditions/>.

<sup>19</sup> The NHS website is available at: <https://www.nhs.uk/>.

33A.7.2 through which the Contractor advertises the Primary Medical Services it provides.

## **33B Requirement to maintain profile page on NHS website**

33B.1 The Contractor must review the information available on its profile page on the NHS website<sup>19</sup> at least once in every period of twelve (12) months.

33B.2 The Contractor must make any amendments necessary to maintain the accuracy of the information its profile page following:

33B.2.1 a review under clause 33B.1;

33B.2.2 a change to:

33B.2.2.1 the address of any of the Contractor's Practice Premises;

33B.2.2.2 the Contractor's telephone number;

33B.2.2.3 the Contractor's electronic-mail address (if made available on its profile page); or

33B.2.2.4 any other stated means by which a Patient may contact the Contractor to book or amend an appointment, or to order repeat prescriptions for drugs, medicines or Appliances.

## **34 Provision of Information to a Medical Officer Etc.**

34.1 The Contractor must, if satisfied that the Patient consents:

34.1.1 supply in writing to any person specified in Clause 34.3, within such reasonable period as that person may specify, such clinical information as any of the persons mentioned in Clauses 34.3.1 to 34.3.4 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

34.1.2 answer any inquiries by any person mentioned in Clause 34.3 about:

34.1.2.1 a Prescription Form or medical certificate issued or created by, or on behalf of, the Contractor, or

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

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

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

34.3.1 a Medical Officer;

34.3.2 a Nursing Officer;

34.3.3 an Occupational Therapist;

34.3.4 a Physiotherapist; or

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

## **34A National Diabetes Audit**

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

34A.2 The data referred to in Clause 34A.1 must be appropriately coded by the Contractor and uploaded onto the Contractor's computerised clinical systems in line with the requirements of guidance published by NHS Employers for these purposes<sup>20</sup>.

34A.3 The Contractor must ensure that the coded data is uploaded onto its computerised clinical systems and available for collection by the Health and Social Care Information Centre at such intervals during each financial year as are notified to the Contractor by NHS Digital.

## **34B Information relating to indicators no longer in the Quality and Outcomes Framework<sup>21</sup>**

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

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<sup>20</sup> See section 2 of the guidance entitled "2017/18 General Medical Services (GMS) Contract" published by NHS Employers which is available at <https://www.england.nhs.uk/gp/investment/gp-contract/>.

<sup>21</sup> The Quality and Outcomes Framework (QOF) is provided for in General Medical Services Statement of Financial Entitlements Directions 2021. Participation by contractors in the QOF is voluntary. However, contractors which participate in the QOF are required to accomplish the specified tasks or achieve the specified outcomes which are included in the QOF as "indicators" in return for payments which are measured against their achievements in respect of particular indicators. The General Medical Services Statement of Financial Entitlements Directions 2021 are available at: <https://www.gov.uk/government/publications/nhs-primary-medical-services-directions-2013>. Hard copies may be obtained by post from the General Practice Team, Quarry House, Quarry Hill, Leeds LS2 7UE.

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

34C.1 The Contractor must allow the extraction by the Health and Social Care Information Centre of the information<sup>22</sup> specified in:

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

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

from the record that the Contractor is required to keep in respect of each Registered Patient under regulation 60 of the PMS Agreements Regulations by such means, and at such intervals during each Financial Year, as are notified to the Contractor by the Health and Social Care Information Centre.

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

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

## **34D NHS Digital Workforce Collection**

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

34D.2 The data referred to in clause 34D.1 must be appropriately coded by the Contractor in line with agreed standards set out in guidance published by the Health and Social Care Information Centre, and must be

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<sup>22</sup> See section 4 of the guidance entitled "2017/18 General Medical Services (GMS) Contract" published by NHS Employers which is available at <http://www.nhsemployers.org/gms201718> or from NHS Employers, 2 Brewery Wharf, Kendall Street, Leeds, LS10 1JR.

submitted to the Health and Social Care Information Centre using the data entry module on the National Workforce Reporting System,<sup>23</sup> which is a facility provided by the Centre to the Contractor for this purpose.

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

## **34E Information relating to overseas visitors**

34E.1 The Contractor must:

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

34E.1.2 where applicable in the case of a Patient, record the fact that the Patient is the holder of a document:

34E.1.2.1 which is:

34E.1.2.1.1 a European Health Insurance Card;

34E.1.2.1.2 an S1 Healthcare Certificate<sup>24</sup>;  
or

34E.1.2.1.3 a document which, for the purposes of a listed healthcare

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<sup>23</sup> The National Workforce Reporting System is the approved web tool made available by the Health and Social Care Information Centre to contractors for the purposes of submitting data online. Further information regarding the collection and recording of data by contractors for the purposes of the NHS Digital Workforce Survey is available at: [http://bit.ly/NWRS\\_Webpage](http://bit.ly/NWRS_Webpage), or may be obtained by post from NHS Digital, 1 Trevelyan Square, Boar Lane, Leeds, West Yorkshire LS1 6AE.

<sup>24</sup> An S1 Healthcare Certificate is issued to those who are posted abroad and who pay National Insurance Contributions in the United Kingdom or to people in receipt of UK exportable benefits (e.g. retirement pensions). Further information is available at: [https://contactcentreservices.nhsbsa.nhs.uk/selfnhsukokb/AskUs\\_EHIC/template.do?name=S1+form+-+what+is+this+and+=how+do+I+obtain+one%253F&id=16477](https://contactcentreservices.nhsbsa.nhs.uk/selfnhsukokb/AskUs_EHIC/template.do?name=S1+form+-+what+is+this+and+=how+do+I+obtain+one%253F&id=16477) or from NHS BSA, Stella House, Goldcrest Way, Newbury Riverside, Newcastle Upon Tyne, NE15 8NY.



arrangement as defined in regulation 1(3) of the Healthcare (European Economic Area and Switzerland Arrangements) (EU Exit) Regulations 2019, is treated as equivalent to a document referred to in sub-Clause 34E.1.2.1.1 (“EHIC Equivalent Document”) or sub-Clause 34E.1.2.1.2 (“S1 Equivalent Document”); and

34E.1.2.2 which has not been issued to or in respect of the Patient by the United Kingdom.

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

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

34E.2.2 in the case of a Patient who holds a Provisional Replacement Certificate<sup>25</sup> issued in respect of the Patient's European Health Insurance Card, the information contained on that certificate in respect of the Patient.

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

34E.3.1 electronically at [nhsdigital.costrecovery@nhs.net](mailto:nhsdigital.costrecovery@nhs.net); or

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<sup>25</sup> Further information about Provisional Replacement Certificates is available at: <http://www.nhs.uk/NHSEngland/Healthcareabroad/EHIC/Pages/about-the-ehic.aspx> or from NHS England, PO Box 16738, Redditch, B97 7PT.

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

34E.4 Where the Patient is a holder of a S1 Healthcare Certificate or S1 Equivalent Document, the Contractor must send that certificate or document, or a copy of that certificate or document, to the NHS Business Services Authority:

34E.4.1 electronically to [nhsbsa.faregistrationsohs@nhs.net](mailto:nhsbsa.faregistrationsohs@nhs.net); or

34E.4.2 by post in hard copy form to Cost Recovery, Overseas Healthcare Service, Bridge House, 152 Pilgrim Street, Newcastle Upon Tyne, NE1 6SN.

## **34F MHRA Central Alerting System**

34F.1 The Contractor must:

34F.1.1 provide to the MHRA on request, an electronic mail address which is registered to the Contractor's Practice;

34F.1.2 monitor that address;

34F.1.3 if that address ceases to be registered to the Practice, notify the MHRA immediately of its new electronic mail address; and

34F.1.4 provide to the MHRA on request, one or more mobile telephone numbers for use in the event the Contractor is unable to receive electronic mail.

## **34G Collection of data relating to appointments in general practice**

34G.1 The Contractor must participate in the collection of anonymised data relating to appointments for its Registered Patients ("GP Practice Data") in accordance with the "GP Appointments Data Collection in Support of

Winter Pressures"<sup>26</sup> referred to in the Health and Social Care Information Centre (Establishment of Information Systems for NHS Services: General Practice Appointments Data Collection in Support of Winter Pressures) Directions 2017.<sup>27</sup>

- 34G.2 The Contractor must ensure that all GP Practice Data relating to the provision of Primary Medical Services under this Contract is recorded within the appointment book in accordance with the guidance entitled "More accurate General Practice appointment data".<sup>28</sup>
- 34G.3 The Contractor must ensure that the GP Practice Data is uploaded onto its computerised clinical systems and available for collection by the Health and Social Care Information Centre at such intervals during each Financial Year as notified to the Contractor by the Health and Social Care Information Centre.
- 34G.4 For the purposes of this clause 34G, "Appointment Book" means a capability provided by the Contractor's computerised clinical systems and software supplier which supports the administration, scheduling, resourcing and reporting of appointments.

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<sup>26</sup> Originally introduced in support of winter pressures and still referred to that way. NHS Digital: <https://digital.nhs.uk/about-nhs-digital/corporate-information-and-documents/directions-and-data-provision-notices/data-provision-notices-dpns/gp-appointments-data-collection-in-support-of-winter-pressures-version-2>. Hard copies can be obtained by post from NHS Digital, 1 Trevelyan Square, Boar Lane, Leeds LS1 6AE.

<sup>27</sup> The Health and Social Care Information Centre (Establishment of Information Systems for NHS Services: General Practice Appointments Data Collection in Support of Winter Pressures) Directions 2017, which were signed on 15<sup>th</sup> September 2017, are made under section 254 of the Health and Social Care Act 2012 (c.7). See: <https://digital.nhs.uk/about-nhs-digital/corporate-information-and-documents/directions-and-data-provision-notices/data-provision-notices-dpns/gp-appointments-data-collection-in-support-of-winter-pressures-version-2>, or hard copies may be obtained by post from NHS Digital, 1 Trevelyan Square, Boar Lane, Leeds, West Yorkshire LS1 6AE.

<sup>28</sup> The guidance can be found at: <https://www.england.nhs.uk/publication/more-accurate-general-practice-appointment-data-guidance/> or hard copies can be obtained by post from Primary Care Strategy and NHS Contracts Group, NHS England, Area 2D, Skipton House, 80 London Road, London SE1 6HL.

## **34H Collection of data concerning use of online consultation tools and video consultations**

34H.1 The Contractor must submit to the Commissioner such anonymised data relating to the use of its Online Consultation Tool and video consultation facility as the Commissioner may require.

## **35 Provision of Information to the Commissioner**

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

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

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

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

35.2 Not used.

35.3 Not used.

35.4 Not used.

35.5 Not used.

## **35A Friends and Family Test**

- 35A.1 A Contractor which provides Essential Services must give all Patients who use the Contractor's Practice the opportunity to provide feedback about the service received from the Practice through the Friends and Family Test.
- 35A.2 The Contractor must:
- 35A.2.1 report the results of completed Friends and Family Tests to the Commissioner; and
  - 35A.2.2 publish the results of such completed Tests, in the manner approved by the Commissioner.
- 35A.3 In this Clause 35A, "Friends and Family Test" means the arrangements that a Contractor is required by the Commissioner to implement to enable its Patients to provide anonymous feedback about the patient experience at the Contractor's Practice.

## **35B Publication of earnings information**

- 35B.1 The Contractor must publish each year on its Practice Website or Online Practice Profile the information specified in clause 35B.2.
- 35B.2 The information specified in this sub-paragraph is:
- 35B.2.1 the mean net earnings in respect of the previous financial year of:
    - 35B.2.1.1 all general medical practitioners who were party to the agreement for a period of at least six months during that financial year, and
    - 35B.2.1.2 any general medical practitioners who were employed or engaged by the Contractor to provide services under the Contract in the

Contractor's Practice, whether on a full-time or part-time basis, for a period of six months during that financial year; and

35B.2.2 the:

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

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

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

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

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

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

## **35C Disclosure of information about NHS Earnings: APMS Contractors and Sub-Contractors**

35C.1 If the Contractor is an individual Medical Practitioner, the Contractor must comply with the Disclosure Obligation for each Relevant Financial Year in which:

35C.1.1 they are a Contractor; and

35C.1.2 their NHS Earnings exceed the Relevant Threshold.

35C.2 If the Contractor is a partnership, each Partnership Member must comply with the Disclosure Obligation for each Relevant Financial Year in which:

35C.2.1 the partnership is a Contractor; and

35C.2.2 the Partnership Member's NHS Earnings exceed the Relevant Threshold.

35C.3 In this Clause 35C:

35C.3.1 the "Disclosure Obligation", in relation to a Relevant Financial Year, is the requirement for an individual ("I") to submit the following information for publication to the Health and Social Care Information Centre by the Disclosure Date:

35C.3.1.1 I's name;

35C.3.1.2 I's job title;

35C.3.1.3 the details of each organisation from which I has derived NHS Earnings in that financial year; and

35C.3.1.4 the amount of I's NHS Earnings for that financial year;

35C.3.2 “Relevant Financial Year” means a financial year ending:

35C.3.2.1 on or after 31 March 2022; but

35C.3.2.2 on or before 31 March 2024;

35C.3.3 “Relevant Threshold” means:

35C.3.3.1 Not Used;

35C.3.3.2 Not Used;

35C.3.3.3 for the financial year ending on 31 March 2022, £156,000;

35C.3.3.4 for the financial year ending on 31 March 2023, £159,000;

35C.3.3.5 for the financial year ending on 31 March 2024, £163,000.

35C.4 For the purposes of sub-Clause 35C.3.1 “the Disclosure Date”, in relation to a Relevant Financial Year, is 30 April in the financial year which begins immediately after the end of the Next Financial Year.

35C.5 For the purposes of Clause 35C.4 “the Next Financial Year”, in relation to a financial year (“FY1”), is the financial year which begins immediately after the end of FY1.

35C.6 The Contractor must not sub-contract any of its obligations to provide clinical services under the Contract unless:

35C.6.1 where the Sub-Contractor is an individual, the sub-contract entered into by the Contractor requires the individual to comply with the Disclosure Obligation for each Relevant Financial Year in which the individual’s NHS Earnings exceed the Relevant Threshold;



- 35C.6.2 where the Sub-Contractor is a partnership, the sub-contract entered into by the Contractor requires each Sub-Contractor Partnership Member to comply with the Disclosure Obligation for each Relevant Financial Year in which the Sub-Contractor Partnership Member's NHS Earnings exceed the Relevant Financial Threshold;
- 35C.6.3 in all cases, the sub-contract prohibits the Sub-Contractor ("S") from sub-contracting, where such further sub-contracting is permitted by this Contract, any of the clinical services S has agreed with the Contractor to provide under the sub-contract unless:
- 35C.6.3.1 where the Sub-Contractor is an individual ("I"), the sub-contract entered into by S requires I to comply with the Disclosure Obligation for each financial year in which I's NHS Earnings exceed the Relevant Threshold;
- 35C.6.3.2 where the Sub-Contractor is a partnership, the sub-contract entered into by S requires each Sub-Contractor Partnership Member of that partnership to comply with the Disclosure Obligation for each Relevant Financial Year in which the Sub-Contractor Partnership Member's NHS Earnings exceed the Relevant Threshold.
- 35C.7 The Contractor must use reasonable endeavours to ensure that any Relevant Sub-Contract is amended to contain the terms specified in Clause 35C.9.
- 35C.8 For the purposes of Clause 35C.7 "Relevant Sub-Contract" means a sub-contract:

35C.8.1 for the provision of any of the clinical services which the Contractor is required to provide under the Contract by any other person; and

35C.8.2 which is in force at the time when the term in clause 35C.7 is incorporated into the Contract.

35C.9 The terms are:

35C.9.1 a term which requires:

35C.9.1.1 the Sub-Contractor (“S”), where S is an individual; or

35C.9.1.2 each Sub-Contractor Partnership Member, where S is a partnership;

to comply with the Disclosure Obligation for each Relevant Financial Year in which the individual’s, or as the case may be, Sub-Contractor Partnership Member’s NHS Earnings exceed the Relevant Threshold;

35C.9.2 a term which prevents S from sub-contracting obligations to provide clinical services under the contract, where permitted by Clause 54.2; unless:

35C.9.2.1 where the Sub-Contractor is an individual (“I”), the sub-contract entered into by S requires I to comply with the Disclosure Obligation in relation to each financial year in which I’s NHS earnings exceed the Relevant Threshold;

35C.9.2.2 where the Sub-Contractor is a partnership, the sub-contract entered into by S requires each Sub-Contractor Partnership Member of that partnership to comply with the

Disclosure Obligation in relation to each  
Relevant Financial Year in which the Sub-  
Contractor Partnership Member's NHS  
Earnings exceed the Relevant Threshold;  
and

35C.9.3 a term which requires S to use reasonable endeavours to ensure that any sub-contract entered into before the term in clause 35C.9.2 was incorporated into that sub-contract is amended to :

38.7A.9.3.1 include a term in clause 35C.9.2.1 in a sub-contract between S and I: and

38.7A.9.3.2 include the term in clause 35C.9.2.2 in a sub-contract between S and a partnership.

35C.10 Nothing in Clauses 35C.6, 35C.7, or 35C.9 requires any individual to comply with the Disclosure Obligation for any Relevant Financial Year which:

35C.10.1 ends before the individual or partnership (as the case may be) enters into a sub-contract with the Contractor or a Sub-Contractor;

35C.10.2 begins after the individual's, or, as the case may be, partnership's, sub-contract with the Contractor or Sub-Contractor has terminated.

35C.11 In this Clause 35C:

"Locum Practitioner" has the meaning given in Schedule 15 to the National Health Service Pension Scheme Regulations 2015;

"NHS Earnings" has the meaning given in Clause 35D;

"Partnership Member", in relation to a Contractor who is a partnership, means an individual who is a partner in that partnership;

“Sub-Contractor” means a person to whom any rights or duties under the contract in relation to clinical matters are, or have been, sub-contracted under Clause 54.1, and includes an individual who is a Locum Practitioner;

“Sub-Contractor Partnership Member”, in relation to a sub-Contractor who is a partnership, means an individual who is a partner in that partnership.

**35CA Disclosure of information about NHS earnings: jobholders**

35CA.1 In this Clause 35CA:

35CA.1.1 “Disclosure Obligation”, “Relevant Financial Year”, “Relevant Threshold”, “The Disclosure Date” and “Sub-Contractor” have the meanings given in Clause 35C;

35CA.1.2 “NHS Earnings” has the meaning given in Clause 35D.

35CA.2 In this Clause 35CA and, where applicable, in Clause 35D:

35CA.2.1 “Contract of Engagement” means a contract of employment or other agreement under which a jobholder is engaged;

35CA.2.2 “Jobholder” means:

35CA.2.2.1 an individual employed by a Relevant Person;

35CA.2.2.2 an individual engaged by a Relevant Person under a contract for services to provide services which enable the Relevant Person to fulfil its obligations under the Contract or sub-contract, as the case may be;

35CA.2.2.3 an individual engaged by a Third Party to provide clinical services;

35CA.2.2.4 where the Relevant Person is a company, a director or company secretary of that company;

35CA.2.3 “Relevant Person” means:

35CA.2.3.1 the Contractor;

35CA.2.3.2 a Sub-Contractor;

35CA.2.3.3 any onward sub-contractor;

35CA.2.4 “Third Party Contract” means a contract or other agreement under which a Relevant Person is provided with a Jobholder to provide clinical services under the Contract or sub- contract, as the case may be, and which is between:

35CA.2.4.1 the Contractor and a person other than a Jobholder or Sub-Contractor;

35CA.2.4.2 a Sub-Contractor and a person other than a Jobholder, the Contractor, or a person (“P”) to whom the Sub-Contractor has further sub-contracted obligations to; or

35CA.2.4.3 p and a person other than a Jobholder or Sub-Contractor;

35CA.2.5 “Third Party” is to be construed in accordance with the definition of “Third Party Contract”.

35CA.3 The Contractor shall not enter into a Contract of Engagement unless it requires the Jobholder to comply with the Disclosure Obligation for

each Relevant Financial Year in which the Jobholder's NHS Earnings exceed the Relevant Threshold.

35CA.4 The Contractor shall not sub-contract any of its obligations to provide clinical services under the Contract unless:

35CA.4.1 the sub-contract entered into by the Contractor requires the Sub-Contractor ("S") to:

35CA.4.1.1 include the term specified in Clause 35CA.6 in any Contract of Engagement S enters into with a Jobholder on or after entering into the sub-contract; and

35CA.4.1.2 use reasonable endeavours to include that term in any Contract of Engagement which S has entered into prior to entering into the sub-contract; and

35CA.4.2 The sub-contract prevents S from sub-contracting to P any of the clinical services S has agreed with the Contractor to provide under the sub-contract unless the sub-contract S enters into with P includes the term specified in paragraph clause 35CA.5.

35CA.5 The term requires P to:

35CA.5.1 include the term specified in Clause 35CA.6 in any Contract of Engagement which P enters into with a Jobholder on or after entering into the sub-contract with S; and

35CA.5.2 use reasonable endeavours to include that term in any Contract of Engagement which P has entered into prior to entering into that sub-contract.

- 35CA.6 The term requires the Jobholder to comply with the Disclosure Obligation for each Relevant Financial Year in which the Jobholder's NHS Earnings exceed the Relevant Threshold.
- 35CA.7 The Contractor shall use reasonable endeavours to ensure that any Contract of Engagement, which the Contractor entered into before the term in clause 35CA.3 was incorporated into the Contract is amended to include the term specified in Clause 35CA.6.
- 35CA.8 The Contractor shall use reasonable endeavours to ensure that any sub-contract which the Contractor entered into before the term in Clause 35CA.4 was incorporated into the Contract is amended to include the terms specified in Clause 35CA.9.
- 35CA.9 The terms are:
- 35CA.9.1 a term which requires S to:
    - 35CA.9.1.1 include the term specified in Clause 35CA.6 in any Contract of Engagement S enters into with a Jobholder on or after the amendment of the sub-contract;
    - 35CA.9.1.2 use reasonable endeavours to include the term specified in Clause 35CA.6 in any Contract of Engagement which S entered into before the amendment of the sub-contract; and
    - 35CA.9.1.3 use reasonable endeavours to include the term specified in Clause 35CA.5 in any sub-contract which S has entered into with P before the amendment of the sub-contract pursuant to paragraph Clause 35CA.8); and
  - 35CA.9.2 a term which prevents S from sub-contracting to P obligations to provide clinical services under the Contract

unless the sub-contract entered into by S includes the term specified in paragraph Clause 35CA.5.

- 35CA.10 The Contractor shall use reasonable endeavours to include in a Third Party Contract (whenever entered into) a term requiring the Third Party (“T”) to include the term specified in clause 35CA.6 in any Contract of Engagement to which T is a party.
- 35CA.11 The Contractor shall not sub-contract any of its obligations to provide clinical services under the Contract, unless the sub-contract requires S to use reasonable endeavours to:
- 35CA.11.1 include in a Third Party Contract (whenever entered into) a term requiring T to include the term specified in Clause 35CA.6 in any Contract of Engagement to which T is a party; and
- 35CA.11 include in any sub-contract between S and P a term requiring P to include in any Third Party Contract (whenever entered into) the term specified in Clause 35CA.12.
- 35CA.12 The term is one which requires T to include the term specified in Clause 35CA.6 in any Contract of Engagement to which T is a party.
- 35CA.13 Nothing in this Clause 35CA requires a jobholder to comply with the disclosure obligation for any relevant financial year which:
- 35CA.13.1 ends before the Jobholder enters into a Contract of Engagement; or
- 35CA.31.2 begins after the Jobholder’s Contract of Engagement has terminated.
- 35D **Calculation of NHS Earnings for the purposes of clauses 35C and 35CA**



- 35D.1 This Clause sets out how an individual's NHS Earnings are to be calculated for the purposes of Clauses 35C and 35CA.
- 35D.2 An individual's NHS Earnings for a Relevant Financial Year are those earnings which constitute Relevant Income in respect of that financial year.
- 35D.3 In this Clause 35D "Relevant Income":
- 35D.3.1 in relation to an individual who is an Active Member of the Scheme and is a Medical Practitioner (other than a Locum Practitioner) or a Non-GP Provider, means income (including any form of remuneration and any salary, wages, fees, director's remuneration or dividends) which is practitioner income as determined under Schedule 10 to the NHS Pension Scheme Regulations, as modified in accordance with Clause 35D.4, in respect of the financial year in question;
  - 35D.3.2 in relation to a person ("P") who is an Active Member of the Scheme and a Locum Practitioner, means:
    - 35D.3.2.1 any income which is Locum Practitioner income as determined under paragraph 7 of Schedule 10 to the NHS Pension Scheme Regulations in respect of the financial year in question; and
    - 35D.3.2.2 any other income (including any form of remuneration and salary, wages, fees, director's remuneration or dividends) received by P in the financial year in question from any organisation which would have been treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations, as modified in

accordance with 35D.4, if P had been a Medical Practitioner but not a Locum Practitioner;

35D.3.2A in relation to a Jobholder who does not fall within Clause 35D.3.2.1 or Clause 35D.3.2.2, means:

35D.3.2A.1 any remuneration, salary, wages, fees, director's remuneration or dividends received in respect of the financial year in question under the Contract of Engagement and any other Contract of Engagement under which the Jobholder provides services in respect of a contract or an agreement for primary medical services made under section 92 or 83(2) of the Act; and

35D.3.2A.2 any other income which would be treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations as modified in accordance with Clause 35D.4 in respect of the Financial Year in question if the Jobholder:

35D.3.2A.2.1 were an active member of the scheme; and

35D.3.2A.2.2 a medical practitioner or non-GP provider;

35D.3.3 in relation to any other person ("P"), means income (including any form of remuneration and any salary, wages, fees, director's remuneration or dividends) received by P in the financial year in question from any organisation which would have been treated as

practitioner income under Schedule 10 to the NHS Pension Scheme Regulations, as modified in accordance with Clause 35D.4, if P had been:

35D.3.3.1 an Active Member of the Scheme; and

35D.3.3.2 a Medical Practitioner or Non-GP Provider.

35D.4 For the purposes of determining a person's Relevant Income under sub-Clauses 35D.3.1, 35D.3.2.2 or 35D.3.3, Schedule 10 to the NHS Pensions Regulations applies as if the following provisions of that Schedule were omitted:

35D.4.1 paragraph 2(1)(b) and the "and" immediately preceding it; and

35D.4.2 paragraph 3.

35D.4.3 Not used.

35D.4A For the purposes of this Clause 35D, where the Contractor has sub-contracted any obligations under the Contract, any payments made:

35D.4A.1 under the sub-contract; or

35D.4A.2 under any onward sub-contract which the Sub-Contractor has entered into with another person;

are to be treated as income derived from the Contract.

35D.5 In this Clause 35D:

"the NHS Pension Scheme Regulations" means the National Health Service Pension Scheme Regulations 2015 and "Active Member", "Locum Practitioner", "Medical Practitioner", "Member" and "Non-GP Provider" have the meanings given for the purposes of those Regulations;

"Relevant Financial Year" has the meaning given in Clause 35C; and

“the Scheme” means the National Health Service Pension Scheme established by the NHS Pension Scheme Regulations.

## **36 Practice Leaflet**

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

## **36A Use of NHS primary care logo**

- 36A.1 Where the Contractor chooses to apply the NHS primary care logo to signage, stationery, leaflets, posters, its Practice Website or to any other form of written representation relating to the primary care services it provides, it must have regard to guidance concerning use of the NHS primary care logo produced by NHS England.<sup>29</sup>

## **36B Marketing campaigns**

- 36B.1 The Contractor must participate in a manner reasonably requested by the Commissioner in up to six (6) marketing campaigns in each Financial Year.

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<sup>29</sup> This guidance is available on the NHS England’s website at:  
<https://www.england.nhs.uk/nhsidentity/identity-guidelines/primary-care-logo/>.

## **36C Advertising Private Services**

36C.1 The Contractor must not advertise the provision of Private Services, either itself or through any other person, whether the Contractor provides the Private Services itself or they are provided by another person, by any written or electronic means where the same are used to advertise the Primary Medical Services it provides.

## **37 Provision of Practice Information on the Internet**

37.1 Where the Contractor has a website, the Contractor must publish on that website details of the Patient Registration Area, including the area known as the Outer Boundary Area, by reference to a sketch diagram, plan or postcode as set out in Annex 3.

37.2 The Contractor shall maintain its practice details on the NHS Choices Website.

## **38 Inquiries about Prescriptions and Referrals**

38.1 The Contractor shall, subject to Clauses 38.2 and 38.3, sufficiently answer any inquiries whether oral or in writing from the Commissioner concerning:

38.1.1 any Prescription Form or Repeatable Prescription issued or created by a Prescriber;

38.1.2 the considerations by reference to which Prescribers issue such forms;

38.1.3 the referral by or on behalf of the Contractor of any Patient to any other services provided under the 2006 Act or the 2012 Act (as the case may be); or

38.1.4 the considerations by which the Contractor makes such referrals or provides for them to be made on its behalf.

38.2 An inquiry referred to in Clause 38.1 may only be made for the purpose either of obtaining information to assist the Commissioner to

discharge its functions or of assisting the Contractor in the discharge of its obligations under the Contract.

38.3 The Contractor shall not be obliged to answer any inquiry referred to in Clause 38.1 unless it is made:

38.3.1 in the case of Clause 38.1.1 or 38.1.2 by an appropriately qualified Health Care Professional; or

38.3.2 in the case of Clause 38.1.3 or 38.1.4, by an appropriately qualified medical practitioner,

appointed in either case by the Commissioner to assist it in the exercise of its functions under Clause 38.1 and 38.2 who produces, on request, written evidence that that person is authorised by the Commissioner to make such an inquiry on its behalf.

## **39 Financial Interests**

39.1 In making a decision to refer a Patient for other services under the 2006 Act or the 2012 Act (as the case may be), or in making a decision to prescribe any drug, medicine or other Appliance to any Patient the Contractor shall have regard to all relevant clinical considerations as well as the provisions of Clauses 24 to 30 of this Contract and disregard its own financial interests and other inappropriate financial interests.

39.2 The Contractor shall not inform Patients that any prescription for any drug, medicine or other Appliance must be dispensed only by the Contractor or a person with whom the Contractor is associated.

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

## **40 Performance Management and Monitoring**

40.1 The Contractor shall comply with the monitoring arrangements set out in Schedule 6 (Performance Management) to this Contract including

but not limited to, providing such data and information as the Authority may require the Contractor to produce under this Contract.

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

## **40A Patient Participation**

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

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

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

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

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

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

- 40A.4 The Contractor must:

40A.4.1 engage with its Patient Participation Group, at such frequent intervals throughout each financial year as the Contractor must agree with that Group, with a view to

obtaining from the Contractor's Registered Patients, in an appropriate and accessible manner which is designed to encourage patient participation, about the services delivered by the Contractor; and

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

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

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

## **41 Notifications to the Commissioner**

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

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

41.1.1 any circumstances which give rise to the Commissioner's right to terminate the Contract under Clauses 60 and 61;

41.1.2 any circumstances which give rise to the Commissioner's right to terminate the Contract under any other provision of the Contract;



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

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

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

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

## **42 Notification of Deaths**

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

42.1.1 the Patient's full name;

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

42.1.3 the date and place of death;

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

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

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

## **43 Entry and inspection by the Commissioner**

43.1 Subject to the conditions in Clause 43.2, the Contractor shall allow persons authorised in writing by the Commissioner to enter and inspect the Practice Premises at any reasonable time. In addition, the Commissioner shall have the right to examine any equipment and/or materials, and/or to interview any staff including any contractors engaged by the Contractor (but only as part of a properly conducted

investigation into the clinical performance of the Contractor, such investigation to be proportionate and, for the avoidance of doubt, subject to the Law) that are reasonably connected to the delivery of services under this Contract at any reasonable time.

43.2 The conditions referred to in Clause 43.1 are that:

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

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

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

## **44 Entry and Viewing by Local Healthwatch Organisations**

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

## **45 Entry and Inspection by the Care Quality Commission**

45.1 The Contractor shall allow persons authorised by the Care Quality Commission to enter and inspect the Practice Premises in accordance

with section 62 of the Health and Social Care Act 2008 (entry and inspection).

## **46 Counter Fraud and Security Management**

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

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

## 47 Certificates

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

- 47.1.1 is being attended by a medical practitioner who is not employed or engaged by the Contractor, a party to this Contract or a shareholder in a qualifying body which is a party to this Contract; or
- 47.1.2 is not being treated by or under the supervision of a Health Care Professional.

**Table – List of Prescribed Medical Certificates**

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

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Description of medical certificate	Enactment under or for the purpose of which certificate required
	Benefits Act 1992 Social Security Act 1998
2. Not used.	Not used.
3. To secure registration of still-birth	Section 11 of the Births and Deaths Registration Act 1953 (special provision as to registration of still-birth)
4. To enable payment to be made to an institution or other person in case of mental disorder of persons entitled to payment from public funds.	Section 142 of the Mental Health Act 1983 (pay, pensions etc of mentally disordered persons)
5. To establish unfitness for jury service.	Juries Act 1974
6. To support late application for reinstatement in civil employment or notification of non-availability to take up employment owing to sickness.	Reserve Forces (Safeguarding of Employment) Act 1985.
7. To enable a person to be registered as an absent voter on grounds of physical incapacity	Representation of the People Act 1985
8. To support applications for certificates conferring exemption from charges in respect of drugs, medicines and Appliances.	National Health Service Act 2006
9. To support a claim by or on behalf of a severely mentally impaired person for exemption from liability to pay the	Local Government Finance Act 1992

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

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

## **47A Patients who should not be tested for, or vaccinated against, coronavirus: confirmation of exemption**

47A.1 Subject to Clause 47A.6, the Contractor must respond to a valid Exemption Confirmation Request if it is made at a relevant time.

47A.2 An “Exemption Confirmation Request”:

47A.2.1 is a request to confirm whether a relevant Patient (“P”), for clinical reasons:

47A.2.1.1 should neither be tested for Coronavirus nor vaccinated with an Authorised Vaccine; or

47A.2.1.2 should not be vaccinated with an Authorised Vaccine; and

47A.2.2 is valid if it is made in accordance with the process approved by the Secretary of State.

47A.2A A valid Exemption Confirmation Request is made at a relevant time if, at the time the request is made to the Contractor:

- 47A.2A.1 legislation in force in England requires a person or class of person to be vaccinated against coronavirus unless they can show that, for clinical reasons, they are exempt from vaccination with an Authorised Vaccine; or
  - 47A.2A.2 guidance issued by, or on behalf of, the Secretary of State provides that a person or class of person should be vaccinated against coronavirus unless they can show that, for clinical reasons, they are exempt from vaccination with an Authorised Vaccine.
- 47A.3 An Exemption Confirmation Request may be made by:
- 47A.3.1 P; or
  - 47A.3.2 where P is a person to whom Clause 47A.4 applies, an Appropriate Person acting on behalf of P.
- 47A.4 This Clause applies to a person if they:
- 47A.4.1 are a child; or
  - 47A.4.2 lack the capacity to make a request under Clause 47A.1.
- 47A.5 The Contractor must respond to a valid Exemption Confirmation Request made at a relevant time:
- 47A.5.1 free of charge to P or the Appropriate Person; and
  - 47A.5.2 by recording its response on an information hub using a method approved by the Secretary of State.
- 47A.6 The Contractor is not required to respond to a valid Exemption Confirmation Request if:
- 47A.6.1 for the medical condition which may mean that P should neither be tested for Coronavirus nor vaccinated with an



Authorised Vaccine, or should not be vaccinated with an Authorised Vaccine, P is being attended by a medical practitioner who is not:

47A.6.1.1 engaged or employed by the Contractor;

47A.6.1.2 where the Contract is with two or more persons practising in partnership, one of those persons; or

47A.6.1.3 where the Contract is with a company limited by shares, one of the persons legally or beneficially owning shares in that company; and

47A.6.2 that medical condition is not one to which Clause 47A.7 applies.

47A.7 This Clause applies to a medical condition if no person with that condition should be:

47A.7.1 tested for Coronavirus or vaccinated with an Authorised Vaccine; or

47A.7.2 vaccinated with an Authorised Vaccine.

47A.8 In this Clause 47A:

“Authorised Vaccine” means a Medicinal Product:

- (a) authorised for supply in the United Kingdom in accordance with a Marketing Authorisation; or
- (b) authorised by the Licensing Authority on a temporary basis under regulation 174 of the Human Medicines Regulations 2012 (supply in response to spread of pathogenic agents etc);

for vaccination against Coronavirus;

“Coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“Licensing Authority”, “Marketing Authorisation” and “Medicinal Product” have the meanings given in the Human Medicines Regulations 2012 (see regulations 6, 8 and 2, respectively, of those Regulations); and

“Relevant Patient” means:

- (a) a registered Patient; or
- (b) a Temporary Resident.

## **48 Payment under the Contract**

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

## **49 Fees and Charges**

49.1 The Contractor shall not, either itself or through any other person, demand or accept from:

49.1.1 any of its Patients other than Registered Patients a fee or other remuneration for its own or another’s benefit:

49.1.1.1 for the provision of any treatment whether under the Contract or otherwise, or

49.1.1.2 for any prescription or repeat prescription for any drug, medicine or Appliance,

except in the circumstances set out in Clause 49.2.

49.1.2 any of its Patients other than a Registered Patient a fee or other remuneration for its own or another’s benefit:

- 49.1.2.1 for the provision of any treatment under the Contract, or
  - 49.1.2.2 for any prescription or repeat prescription for any drug, medicine or Appliance in connection with that treatment.
- 49.2 The Contractor may demand or accept, directly or indirectly, a fee or other remuneration:
- 49.2.1 from any statutory body for services rendered for the purposes of that body's statutory functions;
  - 49.2.2 from any body, employer or school for a routine medical examination of persons for whose welfare the body, employer or school is responsible, or an examination of such persons for the purpose of advising the body, employer or school of any administrative action they might take;
  - 49.2.3 for treatment which is not Primary Medical Services or otherwise required to be provided under the Contract and which is given:
    - 49.2.3.1 pursuant to Paragraph 11 of Schedule 6 of the 2006 Act (accommodation and services for private patients), or
    - 49.2.3.2 in a registered nursing home which is not providing services under the 2006 Act,if, in either case, the person administering the treatment is serving on the staff of a hospital providing services under the 2006 Act or the 2012 Act (as the case may be) as a specialist providing treatment of the kind the Patient requires and if, within 7 days of giving the treatment, the Contractor or the person providing the treatment supplies the relevant body, on a form provided by it for the purpose,

- with such information about the treatment as it may require;
- 49.2.4 under section 158 of the Road Traffic Act 1988 (payment for emergency treatment of traffic casualties);
- 49.2.5 when it treats a Patient under clause 49.3 in compliance with Regulation 18(3) of the PMS Agreements Regulations, in which case it shall be entitled to demand and accept a reasonable fee (recoverable in certain circumstances under Clause 49.4 for any treatment given, if it gives the Patient a receipt;
- 49.2.6 for attending and examining (but not otherwise treating) a Patient:
- 49.2.6.1 at his request at a police station in connection with possible criminal proceedings against him;
- 49.2.6.2 at the request of a commercial, educational or not for profit organisation for the purpose of creating a medical report or certificate;
- 49.2.6.3 for the purpose of creating a medical report required in connection with an actual or potential claim for compensation by the Patient;
- 49.2.7 for treatment consisting of an immunisation for which no remuneration is payable by the relevant body and which is requested in connection with travel abroad;
- 49.2.8 for prescribing or providing drugs, medicines or Appliances (including a collection of such drugs, medicines or Appliances in the form of a travel kit) which a Patient requires to have in his possession solely in anticipation of the onset of an ailment or occurrence of an injury while he is

outside the United Kingdom but for which he is not requiring treatment when the medicine is prescribed;

49.2.9 for a medical examination:

49.2.9.1 to enable a decision to be made whether or not it is inadvisable on medical grounds for a person to wear a seat belt, or

49.2.9.2 for the purpose of creating a report:

49.2.9.2.1 relating to a road traffic accident or criminal assault; or

49.2.9.2.2 that offers an opinion as to whether a Patient is fit to travel;

49.2.9.A for testing the sight of a person to whom none of paragraphs (a) to (e) of section 115(2) of the 2006 Act applies (including by virtue of regulations made under section 115(7) of the 2006 Act);

49.2.10 where it is a Contractor which is authorised or required in accordance with arrangements made with NHS England under section 126 (Arrangements for Pharmaceutical Services) and in accordance with regulations made under section 129 (Regulations at to Pharmaceutical Services) of the 2006 Act to provide drugs, medicines and Appliances to a Patient and provides for that Patient, otherwise than by way of Dispensing Services, any Scheduled Drug;

49.2.11 for prescribing or providing drugs or medicines for malaria chemoprophylaxis; or

49.2.12 for responding to an Exemption Confirmation Request as defined in sub-Clause 47A.2.1, if that request is not one which the Contractor is required to respond to in accordance with Clause 47A.

- 49.3 Where a person applies to the Contractor for the provision of Services and claims to be entitled to be treated by the Contractor without paying a fee or other remuneration and the Contractor has reasonable doubts about that person's claim, the Contractor shall give any necessary treatment and shall be entitled to demand and accept a reasonable fee subject to the provision for repayment contained in Clause 49.4.
- 49.4 Where a person from whom the Contractor received a fee applies to the Commissioner for a refund within fourteen (14) days of payment of the fee (or such longer period not exceeding a month as the Commissioner may allow if it is satisfied that the failure to apply within fourteen (14) days was reasonable) and the Commissioner is satisfied that the person was entitled to be treated by the Contractor without paying a fee or other remuneration when the treatment was given, the Commissioner may recover the amount of the fee from the Contractor, by set off or otherwise, and shall pay that amount to the person who paid the fee.
- 49.5 In the provision of the Services, the Contractor shall:
- 49.5.1 provide information to the Patients regarding other services it provides (other than under the Contract) only where appropriate and in accordance with the restriction on advertising Private Services in Clause 36C and shall ensure that such information is fair and accurate; and
  - 49.5.2 where the other services are available to the Patient as part of the health service established pursuant to the 2006 Act or the 2012 Act (as the case may be), inform the Patient:
    - 49.5.2.1 that the services are so available;
    - 49.5.2.2 of any charge that apply to that health service and, if no such charge applies, that the service is free; and
    - 49.5.2.3 how to access those health services.

- 49.5A The Contractor shall not, either itself or through any other person, demand or accept from any of its Patients a fee or other remuneration, for its own benefit or another's benefit, for the completion, in relation to the Patient's mental health, of:
- 49.5A.1 a mental health evidence form; or
  - 49.5A.2 any examination of the Patient or of the Patient's medical record in order to complete the form;
- the purpose of which is to assist creditors in deciding which action to take where the debtor has a mental health problem.
- 49.5B The Contractor shall not, either itself or through any other person, demand or accept from a person who is not a Patient of the Contractor, a fee or other remuneration, for its own benefit or another's benefit, for either of the following services provided on Practice Premises to which Clause 3.6.2 applies, unless those services are provided outside of Core Hours:
- 49.5B.1 for treatment consisting of an immunisation for which the Contractor receives no remuneration from the Commissioner when provided to its Patients and which is requested in connection with travel abroad; or
  - 49.5B.2 for prescribing or providing drugs or medicines for malaria chemoprophylaxis.
- 49.6 This Clause 49 shall survive the expiry or termination of the Contract.

## **50 Clinical Governance**

- 50.1 Without prejudice to the Contractor's obligation to meet all performance requirements under the Contract:
- 50.1.1 the Contractor shall have an effective System of Clinical Governance (which shall include appropriate standard

operating procedures in relation to the management and use of controlled drugs);

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

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

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

## **51 Indemnity**

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

## **52 Insurance**

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

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



- 52.1.2 all public liabilities in relation to liabilities to third parties arising under or in connection with the Contract; and
  - 52.1.3 all liabilities as an employer in respect of all staff.
- 52.2 The Contractor shall provide the Commissioner with a copy of all insurance policies obtained pursuant to Clause 52.1 and/or a broker certified schedule of insurances together with evidence that the requisite premiums have been paid upon the Commissioner's request.
- 52.3 The Contractor shall not sub-contract its obligations to provide the Services under the Contract unless it is satisfied that the sub-contractor holds adequate insurance against liability arising from negligent performance of such Services.
- 52.4 For the purposes of Clauses 52.1 to 52.3:
- 52.4.1 "insurance" means a contract of insurance or other arrangement made for the purpose of indemnifying the Contractor; and includes membership of a medical defence organisation established for the purpose set out in this Clause; and
  - 52.4.2 the Contractor shall be regarded as holding insurance if insurance is held by a person employed or engaged by it in connection with clinical services which that person provides under the Contract or, as the case may be, sub-contract provided that that insurance is adequate and is in the sum of not less than that required by this Clause. The Contractor agrees that this may not be sufficient to meet the Contractor's obligations to insure all of the risks listed under Clause 52.1 and that the Contractor must seek advice from a specialist insurance broker in this regard.

## **53 Complaints**

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

## **54 Sub-contracting and Change of Control**

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

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

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

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

## **55 Co-operation with Investigations**

55.1 The Contractor shall co-operate with:

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

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

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

55.2 In Clause 55.1:

55.2.1 “NHS body” means NHS England, an Integrated Care Board, (in England and Wales and Scotland) an NHS trust, an NHS foundation trust, a Local Health Commissioner, a Health Commissioner, a Health and Social Services Commissioner or a Health and Social Services Trust;

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

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

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

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

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

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

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

## **56 Warranties**

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

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

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

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

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

- that the Contractor satisfied the conditions set out in direction 4 of the APMS Directions;
- 56.4.2 no information has been omitted which would make the information that was provided to the Commissioner materially misleading or inaccurate;
- 56.4.3 no circumstances have arisen which materially affect the truth and accuracy of such information; and
- 56.4.4 it is not aware as at the date of the Contract of anything within its reasonable control which may or will materially adversely affect its ability to fulfil its obligations under this Contract.
- 56.5 To the best of the Commissioner's knowledge after due enquiry by the Commissioner, the Commissioner warrants that it has used all reasonable endeavours to ensure:
- 56.5.1 all information in writing which it provided to the Contractor specifically to assist the Contractor to become a Party to the Contract was, when given, true and accurate in all material respects;
- 56.5.2 no information has been omitted which would make the information that was provided to the Contractor materially misleading or inaccurate; and
- 56.5.3 no circumstances have arisen which materially affect the truth and accuracy of such information.
- 56.6 The Commissioner shall indemnify the Contractor fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any claim against the Contractor by any third party relating to matters which occurred prior to the Commencement Date and which relate to any predecessor contract under which the Services or substantially similar services were provided, except where such claims, proceedings, actions, damages, legal costs, expenses and any other liabilities were caused by or

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

## **57 Variation of the Contract**

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

to or less than 3%<sup>30</sup> in aggregate of the Contract Price, there shall be no variation to the Contract Price.

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

## **57A Variation, suspension and enforcement of Contract terms in relation to pandemics etc.**

- 57A.1 In this Contract, where an announcement is made by NHS England under clause 57A.2, in the circumstances specified in that announcement, and for the period specified in that announcement:

57A.1.1 "Core Hours" means the period beginning at 8.00am and ending at 6.30pm on any day from Monday to Friday; and

57A.1.2 "Out of Hours Period" means:

57.A.1.2.1 the period beginning at 6.30pm on any day from Monday to Friday and ending at 8.00am on the following day; and

57.A.1.2.2 the period beginning at 6.30pm on Friday and ending at 8.00am on the following Monday.

- 57A.2 NHS England, with the agreement of the Secretary of State, for the purpose set out in clause 57A.3, may make an announcement to the effect that the core hours of contractors (which include the Contractor) are to include Good Friday and Bank Holidays:

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<sup>30</sup> For local determination

- 57A.2.1 in the area to which the announcement relates;
- 57A.2.2 in the circumstances specified in the announcement; and
- 57A.2.3 during the period specified in the announcement.

57A.3 An announcement may be made under paragraph clause 57A.2 in order to assist in the management of a serious or potentially serious risk to human health arising as a consequence of a disease being, or in anticipation of a disease being imminently:

- 57A.3.1 pandemic; and
- 57A.3.2 a serious risk or potentially a serious risk to human health.

57A.4 Under this Contract, where reference is made to an announcement or advice of NHS England that relates to a disease being, or in anticipation of a disease being imminently:

- 57A.4.1 pandemic; and
- 57A.4.2 a serious risk or potentially serious risk to human health, it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.

57A.5 Any term that is part of this Contract as a consequence of action taken under the APMS Directions, by agreement between the parties or by virtue of regulation 47(2) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 is temporarily not part of this Agreement, in the particular circumstances mentioned in clause 57A.5.3.2 and during the period mentioned in clause 57A.5.3.3, in the following circumstances:

- 57A.5.1 as a consequence of a disease being, or in anticipation of a disease being imminently:
  - 57A.5.1.1 pandemic; and
  - 57A.5.1.2 a serious risk or potentially a serious risk to human health;



NHS England with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

57A.5.2 the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

57A.5.3 as part of the announcement, NHS England with the agreement of the Secretary of State has issued advice to the effect that contractors are not to comply with a specified type of term of alternative provider medical services agreements:

57A.5.3.1 in the area to which the announcement relates;

57A.5.3.2 in the circumstances specified in the announcement; and

57A.5.3.3 during the period specified in the announcement; and

57A.5.4 the Contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this paragraph, be a requirement of this Contract.

57A.6 The Commissioner must not take enforcement action, as provided for in this Contract, in respect of a breach of a term of this Contract in the following circumstances:

57A.6.1 as a consequence of a disease being, or in anticipation of a disease being imminently:

57A.6.1.1 pandemic; and

57A.6.1.2 a serious risk or potentially a serious risk to human health;

NHS England with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

57A.6.2 the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

57A.6.3 as part of the announcement, NHS England with the agreement of the Secretary of State has issued advice to the effect that contractors need not comply with a specified type of term of alternative provider medical services agreements:

57A.6.3.1 in the area to which the announcement relates;

57A.6.3.2 in the circumstances specified in the announcement; and

57A.6.3.3 during the period specified in the announcement; and

57A.6.4 the Contractor:

57A.6.4.1 is situated in the area to which the announcement relates; and

57A.6.4.2 has not complied with the term (it being of the specified type) in the particular circumstances mentioned in clause 57A.6.3.2 and during the period mentioned in clause 57A.6.3.3.

## **58 Termination by Agreement**

58.1 The Commissioner and the Contractor may mutually agree in writing to terminate the Contract, and if the Parties so agree, they shall agree the

date upon which that termination will take effect and any further terms upon which the Contract should be terminated.

## **59 Termination by the Contractor**

- 59.1 The Contractor may give notice (“late payment notice”) which shall be in writing to the Commissioner if the Commissioner has failed to make any payments properly due to the Contractor in accordance with Clause 48 of the Contract. The Contractor shall specify in the late payment notice the payments that the Commissioner has failed to make in accordance with Clause 49 of the Contract.
- 59.2 The Contractor may, at least twenty eight (28) days after having served a late payment notice, terminate the Contract by a further written notice if the Commissioner has still failed to make payments properly due to the Contractor, and that were specified in the late payment notice served on the Commissioner pursuant to Clause 59.1.
- 59.3 If, following receipt of a late payment notice, the Commissioner refers the matter to the Dispute Resolution Procedure detailed in Clause 66 within twenty eight (28) days of the date upon which it is served with the late payment notice, and it notifies the Contractor in writing that it has done so within that period of time, the Contractor may not terminate the Contract pursuant to Clause 59.2 until:
- 59.3.1 there has been a determination of the Dispute pursuant to the Dispute Resolution Procedure; or
  - 59.3.2 the Commissioner ceases to pursue the Dispute Resolution Procedure,

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

## **60 Termination by the Commissioner for Provision of Untrue Etc Information**

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

## **61 Other Grounds for Termination by the Commissioner**

- 61.1 The Commissioner may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if:
- 61.1.1 where this Contract is with an individual, the individual;
  - 61.1.2 where this Contract is with a company, the company or any director or company secretary of the company;
  - 61.1.3 where this Contract is with a partnership, any individual member of the partnership, or the partnership; or
  - 61.1.4 where this Contract is with an Industrial & Provident Society, a Co-Operative Society, a Community Benefit Society, a Friendly Society or a voluntary organisation or any other body, the Society organisation or other body or an officer trustee or any other person concerned with the management of the Society organisation or body
- falls within Clause 61.2 during the existence of the Contract.

- 61.2 A person falls within this Clause 61.2 if during the existence of this Contract or at any time within five (5) years prior to signing this Contract:
- 61.2.1 he or it is the subject of a National Disqualification;
  - 61.2.2 subject to Clause 61.5, he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any Licensing Body anywhere in the world;
  - 61.2.3 subject to Clause 61.6, he has been dismissed (otherwise than by reason of redundancy) from any employment by a Health Service Body unless before the Commissioner has served a notice terminating the Contract pursuant to this Clause 61.2 he is employed by the Health Service Body that dismissed him or by another Health Service Body. For the purposes of this Clause, where a person has been employed as a member of a health care profession, any subsequent employment must also be as a member of that profession;
  - 61.2.4 he or it is removed from, or refused admission to, a Primary Care List by reason of inefficiency, fraud or unsuitability (within the meaning of section 151(2), (3) and (4) of the 2006 Act respectively) unless his or its name has subsequently been included in such a list;
  - 61.2.5 he has been convicted in the United Kingdom of murder or an offence referred to in Schedule 1 to the Children and Young Persons Act 1933 or Schedule 1 to the Criminal Procedure (Scotland) Act 1995;
  - 61.2.6 he has been convicted in the United Kingdom of a criminal offence other than murder, and has been sentenced to a term of imprisonment of over six (6) months;

- 61.2.7 subject to Clause 61.7, he has been convicted elsewhere of an offence which would, if committed in England and Wales:
- 61.2.7.1 constitute murder; or
  - 61.2.7.2 constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six (6) months;
- 61.2.8 he or it has:
- 61.2.8.1 been adjudged bankrupt or had sequestration of his estate awarded or is a person in relation to whom a moratorium period under a debt relief order (under Part VIIA of the Insolvency Act 1986) applies unless he has been discharged from that bankruptcy or sequestration or the bankruptcy order has been annulled;
  - 61.2.8.2 been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 or Schedule 2A to the Insolvency (Northern Ireland) Order 1989 or Part 13 of the Bankruptcy (Scotland) Act 2016, unless that order has ceased to have effect or has been annulled;
  - 61.2.8.3 been made the subject of a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986 unless that order has ceased to have effect or has been annulled;
  - 61.2.8.4 made a composition or arrangement with, or granted a trust deed for, his or its creditors

unless he or it has been discharged in respect of it;

61.2.8.5 been wound up under Part IV of the Insolvency Act 1986;

61.2.8.6 had an administrator, administrative receiver or receiver appointed in respect of it; or

61.2.8.7 had an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986;

61.2.9 he has been:

61.2.9.1 removed from the office of Charity Trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated;

61.2.9.2 removed under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session), from being concerned in the management or control of any body;

61.2.9.3 he is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies Directors Disqualification (Northern Ireland) Order 2002 or to an order made under section 429(2)(b) of the Insolvency Act 1986;

- 61.2.10 he has refused to comply with a request by the Commissioner for him to be medically examined on the grounds that it is concerned that he is incapable of adequately providing services under the Contract; or
- 61.2.11 the Contractor's registration with the Care Quality Commission has been cancelled in accordance with section 17(1) of the Health and Social Care Act 2008, and that cancellation is the final decision of the Care Quality Commission, or, where an appeal has been launched, is the outcome of that appeal.
- 61.2.12 he has been included in any barred list within the meaning of section 2 of the Safeguarding Vulnerable Group Act 2006 or Article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.
- 61.2.13 Where the Contract is with a partnership and a dissolution of the partnership is ordered by any competent court, tribunal or arbitrator, or an event happens that makes it unlawful for the business of the partnership to continue, or for members of the partnership to carry on in the partnership.
- 61.3 Where the Contract is with a single individual and that individual dies, the Contract shall terminate at the end of the period of seven (7) days after the date of his death unless, before the end of that period the Commissioner has agreed in writing with the Contractor's personal representatives that the Contract should continue for a further period, not exceeding twenty eight (28) days after the end of the period of seven (7) days.
- 61.4 Clause 61 does not affect any other rights to terminate the Contract which the Commissioner may have under this Contract.
- 61.5 The Commissioner shall not terminate the Contract pursuant to Clause 61.2.2 where the Commissioner is satisfied that the disqualification or



suspension imposed by a Licensing Body outside the United Kingdom does not make the person unsuitable to be a Contractor, or in the case where the Contractor is a company, both a legal and beneficial shareholder, or a director or secretary of the company, as the case may be.

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

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

## **62 Termination by the Commissioner for a Serious Breach**

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

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

- 62.1.2 the Contractor’s financial situation is such that the Commissioner considers that the Commissioner is at risk of material financial loss; or
  - 62.1.3 the Contractor undergoes a Change of Control of which the Commissioner, acting reasonably, does not approve.
- 62.2 If the Contractor breaches the conditions specified in Clauses 54.1 and 54.3 and it comes to the Commissioner’s attention that the Contractor has done so, the Commissioner shall serve notice in writing on the Contractor:
- 62.2.1 terminating the Contract forthwith; or, at their absolute discretion
  - 62.2.2 instructing it to terminate the sub-contracting arrangements that give rise to the breach forthwith, and if it fails to comply with the instruction, the Commissioner shall serve a notice in writing on the Contractor terminating the Contract forthwith.

## **63 Termination by the Commissioner: Remedial Notices and Breach Notices**

- 63.1 Where the Contractor has breached the Contract other than as specified in Clauses 60 to 62.2 and the breach is capable of remedy, the Commissioner shall, before taking any action it is otherwise entitled to take by virtue of the Contract, serve a notice on the Contractor requiring it to remedy the breach (“remedial notice”).
- 63.2 A remedial notice shall specify:
- 63.2.1 details of the breach;
  - 63.2.2 the steps the Contractor must take to the satisfaction of the Commissioner in order to remedy the breach; and
  - 63.2.3 the period during which the steps must be taken (the “notice period”).

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

## **64 Termination and the Dispute Resolution Procedure**

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

62, 63.1, the Commissioner shall, in the notice served on the Contractor pursuant to those Clauses, specify a date on which the Contract terminates that is not less than twenty eight (28) days after the date on which the Commissioner has served that notice on the Contractor unless Clause 64.4 applies.

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

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

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

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

## **65 Consequences of Termination**

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

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

written details of the reconciliation, or the conclusion of the Dispute Resolution Procedure, as the case may be.

65.7 Should the Contractor:

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

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

absolute discretion determine from the date of the replacement contractor's request to access and use the Practice Premises.

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

## **66 Dispute Resolution**

- 66.1 The provisions of Schedule 10 shall apply.
- 66.2 Clause 66 shall survive the expiry or termination of the Contract.

## **67 TUPE, Re-tendering and Handover**

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

## **68 Gifts**

- 68.1 The Contractor shall keep a register of gifts which: are given to any of the persons specified in Clause 68.2 by, or on behalf of, a Patient, a relative of a Patient or any person who provides or wishes to provide services to the Contractor or its Patients in connection with the Contract; and have, in its reasonable opinion, a value of more than £100.00.
- 68.2 The persons referred to in Clause 68.1 are:
- 68.2.1 any person employed by the Contractor for the purposes of the Contract;
  - 68.2.2 any General Medical Practitioner engaged by the Contractor for the purposes of the Contract;
  - 68.2.3 if the Contractor is a company, any directors or company secretary of the company;

- 68.2.4 if the Contractor is a partnership, any member of the partnership;
  - 68.2.5 if the Contractor is an Industrial and Provident Society, a Co-Operative Society, a Community Benefit Society, Friendly Society, Voluntary Organisation as defined in the 2006 Act or other body any officer, trustee or any other person concerned with the management of the Contractor;
  - 68.2.6 the Contractor;
  - 68.2.7 any spouse or civil partner of a person specified in Clauses 68.2.1 to 68.2.2; or
  - 68.2.8 any person (whether or not of the opposite sex) whose relationship with a person specified in Clauses 68.2.1 to 68.2.2 has the characteristics of the relationship between husband and wife.
- 68.3 Clause 68.1 does not apply where:
- 68.3.1 there are reasonable grounds for believing that the gift is unconnected with services provided or to be provided by the Contractor;
  - 68.3.2 the Contractor is not aware of the gift; or
  - 68.3.3 the Contractor is not aware that the donor wishes to provide services to the Contractor or its Patients.
- 68.4 The Contractor shall take reasonable steps to ensure that it is informed of gifts which fall within Clause 68.1 and which are given to the persons specified in Clauses 68.2.
- 68.5 The register referred to in Clause 68.1 shall include the following information:
- 68.5.1 the name of the donor;



- 68.5.2 in a case where the donor is a Patient, the Patient's National Health Service number or, if the number is not known, his address;
  - 68.5.3 in any other case, the address of the donor;
  - 68.5.4 the nature of the gift;
  - 68.5.5 the estimated value of the gift; and
  - 68.5.6 the name of the person or persons who received the gift.
- 68.6 The Contractor shall make the register available to the Commissioner on request.

## **69 Compliance with Legislation and Guidance**

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

### **OTHER PROVISIONS**

## **70 Non-survival of Terms**

- 70.1 Unless expressly provided, no term of the Contract shall survive expiry or termination of the Contract. Express provision is (hereby or elsewhere) made in relation to:
- 70.1.1 Clause 1.1 (Status of Contract);
  - 70.1.2 Clause 46 (Counter Fraud and Security Management);
  - 70.1.3 Clause 49 (Fees and Charges);
  - 70.1.4 Clause 51 (Indemnity);
  - 70.1.5 Clause 52 (Insurance);
  - 70.1.6 Clause 53 and Schedule 5 (Complaints);

- 70.1.7 Clauses 65.1 to 65.6 (Consequences of Termination);
- 70.1.8 Clause 66 (Dispute Resolution Procedures);
- 70.1.9 Clause 72 (Governing Law and Jurisdiction); and
- 70.1.10 Clause 81 (Confidentiality);
- 70.1.11 Clause 82 (Bribery Act 2010).

## **71 Entire Contract**

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

## **72 Governing Law and Jurisdiction**

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

## **73 Waiver, Delay or Failure to Exercise Rights**

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

## **74 Relationship between the Parties**

- 74.1 The Contract is a contract for the provision of services. The Contractor is an independent provider of services and is not an employee, partner or agent of the Commissioner. The Contractor must not represent or conduct its activities so as to give the impression that it is the employee, partner or agent of the Commissioner.
- 74.2 Not used.
- 74.3 Not used.
- 74.4 The Commissioner does not by entering into the Contract, and shall not as a result of anything done by the Contractor in connection with the performance of the Contract, incur any contractual liability to any other person.
- 74.5 The Contract does not create any right enforceable by any person not a party to it under the Contracts (Rights of Third Parties) Act 1999.
- 74.6 The Contractor shall not delegate its obligations or otherwise give, sell, assign or otherwise dispose of the benefit of any of its rights, under the Contract without the prior written authorisation of the Commissioner in accordance with Clause 54.
- 74.7 The Commissioner may give, sell, assign, or otherwise dispose of the benefit of its rights under the Contract to a successor body as may be directed by the Secretary of State.

## **75 Force Majeure**

- 75.1 Neither Party shall be entitled to bring a claim for a breach of obligations under the Contract by the Affected Party nor shall the

Affected Party incur any liability to the other Party for any losses or damages incurred by the other Party to the extent that a Force Majeure Event occurs and the Affected Party is prevented from carrying out obligations by that Force Majeure Event.

- 75.2 On the occurrence of a Force Majeure Event, the Affected Party shall notify the other Party as soon as practicable. The notification shall include details of the Force Majeure Event, including evidence of its effect on its obligations of the Affected Party and any action proposed to mitigate its effect.
- 75.3 As soon as practicable, following such notification, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate steps to mitigate the effects of the Force Majeure Event and facilitate the continued performance of the Contract.
- 75.4 Unless the Affected Party takes such steps, Clause 75.1 shall not have the effect of absolving it from its obligations under this Contract. For the avoidance of doubt, any actions or omissions of either Party's personnel or any failures of either Party's systems, procedures, premises or equipment shall not be deemed to be circumstances or events beyond the reasonable control of the relevant Party for the purposes of this Clause 75.4 unless the cause of failure was beyond reasonable control.
- 75.5 If the Affected Party is delayed or prevented from performing its obligations and duties under the Contract for a continuous period of three (3) months, then either Party may terminate the Contract by notice in writing within such period as is reasonable in the circumstances (which shall be no shorter than twenty eight (28) days).
- 75.6 The termination shall not take effect at the end of the notice period if the affected Party is able to resume performance of its obligations and duties under the Contract within the period of notice specified in accordance with Clause 75.2 or if the other Party otherwise consents.

## **76 Severance**

- 76.1 Subject to Clauses 76.2 and 76.3, if any term of the Contract is held to be invalid, illegal or unenforceable by any court, tribunal or other competent authority, such term shall, to the extent required, be deemed to be deleted from the Contract and shall not affect the validity, lawfulness or enforceability of any other terms of the Contract.
- 76.2 If, in the reasonable opinion of either Party, the effect of such a deletion is to undermine the purpose of the Contract or materially prejudice the position of either Party, the Parties shall negotiate in good faith in order to agree a suitable alternative term to replace the deleted term or a suitable amendment to the Contract.
- 76.3 If the Parties are unable to reach agreement as to the suitable alternative term or amendment within a reasonable period of commencement of the negotiations, then the Parties may refer the Dispute for determination in accordance with the Dispute Resolution Procedure set out in Clause 66.

## **77 Service of Notice**

- 77.1 Save as otherwise specified in the Contract or where the context otherwise requires, any notice or other information required or authorised by the Contract to be given by either Party to the other Party must be in writing and may be served:
- 77.1.1 personally;
  - 77.1.2 by post, or in the case of any notice served pursuant to Clause 57 (Variation) and Clauses 58 to 63 (Termination), registered or recorded delivery post;
  - 77.1.3 by telex, or facsimile transmission (the latter confirmed by telex or post);
  - 77.1.4 unless the context otherwise requires and except in Clause 57.1 electronic mail; or

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

## **78 Discrimination**

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

the provision of the Services do not unlawfully discriminate within the meaning of this Clause 78; and

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

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

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

## **79 Data Protection**

79.1 The Contractor shall comply with the Data Protection Legislation and shall ensure that any contract with a sub-contractor will clearly set out the data processing relationship between those parties and the requirements on them to comply with the Data Protection Legislation.

## **80 Freedom of Information**

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

## **81 Confidentiality**

- 81.1 Subject always to the obligations of the Parties under statute or common law, in respect of such Confidential Information it may receive from the other Party (the “Discloser”), each Party (the “Recipient”) undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the Discloser’s prior written consent provided that the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the commencement of the Contract.
- 81.2 The provisions of Clause 81.1 shall not apply to any Confidential Information which:
- 81.2.1 is in or enters the public domain other than by breach of the Contract or other act or omissions of the Recipient;
  - 81.2.2 is obtained by a third party who is lawfully authorised to disclose such information;
  - 81.2.3 is authorised for release by the prior written consent of the Discloser; or



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

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

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

81.5 The provisions of Clauses 81.1 and 81.4 shall continue in force ~ following termination of the Contract for any reason whatsoever and without limit in time.

## **82 Bribery Act 2010**

82.1 The Contractor shall:

- 82.1.1 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (“Relevant Requirements”);
  - 82.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
  - 82.1.3 comply with the Commissioner’s Anti-Bribery Policy as may be provided from the Commissioner to the Contractor from time to time (“Relevant Policy”).
  - 82.1.4 have and shall maintain in place throughout the period of the Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policy and this Clause 82, and will enforce them where appropriate;
  - 82.1.5 in addition to its obligations under this Clause 82, report to and acquire authority from the Commissioner before providing any form of gift, gratuity or hospitality to any party in connection with the Contract;
  - 82.1.6 ensure that any offer or provision of any form of gift, gratuity or hospitality complies with the Relevant Policy and, where relevant, the Commissioner’s hospitality, gifts and sponsorship policy or policies;
  - 82.1.7 promptly report to the Commissioner any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of the Contract.
- 82.2 The Contractor shall ensure that any person associated with the Contractor who is performing services in connection with the Contract

does so only on the basis of a written Contract which imposes on and secures from such person on terms equivalent to those imposed on the Contractor in this Clause 82.2 (“Relevant Terms”). The Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Commissioner for any breach by such persons of any of the Relevant Terms.

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

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

82.5 Additional audit and record keeping:

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

Contractor's compliance with its obligations under this Clause 82;

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

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

82.6 The Contractor warrants and represents that:

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

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

82.6.1.2 having made reasonable enquiries, so far as it is aware, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental,

administrative or regulatory body regarding any offence or alleged offence under the Relevant Requirements; or

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

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

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

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

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

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

## **83 NHS Branding**

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

with the NHS branding and complies with the relevant NHS Identity Guidelines currently in force.

## **84 Sponsorship**

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

## **85 Administration**

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

## **86 Intellectual Property**

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

## **87 Counterparts**

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

NHS ENGLAND  
Standard Alternative Provider Medical Services Contract – April 2023

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

For: The Commissioner

By:..... (Full Name)

Title:.....

Date of Signature.....

For: The Contractor

By: ..... (Full Name)

Title.....

Organisation:.....

Date of Signature.....

## **Schedule 1**

### **Definitions and Interpretation**

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



Commissioner includes the obligation to complete and submit the form in such a format or formats (electronic, paper or otherwise) as the Commissioner may specify;

- 1.1.8 any obligation on the Contractor to have systems, procedures or controls includes the obligation effectively to operate them;
  - 1.1.9 where the Contract imposes an obligation on a Party, that Party must comply with it and must take all reasonable steps to ensure that its personnel and Contractors (except the other Party) comply with it; and
  - 1.1.10 the Parties shall, so far as is possible, interpret the provisions of the Contract consistently with the European Convention on Human Rights, EU law, the APMS Directions, and any other relevant regulations, orders or directions made under the 1977, 2006 and 2012 Acts;
  - 1.1.11 the clause numbers and cross-reference are inserted for convenience only and do not affect the construction and interpretation of the Contract. For the avoidance of doubt, in the event of any apparent inconsistency in, without limitation, any clause numbers, defined terms and/or cross-references the relevant provisions of the APMS Directions and PMS Agreements Regulations, shall take precedence; and
  - 1.1.12 Where under section 65Z5 of the 2006 Act a relevant body (as defined therein) has arranged for functions exercisable by it to be exercised by or jointly with one or more other bodies, a reference to that relevant body shall, as the context requires, include a reference to the body or bodies exercising the functions in question (and vice versa).
- 1.2 The following terms and phrases shall have the following meanings for the purposes of the Contract:

**2006 Act**

the National Health Service Act 2006, as

	amended by the Health and Social Care Act 2012;
<b>2012 Act</b>	the Health and Social Care Act 2012;
<b>Accountable GP</b>	A general medical practitioner assigned to a Registered Patient in accordance with Clause 31.121 or 31.133;
<b>Advanced Electronic Signature</b>	<p>an electronic signature which is:</p> <ul style="list-style-type: none"><li>(a) uniquely linked to the signatory;</li><li>(b) capable of identifying the signatory;</li><li>(c) created using means that the signatory can maintain under their sole control; and</li><li>(d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;</li></ul>
<b>Affected Party</b>	in the context of Clause 75, the Party whose performance of obligations under the Contract has been affected by the Force Majeure Event;
<b>Alert Letter</b>	a letter from a recognised issuing body in accordance with Department of Health guidance alerting the National Health Service or any of its bodies of a doctor or other registered Health Care Professional whose performance or conduct could place

	staff or Patients at risk;
<b>Annual Report</b>	the annual report referred to in clauses 10.7 – 10.9;
<b>APMS Directions</b>	the Alternative Provider Medical Services Directions 2020;
<b>Appliance</b>	an appliance which is included in a list for the time being approved by the Secretary of State for the purposes of section 126 of the 2006 Act;
<b>Appropriate Person</b>	<p>(a) in relation to a person who has not attained the age of 16 years, a person mentioned in clause 31.11.1;</p> <p>(b) in relation to a person who lacks capacity:</p> <ul style="list-style-type: none"><li>(i) to make an application or provide information to, to accept an offer from, or otherwise communicate with, the Contractor; or</li><li>(ii) to authorise the making of an application or provision of information to, the acceptance of an offer from, or other communication with, the Contractor on their behalf;</li></ul> <p>a person mentioned in clause 31.11.2;</p>

<b>Approved Medical Practice</b>	shall be construed in accordance with section 10A of the Medical Act 1983 as amended or replaced from time to time;
<b>Armed Forces of the Crown</b>	means the forces that are "regular forces" or "reserve forces" within the meaning given in section 374 of the Armed Forces Act 2006 (definitions applying for the purposes of the whole Act)
<b>Assessment Panel</b>	the panel appointed by the Commissioner under Clause 31.108 of this Contract;
<b>Authorised Person</b>	in relation to a Patient, is a person who is entitled to make an application for pharmaceutical services on behalf of the Patient by virtue of regulation 116(a) to (c) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (authorised persons to apply for services);
<b>Bank Holiday</b>	any day that is specified or proclaimed as a bank holiday in England pursuant to section 1 (bank holidays) of the Banking and Financial Dealings Act 1971;
<b>Batch Issue</b>	has the meaning given in the NHS (PMS Agreements) Regulations 2004 (SI: 2004/627);
<b>BBV Guidelines</b>	all and any circulars, instructions, directions, guidance, regulations, codes and/or requirements of the NHS from time to time in respect of Blood Borne Viruses

	and Exposure Prone Procedures (including without limitation the Hepatitis Codes);
<b>Blood Borne Viruses</b>	hepatitis B, hepatitis C and Human Immunodeficiency Virus (HIV) and any other conditions or diseases which are recognised within NHS requirements to represent a material risk of being communicated between a member of Contractor Staff and a Patient during an Exposure Prone Procedure;
<b>CEDR</b>	the Centre for Effective Dispute Resolution;
<b>CCT</b>	Certificate of Completion of Training awarded under section 34L(1) of the Medical Act 1983;
<b>Change of Control</b>	a change in the Controlling Interest of the Contractor or its Holding Company;
<b>Charity Trustee</b>	one of the persons having the general control and management of the administration of a charity;
<b>Chemist</b>	means: <ul style="list-style-type: none"><li>(a) a registered pharmacist;</li><li>(b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968; or</li><li>(c) a supplier of Appliances,</li></ul>

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

<b>Child or Children</b>	a person or people under the age of 16 years;
<b>Chiropodist or Podiatrist Independent Prescriber</b>	a chiropodist or podiatrist who is registered in Part 2 of the register maintained under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register), and against whose name in that register is recorded an annotation signifying that the chiropodist or podiatrist is qualified to order drugs, medicines and Appliances as a chiropodist or podiatrist independent prescriber;
<b>Clinical Correspondence</b>	means all correspondence in writing, whether in electronic form or otherwise, between the Contractor and other health service providers concerning or arising out of the provision of a Remote Service or patient attendance and treatment at the Practice Premises including referrals made by letter or by any other means;
<b>Clinical Staff</b>	Contractor Staff with a medical or clinical qualification that is registered with a statutory professional body;
<b>Code of Practice on Disclosure</b>	the Criminal Records Bureau Code of Practice for Registered Persons and other

	recipients of Disclosure Information published by the Home Office under the Police Act 1997 (revised April 2009);
<b>Commencement Date</b>	[INSERT DATE HERE];
<b>Commissioner</b>	NHS [INSERT NAME] Integrated Care Board;
<b>Complaints Regulations</b>	the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009;
<b>Confidential Information</b>	information data and material of any nature which either Party may receive or obtain in connection with the operation of the Contract and:  (a) the release of which is likely to prejudice the commercial interests of the Commissioner or (as the case may be) the Contractor respectively; or  (b) which is a trade secret;
<b>Confidentiality Directions</b>	the Confidentiality and Disclosure of Information: General Medical Services, Personal Medical Services and Alternative Contractor Medical Services Directions 2013 as amended or updated from time to time;
<b>Contractor</b>	[INSERT DETAILS HERE]

<b>Contractor's Premises</b>	means the Practice Premises;
<b>Contractor's EPS Phase 4 Date</b>	means the date, encoded within the Electronic Prescription Service software, which is the date that a contractor has agreed is to be the date on and after which the contractor's prescribers are to use the Electronic Prescription Service for all eligible prescriptions;
<b>Contract Price</b>	the price as set out in and payable by the Commissioner to the Contractor in accordance with the provisions of Schedule 4;
<b>Contract Year</b>	a year commencing on the Commencement Date and on each successive annual anniversary of the Commencement Date and ending on the day before each annual successive anniversary of the Commencement Date;
<b>Contract</b>	this contract concluded between the Commissioner and the Contractor;
<b>Contractor Staff</b>	the employees, directors, officers, agents, sub-Contractors and workmen of the Contractor who are to be engaged in the performance of the Contractor's obligations under this Contract including Transferring Employees, self-employed doctors, locums or Contractors;
<b>Controlled Drugs</b>	the meaning given in section 2 of the Misuse of Drugs Act 1971 (which relates to



controlled drugs and their classification for the purposes of that Act);

**Controlling Interest**

an interest in shares giving to the holder or holder's control of the Contractor (or its Holding Company) within the meaning of section 1124 of the Corporation Tax Act 2010;

**Convictions**

other than in relation to minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as contemplated by Section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (SI 1975/1023) or any replacement to that Order);

**Core Hours**

unless expressed more extensively, and subject to clause 57A.1, the period beginning at 8am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or Bank Holidays;

**CRC Position**

any position in relation to which Standard Disclosure is permitted in accordance with section 113 of the Police Act 1997 as amended or replaced from time to time and, where applicable, the Police Act 1997 (Criminal Records) (Registration) Regulations 2006 and the Code of Practice

	on Disclosure but to which Enhanced Disclosure is not permitted;
<b>Data Controller</b>	shall have the meaning ascribed to it under the Data Protection Legislation;
<b>Data Protection Legislation</b>	Means (i) the GDPR and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
<b>the Detained Estate Healthcare Service</b>	means the healthcare service commissioned by NHS England in respect of persons who are detained in prison or in other secure accommodation by virtue of regulations made under section 3B(1)(c) of the 2006 Act; <sup>31</sup>
<b>Directly Bookable Appointment</b>	means an appointment of a type which, in line with the guidance entitled “Directly bookable appointments — guidance for practices” issued by NHS England , is available for booking by a Registered Patient or an appropriate person on their behalf; <sup>32</sup>

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<sup>31</sup> Regulation 10 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (S.I. 2012/2996) and amended by S.I. 2013/261 and S.I. 2014/452.

<sup>32</sup> This guidance, published in September 2022, is available at <https://www.england.nhs.uk/gp/investment/gp-contract/digital-requirements-guidance/>. Hard copies are available from NHS England, Digital First Primary Care team, Wellington House, 133-155 Waterloo Road, South Bank, London, SE1 8UG.

<b>Disclosure</b>	shall have the meaning in the Code of Practice on Disclosure;
<b>Dispenser</b>	a Chemist, medical practitioner or Contractor whom a Patient wishes to dispense his Electronic Prescriptions;
<b>Dispensing Services</b>	the provision of drugs, medicines or Appliances that may be provided as pharmaceutical services by a medical practitioner in accordance with arrangements made under section 126 (Arrangements for Pharmaceutical Services) and section 129 (Regulations as to Pharmaceutical Services) of the 2006 Act;
<b>Dispute</b>	a dispute, conflict or other disagreement between the Parties arising out of or in connection with this Contract;
<b>Dispute Resolution Procedure</b>	the procedure detailed in Clause 66 of the Contract;
<b>DPA 2018</b>	means the Data Protection Act 2018;
<b>Drug Tariff</b>	the publication known as the Drug Tariff which is published by the Secretary of State and which is referred to in section 127(4) (Arrangements for Additional Pharmaceutical Services) of the 2006 Act;
<b>Electronic Communication</b>	has the same meaning as in section 15 of the Electronic Communications Act 2000;
<b>Electronic Prescription Form</b>	a prescription form which falls within

	paragraph (b) of the definition of “Prescription Form”;
<b>Electronic Prescription Service</b>	the service of that name which is operated by the Health and Social Care Information Centre;
<b>Electronic Prescription</b>	an Electronic Prescription Form or Electronic Repeatable Prescription;
<b>Electronic Repeatable Prescription</b>	a prescription which falls within paragraph (b) of the definition of “Repeatable Prescription”;
<b>English Health Service Medicine</b>	a medicinal product used to any extent for the purposes of the health service continued under section 1(1) of the 2006 Act;
<b>Enhanced Disclosure</b>	shall have the meaning set out in the Police Act 1997 and the Code of Practice on Disclosure;
<b>Enhanced Services</b>	has the meaning given in the GMS Contracts Regulations;
<b>EPS token</b>	means a form (which may be an electronic form), approved by the Secretary of State, which— <ul style="list-style-type: none"><li>(a) is issued by a prescriber at the same time as an electronic prescription is created; and</li><li>(b) has a barcode that enables the prescription to be dispensed by a provider of pharmaceutical services</li></ul>

that is able to use the Electronic Prescription Service for the purposes of dispensing prescriptions, in circumstances where the provider is not dispensing the prescription as a nominated dispenser;

<b>Equipment</b>	anything save for the Practice Premises and the staff that the Contractor may use in the delivery of the Services;
<b>ERC Position</b>	any position in relation to which Enhanced Disclosure is permitted in accordance with section 115 of the Police Act 1997 as amended or replaced from time to time and, where applicable, the Police Act 1997 (Criminal Records) (Registration) Regulations 2006 and the Code of Practice on Disclosure;
<b>Essential Services</b>	the services described in regulation 17 of the GMS Contracts Regulations, or services that are equivalent to those services, and which are provided during Core Hours;
<b>Exempt Staff</b>	any person employed by an NHS Body;
<b>Existing Contract or Other Arrangement</b>	a contract or arrangement that was entered into prior to 1st April 2010 and which remains in force on 1st April 2010;
<b>Expert</b>	the person designated to determine the Dispute in accordance with Schedule 10;

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

extraordinarily severe weather conditions which are both unforeseen and for which precautions are not customarily taken by prudent business organisations so as to avoid or mitigate the impact thereof; industrial action which affects the provision of the Services, but which is not confined to the workforce of the Party concerned or is site specific; pestilence; the actions of governmental authorities to the extent that such actions are implemented either pursuant to emergency powers or otherwise outside the usual course of governmental business; or Act of God, and could not have been avoided or mitigated by the exercise of all reasonable care by that Party and further provided that such event materially affects the ability of the Party seeking to rely upon it to perform its obligations under the Contract;

**GDPR**

means the General Data Protection Regulation (Regulation (EU) 2016/679);

**General Medical Practitioner or GP**

except where the context otherwise requires, a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;

**Geographical Number**

a number which has a geographical area code as its prefix;

**GMS Contracts Regulations**

the National Health Service (General Medical Services Contracts) Regulations

2015;

**Good Practice**

using standards, practices, methods and procedures conforming to the Law and exercising that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, efficient and experienced clinical services Contractor providing clinical services and/or engaged in operations similar to the Services under the same or similar to the obligations of the relevant party under this Contract whilst at the same time complying with any specific standards set out in this Contract or notified to the Contractor by the Commissioner from time to time;

**Governing Body**

in respect of either Party, the board of directors, governing body, executive team or other body, as the case may be, having overall responsibility for the actions of that Party;

**GP2GP Facility**

means the facility provided by NHS England to the Contractor which enables the electronic health records of a Registered Patient which are held on the computerised clinical systems of the Contractor to be transferred securely and directly to another provider of primary medical services with which the Patient has registered;

**GPIT Operating Model**

means the document entitled “Securing



	Excellence in Primary Care (GP) Digital Services: The Primary Care (GP) Digital Services Operating Model 2021-23 V5” issued by NHS England; <sup>33</sup>
<b>GP Specialty Registrar</b>	a medical practitioner who is being trained in general practice by a general medical practitioner who is approved under section 34I of the Medical Act 1983 for the purpose of providing training under that section whether as part of training leading to a CCT or otherwise;
<b>Health and Social Care Information Centre</b>	means a body corporate established under section 252(1) of the Health and Social Care Act 2012 which is also known as NHS Digital;
<b>Health and Social Services Board</b>	a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972;
<b>Health and Social Services Trust</b>	a Health and Social Services Trust established under article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991;
<b>Health Care Professional</b>	has the same meaning as in section 93 of the 2006 Act;

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<sup>33</sup> The document, published in July 2022, which sets out the commissioning framework for the provision of general practice digital services, is available at: <https://www.england.nhs.uk/publication/securing-excellence-in-primary-care-gp-digital-services-the-primary-care-gp-digital-services-operating-model-2021-2023>. The document can be obtained in alternative formats by telephone (on 0300 311 22 33), by email (England.contactus@nhs.net) or by writing to NHS England, PO Box 16738, Redditch, B97 9PT.

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

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

**Independent Nurse  
Prescriber**

a person:

- (a) who is either engaged or employed by the Contractor;
- (b) who is registered in the Nursing and Midwifery Register; and

in respect of whom an annotation signifying that he is qualified to order drugs, medicines and Appliances from as a community practitioner nurse prescriber, a nurse independent prescriber or as a nurse independent/supplementary prescriber;

**Integrated Care Board**

an integrated care board established under Chapter A3 of Part 2 of the 2006 Act;

**Law**

- (a) any applicable statute or proclamation or any delegated or subordinate Law;
- (b) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;
- (c) any NHS Requirement, applicable code of practice, national minimum standard, guidance, direction or

determination with which the Contractor is bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Contractor by the Commissioner; and

- (d) any applicable judgement of a relevant court of law which is a binding precedent in England and Wales

in each case in force in England and Wales;

**Licensing Authority**

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

**Licensing Body**

any body that licenses or regulates any profession;

**List of Patients**

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

**Listed Medicine**

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

**Listed Medicines Voucher**

a form provided by NHS England for use for the purpose of ordering a Listed Medicine;

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

with the Secretary of State for Work  
and Pensions;

<b>Medical Performers List</b>	a list of medical practitioners maintained and published by NHS England in accordance with section 91(1) (Persons Performing Primary Medical Services) of the 2006 Act;
<b>Medical Register</b>	the registers kept under section 2 of the Medical Act 1983;
<b>the MHRA</b>	the Medicines and Healthcare products Regulatory Agency;
<b>National Diabetes Audit</b>	means NHS England's clinical priority programme on diabetes which measures the effectiveness of diabetes healthcare provided against clinical guidelines and quality standards issued by the National Institute for Health and Care Excellence (NICE) in England and Wales);
<b>National Disqualification</b>	(a) a decision made by the First-tier Tribunal under section 159 of the 2006 Act (national disqualification) or under regulations corresponding to that section  (b) a decision under provisions in force in Wales, Scotland or Northern Ireland corresponding to section 159 of the Act (national disqualification);
<b>Negotiation Period</b>	the period of fifteen (15) Operational Days following receipt of the first offer to

	negotiate;
<b>NHS Body</b>	shall have the meaning as set out in Clause 55.2.1;
<b>NHS Contract</b>	has the meaning assigned to it in section 9 of the 2006 Act;
<b>NHS Digital Workforce Collection</b>	means the successor to the GP Workforce Census undertaken by the Health and Social Care Information Centre annually;
<b>NHS England</b>	the body corporate established under section 1H of the 2006 Act;
<b>NHS Number</b>	means, in relation to a Registered Patient, the number consisting of ten (10) numeric digits which serves as the national unique identifier used for the purpose of safely, accurately and efficiently sharing information relating to that patient across the whole of the health service in England;
<b>NHS Pensions</b>	NHS Pensions, as part of the NHS Business Services Authority;
<b>NHS Requirement</b>	all mandatory NHS requirements and any similar official requests, requirements and NHS standards and recommendations having similar status for the time being in force, but only to the extent the same are published and publicly available (whether on the Department of Health and Social Care website, on the website of a Competent Authority or otherwise) or the

existence and contents of them have been notified to the Contractor by the Commissioner;

**NHS Tribunal**

the Tribunal constituted under section 46 of the National Health Service Act 1977 for England and Wales, and which, except for prescribed cases, had effect in relation to England only until 14th December 2001 and in relation to Wales only until 26th August 2002;

**Nominated Dispenser**

a Chemist, medical practitioner or Contractor who has been nominated in respect of a Patient and the details of that nomination are held in respect of that Patient in the Patient Demographics Service, which is operated by the Information Centre for Health and Social Care;

**Non-Electronic Prescription Form**

a form for the purpose of ordering a drug, medicine or Appliance which is;

- (a) provided by NHS England, a local authority or the Secretary of State;
- (b) issued by the Prescriber;
- (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;



<b>Non-Electronic Repeatable Prescription</b>	a Prescription which falls within clause (a)(i) of the definition of “Repeatable Prescription”;
<b>Nursing and Midwifery Register</b>	the register maintained by the Nursing and Midwifery Council under the Nursing and Midwifery Order 2001;
<b>Nursing Officer</b>	<p>a health care professional who is registered on the Nursing and Midwifery Register and—</p> <ul style="list-style-type: none"><li>(i) employed or engaged by the Department for Work and Pensions, or</li><li>(ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;</li></ul>
<b>Occupational Therapist</b>	<p>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—</p> <ul style="list-style-type: none"><li>(i) employed or engaged by the Department for Work and Pensions, or</li><li>(ii) provided by an organisation under a contract entered into with the</li></ul>

Secretary of State for Work and  
Pensions; and

<b>Online Practice Profile</b>	has the meaning given in clause 33A.7;
<b>Operational Day</b>	a day other than a Saturday, Sunday or bank holiday in England;
<b>Out of Hours Period</b>	subject to clause 57A.1:  (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;  except where the Core Hours (as defined in this Agreement) are different from the period defined as core hours in the PMS Agreements Regulations, in which case “Out of Hours Period” means those periods which fall outside of the Core Hours (as defined in this Agreement);
<b>Out of Hours Services</b>	services required to be provided in all or part of the Out of Hours Period which would be Essential Services if provided by a Contractor to its Registered Patients in APMS Core Hours;

<b>Outer Boundary Area</b>	the area outside the Patient Registration Area more particularly described in clause 31;
<b>Overseas Disclosure</b>	disclosure of convictions or other related matters from any country outside the United Kingdom by use of the relevant country's criminal records disclosure system;
<b>Overseas Person</b>	any person who is a citizen of or holds a Relevant Professional Qualification from any country outside the UK or who has worked in any country outside the UK;
<b>Paramedic Independent Prescriber</b>	<p>a person:</p> <p>(a) who is either engaged or employed by the Contractor or who is a party to the Contract;</p> <p>(b) who is registered in the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register); and</p> <p>(c) against whose name in that register is recorded an annotation signifying that that person is qualified to order drugs, medicines or appliances as a paramedic independent prescriber;</p>
<b>Parent</b>	includes, in relation to any Child, any adult

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

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

**Pharmaceutical Regulations** means the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013;

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

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

Social Work Professions Order 2001  
relating to physiotherapists and—

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

**PMS Agreements  
Regulations**

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

**Practice**

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

**Practice Leaflet**

a leaflet drawn up in accordance with  
clause 36;

**Practice Premises**

an address or addresses specified in Part  
1 of Schedule 2 of the Contract at which  
Services are to be provided under the  
Contract;

**Practice Website**

a website through which the Contractor  
advertises the Primary Medical Services it  
provides;

**Prescriber**

- (a) a Chiropodist or Podiatrist Independent  
Prescriber;
- (b) an Independent Nurse Prescriber;

- (c) a medical practitioner;
- (d) an optometrist independent prescriber;
- (e) a Paramedic Independent Prescriber;
- (f) a Pharmaceutical Independent Prescriber;
- (g) a Physiotherapist Independent Prescriber;
- (h) a Supplementary Prescriber; and
- (i) a therapeutic radiographer independent prescriber;

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

**Prescription Form**

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

- (a) a form for the purpose of ordering a drug, medicine or Appliance which is:
  - (i) provided by NHS England, a local authority or the Secretary of State;
  - (ii) issued by a Prescriber; and
  - (iii) does not indicate that the drug, medicine or Appliance ordered may be ordered

more than once; or

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

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

(ii) is transmitted as an Electronic Communication to a nominated dispenser or via an information hub by the Electronic Prescription Service; and

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

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

**Primary Care List** (a) a list of persons performing primary medical services under Part 4 of the 2006 Act, primary dental services under Part 5 of the 2006 Act or primary ophthalmic services under Part 6 of the 2006 Act, prepared in accordance with regulations made under sections 91, 106, 123, 145,



146, 147A or 149 respectively of the 2006 Act;

- (b) a list of persons undertaking to provide primary medical services, primary dental services, primary ophthalmic services or, as the case may be, pharmaceutical services prepared in accordance with regulations made under the applicable provisions of the 2006 Act;
- (c) a list corresponding to any of the above lists in Wales, Scotland or Northern Ireland;

**Primary Carer**

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

**Primary Medical Services**

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

**Private Services**

the provision of any treatment which would amount to Primary Medical Services if it was provided under or by virtue of a contract or agreement to Part 4 of the 2006 Act applies;

**Registered Patient**

a person:

- (a) who is recorded by the Commissioner pursuant to the APMS Directions as being on the Contractor's List of Patients, or

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

**Relevant Calls**

calls—

- (i) made by patients to the Practice Premises for any reason related to Services provided under this Contract; and
- (ii) made by persons, other than patients, to the Practice Premises in relation to services provided as part of the health service;

**Relevant Register**

- (a) in relation to a nurse, the Nursing and Midwifery Register;
- (b) in relation to a pharmacist, Part 1 of the register maintained under Article 10 of the Pharmacists and Pharmacy Technicians Order 2007 as amended or replaced from time to time or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976;
- (c) in relation to an optometrist, the register maintained by the General

Optical Council in pursuance of  
section 7 of the Opticians Act 1989;  
and

(d) the part of the register maintained  
by the Health and Care Professions  
Council in pursuance of article 5 of  
the Health and Social Work  
Professions Order 2001 relating to:

(i) chiropodists and podiatrists,

(ii) paramedics,

(iii) physiotherapists, or

(iv) radiographers;

**Remote Service**

means:

(a) an online consultation under clause  
32.20L;

(b) a secure electronic communication  
under clause 32.20M;

(c) a Video Consultation under clause  
32.20N;

(d) a telephone consultation;

(e) an Electronic Prescription;

(f) any other service which can be  
provided through a digital or  
telecommunications method,  
including administrative tasks in  
support of the Contract;

pharmaceutical services or Local

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

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

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

**Restricted Availability  
Appliance**

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

**Scheduled Drug**

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

**the Scheduled Release Date**

means the date on which the person making an application under clause

31.148.3 is due to be released from  
detention in prison;

<b>Secretary of State</b>	the Secretary of State for Health and Social Care;
<b>Service Specification</b>	the specification for the Services set out in Schedule 2 of the Contract;
<b>Services</b>	the services to be provided by the Contractor in accordance with the terms of the Contract as detailed in the Service Specification;
<b>Standard Disclosure</b>	shall have the meaning set out in the Code of Practice on Disclosure;
<b>Standards for Better Health</b>	the document produced by the Department of Health establishing the core and developmental standards covering NHS healthcare provided for NHS patients in England;
<b>Summary Care Record</b>	means the system approved by NHS England 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 (other than any information recorded in accordance with Clause 32.9A or any information about ethnicity provided under Clause 32.20K) taken from the patient's electronic record;
<b>Summary Information</b>	means items of patient data that comprise

the Summary Care Record;

**Supplementary Prescriber** a person:

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

(b) whose name is registered in:

(i) the Nursing and Midwifery Register;

(ii) Part 1 of the Register maintained under Article 19 of the Pharmacy Order 2010;

(iii) the register maintained in pursuance of articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976; or

(iv) the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register) relating to—

(aa) chiropodists and podiatrists,

(bb) dieticians,

(cc) paramedics,

(dd) physiotherapists, or



(ee) radiographers; or

(v) the register of optometrists maintained by the General Optical Council pursuant to section 7 of the Opticians Act 1989; and

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

**System of Clinical Governance**

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

**Temporary Resident**

has the meaning given in the GMS Contracts Regulations;

**Transferring Employees**

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

	a consequence of this Contract;
<b>TUPE</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006
<b>Working Day</b>	any day apart from Saturday, Sunday, Christmas Day, Good Friday or a Bank Holiday; and
<b>Writing</b>	except in Clause 57.1 and unless the context otherwise requires, includes electronic mail and “written” should be construed accordingly.

**Schedule 2**  
**Service Specification<sup>34</sup>**

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<sup>34</sup> The Service Specification must specify who the Contractor is to provide services to under the Contract, including where appropriate by reference to an area within which a person resident would be entitled to receive services under the Contract. This is a requirement of the APMS Directions.

### **Service Mobilisation / Transition Plan<sup>35</sup>**

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

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

This plan was [proposed by the contractor as part of their successful tender bid and forms part of this contract] [agreed between the Commissioner and Contractor as part of the negotiations]

*Insert Contractors Service Mobilisation / Transition Plan*

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<sup>35</sup> For local agreement

**Annex 1**  
**Patient Registration Area and Outer Boundary Area**

**Reference: Clause 31.2**

**[FOR LOCAL AGREEMENT]**

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

**Part 1**  
**Premises**

[INSERT DETAILS HERE]

## Part 2

### Provisions relating to Loaned Equipment

<sup>36</sup>At the Commencement Date of this contract there is/is no<sup>37</sup> Loaned Equipment. Therefore the provisions in this Part 2 do/do not apply at Commencement

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

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<sup>36</sup> May be amended – for local agreement

<sup>37</sup> Delete within highlighted sections where applicable

1.5 The licence granted pursuant to paragraph 1.4 shall terminate at the same time as this Contract. If this Contract is terminated (in whole or in part) for any reason in accordance with its terms, the licence shall terminate in respect of the Loaned Equipment and the Contractor shall at the Commissioner's request return the Loaned Equipment to the Commissioner in accordance with paragraph 1.12.

1.6 **The Contractor shall not:**

1.6.1 sub-license to any sub-contractor (other than those approved in writing by the Commissioner);

1.6.2 assign or novate the benefit or burden of the licence set out in paragraph 1.4 in whole or in part;

1.6.3 allow the Loaned Equipment to become the subject of any charge, lien or encumbrance; and

1.6.4 deal in any manner with any of the Loaned Equipment which is inconsistent with its rights and obligations under paragraph 1.4,

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

1.7 **The Contractor shall:**

1.7.1 use the Loaned Equipment in accordance with manufacturer's instructions and any instructions provided by the Commissioner to the Contractor;

1.7.2 store the Loaned Equipment appropriately and in accordance with all applicable Law, good practice guidelines and any manufacturer's instructions;

1.7.3 establish and manage a planned preventative maintenance programme and make adequate and appropriate contingency arrangements for emergency remedial maintenance or substitute equipment;



- 1.7.4 keep the Loaned Equipment in good condition and repair;
  - 1.7.5 maintain records of maintenance testing and certification of the Loaned Equipment, such records to be made available to the Commissioner as requested from time to time;
  - 1.7.6 ensure the Loaned Equipment are only operated or used by properly trained and appropriately qualified operators (where applicable);
  - 1.7.7 adequately insure all the Loaned Equipment.
- 1.8 Upon receiving written notice from the Commissioner, the Contractor will allow the Commissioner to conduct an inspection of the Loaned Equipment in order to ensure the Contractor is complying with its obligations set out in this paragraph 1.
- 1.9 Save to the extent caused or contributed to by the Commissioner, the Contractor shall indemnify and keep indemnified the Commissioner from and against all liability in respect of all losses, claims, charges, demands, liabilities, damages and expenses suffered by the Commissioner in respect of:
- 1.9.1 damage, loss or destruction of the Loaned Equipment;
  - 1.9.2 injury, harm or death of any person;
  - 1.9.3 damage to any Premises; or
  - 1.9.4 failure by the Contractor to comply with its obligations under paragraph 1.7.
- by reason of acts or omissions by the Contractor or those authorised by it when using the Loaned Equipment after the Commencement Date.
- 1.10 Save as otherwise provided in this Clause, the Contractor shall use the Loaned Equipment at its own risk and no liability shall attach to the Commissioner in respect of the use of the Loaned Equipment by the Contractor or otherwise.

- 1.11 The Parties agree that the Licence granted pursuant to paragraph 1.4 may be terminated in respect only of the Loaned Equipment affected by the relevant Licence Termination Event, by the Commissioner, immediately on notice to the Contractor, on the occurrence of any of the following events:
- 1.11.1 expiry or termination of any of this Contract, in whole or in part;
  - 1.11.2 the Contractor failing to comply with its obligations under this paragraph 1;
  - 1.11.3 there is a change in Law that requires the licensing arrangements to end; or
  - 1.11.4 the Contractor ceasing to exist or ceasing to carry on its business or any part of its business,
- (each a “Licence Termination Event”) and the provisions of paragraph 1.12 shall apply.
- 1.12 Upon the occurrence of a Licence Termination Event, the Contractor shall return to the Commissioner the Loaned Equipment as soon as reasonably practicable in the same or similar condition as the Loaned Equipment was handed over to the Contractor on the Transfer Date, excepting fair wear and tear (“Return Conditions”).
- 1.13 If the Contractor fails to return the Loaned Equipment to the Commissioner upon request, or any returned Loaned Equipment do not comply with the Return Conditions, then:
- 1.13.1 the Commissioner shall be entitled to deduct an amount equal to the replacement value of any and all Loaned Equipment that are either not returned, or returned in a condition that does not meet the Return Conditions (as applicable) at the date of the expiry or termination, from any amounts payable by the Commissioner to the Contractor under this Contract; or

1.13.2 the Contractor shall pay the Commissioner, on written notice from the Commissioner, an amount equal to the replacement value of the portion of the Loaned Equipment that were either not returned or returned in a condition that does not comply with the Return Conditions (as applicable) at the time such assets are returned to the Commissioner.

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

[List of Loaned Equipment, if any, to be inserted here]

**Schedule 4**  
**Finance<sup>38</sup>**

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<sup>38</sup> For local agreement.

## Schedule 4 Part 2: Minimum Insurance Requirements

### Reference Clause 52

The minimum insurance required under clause 52 is set out below<sup>39</sup>.

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

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<sup>39</sup> For local agreement. An assessment should be made in each set of circumstances as to the appropriate level of cover.

## **Schedule 5**

### **Complaints Procedure**

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

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

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

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

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

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

- (1) A complaint may be made by—
  - (a) a person who receives or has received services from the Contractor; or
  - (b) a person who is affected, or likely to be affected, by the action, omission or decision of the Contractor which is the subject of the complaint.
- (2) A complaint may be made by a person (in this regulation referred to as a representative) acting on behalf of a person mentioned in paragraph (1) who—
  - (a) has died;
  - (b) is a child;
  - (c) is unable to make the complaint themselves because of—
    - (i) physical incapacity; or
    - (ii) lack of capacity within the meaning of the Mental Capacity Act 2005; or
  - (d) has requested the representative to act on their behalf.
- (3) Where a representative makes a complaint on behalf of a child, the Contractor—



- (a) must not consider the complaint unless it is satisfied that there are reasonable grounds for the complaint being made by a representative instead of the child; and
  - (b) if it is not so satisfied, must notify the representative in writing, and state the reason for its decision.
- (4) This paragraph applies where—
  - (a) a representative makes a complaint on behalf of—
    - (i) a child; or
    - (ii) a person who lacks capacity within the meaning of the Mental Capacity Act 2005; and
  - (b) the Contractor is satisfied that the representative is not conducting the complaint in the best interests of the person on whose behalf the complaint is made.
- (5) Where paragraph (4) applies—
  - (a) the complaint must not be considered or further considered under this Schedule; and
  - (b) the Contractor must notify the representative in writing, and state the reason for its decision.
- (6) In this Schedule any reference to a complainant includes a reference to a representative.

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

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

- (b) notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.

## **5. Procedure before investigation**

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

## **6. Investigation and response**

- (1) A Contractor to which a complaint is made must—
  - (a) investigate the complaint in a manner appropriate to resolve it speedily and efficiently; and
  - (b) during the investigation, keep the complainant informed, as far as reasonably practicable, as to the progress of the investigation.

- (2) As soon as reasonably practicable after completing the investigation, the Contractor must send the complainant in writing a response, signed by the Contractor, which includes—
  - (a) a report which includes the following matters—
    - (i) an explanation of how the complaint has been considered; and
    - (ii) the conclusions reached in relation to the complaint, including any matters for which the complaint specifies, or the Contractor considers, that remedial action is needed; and
  - (b) confirmation as to whether the Contractor is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken;
  - (c) details of the complainant's right to take their complaint to the Health Service Commissioner under the Health Service Commissioners Act 1993.
- (3) In paragraph (4), “relevant period” means the period of six (6) months commencing on the day on which the complaint was received, or such longer period as may be agreed before the expiry of that period by the complainant and the Contractor.
- (4) If the Contractor does not send the complainant a response in accordance with paragraph (2) within the relevant period, the Contractor must—
  - (a) notify the complainant in writing accordingly and explain the reason why; and
  - (b) send the complainant in writing a response in accordance with paragraph (2) as soon as reasonably practicable after the relevant period.

## **7. Form of communications**

- (1) Any communication which is required by this Schedule to be made to a complainant may be sent to the complainant electronically where the complainant—
  - (a) has consented in writing or electronically; and
  - (b) has not withdrawn such consent in writing or electronically.

- (2) Any requirement in this Schedule for a document to be signed by a person is satisfied, in the case of a document which is sent electronically in accordance with this Schedule, by the individual who is authorised to sign the document typing their name or producing their name using a computer or other electronic means.

## **8. Publicity**

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

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

## **9. Monitoring**

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

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

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

## **10. Annual reports**

- (1) The Contractor must prepare an annual report for each year which must—
- (a) specify the number of complaints which the Contractor received;
  - (b) specify the number of complaints which the Contractor decided were well-founded;
  - (c) specify the number of complaints which the Contractor has been informed have been referred to—
    - (i) the Health Service Commissioner to consider under the Health Service Commissioners Act 1993; and
  - (d) summarise—
    - (i) the subject matter of complaints that the Contractor received;

- (ii) any matters of general importance arising out of those complaints, or the way in which the complaints were handled;
  - (iii) any matters where action has been or is to be taken to improve services as a consequence of those complaints.
- (2) In paragraph (1), “year” means a period of twelve (12) months ending with 31st March.
- (3) The Contractor must ensure that its annual report is available to any person on request.
- (4) The Contractor must send a copy of its annual report to the Commissioner.
- (5) The copy of the annual report required to be sent in accordance with paragraph (5) must be sent as soon as reasonably practicable after the end of the year to which the report relates.

**Schedule 6**  
**Performance Management<sup>40</sup>**

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<sup>40</sup> For local agreement.

## **Annex 1**

### **Annual Report**

The Contractor agrees to provide a report on an annual basis as requested by the Commissioner. The Template for the Annual Report shall be provided by the Commissioner no later than nine (9) months after the Commencement Date.<sup>41</sup>

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<sup>41</sup> Or for local agreement if provisions can be specified or agreed by alternative means.

## **Schedule 7**

### **Administration**

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

Name:

Title:

The Contractor's Representative shall be:

Name:

Title:

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

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

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

For the purposes of clause 81.2 (Confidential Information), the relevant timescale shall be [2 years for all classes of information]<sup>42</sup>.

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<sup>42</sup> Consideration should be paid in each case as to the nature of information likely to be affected.



## **Schedule 8**

### **Particulars for Practice Leaflet**

[INCLUDE IF RELEVANT:]

A practice leaflet shall include:

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

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

22. Details of who has access to Patient information (including information from which the identity of the individual can be ascertained) and the Patient's rights in relation to disclosure of such information.
23. The name, address and telephone number of the Commissioner.
24. Information about the assignment by the Contractor to its new and existing Patients of an Accountable GP in accordance with clauses 31.133 to 31.141.
25. Information about the assignment by the Contractor to its Patients aged 75 and over of an Accountable GP under clauses 31.121 to 31.124.

**Schedule 9**  
**TUPE, Tendering and Handover<sup>43</sup>**

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<sup>43</sup> For local agreement.

## **Schedule 10**

### **Dispute Resolution Procedure**

#### **Escalated Negotiation**

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

#### **Mediation**

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

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

- 4.7. all information, whether oral, in writing or otherwise, arising out of or in connection with the mediation will be inadmissible in any current or subsequent litigation or other proceedings. This paragraph 4.7 will not apply to any information which would in any event have been admissible in any such proceedings.
- 4.8. Mediations under paragraph 3.2 must follow the mediation process of CEDR or other independent body or organisation as agreed between the Parties in accordance with clause 3.2.

### **Expert Determination**

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

appointment of the Expert a statement of its case, including a copy of the Expert Determination Notice, the Contract, details of the circumstances giving rise to the Dispute, the reasons why it is entitled to the solution sought, and the evidence upon which it relies. The statement of case must be confined to the issues raised in the Expert Determination Notice.

- 4.13. The Party not serving the Expert Determination Notice must reply to the Expert and to the other Party within five (5) Operational Days of receiving the statement of case, giving details of what is agreed and what is disputed in the statement of case and the reasons why.
- 4.14. The Expert must produce a written decision with reasons within 30 Operational Days of receipt of the statement of case referred to in paragraph 4.13, or any longer period as is agreed by the Party after the Dispute has been referred.
- 4.15. The Expert will have complete discretion as to how to conduct the expert determination, and will establish the procedure and timetable.
- 4.16. The Party must comply with any request or direction of the Expert in relation to the expert determination.
- 4.17. The Expert must decide the matters set out in the Expert Determination Notice, together with any other matters which the Parties and the Expert agree are within the scope of the expert determination. The Expert must send their decision in writing simultaneously to both Parties. Within 5 Operational Days following the date of the decision the Parties must provide the Expert and the other Party with any requests to correct minor clerical errors or ambiguities in the decision. The Expert must correct any minor clerical errors or ambiguities at their discretion within a further 5 Operational Days and send any revised decision simultaneously to the Parties in Dispute.



- 4.18. The Parties must bear their own costs and expenses incurred in the expert determination and are jointly liable for the costs of the Expert.
- 4.19. **The decision of the Expert is final and binding**, except in the case of fraud, collusion, bias, or material breach of instructions on the part of the Expert, in which case a Party will be permitted to apply to Court for an Order that:
- 4.19.1. the Expert reconsider his decision (either all of it or part of it); or
- 4.19.2. the Expert's decision be set aside (either all of it or part of it).
- 4.20. If a Party in Dispute does not abide by the Expert's decision the other Parties may apply to Court to enforce it.
- 4.21. All information, whether oral, in writing or otherwise, arising out of or in connection with the expert determination will be inadmissible as evidence in any current or subsequent litigation or other proceedings whatsoever, with the exception of any information which would in any event have been admissible or disclosable in any such proceedings.
- 4.22. The Expert is not liable for anything done or omitted in the discharge or purported discharge of their functions, except in the case of fraud or bad faith, collusion, bias, or material breach of instructions on the part of the Expert.
- 4.23. The Expert is appointed to determine the Dispute or Disputes between the Parties and the Expert's decision may not be relied upon by third parties, to whom the Expert shall have no duty of care.

## Schedule 11

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

<b>Indicator ID</b>	<b>Indicator Description</b>
CHD003	The percentage of patients with coronary heart disease whose last measured cholesterol (measured in the preceding 12 months) is 5 mmol/l or less
CKD002	The percentage of patients on the CKD register in whom the last blood pressure reading (measured in the preceding 12 months) is 140/85 mmHg or less
CKD004	The percentage of patients on the CKD register whose notes have a record of a urine albumin: creatinine ratio (or protein: creatinine ratio) test in the preceding 12 months
NM84	The percentage of patients on the CKD register with hypertension and proteinuria who are currently treated with renin-angiotensin system antagonists
CVD-PP002	The percentage of patients diagnosed with hypertension (diagnosed after or on 1st April 2009) who are given lifestyle advice in the preceding 12 months for: smoking cessation, safe alcohol consumption and healthy diet
DM005	The percentage of patients with diabetes, on the register, who have a record of an albumin: creatinine ratio test in the preceding 12 months
DMO11	The percentage of patients with diabetes, on the register, who have a record of retinal screening in the preceding 12 months
EP002	The percentage of patients 18 or over on drug treatment for epilepsy who have been seizure free for the last 12 months recorded in the preceding 12 months
EP003	The percentage of women aged 18 or over and who have not attained the age of 55 who are taking antiepileptic drugs who have a record of information and counselling about contraception, conception and pregnancy in the preceding 12 months
LD002	The percentage of patients on the learning disability register with Down's syndrome aged 18 or over who have a record of blood TSH in the preceding 12 months
MH004	The percentage of patients aged 40 or over with schizophrenia, bipolar affective disorder and other psychoses who have a record of total cholesterol: hdl ratio in the preceding 12 months
MH007	The percentage of patients with schizophrenia, bipolar affective disorder and other psychoses who have a record of alcohol consumption in the preceding 12 months
MH008	The percentage of women aged 25 or over and who have not attained the age of 65 with schizophrenia, bipolar affective disorder and other psychoses whose notes record that a cervical screening test has been performed in the preceding 5 years
PAD002	The percentage of patients with peripheral arterial disease in whom the last blood pressure reading (measured in the preceding 12 months) is 150/90 mmHg or less

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PAD003	The percentage of patients with peripheral arterial disease in whom the last measured total cholesterol (measured in the preceding 12 months) is 5 mmol/l or less
PAD004	The percentage of patients with peripheral arterial disease with a record in the preceding 12 months that aspirin or an alternative anti-platelet is being taken
RA003	The percentage of patients with rheumatoid arthritis aged 30 or over and who have not attained the age of 85 who have had a cardiovascular risk assessment using a CVD risk assessment tool adjusted for RA in the preceding 12 months
RA004	The percentage of patients aged 50 or over and who have not attained the age of 91 with rheumatoid arthritis who have had an assessment of fracture risk using a risk assessment tool adjusted for RA in the preceding 24 months
SMOK001	The percentage of patients aged 15 or over whose notes record smoking status in the preceding 24 months
STIA005	The percentage of patients with a stroke shown to be non-haemorrhagic, or a history of TIA whose last measured total cholesterol (measured in the preceding 12 months) is 5 mmol/l or less
THY001	The contractor establishes and maintains a register of patients with hypothyroidism who are currently treated with levothyroxine
THY002	The percentage of patients with hypothyroidism, on the register, with thyroid function tests recorded in the preceding 12 months"

**SCHEDULE 12<sup>44</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 this Schedule;
  - (c) 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);
  - (d) are included in clause 49 of this Contract; and
  - (e) 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***:

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<sup>44</sup> Clause 24.8 applies the provisions in this Schedule to contractors who are Dispensing Doctors.

- (a) the Contractor must notify NHS England of the matters referred to in paragraph 4; and
  - (b) as part of the listing of the Contractor in the **dispensing doctor list**, NHS England must include the names of any **general practitioner** notified under paragraph 4(a), unless NHS England 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, and whom the Contractor anticipates will provide pharmaceutical services on the behalf of the Contractor; and
  - (b) for a **general practitioner** about whom NHS England 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”;
  - (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 as a **nominated dispensing contractor** 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; or
- (iii) any person presents the **dispensing doctor** with an EPS token that relates to an order of a kind specified in paragraphs 9(a)(i) – (iii) and requests the provision of drugs or appliances in accordance with the related **electronic prescription form**;

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 **dispensing doctor** 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**;

- (b) the **dispensing doctor** receives as a **nominated dispensing contractor** 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; or
- (c) any person presents the **dispensing doctor** with an EPS token that relates to an order of a kind specified in paragraph 10(a)(i) – (iv) and requests the provision of drugs or appliances in accordance with the related **electronic prescription form**; 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.

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 Schedules 2 to 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 *dispensing doctor***

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 required 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 19;
    - (ii) if clause 20 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 24.2 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.

#### Supply in accordance with a Serious Shortage Protocol (“SSP”)

14A. This sub-paragraph applies where, in relation to an order for a drug or an **appliance** on a **prescription form** or a repeatable prescription:

- (a) a **SSP** has effect in respect of:
  - (i) the requested drug or **appliance**; or
  - (ii) drugs or **appliances** of a specified description, and the requested drug or **appliance** is of that description.
- (b) Where sub-paragraph (a) applies and the **dispensing doctor** provides a different product or quantity of product to the product or quantity of product ordered on the **prescription form** or repeatable prescription, in accordance with the **SSP**:
  - (i) the **dispensing doctor** must endorse the prescription or the associated **batch issue** accordingly (if the manner for making the endorsement is provided for in the Drug Tariff, in the manner provided for in the Drug Tariff); and
  - (ii) the prescription or associated **batch issue** as thus endorsed is treated as being the prescription for product reimbursement purposes (even though the supply is not in pursuance of that prescription).
- (c) Where the **dispensing doctor** provides a drug or **appliance** under this paragraph, the **dispensing doctor** must include in the dispensing label on the packaging of the product, for the patient’s benefit, information to the effect that the product is being supplied in accordance with a **SSP**, identifying the particular **SSP**.

#### Supply in accordance with a Pandemic Treatment Protocol (“PTP”) or a Pandemic Treatment Patient Group Direction (“PTPGD”)

- 14B (a) Subject to the following provisions of this Schedule, where:
- (i) a **dispensing doctor** receives, via a secure service approved by NHS England for this purpose, an electronic message that

amounts to an order for the supply of a drug in accordance with a **PTP** or a **PTPGD**; and

- (ii) a person who is entitled to be supplied with that drug by the **dispensing doctor** (Part 8 of the Pharmaceutical Regulations and this Schedule having that effect) in pursuance of that order requests the provision of the drug in accordance with that order;

the **dispensing doctor** must, with reasonable promptness, provide the drug so ordered.

- (aa) Where the **dispensing doctor** considers:

- (i) on the basis of a request for the supply of a drug in accordance with a **PTP** or a **PTPGD** that has been approved by NHS England as a basis for supply as part of pharmaceutical services;
- (ii) having made the appropriate checks; and
- (iii) having regard to what is reasonable and appropriate,

that a person is entitled to be supplied with the drug by the **dispensing doctor** (Part 8 of the Pharmaceutical Regulations and this Schedule having that effect) in accordance with the **PTP** or **PTPGD** as part of pharmaceutical services, the **dispensing doctor** must, with reasonable promptness, provide the drug requested.

- (b) If a person requesting the provision of the drug asks the **dispensing doctor** to do so:
  - (i) the **dispensing doctor** must give an estimate of the time when the drug will be ready; and
  - (ii) if they are not ready by then, the **dispensing doctor** must give a revised estimate of the time when they will be ready (until they are ready).
- (c) Where the **dispensing doctor** provides a drug under sub-paragraph (a) or (aa), the **dispensing doctor** must include a dispensing label on the packaging of the product and include in the label (in addition to the particulars required or permitted by Part 1 of Schedule 26 to the Human Medicines Regulations 2012), for the patient's benefit, information to the effect that the product is being supplied in accordance with a **PTP** or a **PTPGD**, identifying the particular **PTP** or **PTPGD**.
- (d) Sub-paragraph (a) does not apply where arrangements are in place for the provision of the drug ordered pursuant to the **PTP** or **PTPGD** as part of a **directed service** which includes arrangements for the provision of such a drug ordered in accordance with such a **PTP** or **PTPGD**.
- (e) Sub-paragraph (aa) does not apply where arrangements are in place for the provision of the drug requested in accordance with the **PTP** or **PTPGD** as part of a **directed service** which includes arrangements

for the provision of such a drug requested in accordance with such a **PTP** or **PTPGD**.

**Supply in accordance with a Listed Prescription Items Voucher (“LPIV”)**

- 14C (a) Subject to the following provisions of this Schedule, where:
- (i) the **dispensing doctor** receives a **LPIV**; and
  - (ii) a person who is entitled to be supplied by the **dispensing doctor** (Part 8 of the Pharmaceutical Regulations and this Schedule having that effect) with a prescription item ordered on the **LPIV** requests the provision of the item in accordance with that **LPIV**, the **dispensing doctor** must, with reasonable promptness, provide the prescription item so ordered.
- (b) If a person who is entitled as mentioned in sub-paragraph (a)(ii) asks the **dispensing doctor** to do so:
- (i) the **dispensing doctor** must give an estimate of the time when the prescription item will be ready; and
  - (ii) if they are not ready by then, the **dispensing doctor** must give a revised estimate of the time when the item will be ready (until it is ready).
- (c) Sub-paragraph (a) does not apply where arrangements are in place for the provision of the item ordered on the **LPIV** as part of a **directed service** which includes arrangements for the provision of such an item ordered on such a **LPIV**.

**Preliminary matters before providing ordered drugs or appliances**

15. Before providing any drugs or **appliances** in accordance with paragraph 14 or 14A, or in the circumstances set out in paragraph 17:
- (a) a **dispensing doctor** must ask any person who makes, or duly completes, a declaration, as or on behalf of the person named on the prescription form or repeatable prescription, 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 10(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 10 of the **Charges Regulations** or in respect of entitlement to remission by virtue of regulation 5 of the **Remission of Charges Regulations**, and at the time of the declaration the **dispensing doctor** has such evidence available to them;

- (b) in any case where no satisfactory evidence, as required by sub-paragraph (a), is produced to the **dispensing doctor**, the **dispensing doctor** must ensure before the drugs or **appliances** are provided that the person who was asked to produce that evidence is advised, in appropriate terms, that checks are routinely undertaken to ascertain entitlement to:

- (i) exemption under the **Charges Regulations**; or
- (ii) remission of charges under the **Remission of Charges Regulations**,

where such entitlement has been claimed, as part of the arrangements for preventing or detecting fraud or error in relation to such claims;

- (c) 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
- (d) in the case of an **electronic prescription**, the **dispensing doctor** must ensure that the following information is duly entered into the records managed by NHS England that are accessible as part of the Electronic Prescription Service (if either it is not already recorded in those records or a check, known as a real time exemption check,

has not produced satisfactory evidence as mentioned in sub-paragraph (a)):

- (i) 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:
  - (aa) the exemption category specified in regulation 10(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
  - (bb) whether or not satisfactory evidence was produced to the **dispensing doctor** as required by sub-paragraph 15(a);
- (ii) in any case where a charge is due, confirmation that the relevant charge was paid; and
- (iii) in the case of a prescription for or including contraceptive substances, confirmation that no charge was payable in respect of those substances.

16. Not used.

16A. For the purposes of paragraph 15, satisfactory evidence includes evidence derived from a check, known as a real time exemption check, of electronic records that are managed by **NHS BSA** for the purposes (amongst other purposes) of providing advice, assistance and support to patients or their representatives in respect of whether a charge is payable under the Charges Regulations.

16B. If the **dispensing doctor** dispenses an electronic prescription, the **dispensing doctor** must send the form duly completed by or on behalf of the patient, if one is required under regulations 4(2)(b) or (3A) of the Charges Regulations in respect of that electronic prescription (which may be the associated EPS token), to the **NHS BSA**.

### Checks and records in the case of supply in accordance with a SSP

- 16C. In a case involving providing drugs or **appliances** in accordance with paragraph 14A, the references in paragraph 15 to a **prescription form** or **repeatable prescription** are to be construed as references to the prescription for product reimbursement purposes, as mentioned in paragraph 14A(b)(ii).

### 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 or valid request 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 NHS England (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**.

- 21A. The **dispensing doctor** may refuse to provide a drug or appliance ordered on an electronic prescription if the access that the **dispensing doctor** has to



the Electronic Prescription Service is not such as to enable the **dispensing doctor** to dispense that prescription promptly (or at all).

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.
- 24A. The **dispensing doctor** must refuse to provide a drug or **appliance** ordered on a **prescription form** or a **repeatable prescription** where:
- (a) a **SSP** has effect in respect of:
    - (i) the requested drug or **appliance**; or
    - (ii) drugs or **appliances** of a specified description, and the requested drug or **appliance** is of that description; and
  - (b) alternative provision has already taken place in accordance with the **SSP**.
- 24B. The **dispensing doctor** may refuse to fulfil an order or a request for a drug that is or is purportedly in accordance with a **LPIV**, a **PTP** or a **PTPGD** where:
- (a) The **dispensing doctor** reasonably believes it is not a genuine order for the person who requests, or on whose behalf is requested, the provision of the drug;
  - (b) providing it would be contrary to the **dispensing doctor's** clinical judgement;
  - (c) the **dispensing doctor** or other persons are subjected to or threatened with violence by the person who requests the provision of the drug, or by any person accompanying that person; or
  - (d) the person who requests the provision of the drug, or any person accompanying that person, commits or threatens to commit a criminal offence.
- 24C. The **dispensing doctor** must refuse to provide, pursuant to a **LPIV**, a **PTP** or a **PTPGD**, an order or a request for a drug that is or is purportedly in accordance with the **LPIV**, the **PTP** or **PTPGD** where the **dispensing doctor** is not satisfied that it is in accordance with the **LPIV**, the **PTP** or **PTPGD**.
- 24D. The **dispensing doctor** may refuse to provide a prescription item ordered on a **prescription form** or **repeatable prescription** where:
- (a) more than one prescription item has been ordered on the **prescription form** or **repeatable prescription**;

- (b) at least one of those prescription items is a **listed HRT prescription item** and at least one of those prescription items is not; and
- (c) the person named on the **prescription form** or **repeatable prescription** is claiming entitlement to exemption under regulation 10(1)(j) of the Charges Regulations (exemptions) in respect of any of those prescription items which is a **listed HRT prescription item**.

For the purposes of this paragraph, “listed HRT prescription item” is to be construed in accordance with regulation 17A(1)(a) of the National Health Service (Charges for Drugs and Appliances) Regulations 2015, read with regulation 17A(7) of those Regulations.

**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.

**Home delivery service while a disease is or in anticipation of a disease being imminently pandemic etc.**

- 25A. (a) Before dispensing any item on a **prescription form** or supplying it in accordance with a **SSP**, the **dispensing doctor** must provide a home delivery option to eligible patients in respect of the item where, as a consequence of a disease being or in anticipation of a disease being imminently:
- (i) pandemic; and
  - (ii) a serious risk or potentially a serious risk to human health;
- NHS England with the agreement of the Secretary of State has made an announcement to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human

health, eligible patients are advised to stay away from listed dispensing premises in the area specified, in the circumstances specified and for the duration of the period specified in the announcement.

- (b) If the **dispensing doctor's** listed dispensing premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from the **dispensing doctor's** premises, the **dispensing doctor** must ascertain from:
- (i) an eligible patient:
    - (aa) who has contacted the **dispensing doctor** about the home delivery of prescription items; or
    - (bb) who is a person whom the **dispensing doctor** considered, on the basis of the nature of an item on a **prescription form**, might be an eligible person and accordingly, in the ordinary exercise of professional skill and judgement, made the appropriate checks and determined that they were; or
  - (ii) a person who may make an application for pharmaceutical services on behalf of that eligible patient (a “duly authorised person”) who has contacted the **dispensing doctor** about the home delivery of prescription items;

whether or not the item could be supplied by a duly authorised person, and if it could, then supplying the item via a duly authorised person is the home delivery option which the **dispensing doctor** must provide.

- (c) Where paragraph (b) does not apply, if the **dispensing doctor's** listed dispensing premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from **dispensing doctor's** premises, the home delivery option that P must provide must comprise:
- (i) the **dispensing doctor** delivering the item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person (for example, a care home where the patient is temporarily residing);
  - (ii) the **dispensing doctor** arranging for an item dispensed by the **dispensing doctor** to be delivered by another **dispensing doctor**, or by an **NHS pharmacist** or an **LPS contractor**, to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person; or
  - (iii) if the **dispensing doctor** is unable to deliver the item or arrange for its delivery by another **dispensing doctor**, or by an **NHS pharmacist** or by an **LPS contractor**, the **dispensing doctor** arranging for the dispensing or supply of the item by another **dispensing doctor**, or by an **NHS pharmacist** or an **LPS contractor**, who would be able to deliver the dispensed item to

the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person.

- (d) Paragraph (a) does not apply where the eligible patient or a duly authorised person is already at the **dispensing doctor's** listed dispensing premises for the purposes of receiving dispensing services.
- (e) Notwithstanding the foregoing provisions of this Schedule, in any case of a supply in accordance with a home delivery option, if but for this sub-paragraph that supply would need to be made with reasonable promptness, the **dispensing doctor** may instead, in the exercise of professional skill and judgment, make the supply within a reasonable timescale.
- (f) For the purposes of paragraphs 25A and 25AA, an "LPS contractor" means a person who is an **LPS chemist** by virtue of being a party to an **LPS scheme** which is not an **LPS pilot scheme**.

**Home delivery of notified items while a disease is or in anticipation of a disease being imminently pandemic etc.**

- 25AA (a) Before dispensing a notified item on a **prescription form** or supplying it in accordance with an **SSP**, a **PTP** or a **PTPGD**, the **dispensing doctor** must provide a home delivery option to eligible patients in respect of that item.
- (b) For the purposes of this paragraph, a "notified item" is an item that, as a consequence of a disease being or in anticipation of a disease being imminently:
- (i) pandemic; and
  - (ii) a serious risk or potentially a serious risk to human health,
- is the subject of an announcement made by NHE England, with the agreement of the Secretary of State, to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, eligible patients are entitled to be provided with a home delivery option in respect of that item, if it is supplied to them as part of pharmaceutical services.
- (c) Where the **dispensing doctor** is to, or may be required to, dispense a notified item on a **prescription form** or supply it in accordance with an **SSP**, a **PTP** or a **PTPGD**, the **dispensing doctor** must ascertain from:
- (i) an eligible patient:
    - (aa) who has contacted the **dispensing doctor** about the home delivery of a notified item, or
    - (bb) who is a person whom the **dispensing doctor** considered, on the basis of an order or request for a notifiable item, might be an eligible person and accordingly, in the ordinary exercise of professional skill

and judgement, made the appropriate checks and determined that they were; or

- (ii) a person who may make an application for pharmaceutical services on behalf of that eligible patient (a “duly authorised person”) who has contacted the **dispensing doctor** about the home delivery of a notified item, whether or not the item could be supplied via a duly authorised person, and if it could, then supplying the item via a duly authorised person is the home delivery option which the **dispensing doctor** must provide.
- (d) Where paragraph (c) does not apply, the home delivery option that the **dispensing doctor** must provide must comprise:
- (i) the **dispensing doctor** delivering the item to the eligible patient’s home or to an alternative address agreed with the patient or a duly authorised person (for example, a care home where the patient is temporarily residing);
  - (ii) the **dispensing doctor** arranging for an item dispensed by the **dispensing doctor** to be delivered by another **dispensing doctor**, or by an **NHS pharmacist** or an **LPS contractor**, to the eligible patient’s home or to an alternative address agreed with the patient or a duly authorised person; or
  - (iii) if the **dispensing doctor** is unable to deliver the item or arrange for its delivery by another dispensing doctor, or by an **NHS pharmacist** or an **LPS contractor**, the **dispensing doctor** arranging for the dispensing or supply of the item by another **dispensing doctor**, or by an **NHS pharmacist** or an **LPS contractor**, who would be able to deliver the item to the eligible patient’s home or to an alternative address agreed with the patient or a duly authorised person.
- (e) Paragraph (a) does not apply where the eligible patient or a duly authorised person is already at the **dispensing doctor’s** listed dispensing premises for the purposes of being supplied with the notifiable item.
- (f) Notwithstanding the foregoing provisions of this Schedule, in any case of a supply in accordance with a home delivery option, if but for this sub-paragraph that supply would need to be made with reasonable promptness, the **dispensing doctor** may instead, in the exercise of professional skill and judgment, make the supply within a reasonable timescale.

## 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 NHS England 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 NHS England or the person authorised in writing, allow NHS England 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 NHS England, 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 NHS England 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 NHS England 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 NHS England of when, before that date, the **dispensing doctor** is to cease to provide pharmaceutical services at the existing premises.