NHS Standard Contract 2020/21

Particulars (Full Length)

Contract title / ref: COVID-19 Service

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Contract Reference	

DATE OF CONTRACT	22 May 2020 **May 2020**
SERVICE COMMENCEMENT DATE	**23 March 2020**
CONTRACT TERM	**This Contract will continue until it is terminated in accordance with GC17 (*Termination*)**
COMMISSIONERS	**NHS England**
CO-ORDINATING COMMISSIONER	**NHS England**
PROVIDER	**Nuffield Health** **Principal and/or registered office address:** **Epsom Gateway** **Ashley Avenue** **Epsom** **Surrey** **KT18 5AL** **Company number: 576970**

CONTENTS

PARTICULARS

SERVICE CONDITIONS

SC1 Compliance with the Law and the NHS Constitution
SC2 Regulatory Requirements
SC3 Service Standards
SC4 Co-operation
SC5 Commissioner Requested Services/Essential Services
SC6 Choice and Referral
SC7 Withholding and/or Discontinuation of Service
SC8 Unmet Needs, Making Every Contact Count and Self Care
SC9 Consent
SC10 Personalised Care
SC11 Transfer of and Discharge from Care; Communication with GPs
SC12 Communicating With and Involving Service Users, Public and Staff
SC13 Equity of Access, Equality and Non-Discrimination
SC14 Pastoral, Spiritual and Cultural Care
SC15 Urgent Access to Mental Health Care
SC16 Complaints
SC17 Services Environment and Equipment
SC18 Sustainable Development
SC19 Food Standards and Sugar-Sweetened Beverages
SC20 Service Development and Improvement Plan
SC21 Antimicrobial Resistance, Healthcare Associated Infections and Influenza Vaccination
SC22 Assessment and Treatment for Acute Illness
SC23 Service User Health Records
SC24 NHS Counter-Fraud and Security Management
SC25 Procedures and Protocols
SC26 Clinical Networks, National Audit Programmes and Approved Research Studies
SC27 Formulary
SC28 Information Requirements
SC29 Managing Activity and Referrals
SC30 Emergency Preparedness, Resilience and Response
SC31 Force Majeure: Service-specific provisions
SC32 Safeguarding Children and Adults
SC33 Incidents Requiring Reporting
SC34 Care of Dying People and Death of a Service User
SC35 Duty of Candour
SC36 Payment Terms
SC37 Local Quality Requirements and Quality Incentive Scheme
SC38 Commissioning for Quality and Innovation (CQUIN)
SC39 Procurement of Goods and Services

GENERAL CONDITIONS

Definitions and Interpretation

CONTRACT

The Exercise of Commissioning Functions by the National Health Service Commissioning Board (Coronavirus) Directions 2020 (the "Directions") direct the Commissioner to exercise the functions of clinical commissioning groups under sections 3 and 3A of the 2006 Act for the purposes of commissioning health services from independent providers and for the purposes of directly or indirectly supporting the provision of services by NHS bodies to address coronavirus and coronavirus disease.

The Parties acknowledge that this Contract has been made pursuant to the Directions.

This Contract records the agreement between the Commissioners and the Provider and comprises

1. these **Particulars**;

2. the **Service Conditions (Full Length)**;

3. the **General Conditions (Full Length)**,

as completed and agreed by the Parties and as varied from time to time in accordance with GC13 (*Variations*).

IN WITNESS OF WHICH the Parties have signed this Contract on the date(s) shown below

SIGNED by	Section 40(2) .....
	Signature
Sandra Easton for and on behalf of NHS England	Director of Operational Finance & Performance
	Title
	22 May 2020
	Date
SIGNED by	Section 40(2) .....
	Signature
Russell Hardy for and on behalf of Nuffield Health	Chair
	Title
	18 May 2020
	Date

SERVICE COMMENCEMENT AND CONTRACT TERM	
Effective Date	**23 March 2020**
Service Commencement Date	**23 March 2020**
Contract Term	**This Contract will continue until it is terminated in accordance with GC17 (*Termination*).**
Commissioner Notice Period (for termination under GC17.2)	**1 month**
Commissioner Earliest Termination Date	**23:59 on 28 June 2020**

SERVICES	
Service Categories	**Indicate <u>all</u> that apply**
Accident and Emergency Services (Type 1 and Type 2 only) (A+E)	
Acute Services (A)	YES
Ambulance Services (AM)	
Cancer Services (CR)	YES
Continuing Healthcare Services (including continuing care for children) (CHC)	
Community Services (CS)	
Diagnostic, Screening and/or Pathology Services (D)	YES
End of Life Care Services (ELC)	
Mental Health and Learning Disability Services (MH)	
Mental Health and Learning Disability Secure Services (MHSS)	
NHS 111 Services (111)	
Patient Transport Services (PT)	
Radiotherapy Services (R)	
Urgent Treatment Centre Services (including Walk-in Centre Services/Minor Injuries Units) (U)	
Services commissioned by NHS England	
Services comprise or include Specialised Services and/or other services directly commissioned by NHS England	**NO**
Co-operation with PCN(s) in service models	
Enhanced Health in Care Homes	**NO**
Service Requirements	
Indicative Activity Plan	**NO**
Activity Planning Assumptions	**NO**
Essential Services (NHS Trusts only)	**NO**
Services to which 18 Weeks applies	**NO**
Prior Approval Response Time Standard	**Not applicable**
Is the Provider acting as a Data Processor on behalf of one or more	**NO but if and to the extent that the Provider is required to act as a Data**

Commissioners for the purposes of this Contract?	**Processor on behalf of the Commissioner, the provisions of Schedule 6F will apply**
Is the Provider providing CCG-commissioned Services which are to be listed in the UEC DoS?	**NO**
PAYMENT	
Expected Annual Contract Value Agreed	**NO**
Must data be submitted to SUS for any of the Services?	**YES**
QUALITY	
Provider type	**Other**
GOVERNANCE AND REGULATORY	
Nominated Mediation Body (where required – see GC14.4)	**As specified in GC14.4**
Provider's Nominated Individual	**Name:** Section 40(2) **Email:** Section 40(2) **Tel:** Section 40(2)
Provider's Information Governance Lead	**Name:** Section 40(2) **Email:** Section 40(2) **Tel:** Section 40(2)
Provider's Data Protection Officer (if required by Data Protection Legislation)	**Name:** Section 40(2) **Email:** Section 40(2) **Tel:** Section 40(2)
Provider's Caldicott Guardian	**Name:** Section 40(2) **Email:** Section 40(2) **Tel:** Section 40(2)
Provider's Senior Information Risk Owner	**Name:** Section 40(2) **Email:** Section 40(2) **Tel:** Section 40(2)
Provider's Accountable Emergency Officer	**Local Hospital Director for the relevant Hospital**
Provider's Safeguarding Lead	**Local Matron for the relevant Hospital**
Provider's Child Sexual Abuse and Exploitation Lead	**Local Matron for the relevant Hospital**
Provider's Mental Capacity and Liberty Protection Safeguards Lead	**Local Matron for the relevant Hospital**
Provider's Prevent Lead	**Local Matron for the relevant Hospital**

Provider's Freedom To Speak Up Guardian(s)	**Name:** Section 40(2) **Email:** Section 40(2) **Tel:** Section 40(2)
CONTRACT MANAGEMENT	
Addresses for service of Notices	**Commissioner:** Section 40(2) **Address: NHS England, Quarry House, Quarry Hill, Leeds, West Yorkshire, LS2 7UE** **Email:** Section 40(2) **and CC to england.legal@nhs.net and england.IScoordination@nhs.net** **Provider:** Section 40(2) **Address:** Section 40(2) **, Epsom Gateway, Ashley Avenue, Epsom, Surrey KT18 5AL** **Email:** Section 40(2)
Frequency of Review Meetings	**Ad hoc**
Commissioner Representative(s)	Section 40(2) **Address: NHS England, Quarry House, Quarry Hill, Leeds, West Yorkshire, LS2 7UE** **Email:** Section 40(2) **and CC to england.IScoordination@nhs.net** **Tel:** Section 40(2)
Provider Representative	Section 40(2) **Address: Epsom Gateway, Ashley Avenue, Epsom, Surrey KT18 5AL** **Email:** Section 40(2) **Tel:** Section 40(2)

SCHEDULE 1 – SERVICE COMMENCEMENT AND CONTRACT TERM

A. Conditions Precedent

Not Applicable

B. Commissioner Documents

Not Applicable

C. Extension of Contract Term

The Contract will continue until it is terminated in accordance with GC17.

SCHEDULE 2 – THE SERVICES

A. Service Specification

1. **General Obligations**

1.1 The Provider must be prepared to provide one of, or a mix of, the following Services to Service Users at the Provider's Premises, the mix to be determined in agreement with the Local NHS Lead, in accordance with the requirements of this Service Specification and the Contract:

1.1.1 NHS inpatient and outpatient (including full supporting pathology and imaging) services and urgent elective care and cancer treatment to Service Users in line with nationally set criteria;

1.1.2 NHS inpatient non-elective care (either direct admission or transfer from an NHS organisation) but not for individuals who are medically fit for discharge;

1.1.3 care for COVID-19 infected Service Users needing high dependency respiratory support on oxygen therapy, NIV therapy, or mechanical ventilation; and

1.1.4 any other services required pursuant to paragraph 1.11.

1.2 The Provider must make available to the Commissioner all facilities, diagnostics, staffing, management and full organisation capability (the latter to include but not limited to central management and administrative support services), necessary for the provision of the Services to Service Users and for the support of the response by the NHS to the COVID-19 pandemic in accordance with this Service Specification.

1.3 The Provider's Premises to be made available by the Provider for the purposes of this Contract, and at which one or more of the above listed Services are capable of being delivered, are set out in Table 1.

Table 1: Provider's Premises

Address of Provider's Premises	**Located in Greater London?**	**Which of the Services listed in paragraphs 1.1.1 to 1.1.3 can be delivered from the Provider's Premises?**
Nuffield Health Bournemouth Hospital, 67 Lansdowne Road, Bournemouth, Dorset, BH1 1RW	No	1.1.1, 1.1.2 and 1.1.3

Nuffield Health Brentwood Hospital, Shenfield Road, Brentwood, Essex, CM15 8EH	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Brighton Hospital, Warren Road, Woodingdean, Brighton, BN2 6DX	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health The Chesterfield Hospital, Bristol, 3 Clifton Hill, Bristol, BS8 1BN	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Cambridge Hospital, 4 Trumpington Road, Cambridge, CB2 8AF	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Cheltenham Hospital, Hatherley Lane, Cheltenham, GL51 6SY	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health The Grosvenor Hospital, Chester, Wrexham Road, Chester, CH4 7Q	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Chichester Hospital, 78 Broyle Road, Chichester, West Sussex, PO19 6WB	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Derby Hospital, Rykneld Road, Littleover, DE23 4SN	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Exeter Hospital, Wonford Road, Exeter, EX2 4UG	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Guildford Hospital, Stirling Road, Guildford, Surrey GU2 7RF	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Haywards Heath Hospital, Burrell Road, Haywards Heath, West Sussex, RH16 1UD	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Hereford Hospital, Venns Lane, Hereford, HR11DF	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Ipswich Hospital, Foxhall Road, Ipswich, Suffolk, IP4 5SW	No	1.1.1, 1.1.2 and 1.1.3

Nuffield Health Leeds Hospital, 2 Leighton Street, Leeds, LS1 3EB	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Leicester Hospital, Scraptoft Lane, LE5 1HY	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health, Manchester Diagnostic Suite, Citylabs, Nelson Street, Manchester, M13 9NQ	No	1.1.1
Nuffield Health Newcastle Hospital, Clayton Road, Jesmond, Newcastle-upon-Tyne, NE2 1JP	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health North Staffordshire Hospital, Clayton Road, Newcastle under Lyme, Staffordshire, ST5 4DB	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health The Manor Hospital, Oxford, Beech Road, Headington, Oxford, OX3 7RP	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Plymouth Hospital, Derriford Road, Plymouth, PL6 8BG	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Health Shrewsbury Hospital, Longden Rd, Shrewsbury, Shropshire, SY3 9DP	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Taunton Hospital, Staplegrove Elm, Taunton, TA2 6AN	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Tees Hospital, Junction Road, Norton, Stockton-on-Tees, TS20 1PX	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Tunbridge Wells Hospital, Kingswood Road, Tunbridge Wells, Kent, TN4 9UH	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Warwickshire Hospital, Old Milverton Lane, Leamington Spa, Warwickshire, CV32 6RW	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Wessex Hospital, Winchester Road, Chandler's Ford, Hampshire SO53 2DW	No	1.1.1, 1.1.2 and 1.1.3

Nuffield Health Woking Hospital, Shores Road, Woking, Surrey, GU21 4BY	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health Wolverhampton Hospital, Wood Road, Tettenhall, Wolverhampton, WV6 8LE	No	1.1.1, 1.1.2 and 1.1.3
Nuffield Health York Hospital, Haxby Road, York, YO31 8TA	No	1.1.1, 1.1.2 and 1.1.3

1.4 The Parties agree that facilities, diagnostics (that are associated with or support inpatient or day-case services), staffing and/or other resources of the Provider may be deployed other than at the Provider's Premises for the treatment of NHS patients and Service Users provided that such deployment is in accordance with the local processes for determining distribution of local service provision as administered by the Local NHS Lead.

1.5 Where assets or equipment are agreed to be loaned (i) from an NHS Trust or NHS Foundation Trust to the Provider for the delivery of the Services; or (ii) by the Provider to an NHS Trust or NHS Foundation Trust to support its response to COVID-19 ("Loaned Item") the following provisions shall apply:

1.5.1 the lending party shall promptly complete an 'Asset Tracking Form' (a copy of which form and explanatory notes are appended to this Service Specification at Appendix A) in respect of each Loaned Item and submit a duly signed copy electronically to the NHS Accountant to the email address set out in the explanatory notes;

1.5.2 the loan period of the relevant Loaned Item (the "Loan Period") shall start when the Loaned Item is collected or delivered and shall continue until the earlier of:

(a) the Loaned Item is no longer reasonably required by the receiving party for the purposes anticipated by this Schedule; or

(b) termination of the Contract pursuant to GC17.2;

1.5.3 the Loaned Item shall at all times remain the property of the lending party, and the receiving party shall have no right, title or interest in or to the Loaned Item (save to the right to possession and use of the Loaned Item subject to the terms of this Contract);

1.5.4 to the extent practicable, the receiving party shall:

(a) use reasonable endeavours to ensure that the Loaned Item is kept and operated in a suitable environment, used only for the purposes for which it is designed, and in a proper manner by trained competent staff in accordance with any operating instructions;

(b) at all times keep the Loaned Item in its possession or control and suitably insured or otherwise covered by appropriate Indemnity Arrangements; and

(c) ensure that the Loaned Item remains identifiable as the lending party's property;

1.5.5 during the Loan Period the lending party shall not be responsible for maintenance of the Loaned Item (whether planned, preventative or reactive) and the receiving party shall use reasonable endeavours to maintain the Loaned Item in good and operational condition (fair wear and tear only excepted);

1.5.6 promptly following the end of each Loan Period the receiving party shall deliver up the relevant Loaned Item to the lending party in substantially the same operating condition as it was when collected or delivered (fair wear and tear only excepted). If the Loaned Item is no longer in the same operating condition (fair wear and tear only excepted) and where the lending party is the Provider, the Provider may require the Commissioner to replace or repair the Loaned Item (with equivalent equipment to be approved by the lending party, such approval not to be unreasonably withheld) or pay the lending party the cost of replacing or repairing the Loaned Item in accordance with Schedule 3B. Where the Loaned Item is repairable it is the Commissioner's discretion whether to replace or repair;

1.5.7 where the Provider is the lending party, it warrants that the Loaned Item was, immediately prior to the Loaned Period, in satisfactory condition and safe if operated in accordance with the manufacturer's instructions;

1.5.8 where the Commissioner is the lending party, it warrants that the Loaned Item was, immediately prior to the Loaned Period, in satisfactory condition and safe if operated in accordance with the manufacturer's instructions; and

1.5.9 the Parties acknowledge and confirm that, subject to paragraphs 1.5.7 and 1.5.8, there are no other conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever are provided in connection with a Loaned Item and that any condition, warranty or other term concerning the Loaned Item which might otherwise be implied into or incorporated is expressly excluded.

1.6 Notwithstanding the provisions of paragraph 1.5.2 the Parties acknowledge and confirm that they will use all reasonable endeavours to arrange for the return of Loaned Items in reasonable condition and in a timely manner on or before the date of termination, acknowledging that such Loaned Items may be material to the lending party's ability to provide services following the resumption of normal services.

1.7 The Commissioner will:

1.7.1 procure provision of available appropriately qualified medical personnel (including consultants and anaesthetists) to the Provider to where needed to deliver the Services, having regard to the needs of other providers of NHS services during the Contract Term and the overall NHS response to the COVID-19 pandemic; and

1.7.2 use reasonable endeavours to secure supplies of equipment, drugs, devices, consumables and any other items to be used in delivery of the Services via NHS supply chains.

1.8 The Provider must not use any drugs or other supplies acquired via NHS supply chains except in delivery of the Services.

1.9 The Parties will use their respective best endeavours to maximise the efficient use of supply chains for the provision and distribution of equipment, drugs, devices and consumables to be used in delivery of the Services and the overall NHS response to the COVID-19 pandemic.

1.10 Should the service model agreed with the Local NHS Lead need additional inpatient overnight capability, the Provider may be required to convert day case accommodation to be suitable for inpatient treatment in which case the Provider, prior to taking any action in respect of such conversion, must act in accordance with any relevant process or requirements in respect of the costs of such conversion as set out in this Contract and in particular in Schedule 3B.

1.11 The Parties acknowledge that matters set out in this paragraph 1 are expected to be the most common service models. The Provider acknowledges that it may be asked to adapt to provide other services and the Provider will provide such other services provided that:

1.11.1 such other services have been agreed with the Local NHS Lead;

1.11.2 those services can be provided to a mutually agreed safe standard of care (and in accordance with applicable regulatory standards); and

1.11.3 the Parties have acted in accordance with any relevant process or requirements in respect of the costs of such other services as set out in this Contract and in particular in Schedule 3B.

2. Service exclusions

2.1 The Parties acknowledge that, regardless of whether the Provider provides primary medical care services or community services from any of the Provider's Premises or not, the Provider is not commissioned, and will not be paid, to provide primary medical care services or community services nor any contribution towards the costs of their provision under this Contract. For the avoidance of doubt, contracts of the Provider in respect of such services will continue in accordance with their terms and nothing in this Contract is intended to waive the Provider's right to payment under such contracts.

2.2 The Provider and NHS organisations must not place for care in the Provider's Premises individuals who are medically fit for discharge and/or are the subjects of delayed transfers of care.

3. Existing NHS Contracts

3.1 In this Service Specification, the term "Existing NHS Contracts" means the commissioning and sub-contracting arrangements for the delivery of clinical services between the Provider and NHS organisations that have been put on hold for the duration of this Contract as set out in the letter dated 24 March 2020 from the Commissioner to local NHS systems titled "COVID-19: Partnership working with the Independent Sector Providers and the Independent Healthcare Providers Network (IHPN)" (the "Letter to Systems").

3.2 The Parties acknowledge and confirm that the following provisions set out in the "Revised arrangements for NHS contracting and payment during the COVID-19 pandemic" guidance issued by the Commissioner on 26 March 2020 shall apply to the Provider as if it is a NHS Trust/NHS foundation trust acute provider and not a non-NHS acute provider:

"The following should be noted in relation to contract management arrangements.

- *Trusts must comply in a timely, complete and accurate way with mandatory data flow ('sit-rep' reports) in relation to COVID-19. They should also comply with other national reporting requirements (covered by NHS Digital Approved Collections and Information Standards) unless notified otherwise.*

- *The provisions of the Contract offer protection for providers from liability for failure to meet their contractual obligations, where they are unable to do so as a result of an event of force majeure and/or their response to an emergency situation. Trusts must do all that they reasonably can to continue to comply with the national service requirements stated in the Contract, but Commissioner must recognise that these may not always be achieved in full during the COVID-19 outbreak.*

- *As set out in the Stevens/ Pritchard letter, all contractual sanctions are suspended until further notice; commissioners must now not withhold funding from Trusts in relation to failure to achieve any of the national standards in schedule 4A and 4B or local standards in Schedule 4C, or under the provisions in GC9 for remedial action plans, or under SC28 for information breaches.*

3.3 Working collaboratively with the Provider, the Commissioner will procure, on or before the termination of this Contract in whole or part in accordance with GC17:

3.3.1 the transfer of Service Users from the relevant Provider's Premises to the care of local authorities or other providers of community, acute or other services, as clinically appropriate;

3.3.2 the return or replacement, or payment of replacement cost, of Provider Loaned Items, and any other equipment or property in respect of which the Provider has evidence of having been borrowed by an NHS Trust or NHS Foundation Trust, which originated at the relevant Provider's Premises, in accordance with paragraph 1.5.6;

3.3.3 that any employees of the Provider that have been engaged to work at a location other than the relevant Provider's Premises pursuant to the Staffing MOU are released from duties at such other location in a timely way to enable to Provider to resume operations;

3.3.4 that staff of any NHS Trust or NHS Foundation Trust vacate the relevant Provider's Premises;

3.3.5 that any NHS Trust or NHS Foundation Trust Loaned Items, and any other equipment or property used by an NHS trust or NHS Foundation Trust in the delivery of services at the relevant Provider's Premises, is removed,

and any issues arising in relation to these matters may be escalated to the Commissioner's Representative and then if necessary national incident response for resolution with local NHS organisations.

3.4 The Commissioner will use best endeavours to serve notice on the Provider to terminate this Contract in accordance with GC17 simultaneously with the notice of release of national NHS elective restrictions to enable the Provider to have a minimum of one month's notice to prepare for restoration of the

provision of services to private patients and to NHS patients under the Existing NHS Contracts.

4. **Prioritisation of care**

4.1 In the period from the start of the Escalation Period to (and including) 14 April 2020, provided that the Peak Surge Period has not been triggered, the Parties acknowledge that the Provider may continue to treat:

4.1.1 private patients; and

4.1.2 NHS patients that have been referred to the Provider under arrangements in place prior to the commencement of this Contract.

4.2 In the period from 15 April 2020 (or from the start of the Peak Surge Period if earlier) to the start of the De-escalation Period, the Provider will:

4.2.1 comply with the NHS rules for cancellation and prioritisation of elective care[1]; and

4.2.2 not treat any patient that has not been referred to the Provider under the arrangements set out in this Contract except with the prior agreement of the Commissioner the Provider may continue to treat:

(a) specified patients with long term neurological conditions;

(b) specified patients requiring urgent cancer surgery and oncology care and who had been receiving treatment from the Provider immediately prior to 15 April 2020;

(c) specified patients requiring on-going monitoring, such as for glaucoma, anticoagulation, fracture union/progress, immunosuppressive therapy, and

(d) urgent elective private patients meeting the NHS rules referred to in paragraph 4.2.1.

5. **Escalation Period**

5.1 The "Escalation Period" is the period from 23 March 2020 until (and including) 14 April 2020 unless the Commissioner triggers the Peak Surge Period to commence earlier than that date in which case it will be the earlier date specified by the Commissioner.

5.2 From the start of the Escalation Period to (and including) 14 April 2020, provided that the Peak Surge Period has not been triggered earlier, the Provider may continue to treat at the Provider's Premises, where practicable:

5.2.1 private patients; and

5.2.2 NHS patients that have been referred to the Provider under arrangements in place prior to the commencement of this Contract.

5.3 From the start of the Escalation Period to (and including) 14 April 2020, and subject to support provided by the Provider (whether in terms of Loaned Items, engagement of the Provider's employed staff at locations other than the Provider's Premises and/or use of all or part of the Provider's Premises by NHS

[1] https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2020/03/C0221-specialty-guide-surgical-prioritisation-v1.pdf

organisations) to the NHS for the response by the NHS to the COVID-19 pandemic in accordance with paragraph 1.2, the Provider must make increasing capacity available for the provision of, and consequently provide one or a combination of the following services, in a combination agreed in advance with the Local NHS Lead:

5.3.1 inpatient oxygen, NIV and/or mechanically ventilated care services to Service Users referred to the Provider in accordance with the arrangements set out in paragraph 9;

5.3.2 non-elective inpatient care to Service Users referred to the Provider in accordance with the arrangements set out in paragraph 9;

5.3.3 urgent elective and cancer surgery and oncology treatment to Service Users referred to the Provider in accordance with the arrangements set out in paragraph 9 and to those patients referred to in paragraphs 4.2.2; and

5.3.4 such other activity as requested by the Local NHS Lead, such request not to be unreasonably refused by the Provider.

5.4 By 15 April 2020, or by the start of the Peak Surge Period if triggered by the Commissioner prior to 15 April 2020, the Provider must cease all routine elective activity in respect of both Service Users and non-NHS funded patients and provide at the Provider's Premises only those Services set out in paragraphs 5.3.1 to 5.3.4 (save for those patients referred to in paragraphs 4.2.2).

5.5 The Parties acknowledge that the Provider may have some unused capacity before or after 15 April 2020 which the Provider is expected to use for mobilisation and staff training.

6. **Peak Surge Period**

6.1 The "Peak Surge Period" is the period from the date the Commissioner triggers the Peak Surge Period or 15 April 2020, whichever is earlier, to the date the Commissioner triggers the De-escalation Period. For the avoidance of doubt, the Peak Surge Period can be triggered prior to 15 April 2020.

6.2 During the Peak Surge Period, subject to the support provided by the Provider (whether in terms of Loaned Items, engagement of the Provider's employed staff at locations other than the Provider's Premises and/or use of all or part of the Provider's Premises by NHS organisations) to the NHS for the response by the NHS to the COVID-19 pandemic in accordance with paragraph 1.2 and that the Provider may provide services to those patients referred to in paragraphs 4.2.2, the Provider must ensure that 100% of its capacity is available to be fully applied to the delivery of the Services as referred to in paragraph 5.3 of this Service Specification.

6.3 During the Peak Surge Period the Provider must maintain operational flexibility to enable it to use all reasonable endeavours to provide any further activity or services to Service Users as indicated to the Provider by the Commissioner.

7. **De-escalation Period**

7.1 The "De-escalation Period" is the period from the date the Commissioner triggers the De-escalation Period until to the date the Contract terminates.

7.2 The Parties shall use best endeavours to share all relevant forecasting information in relation to activity and demand with a view to enabling the De-escalation Period to be triggered and planned for appropriately.

7.3 During the De-escalation Period:

7.3.1 the Provider must continue to treat those patients referred to in paragraph 4.2.2 and to provide those services listed in paragraph 5.3 which the Local NHS Lead requires the Provider to provide but the Parties acknowledge that the Provider is expected to have increasing unused capacity as the De-escalation Period progresses; and

7.3.2 the Commissioner shall comply with its obligations pursuant to paragraph 3.3.

7.4 Where there is unused capacity, the Provider may resume routine elective care where this has been expressly agreed in writing with the Commissioner.

8. **Workforce**

8.1 The Parties acknowledge that, where agreed by the Provider and the Local NHS Lead (such agreement not to be unreasonably withheld by the Provider), mixed staffing teams comprising staff from NHS organisations and the Provider's Staff will work side by side providing services to Services Users and other NHS patients and where this takes place at the Provider's Premises it will be under the direction and control of the Provider unless otherwise agreed in writing by the Parties.

8.2 The Parties acknowledge that:

8.2.1 staff will continue to be employed locally and continue to be paid by their employer;

8.2.2 where staff work across organisations they will:

(a) be looked after in the workplace in the same manner as the staff of the organisation where they are working;

(b) receive such induction and training as is possible in the circumstances; and

(c) be welcomed as far as possible as part of the local team.

8.3 The Commissioner acknowledges that wherever possible there should be parity between treatment of staff employed by NHS Trusts and NHS Foundation Trusts and the Provider's Staff in relation to non-employment matters related to working during the Contract Term such as keyworker designation for childcare purposes, free meals, hotel accommodation and access to COVID-19 testing.

9. **Local NHS Lead and IS Coordination Network**

9.1 The Commissioner will inform the Provider of a local NHS organisation in each relevant area (the "Local NHS Lead") that takes responsibility for coordination between the NHS providers across the region, the Provider and other independent sector healthcare providers that are providing similar services to those set out in this Contract ("Other IS Providers"). In this Service Specification the Provider and the Other IS Providers are collectively referred to as IS Providers.

9.2 The Local NHS Lead and the IS Providers will form the IS Coordination Network which will be led by the Local NHS Lead but include representatives from other organisations in the IS Coordination Network.

9.3 The IS Coordination Network will:

9.3.1 develop and communicate the plan for local service mix to be provided by IS Providers;

9.3.2 apply national NHS elective prioritisation criteria and ensuring compliance across sectors regardless of funding source;

9.3.3 develop a local workforce register for both NHS organisations and the IS Providers which monitors levels of staff availability and flexibly deploys people between NHS organisation and IS Providers. Employed medical staff capacity is limited in many IS Providers and therefore cross-sector consideration needs to be given to how to safely provide care and supervise patients that are treated at IS Providers' premises;

9.3.4 implement joint training of NHS and IS Provider staff, and ensure IS Provider staff receive equal access to key worker status;

9.3.5 develop a critical equipment register and deployment plan to support service mix (e.g. ventilators);

9.3.6 put in place joint clinical governance and oversight;

9.3.7 agree the processes for sharing and recording clinical and personal information across organisations;

9.3.8 implement dynamic bed capacity management data feeds, and responsive management of patient location (in addition to completion of daily SITREP); and

9.3.9 plan and implement transport implications of patient mix and movements.

9.4 The Provider must work collaboratively with the relevant Local NHS Lead and the IS Coordination Network to ensure the Local NHS Lead and the IS Coordination Network have all relevant information on which to make decisions on the matters listed in paragraph 9.3.

9.5 The Parties acknowledge that decision-making structures may vary from location to location but that decisions on service mix allocations shall be on the basis that all parties use best endeavours to maximise coverage and utilisation.

Appendix A – Asset Tracking Form

PRIVATE HOSPITAL – ASSET TRACKING FORM – VERSION 2.0

In order to maintain visibility of key assets at this time, please complete this form if you are **surrendering assets** or are in **receipt of assets** from an **independent health sector hospital provider**.

This form should also be used to record the **receipt of newly purchased assets** by an **independent health sector hospital provider**.

Persons completing this form are encouraged to read the Explanatory Notes before submission.

This form should be completed for **each piece of key equipment surrendered, received or purchased**. For ancillary equipment and consumables, this form can be used to record the surrender or receipt of multiple items.

Section 1:

Background Information:

Please confirm you are:	**☐Surrendering assets to another facility** **☐In receipt of assets from another facility** **☐In receipt of newly purchased assets**
Hospital Name and Provider	
Department	**☐ Diagnostics** **☐ Theatre** **☐ Ward** **☐ Other – Please specify:**
Date of Asset Surrender/Receipt	

Section 2:

Key Equipment:

Please complete the table below for each piece of key equipment surrendered, received or purchased. Please refer to the Explanatory Notes for the definition of 'Key Equipment'.

Equipment Type	
Manufacturer Name	

Model Number	
Unique Identifiers	**Manufacturer Barcode Number:** **Serial Number:** **Asset Number:**
Date of Next Planned Inspection	
Additional Comments **(For equipment purchased: include the purchase order or invoice number; the supplier name; and the approver of the purchase)**	

Section 3:

Ancillary Equipment:

If a critical part of a piece of key equipment is surrendered, received or purchased separately from the complete piece of 'Key Equipment' itself – please list each item below.

For purchased equipment, include in the comments: the purchase order or invoice number; the name of the supplier; and the approver of the purchase.

Item	Quantity	Surrender, Receipt or Purchased?	Date	Surrendered to/ Received from/ Purchased From	Comments

Section 4:

Consumables:

If any consumable items are surrendered, received or acquired – please list each item below.

For purchased consumables, include in the comments: the purchase order or invoice number; the name of the supplier; and the approver of the purchase.

Item	Quantity	Surrender, Receipt or Purchased?	Date	Surrendered to/ Received from/ Purchased From	Comments

Section 5:

Transportation:

To be completed by the **surrendering facility** only:

Transport Provider	
Receiving Facility	
Packaging Details **(If equipment is being transported with a patient, complete the remainder of this section with 'N/A')**	
Packaging Weight	
Packaging Dimensions	

Section 6:

Confirmations:

To be completed by the person completing this form:

Name	
Position	
Signature **(An electronic signature is acceptable)**	

To be completed by the person collecting/delivering the assets:

Name	
Employer	
Vehicle registration	
Signature: **(An electronic signature is acceptable)**	

PRIVATE HOSPITAL - ASSET TRACKING FORM - EXPLANATORY NOTES – VERSION 2.0

What is the purpose of the Asset Tracking Form:

As part of NHS England's response to the COVID-19 pandemic, a number of independent health providers have agreed to supply hospital capacity and services (where possible) to NHSE.

Within the arrangement, there is a mutual best endeavours requirement upon all parties to maximise the efficient use of supply chains for the provision and distribution of equipment.

This means that some equipment will effectively be pooled together and may be shared across the wider response network, in the best interest of patient service. In addition, it is highly likely that additional equipment will need to be purchased by all parties during the arrangement to support the response and again, these may need to be shared across the network.

The Asset Tracking Form allows each facility and individual health provider to record when they have surrendered or received equipment from a facility of another health provider and to record when they have purchased assets to support the response.

When to complete the Asset Tracking Form:

The Asset Tracking Form should be completed and submitted whenever **'Key Equipment'**, **'Ancillary Equipment'** and **'Consumables**' are: surrendered to a different healthcare provider; received from a different healthcare provider; or purchased to support the response effort.

This form should be completed for **each piece of 'Key Equipment'** surrendered, received or purchased. For **'Ancillary Equipment'** and **'Consumables**' the form can be used to record the surrender or receipt of multiple items.

Definitions:

'Key Equipment' – a single, complete piece of equipment (such as a ventilator, bed, imaging or x-ray equipment) of considerable individual value that can be used repeatedly.

'Ancillary Equipment' – a critical part of a key piece of equipment. For example, if 5 uninterruptible power supplies are surrendered separately to a complete piece of equipment, they should be recorded in the appropriate section (Section 3).

'Consumables' – relatively low value items that are typically used once, for example, masks, gloves etc.

How to complete the Asset Tracking Form:

Section 1 – Background Information – Asks you to confirm some key information in regards to the asset(s) – including, the relationship between your facility and the asset, the name of your facility, the department to which the assets relate and the date of asset surrender/receipt.

Section 2 – 'Key Equipment' – Asks you to record some critical information in respect to the 'Key Equipment' itself, including type (i.e. Imaging Machine, Ventilator etc.), model number, unique identification numbers and date of next planned inspection. The comments section allows you to make any comments in regards to the condition of the equipment (to include a photograph where possible) and where a piece of 'Key Equipment' has been purchased, please include in the comments: a purchase order or invoice number, the supplier and the approver of the purchase.

Sections 3 and 4 - 'Ancillary Equipment' and 'Consumables' – Asks you to record the same information – including item description, quantity, details of the surrender or receipt and any additional comments.

Section 5 – 'Transportation' – To be completed by the **surrendering facility** only. This section asks surrendering facilities to record the transport provider (i.e. the courier and their organisation) and the name of the receiving facility. Packaging details should only be recorded when assets are not being transported directly with a patient.

Section 6: Confirmations – To be completed and signed by the person completing the Asset Tracking Form and the person collecting/delivery the assets.

Once completed, please sign the form electronically and submit to NHS_Assets@KPMG.co.uk – where the assets will be tracked and ultimately returned, wherever possible, to the surrendering facilities.

A receipt of acknowledgement of each Asset Tracking Form should be provided within 48 hours of submission.

The KPMG inbox will also be available to answer any questions and these Explanatory Notes may be updated periodically to include an FAQ for any commonly asked questions.

SCHEDULE 2 – THE SERVICES

Ai. Service Specifications – Enhanced Health in Care Homes

Not Applicable

B. Indicative Activity Plan

Not Applicable

C. Activity Planning Assumptions

Not Applicable

D. Essential Services (NHS Trusts only)

Not Applicable

E. Essential Services Continuity Plan (NHS Trusts only)

Not Applicable

F. Clinical Networks

Not Applicable

SCHEDULE 2 – THE SERVICES

G. Other Local Agreements, Policies and Procedures

This Schedule 2G consists of two documents:

1. Staffing Collaboration MOU; and
2. Clnical Governance MOU

Both documents are set out in full below.

MEMORANDUM OF UNDERSTANDING –

RE COLLABORATING TO SHARE STAFF TO ADDRESS ANY SERVICE ISSUES CAUSED BY COVID-19

BETWEEN:

Each Participating Body identified in the Introduction to this MOU, collectively the "Participating Bodies".

INTRODUCTION:

A. This Memorandum of Understanding (which may be referred to as the Staff Collaboration MOU or the MOU) is applicable to any organisation involved in the provision of Healthcare Services and who is a signatory to this MOU (or has provided electronic written confirmation they agree to the terms of this MOU) or which has in place any arrangements which involve an NHS organisation and which reference this MOU as the framework under which staff will be shared (a Participating Body).

B. Healthcare Services means the provision in England of NHS or private health or social care services (whether primary, secondary/acute care or otherwise), any diagnostic services associated with the provision of healthcare, any services designed to facilitate these services or provide supplies that may facilitate these services and any service that may provide workers or volunteers to help provide or support such services.

C. This MOU sets out the intention of the Participating Bodies to work together to address anticipated staff allocation issues arising from dealing with or as a consequence of the COVID-19 pandemic.

D. The Participating Bodies have committed to working together in a collaborative and mutually supportive way for the benefit of patients, staff and the wider public.

E. This MOU relates to members of staff ("Staff Members") who are employed or engaged by one Participating Body (the "Participating Employer ") but are provided to work for another Participating Body (the "Receiving Body"), usually but not necessarily an NHS organisation, under its terms.

F. The Participating Bodies wish to ensure the proper observance of clinical governance requirements, while avoiding unnecessary bureaucracy which may impede the movement of Staff Members specifically (for example in relation to pre-employment checks and training requirements).

G. This MOU is intended to be legally binding as between the Participating Bodies.

THE PARTICIPATING BODIES AGREE AS FOLLOWS:

1. STATUS

This MOU in no way changes or modifies any existing contract of employment, honorary contract or other contract held by a Staff Member with their Participating Employer nor any rights that Staff Member may have under such arrangement.

2. COMMUNICATION BETWEEN NHS BODIES

The Participating Bodies shall cooperate with each other in addressing any requests under this MOU and in providing information to each other in order to ensure the effective operation of it.

3. STAFF MEMBERS

3.1. By agreement between the Participating Bodies (as set out more fully at paragraph 4 below), a Staff Member of one Participating Body may be transferred on a temporary basis to work for a Receiving Body whether at the Receiving Body's premises, the premises of another Participating Body or at such other emergency facility as may have been created to support the NHS' COVID-19 response.

3.2. The Participating Bodies agree that the Staff Member shall remain an employee, worker or contractor (as the case may be) of their Participating Employer at all times and that nothing in this MOU creates (or is intended to create) an additional employment or other relationship between the Staff Member and the Receiving Body. The Staff Member shall not be entitled to receive any salary, pension, bonus or other benefits or payments from the Receiving Body but will continue to receive such remuneration and benefits as may be due to them from the Participating Employer.

3.3. The Staff Member may be entitled to receive on site benefits from the Receiving Body, including and not limited to COVID-19 testing, meals and accommodation.

4. REQUEST PROCESS

Save in exceptional circumstances, the following process will be adopted by the Participating Bodies before a Staff Member commences work for a Receiving Body:

4.1. the Receiving Body or a delegate of the NHS Region's Senior Responsible Officer for responding to COVID-19 shall make a request of a Participating Employer for Staff Members from the Participating Employer (the "Request"). The Request shall identify:

4.1.1. the numbers of Staff Members requested;

4.1.2. the roles/ job types of Staff Members (including where appropriate profession, grade, speciality or experience of Staff Member where that would help to identify requested Staff Members);

4.1.3. when it is desirable for Staff Members to commence work at the Receiving Body; and

4.1.4. if known at the time of making the request, the length of time that Staff Members are expected to be needed at the Receiving Body.

4.2. Upon receipt of the Request, the Participating Employer will consider in good faith the Request and consider whether it can comply in whole or part with the Request. The Participating Employer will confirm within 24 hours of receipt of a Request whether it can comply in whole or part with the Request. To the extent that the Request can be agreed (whether in whole or part), the Participating Bodies involved will liaise to agree any practical arrangements necessary to implement the Request and will comply with any notification arrangements that may be in place at regional or local level for transfers of staff under this MOU.

4.3. This Request process may be varied at any time by agreement between the Participating Employer and the Receiving Body provided that any notification arrangements that may be in place at regional or local level for transfers of staff under this MOU are complied with.

5. ASSURANCE RELATING TO STAFF MEMBERS

5.1. The Participating Bodies are satisfied and give assurance to each other that they have in place appropriate processes which have verified any relevant Staff Members falling under this MOU as having passed any necessary mandatory checks and training necessary for that Staff Member to practice safely in their role at their Participating Employer. This includes that the Staff Member has met the NHS Employment Check Standards issued under Health Circular HSC2002/008 (as revised from time to time), at the time of recruitment and on an ongoing basis, and that the Staff Member has completed mandatory and other training requirements deemed sufficient by their Participating Employer to work in their substantive role. For the avoidance of doubt, where those mandatory checks involve Disclosure and Barring Service (DBS) checks, the Participating Employer will as a minimum have carried out a “fast-track” check of the Adults’ and Children’s Barred Lists under the emergency fast-track COVID-19 arrangements put in place by the DBS, while awaiting the results of a full DBS check, and will notify the Receiving Body of any Staff Member to whom only emergency Barred List checks have been completed so that the Receiving Body may undertake a risk assessment and put in place appropriate monitoring and supervision arrangements in respect of such Staff Members. In such situation, the Participating Employer will confirm to the Receiving Body as soon as practicable after full DBS clearance of the relevant Staff Member has been received by the Participating Employer.

5.2. The Participating Bodies provide further assurance to each other that they will not send any Staff Member to another that they may have reasonable grounds for believing may be carrying COVID-19 or without having carried out any reasonable medical checks and surveillance to ensure as far as they reasonably can that the Staff Member is not carrying COVID-19.

5.3. The Participating Employer agrees to update the employment checks, as required by the NHS Employment Checks Standards, and continue to provide the Staff Member's professional and mandatory training for the duration of any period that a Staff Member may be working at another Receiving Body following a Request.

5.4. Should, following the provision of a Staff Member by the Participating Employer, any change(s) occur to any checks or any circumstance arises which leads the Participating Employer to reasonably conclude that any Staff Member provided to a Receiving Body is not safe to practice, the Participating Employer shall notify the Receiving Body of this as soon as practicable.

5.5. Each Participating Body gives assurance that, should it become a Receiving Body, it shall comply with all health and safety obligations and exercise such duty of care over Staff Members received from a Participating Employer as if such Staff Members were the Receiving Body's own employees.

6. WORKING ARRANGEMENTS

6.1. Each Participating Body shall be responsible for the overall direction and supervision of their Staff Member and their Staff Member's conduct and actions during the period of time that the Staff Member may be provided to the Receiving Body (the "Transfer Period"). However, for the duration of the Transfer Period the Participating Bodies agree that the Staff Member will work under the day to day direction of the Receiving Body and will explain this to the Staff Member before s/he goes to the Receiving Body.

6.2. The Participating Employer and Receiving Body agree to co-operate fully and promptly with each other during the Transfer Period in respect of workforce matters ("Matters") concerning a Staff Member.

6.3. Save where agreed otherwise, the Participating Bodies agree that the Participating Employer remains responsible for the following Matters in relation to their Staff Members:

6.3.1. disciplinary and capability issues (including, for the avoidance of doubt, the handling of matters under the Employing Trust's Maintaining High Professional Standards Policy);

6.3.2. grievances;

6.3.3. appraisals and performance-related procedures;

6.3.4. remuneration including pay progression; and

6.3.5. annual and other leave,

and the Participating Employer will use all reasonable endeavours to notify the Receiving Body of any such matters.

6.4. Save where agreed otherwise, the Participating Bodies agree that in respect of the following Matters:

6.4.1. protected disclosures under the Employment Rights Act 1996; and

6.4.2. requests for personal data under the Data Protection Act 2018.

the Participating Body where the alleged issue or behaviour took place or where the Staff Member was working at the relevant time is responsible for investigating, progressing and/or resolving these Matters. Where such Participating Body is the Receiving Body it shall notify the Participating Employer as soon as reasonably practicable of the circumstances giving rise to the Matter.

6.5. If the Receiving Body becomes aware of any matter that may give rise to a claim (or similar action or challenge) by or against the Staff Member, notice of that fact shall be given as soon as possible to the Participating Employer and the Participating Bodies shall cooperate in (as appropriate) investigating, responding to and defending such claim.

6.6. Each Participating Body shall keep a record of staff supplied and received under this MOU and the hours worked.

6.7. A Receiving Body may return to a Participating Employer a Staff Member or Members received from the Participating Employer at any time, without notice.

7. CONFIDENTIAL INFORMATION

7.1. The Participating Bodies agree to keep confidential all Confidential Information of any other Participating Body which comes into their possession or knowledge and that they shall not disclose any Confidential Information in whole or in part to anyone other than in connection with the provision of the services under this MOU.

7.2. The Participating Employer shall ensure that each Staff Member keeps confidential all Confidential Information of the Receiving Body which they have access to during the Transfer Period and that they shall not, during the Transfer Period or at any time thereafter, disclose any Confidential Information in whole or in part to anyone other than in connection with the provision of the services under this MOU.

7.3. For the purposes of this paragraph 7, "**Confidential Information**" shall mean any information of a confidential or secret nature relating to any and all aspects of the business of a Participating Body and/or any associated organisation and/or their patients, directors, officers, agents, employees, customers and suppliers including but not limited to treatments, treatment planning, personal and sensitive personal data, financial information, budgets, reports, business plans, strategies, know-how, formulae, designs, data, specifications, research, processes, procedures and programs, pricing, sales and marketing plans and details of past or proposed transactions whether or not written or computer generated or expressed in material form.

7.4. The obligations under this MOU shall not apply to information which may come into the public domain otherwise than through unauthorised disclosure by a Staff Member.

7.5. Nothing in this paragraph 7 shall prevent the Participating Bodies or a Staff Member from disclosing Confidential Information where it is required by law, for regulatory compliance purposes or for the purpose of making a protected disclosure under the whistleblowing ('speaking up') legislation.

8. DATA PROTECTION

8.1. The Participating Bodies agree to comply with their respective obligations under the Data Protection Legislation and to use all reasonable efforts to assist each other to comply with their obligations under the Data Protection Legislation. For the avoidance of doubt, this includes providing reasonable assistance to each other to comply with any subject access requests served under the Data Protection Legislation.

8.2. For the purposes of this paragraph 8, "**Data Protection Legislation**" means all applicable data protection and privacy legislation, regulations and guidance including the GDPR (or, once the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal data), the Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003, and any guidance or codes of practice issued by any data protection regulator from time to time.

9. LIABILITY AND INDEMNITIES

9.1. Save where alternative arrangements regarding liabilities and indemnities are agreed in writing between the Participating Bodies such as a memorandum of understanding relating to clinical governance, the following shall apply.

9.1.1. Each Receiving Body shall be solely liable for any act or omission on the part of a Staff Member during their time working at that Participating Body during a Transfer Period.

9.1.2. Where the Receiving Body is an NHS organisation, it is agreed and understood that Staff Members will be carrying out NHS services on behalf of that NHS organisation and therefore the CNST and LTPS indemnity arrangements of the Receiving Body will apply (subject to the terms of those schemes) in respect of the acts or omissions of a Staff Member received from an Participating Employer or alternatively that other specific indemnity arrangements to address COVID-19 work put in place by NHS Resolution (subject to the terms of such new scheme or arrangement) shall apply.

9.1.3. Where the Receiving Body is not an NHS organisation but Staff Members are employed or engaged by an NHS organisation, it is agreed that the default position is that the CNSC or other indemnity arrangements of the non-NHS Receiving Body will apply in respect of the acts or omissions of such Staff Members during the Transfer Period subject to any agreement by the relevant organisations to the contrary.

9.1.4. Where none of the indemnity arrangements referred to in this paragraph 9.1 above apply each Participating Body indemnifies the other against any and all claims, liabilities, actions, proceedings, costs (including legal fees), losses, damages, fines, expenses and demands suffered or incurred by the other arising out of or resulting from such act or omission.

9.2. The Participating Bodies hereby indemnify each other against any and all claims, liabilities, actions, proceedings, costs (including legal fees), losses, damages, fines, expenses and demands suffered or incurred by any other Participating Body arising out of or resulting from the acts or omissions of the indemnifying Participating Body in respect of its employment or engagement of a Staff Member including but not limited to:

9.2.1. its breach of this MOU;

9.2.2. in the case of a Participating Employer, the employment/engagement or termination of employment/engagement of the Staff Member; or

9.2.3. in the case of a Receiving Body, any actions it undertakes relating to a Staff Member during a Transfer Period

and including, where no other indemnity arrangements provided for by NHS Resolution may apply, liability for personal injury, accident or illness suffered, breach of contract or in tort, unfair dismissal, equal pay, discrimination of any kind or under any legislation applicable in the United Kingdom.

10. NON-SOLICITATION

10.1. In order to protect the legitimate business interests of the Participating Bodies, the Receiving Body shall not:

10.1.1. attempt to solicit or entice away; or

10.1.2. solicit or entice away,

10.1.3. from the employment or service of the Participating Body the services of any Staff Member for a period of 12 months.

11. ESCALATION

11.1. If a Participating Body has any issues, concerns or complaints concerning the provisions of this MOU, it shall in the first instance seek to resolve that issue by a process of consultation with the other Participating Bodies affected. The Participating Bodies shall in good faith use all reasonable efforts to resolve the issue(s) through internal consultation as soon as reasonably practicable.

11.2. If the dispute is not resolved, then the Participating Bodies may refer the matter to an independent party as they agree.

12. RELATIONSHIP BETWEEN THE PARTICIPATING BODIES

12.1. Nothing in this MOU is intended to, or shall be deemed to, establish any partnership or joint venture between the Participating Bodies or shall be deemed to constitute any Participating Body as the agent of the others or allow any Participating Body to hold itself out as acting on behalf of any of the others.

13. ENTIRE AGREEMENT

13.1. Save where this MOU is part of wider contractual arrangements which expressly reference it, this MOU constitutes the whole agreement between the Participating Bodies relating to the subject-matter of this MOU and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this MOU.

14. GENERAL

14.1. The provisions of this MOU may be varied only by agreement in writing and signed on behalf of all the Participating Bodies.

14.2. This MOU will be governed by and construed in accordance with the law of England. Each Participating Body irrevocably submits to the exclusive jurisdiction of the courts of England over any claim, dispute or matter arising under or in connection with this agreement or its enforceability or the legal relationships established by this agreement.

14.3. A person who is not a party to this MOU has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this MOU but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

14.4. This MOU may be executed in three or more counterparts, each of which will constitute an original but which, when taken together, will constitute one instrument.

SIGNED for and on behalf of [insert name of Participating Body]

Signed .....

Name .....

Position .....

Date .....

SIGNED for and on behalf of [insert name of Participating Body]

Signed .....

Name .....

Position .....

Date .....

SIGNED for and on behalf of [insert name of Participating Body]

Signed .....

Name .....

Position .....

Date .....

[Add further signature sections as required]

MEMORANDUM OF UNDERSTANDING (MOU)

FOR

CLINICAL GOVERNANCE ARRANGEMENTS

BETWEEN:

(1) [*insert name of Independent Sector Provider*] ("IS Provider");

(2) [*insert name of NHS Body*] ("NHS Body")

INTRODUCTION

A. The purpose of this MOU is to provide a clear and mutual understanding between the IS Provider and the NHS Body (each a "Party" and together the "Parties") of the local clinical governance and oversight arrangements for the provision of clinical services and supporting facilities, diagnostics and staffing to NHS patients at the IS Provider's premises for the purpose of responding to the COVID-19 outbreak pursuant to the IS Provider's contract with NHS England (the "IS Contract").

THE PARTICIPATING BODIES AGREE AS FOLLOWS:

1. DEFAULT POSITION

1.1. The Parties agree that pursuant to the IS Contract, the IS Provider is accountable for overseeing the management of the services provided at the IS Provider's premises listed in the IS Contract, which includes complying with any required notifications to the CQC (the "Default Position").

1.2. The Parties acknowledge that the IS Contract sets out the responsibilities and obligations of the IS Provider in relation to the care of the patient.

1.3. The Parties acknowledge that the Default Position remains the case where the NHS Body's staff are seconded to the IS Provider to support the IS Provider's provision of the services.

1.4. The Parties agree that accountability for CQC's purposes is determined by who is responsible for the clinical services and for the safe care or treatment as a person experiences it and that where the Default Position applies, for the services provided under the IS Contract, the IS Provider will be accountable for CQC's purposes.

2. VARYING THE DEFAULT POSITION

2.1. Where the IS Provider's premises is hosting a whole service or a service line which is run by the NHS Body for the treatment of patients that have not transferred to the care of the IS Provider, the Parties acknowledge that the Default Position may not be appropriate.

2.2. In such circumstances, the Parties may vary the Default Position in respect of certain specified patients that are treated under those services at the IS Provider's premises.

2.3. The Parties also acknowledge that there may be circumstances where both the IS Provider and the NHS Body are both accountable for activity carried out at the IS Provider's premises.

2.4. Where the Parties vary the Default Position in respect of the care of a patient or a cohort of patients, the Parties must record, using the forms at Schedule 1 of this MOU, details of the variation of the Default Position and ensure that it is clear which Party has responsibility for the delivery of the services to those patients.

2.5. Where the NHS Body is accountable for the services:

2.5.1. The NHS Body must update their own CQC registration to add the IS Provider hospital as a location. CQC have set up and communicated a fast track process for registration:

https://www.cqc.org.uk/news/providers/coronavirus-covid-19-information#registration

2.5.2. The IS Provider will need to consider whether there is any need for it to notify the CQC, that, due to these arrangements, it will be stopping its provision of any regulated activities at its location.

2.6. The Parties acknowledge that unless there is express agreement that the NHS Body is accountable for the regulated activities or for a specific element of clinical governance, the relevant provisions of the IS Contract will apply.

3. ESCALATION

3.1. If a Party has any issues, concerns or complaints concerning the provisions of this MOU, it shall in the first instance seek to resolve that issue by a process of consultation with the other Party. Where the issue, concern or complaint relates to the allocation of clinical responsibilities as between the Parties, the consultation between the Parties will be conducted through senior clinicians. The Parties shall in good faith use all reasonable efforts to resolve the issue, concern or complaint through internal consultation as soon as reasonably practicable.

3.2. If the dispute is not resolved, then the Party may refer the matter to an independent party as they agree. Where the issue, concern or complaint relates to the allocation of clinical responsibilities as between the Parties, the matter will be referred to the local clinical governance board.

4. RELATIONSHIP BETWEEN THE PARTIES

4.1. Nothing in this MOU is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties or shall be deemed to constitute any Party as the agent of the others or allow any Party to hold itself out as acting on behalf of any of the others.

5. ENTIRE AGREEMENT

5.1. The Parties acknowledge that the provisions of the IS Contract relate to the provision of services to patients and associated clinical governance. Subject to the provisions of the IS Contract, this MOU constitutes the whole agreement between the Parties relating to the subject-matter of this MOU and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this MOU.

6. GENERAL

6.1. The provisions of this MOU may be varied only by agreement in writing and signed on behalf of the Parties.

6.2. This MOU will be governed by and construed in accordance with the law of England. Each Party irrevocably submits to the exclusive jurisdiction of the courts of England over any claim, dispute or matter arising under or in connection with this agreement or its enforceability or the legal relationships established by this agreement.

6.3. A person who is not a party to this MOU has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this MOU but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

6.4. This MOU may be executed in counterparts, each of which will constitute an original but which, when taken together, will constitute one instrument.

SIGNED for and on behalf of [*insert name of IS Provider*]

Signed .....

Name .....

Position .....

Date .....

SIGNED for and on behalf of [*insert name of NHS Body*]

Signed .....

Name .....

Position .....

Date .....

SCHEDULE 1

RECORD OF CLINICAL GOVERNANCE AND ACCOUNTABILITY ARRANGEMENTS

This Schedule is part of the Memorandum of Understanding (MOU) for clinical governance arrangements signed by the Parties listed below:

IS Provider: [*insert name*]

NHS Body: [*insert name*]

The Parties agree to vary the Default Position as defined in the MOU in accordance with the tables below. The Parties acknowledge that unless there is express indication that the NHS Body is assuming responsibility for a specific element of clinical governance, the relevant provisions of the IS Contract will apply.

Section A: Determining the Accountable Organisation

This section is concerned with determining the primary question of which organisation (whether the IS Provider or the NHS Body) is the Accountable Organisation for the service in question. This is determined by considering which organisation is responsible for the safety and quality of care or treatment as the patient experiences it. For example, by considering which organisation has responsibility for the delivery of the service in terms of responsibility for: setting the operational policies and protocols under which the care is provided by staff; overall operational management of the service; and clinical governance and quality assurance in respect of the service. In relation to the service listed, the Accountable Organisation has primary responsibility for compliance with the fundamental standards which are described in Section B below however, if operationally, in any given circumstances the Accountable Organisation wishes to delegate the carrying out of those matters in Section B they can, where agreed between the parties, in Section C.

In respect of [*Insert detailed description of the services to the extent that it will be clear whether an individual patient has been treated pursuant to the service*], to be to be carried out at [*insert IS provider's premises*], the NHS Body and the IS Provider have agreed the following:-

Patients	*Details*
State the reasons why the Default Position has been varied in respect of the service described above	
State the duration of the application of the variation to the Default Position	

	Organisation Responsible (Independent Sector/NHS Body)
Which organisation is responsible for the clinical services and for the safe care or treatment of the patient? For example, overseeing the management of the care of the patient?	
Which organisation is responsible for setting the operational policies and protocols under which the care is provided by staff?	
Which organisation is responsible for overall operational management of the service? (determining what is to be provided by whom; to which patients; in what way)	
Which organisation has clinical governance and quality assurance responsibility in respect of the service?	
Conclusion: Bearing in mind the above, which organisation is the Accountable Organisation for the service?	

Will the service involve the care of patients under 18?	Yes/No

Section B: Responsibilities of the Accountable Organisation

It follows that the organisation identified in Section A as the Accountable Organisation has responsibility for the service and will be regarded as carrying on the relevant regulated activities that that service comprises however, if operationally, in any given circumstances the Accountable Organisation wishes to delegate the carrying out of those matters in Section B they can, where agreed between the parties, in Section C.

As a consequence, the Accountable Organisation will need to ensure:

- That their CQC registration covers the provision of those regulated activities at that location;
- That the service is carried on in line with the requirements under the Health and Social Care Act 2008 and its regulations – the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and the Care Quality Commission (Registration) Regulations 2009;
- They are responsible for the suitability of all staff working as part of the service;
- They are responsible for reporting and investigating incidents and for notifying the regulators. For example, reporting patient deaths to CQC;
- They are responsible for reporting and investigating incidents complaints and litigation relating to the service;
- They are responsible for complying with the duty of candour in relation to the service;

- They are responsible for safeguarding matters relating to the service;
- They are responsible for record keeping, delivering on-boarding training in relation to the service; and
- They are responsible for meeting the NHS standard reporting requirements (e.g. RTT and waiting time data) in relation to the service.

Section C: Potential Outsourcing of Support

In the absence of any agreement to the contrary, the Accountable Organisation will be responsible for delivering all aspects of the service. However, on a case-by-case basis, the NHS Body and the IS Provider may agree that the other organisation may provide operational support to the Accountable Organisation in relation to one or more of the following areas in the first table below, and/or the Accountable Organisation may agree to delegate the carrying out of particular clinical governance tasks to the other organisation in the second table below.

Where either party is supporting the Accountable Organisation in the delivery of care to patients, the parties may agree how learning, issues and concerns are shared within an integrated governance framework:

Area of Operational Support	*Identify Support Provider* *(Independent Sector/NHS Body)* *Indicate which organisation is responsible and any detail on process/procedure or any other relevant information*
Responsibility for day-to-day control of staffing and allocation and provision of emergency on-call cover	
Which Provider's policies and procedures are being followed for out of hours/ emergency access arrangements for care records of a consultant or another provider?	
Responsibility for the provision, testing and checking of equipment used	
Responsibility for resuscitation arrangements / procedures	
Responsibility arrangements for transfer out	
Responsibility for the safe and proper use of medicines and who is the nominated CDAO	
Responsibility for policies and procedures for infection control (NB. Where there is deviation from an IS providers' policy or process it should be recorded)	

Responsibility for liaising with GPs and other agencies regarding on-going care	
Responsibility for the provision of support services in respect of the patient and details of which support services; e.g. linen, catering, etc.	
Responsibility for ensuring that the premises and equipment are safe, secure, clean, suitable for the purpose that they are being used and properly being used and maintained	
Arrangements for coordinating information sharing on site e.g. 10@10, safety huddles	
To whom issues or concerns regarding patient safety should be escalated for consideration/action	

NB: Notwithstanding the delegation of the clinical governance tasks, as agreed below, the Accountable Organisation remains legally accountable for all the tasks.

Area of Clinical Governance	*Indicate which organisation is responsible and any detail on process/procedure/lead contact or any other relevant information*
Responsibility for the clinical services and for the safe care or treatment of the patient	
Responsibility for admitting patient	
Responsibility for ensuring the patient has adequate hydration and nutrition	
Responsibility that consent is appropriately obtained or patient are treated in accordance of the Mental Capacity Act 2005	
Responsibility for identifying and treating the deteriorating patient	
Responsibility for day-to-day control of staffing and allocation and provision of emergency on-call cover	
Responsibility for ensuring any staff that are working in a location other than their usual workplace have received appropriate and effective induction, training and appropriate access to relevant IT systems	

Responsibility for retaining the ability to exclude any individual member of staffing for this service, from continuing in the service (without usurping the rights of the substantive employer of any individual)	
Responsibility for resuscitation arrangements / procedures	
Responsibility arrangements for transfer out	
Responsibility for the safe and proper use of medicines and who is the nominated CDAO	
Responsibility for reporting and investigating incidents and for notifying regulators, including CQC notifications	
Responsibility for reporting death of the patient to Her Majesty's Senior Coroner, where appropriate	
Responsibility for policies and procedures for reporting and investigating complaints and litigation	
Responsibility for policies and procedures for infection control	
Responsibility for policies and procedures for safeguarding including responsibility for making Deprivation of Liberty applications to the Local Authority and notifying these to the CQC	
Responsibility for policies and procedures for staff record keeping, including compliance with fit and proper person criteria (workforce), expedited PP requirements delivering on-boarding training, out of hours/ emergency access arrangements for care records of a consultant or another provider	
Responsibility for data: who is responsible for submitting Secondary Uses Service (SUS) data and for submitting data in line with the NHS standard reporting requirements including RTT and waiting time data (where required)	
Responsibility for record keeping – which electronic record keeping system is used and if this does not link to the	

patient's NHS record, how will such link be established	
Responsibility for liaising with GPs and other agencies regarding on-going care	
Responsibility for leading on duty of candour to ensure compliance in favour of both registered providers in the event of a notifiable safety incidents arising in this service arrangement	
Responsibility for the provision of support services in respect of the patient and details of which support services	
Responsibility for ensuring that the premises and equipment are safe, secure, clean, suitable for the purpose that they are being used and properly being used and maintained	
Arrangements for coordinating information sharing on site e.g. 10@10, safety huddles	
To whom issues or concerns regarding patient safety should be escalated for consideration/action Responsibility for overseeing the engagement from a governance perspective	
Arrangements as to which organisation's Freedom to Speak Up Guardian will be used to channel concerns raised and ensuring that these are dealt with accordingly	

SIGNED for and on behalf of [insert name of IS Provider]

Signed .....

Name .....

Position .....

Date .....

SIGNED for and on behalf of [insert name of NHS Body]

Signed .....

Name .....

Position .....

Date .....

SCHEDULE 2 – THE SERVICES

H. Transition Arrangements

Not Applicable

SCHEDULE 2 – THE SERVICES

I. Exit Arrangements

Please refer to the Service Specification and Schedule 3B.

SCHEDULE 2 – THE SERVICES

J. Transfer of and Discharge from Care Protocols

Locally-agreed protocols will apply, as determined by the Local NHS Lead

SCHEDULE 2 – THE SERVICES

K. Safeguarding Policies and Mental Capacity Act Policies

The Parties acknowledge that the Safeguarding Policies and Mental Capacity Act Policies with which the Provider will comply will be those of the Provider or the Local NHS Lead. The Parties agree that the policies which apply will be included here as soon as reasonably practicable.

SCHEDULE 2 – THE SERVICES

L. Provisions Applicable to Primary Medical Services

Not Applicable

M. Development Plan for Personalised Care

Not Applicable

SCHEDULE 3 – PAYMENT

A. Local Prices

Payment for all Services, whether or not subject to a National Price, will be as set out in Schedule 3B.

SCHEDULE 3 – PAYMENT

B. Local Variations

This Schedule 3B consists of wording on Local Variations followed by a template local payment approach statement for COVID-19 Services provided by independent healthcare providers.

1. GENERAL PRINCIPLES AND DEFINITIONS

1.1 The Commissioner will pay the Provider for the Services in accordance with Parts 1, 2 and 3 of this Schedule 3B.

1.2 In this Schedule 3B the following definitions are used and for the avoidance of doubt, where a word or phrase has a meaning set out in the General Conditions, that meaning applies to all uses of that word or phrase in this Schedule 3B:

"**Accounting Period**" means each accounting period (or such portion thereof falling within the Block Booking Period) of the Provider for management accounting purposes during the Contract Term, in each case being a period:

(i) ending upon a month end; or

(ii) of 4 or 5 weeks' duration

but which, in any case, shall not be a single period of longer than 5 weeks;

"**Accounting Principles**" means IFRS applicable to preparation of UK company financial statements as at 31 March 2020, except in relation to Providers whose most recent audited financial statements were prepared under FRS102 (or Providers who have not yet prepared audited financial statements, but whose next audited financial statements will be prepared under FRS102), in which case FRS102 as applicable to relevant UK companies' financial statements as at 31 March 2020 shall apply;

"**Accounts**" has the meaning given in paragraph 1.1 of Part 3 of this Schedule 3B;

"**Adjustment**" has the meaning given in paragraph 1.4 of Part 3 of this Schedule 3B;

"**Block Booking Period**" means the period from 00:00 on 30 March 2020 until 23:59 on the date of:

(i) the Provider ceasing provision of the Services (for the avoidance of doubt, at the end of any relevant notice period); or

(ii) in respect of individual Provider Premises, termination of the Services from such premises (for the avoidance of doubt, at the end of any relevant notice period) (where applicable);

"**Capex Costs**" means capital expenditure calculated in accordance with paragraphs 2.6 and 2.7 of Part 1 of this Schedule 3B;

"**Cost Per Case Period**" means the period from 00:00 on 23 March 2020 to 00:00 on 30 March 2020;

"**De-commissioning Costs**" means de-commissioning costs calculated in accordance with paragraphs 2.10 and 2.11 of Part 1 of this Schedule 3B;

"**Draft Final Statement**" has the meaning given in paragraph 2.2 of Part 3 of this Schedule 3B;

"**Excluded Activities**" has the meaning set out in paragraph 2.13.2 of Part 1 of this Schedule 3B;

"**Excluded Costs**" means those costs calculated in accordance with the principles set out in paragraph 2.12 of this Schedule 3B;

"**Final Accounting Period**" means the Accounting Period from the end of the previous Accounting Period to the end of the Block Booking Period;

"**Final Adjustment**" has the meaning given in paragraph 2.2 of Part 3 of this Schedule 3B;

"**Finance Costs**" means finance costs calculated in accordance with paragraph 2.8 of Part 1 of this Schedule 3B;

"**FRS102**" means "FRS 102 The Financial Reporting Standard applicable in the UK and Republic of Ireland" as issued by the Financial Reporting Council of the UK;

"**IFRS**" means International Financial Reporting Standards (including applicable international accounting standards issued by the International Accounting Standards Committee and adopted by the International Accounting Standards Board, international financial reporting standards issued by the International Accounting Standards Board) adopted for use in the European Union;

"**Infrastructure Cost**" means the amount calculated in accordance with paragraph 2.9 of Part 1 of this Schedule 3B;

"**Initial Payment**" is the initial Weekly Payment set out in paragraph 1.3 of Part 2 of this Schedule 3B;

"**Monthly Reporting**" has the meaning given in paragraph 1.1 of Part 3 of this Schedule 3B;

"**NHS Accountant**" means KPMG LLP, or, if and to the extent KPMG is unable to act, such other of Deloitte LLP, PricewaterhouseCoopers LLP or Ernst & Young LLP, or such other accounting firm as is agreed by the Parties, as is appointed by the Commissioner as accountants for the purpose of this Contract;

"**Operating Costs**" means operating costs calculated in accordance with paragraph 2.4 of Part 1 of this Schedule 3B;

"**Private Patients Offset**" has the meaning set out in paragraph 2.14 of this Schedule 3B;

"**Provider Group**" means the Provider together with any parent company, ultimate parent company, subsidiary company, or other company under common control of an ultimate parent company of the Provider, or any joint venture with the Provider;

"**Qualifying Costs**" are the costs of the Provider incurred in the provision of Services as calculated in accordance with Part 1 of this Schedule 3B, and, for the avoidance of doubt, excluding any Excluded Costs;

"**Related Party**" means A person or entity who either: (i) has joint control over the Provider or Provider Group; (ii) owns or controls more than 5% of the share capital of or has significant influence over the Provider or Provider Group; (iii) is a director of the Provider or of the Provider Group; (iv) is a post-employment defined benefit plan for the benefit of employees of either the Provider or Provider Group or another Related Party; or (v) is a member of the immediate family of any person who is a Related Party;

"**Statement of Procedures**" means the statement of procedures that sets out detail of the invoicing and payment process;

"**Rent**" means rent calculated in accordance with paragraph 2.5 of Part 1 of this Schedule 3B; and

"**Weekly Payment**" is the weekly payment calculated in accordance with Parts 2 and 3 of this Schedule 3B.

1.3 The Provider is entitled to be paid the Qualifying Costs calculated in accordance with Part 1 of this Schedule 3B incurred by the Provider in the provision of the Services.

1.4 The Parties acknowledge that the Commissioner will make Weekly Payments to the Provider in accordance with Parts 2 and 3 of this Schedule 3B.

PART 1 OF SCHEDULE 3B – CALCULATION OF QUALIFYING COSTS

1. PART 1A - CALCULATION OF QUALIFYING COSTS DURING THE COST PER CASE PERIOD

1.1 The Provider will, in respect of the Provider's Premises (a list of which is set out in the Service Specification) be paid by the Commissioner for all Services delivered during the Cost Per Case Period on a cost per case basis (including, but not limited to, COVID-19 related activity), based on the National Price plus market force factor (where applicable), or in the absence of an applicable National Price, as provided in the relevant Existing NHS Contract (as referred to in the Service Specification).

2. PART 1B - CALCULATION OF QUALIFYING COSTS DURING THE BLOCK BOOKING PERIOD

2.1 The Provider's Qualifying Costs for the provision of the Services during the Block Booking Period shall be the aggregate of all costs incurred by the Provider to provide the Services and to operate, support and maintain the Provider's Premises, comprising Operating Costs, Rent, Capex Costs, Finance Costs, Infrastructure Cost and De-commissioning Costs, less Private Patients Offset and excluding any Excluded Costs, in each case defined and calculated pursuant to paragraphs 2.4 to 2.16 of this Part 1.

2.2 The Provider will use best endeavours to manage and mitigate the Qualifying Costs incurred in delivering the Services. Any costs incurred in breach of this obligation shall be treated as Excluded Costs.

2.3 In applying such definitions and bases, except as required by paragraphs 2.4 to 2.14 of this Part 1, calculation of Qualifying Costs shall apply the Accounting Principles, the NHS Accountant shall interpret and apply such definitions and bases in accordance with the provisions of this Schedule and the Accounting Principles, and the provisions of this Schedule 3B shall be interpreted such that:

2.3.1 no cost will be included as a Qualifying Cost to the extent that its inclusion would result in a benefit to the Provider, or any other member of the Provider Group, over and above the actual costs incurred in the provision of the Services; and

2.3.2 no item of cost or expenditure shall be double-counted or included in Qualifying Costs for the Services more than once; and

2.3.3 Qualifying Costs shall exclude any cost of the Provider that may be:

(a) claimed by the Provider under any of the other terms of this Contract; or

(b) otherwise recovered or claimed by the Provider from, or reimbursed to the Provider by, the NHS, or any other governmental or private body or under any insurance contract.

For the avoidance of doubt, the Provider shall not raise any separate invoice relating to the Services for the provision of any goods or services to the NHS during the Block Booking Period other than as set out in this Schedule 3B.

2.4 "**Operating Costs**" are the costs of:

2.4.1 personnel;

2.4.2 goods and services;

2.4.3 the Provider Group's support services and overhead costs;

2.4.4 delivering private patient units to NHS trusts;

in each case: (i) reasonably and necessarily incurred in provision of the Services by the Provider during the Block Booking Period; (ii) to the extent it has or will be paid or settled by the Provider in cash in order to provide the Services; (iii) excluding any capital expenditure (as defined in the Accounting Principles); and (iv) net of any attributable supplier discount, volume adjustment or rebate received or receivable by the Provider or any other member of the Provider Group, and in each case including, but not limited to:

2.4.5 the actual cost of salaries, benefits and associated payroll taxes of employees of the Provider reasonably and necessarily involved in the delivery of the Services. In respect of agency or contract clinical staff, including consultants, who have a contract of employment with an NHS organisation, it is expected that the time involved by such persons in delivering the Services will be remunerated by the relevant NHS organisation under that contract of employment and will not result in a cost to the Provider. Where this is not the case, the amount to be included in the calculation of Qualifying Costs in relation to their employment or engagement by the Provider to deliver the Services will be the actual costs incurred by the Provider in respect of such agency or contract clinical staff; and

2.4.6 all costs reasonably and necessarily incurred by the Provider to deliver the Services and to support and maintain (but excluding normal wear and tear)[2] the Provider's Premises used in the delivery of the Services.

2.4A The Provider acknowledges that employees of the Provider who are not reasonably and necessarily involved in the delivery of the Services and to support and maintain the Provider's Premises used in the delivery of the Services may be furloughed where appropriate.

2.5 "**Rent**" is:

2.5.1 in respect of leased premises, the actual cash cost of rent paid, under the terms of leases which commenced prior to 30 March 2020, and attributable to the occupancy, during the Block Booking Period, of the Provider's Premises used for delivery of the Services, to the extent paid to third parties, but excluding any such amounts paid for the benefit of any Related Party;

2.5.2 Rent as defined in paragraph 2.5.1 in respect of leases amended or varied or agreed subsequent to 00:00 on 30 March 2020 but only to the extent that such amendment, variation or agreement results in a reduction in Rent as compared to the position prior to such amendment, variation or agreement, or has otherwise been expressly agreed in writing by the Commissioner;

2.5.3 in respect of other leased assets or equipment under leases which commenced prior to 00:00 on 30 March 2020, which are required for the provision of the Services, the cash payments under the lease incurred and required in respect of the use of the relevant asset during the Block Booking Period (whether accounted for as a payment of rent, capital or interest).

2.6 "**Capex Costs**" are:

2.6.1 the amount of capital expenditure (as defined in the Accounting Principles) incurred in the Block Booking Period, to the extent settled in cash (within or subsequent to such period) incurred in order to implement and carry out the Services, including acquisition of capital equipment, and necessary alterations or improvements to freehold or leasehold buildings, comprising:

[2] As covered by Infrastructure Cost

(a) physical modifications to the Provider's Premises required to provide the Services;

(b) equipment required to be purchased that is expected to have a useful economic life beyond the duration of the Contract Term, and that shall be owned or directed for use (for example. provided to a NHS Body) by the Commissioner at the end of the Contract Term;

except that amounts set out in this paragraph 2.6.1 will be included in Qualifying Costs only to the extent approved by the Commissioner prior to costs being incurred, via the agreed scheme of delegation; and

2.6.2 any reasonable capital expenditure (as defined in the Accounting Principles) incurred prior to the Block Booking Period, and required in order to mobilise and/or implement and carry out the Services, including acquisition of capital equipment, and necessary alterations or improvement to freehold or leasehold buildings, in each case to the extent that this is subsequently approved by the Commissioner via the agreed scheme of delegation, acting reasonably, and taking into account the results of a review by the NHS Accountant of this information.

2.7 The legal title of any freestanding or moveable items of capital equipment included in Capex Costs under paragraph 2.6 above, including but not limited to beds and ventilators, shall remain vested in the Commissioner throughout the Contract Term and beyond. The Provider shall have the right to use, without charge, such capital equipment for the provision of the Services during the Contract Term and shall, return it, in reasonable condition having regard to its usage, to the Commissioner (or transferred to a third party at the Commissioner's direction) where they are no longer used for the provision of the Services.

2.8 "**Finance Costs**" are the interest and associated costs accruing during the Block Booking Period (but excluding the amortisation of capitalised finance costs), to the extent required to be settled in cash in respect of loans, finance lease obligations (as defined under FRS102), or borrowing from financial institutions (but excluding any borrowing from or liabilities to any other Provider Group company or Related Party) drawn prior to the commencement of the Contract explicitly to fund the property, assets and working capital required exclusively to operate the Service, comprising mortgages over or loans secured by, and to the extent secured by, the property or other assets required to provide the Services.

2.9 "**Infrastructure Cost**" is an additional amount, to be paid in respect of normal wear and tear on property and equipment and in respect of all other costs of the Provider related to the Services other than those explicitly set out in paragraphs 2.4 to 2.8 above, calculated as 8.6% of the total pre-tax amount of Operating Costs set out under paragraph 2.4 above.

2.10 "**De-commissioning Costs**" are:

2.10.1 the reasonable costs incurred and paid in cash by the Provider and/or the Provider's Group[3], in restoring the Provider's Premises which had been adapted for the purposes of the Services to their prior condition, but excluding normal wear and tear, which cost is covered by the payment for Infrastructure Cost;

2.10.2 the costs incurred and paid in cash by the Provider and/or the Provider's Group, in restoring other capital equipment which had been adapted for the purposes of the Services to their prior condition, but excluding normal wear and tear, which cost is covered by the payment for Infrastructure Cost;

in each case only to the extent approved by the Commissioner, acting reasonably and taking into account the results of a review by the NHS Accountant], prior to costs being incurred, via an agreed scheme of delegation, that is to be implemented between the Provider and the Commissioner, which will include notification to the NHS Accountant. Costs referred to in paragraph 2.10.1 above, will be limited to those approved by the Commissioner as part of the prior approval of capital expenditure under paragraph 2.10.2 above.

2.10.3 the cost of such of the inventory remaining at the end of the Contract Term of medication and consumables acquired and paid for by the Provider for use in the provision of the Services as falls within category (b) below. The Provider shall consult with its local NHS Trust and/or NHS Foundation Trust as to the specific inventory of such items that should be built up in preparation for and conduct of the Services, and shall not build an excessive inventory of such items. Remaining inventory at the end of the Contract Term shall (at the Commissioner's direction) either be:

(a) retained by the Provider for its own future use, in which case the cost of such inventory shall be a cost of the Provider and excluded from De-commissioning Costs and from Qualifying Costs generally; or

(b) transferred in good condition to the Commissioner (or transferred to a third party at the Commissioner's direction), in which case the cost of such inventory shall be included in De-commissioning Costs if and to the extent not already recovered from the Commissioner as a Qualifying Cost.

2.11 Where such De-Commissioning Costs are not addressed by the provisions relating to Loaned Items contained in the Service Specification, payment to the Provider of the reasonable like-for-like replacement value for equipment (such as ventilators) removed from the Provider's Premises and used elsewhere within the NHS during the Contract Term and not returned or replaced in accordance with the Service Specification.

2.12 The Parties agree that the following costs shall be Excluded Costs:

2.12.1 charges made to a Provider by any member of the Provider's Group or other Related Party for management fees, monitoring fees or any other similar charge to the extent either:

(a) in excess of the actual cost value of services actually provided and required by the Provider to provide the Services; or

(b) to the extent the charge results in a benefit to any other member of the Providers Group or other Related Party;

2.12.2 exceptional, non-recurring costs, except to the extent approved by the Commissioner prior to costs being incurred, that is: costs other than the normal costs of personnel, goods and services, which are necessary for the provision of the Services; costs of rectification of damage resulting from fire, theft, acts of god or other damage to fixed assets, whether or not insured by the Provider; costs of, or in relation to, legal claims against the Provider; expenses or other costs or liabilities incurred or provided by the Provider relating to internal restructuring or re-organisation, severance or redundancy;

2.12.3 in respect of any individual employee of the Provider (or, to the extent it would otherwise be a Qualifying Cost, any employee of the Provider Group), the Qualifying Costs of employment in relation to salary and other benefits of employment to the extent these are in excess of an amount in the period of the Contract equivalent, on a pro rata basis, to £300,000 per annum;

2.12.4 any employee bonus, long term incentive plan, or other performance related remuneration or benefit;

2.12.5 staff meals, accommodation, or travel expenses that are unnecessarily incurred or unreasonably lavish or which represent a cost unnecessarily and materially higher than those set out in the NHS Handbook, unless and to the extent agreed or instructed by the Commissioner prior to costs being incurred, via the agreed scheme of delegation

2.12.6 any contribution to defined benefit pension schemes in excess of the normal contributions in respect of employee services in the Contract Term;

2.12.7 depreciation, amortisation or any other non-cash cost;

2.12.8 any discounts arising in the Provider Group in respect of procurement from a supplier to the Provider Group of any of the above items, to the extent reasonably attributable to the Operating Cost of the Provider, which are not remitted to the Provider by the Provider Group;

2.12.9 any costs of employees located outside the UK who are not directly engaged in the provision of, or supporting the delivery of the Services, including shared services provided by employees or operations of a Provider Group company located outside the UK to the extent that they are not directly engaged in the provision of or supporting the delivery of the Services;

2.12.10 any costs which are reimbursed or offset by amounts received or receivable by the Provider in respect of the Block Booking Period from any public or government body by way of any grant or subsidy the purpose of which is to fund or offset any item of expenditure otherwise included as Qualifying Costs;

2.12.11 any (i) costs of management consultancy (save to the extent otherwise agreed by the Commissioner in writing); (ii) any external legal or professional costs in connection with the matters covered by this Contract, or any Dispute; and (iii) except for normal operating costs (or where otherwise agreed by the Commissioner in writing), any other external legal or professional costs;

2.12.12 costs of the Provider and/or the Provider Group that do not relate to the delivery of, or supporting the delivery of, or otherwise facilitating the delivery of the Services, including but without limitation, costs related to the provision of gyms, the provision of prison services, the provisions of primary care services, or costs apportioned for services delivered outside England as well as other non-operating non-cash charges, for example, bad debt, write off and bonus accruals;

2.12.13 the cost of salaries, benefits and associated payroll taxes of employees of the Provider who are not reasonably and necessarily involved in the delivery and/or support of the Services and/or in the support and maintenance the Provider's Premises used in the delivery of the Services and are not furloughed.

2.13 Further requirements in respect of Operating Costs, Rent, Capex Costs and Finance Costs:

2.13.1 the Parties agree that initially, and at other points in the Contract Term, the Provider may not be utilising 100% of the capacity of the facilities dedicated to the provision of the Services. Where this is the case, and in each case subject to the obligations in respect of cost mitigation under paragraph 2.2 above, Operating Costs, Rent and Finance Costs shall where relevant include:

(a) the relevant unavoidable costs of unutilised capacity and of retaining the relevant capacity to deliver the Services;

(b) the relevant costs reasonably incurred in training or resting staff required in the delivery of the Services and in acquiring or relocating equipment, inventory or consumables;

2.13.2 in the event that a Provider operates Provider Premises which are not used exclusively for delivery of the Services or treatment of private patients and non-NHS elective activity addressed under paragraph 2.14 (Private Patients Offset) below, then Qualifying Costs shall exclude any costs incurred in relation to the business activities other than the delivery of the Service ("**Excluded Activities**"). In relation to shared costs which cannot be specifically identified as related solely to the Services or solely to the Excluded Activities, such as rent, insurance, or other services procured and charged as a single item covering both the Services or to the Excluded Activities, then such shared cost items will be split between the Services and the Excluded Activities on a basis which fairly reflects the actual, normalised, portion of the relevant cost incurred by each of the Services and the Excluded Activity based on the relative levels of activity or turnover (whichever is more relevant) of the Provider during the period covered by the Provider's last annual audited financial statements (as derived from the management accounts of the Provider for that period);

2.13.3 subject to application of paragraph 2.12 above, Qualifying Costs shall exclude any costs in respect of premises which are not used by the Provider for delivery of the Service. In the event that the Commissioner requires the use of any premises owned or leased by the Provider which are not used for the delivery of the Services, the Commissioner shall provide written notice to the Provider. If such request is accepted by the Provider, the costs and payment principles set out in this Schedule shall apply to use of such additional premises;

2.13.4 subject to application of paragraph 2.12 above, where the Provider has shared functions such as IT, accounting, human resources, overall group management and central group overhead, or others, which jointly support the delivery of the Services and the operation of Excluded Activities, then Qualifying Costs shall exclude any costs incurred at or in relation to the Excluded Activities. In relation to costs of such shared functions which cannot be specifically identified as related to the Services or to the Excluded Activities, such cost items will be split between the Services and the Excluded Activities on a basis which fairly reflects the actual normalised portion of the relevant cost incurred by each of the Services and the Excluded Activity based on the relative levels of activity or turnover (whichever is more relevant) of the Provider during the period covered by the Provider's last annual audited financial statements (as derived from the management accounts of the Provider for that period);

2.13.5 Qualifying Costs will include irrecoverable VAT which is borne as a cost by the Provider in respect of each relevant element of Qualifying Costs; and

2.13.6 where an element of Operating Costs or Rent is paid in annual or semi-annual or other instalments covering a period of time which extends beyond (whether prior to or after) the Block Booking Period then the Qualifying Cost shall be the time apportioned element of such payment which relates to the Block Booking Period and reasonably reflects the cost incurred in relation to that period.

2.14 Private Patients Offset

2.14.1 A deduction will be made in respect of 85% of the net revenue, (the total invoiced revenue excluding VAT and private consultant costs incurred in earning such revenue to the extent such cost is not itself a Qualifying Cost), earned by the Provider in the Block Booking Period in respect of all private

patients, including long-stay, at all Provider's Premises in England which are involved in the provision of the Services.

2.14.2 Where the Provider is able to use spare capacity at the Provider's Premises in England which are involved in the provision of the Services for non-NHS elective activity in the Block Booking Period, where national elective care criteria allow this, relevant net revenue (excluding VAT) earned by the Provider in the Escalation Period, shall be used to offset cost burden on the NHS in accordance with the Private Patient Offset.

PART 2 OF SCHEDULE 3B - PAYMENT PROCESS

1. PAYMENTS

1.1 Timing and terms of payment for the Cost per Case Period will be as set out in the Statement of Procedures or as otherwise provided in the relevant Existing NHS Contract (as such term is defined in the Service Specification).

1.2 The Commissioner will make a Weekly Payment for each week of the Block Booking Period as a payment on account to the Provider in respect of Qualifying Costs.

1.3 The Commissioner will make an Initial Payment to the Provider in respect of the first week of the Block Booking Period. The Provider must submit to the Commissioner and the NHS Accountant information on expected Qualifying Costs which must include the Provider's budgeted Qualifying Costs for each Accounting Period in the Block Booking Period approved by the board of the Provider. The Commissioner will set the amount of the Initial Payment taking into account the result of a review by the NHS Accountant of this information.

1.4 The Commissioner will set the second and subsequent Weekly Payment for the first Accounting Period on the basis of information submissions from the Provider, in respect of the expected Qualifying Costs, as an equal amount per week in respect of expected Qualifying Costs other than Capex Costs, plus the relevant weekly amount of Capex Costs approved by the Commissioner, following, and taking into account the results of, a review by the NHS Accountant of such information.

1.5 Once the Provider is informed of the Initial Payment or the Weekly Payment, this amount will be invoiced by the Provider and paid by the Commissioner in accordance with the Statement of Procedures.

1.6 The Commissioner and the NHS Accountant will adopt a process of Adjustment for each Accounting Period of total payments on account in respect of cumulative over or underpayment as compared to costs actually incurred as set out in this Schedule 3B.

1.7 Following each Accounting Period reconciliation and adjustment carried out in accordance with Part 3 of this Schedule 3B, the Commissioner will set a revised Weekly Payment, as a payment on account to cover the expected Qualifying Costs of the following period of up to 5 weeks until the next Accounting Period reconciliation and adjustment (or in respect of the final Accounting Period, the remaining weeks to the end of the Block Booking Period), as an equal amount per week in respect of expected Qualifying Costs other than Capex Costs, plus the relevant amount (in the week where cash settlement is expected) of approved Capex Costs (if any), following, and taking into account the results of, a review by the NHS Accountant of this information.

1.8 In the event of unexpected costs requiring cash settlement, within a particular week, significantly in excess of the relevant Weekly Payment and cumulative payment on account, the Provider may apply to the Commissioner and NHS Accountant for an additional exceptional payment on account, subject to approval by the Commissioner, via the agreed scheme of delegation.

1.9 Further details in respect of invoicing and payment process and procedures shall be set out in the Statement of Procedures, to be amended from time to time. If there is any conflict or inconsistency between the provisions of this Schedule 3B and the Statement of Particulars, the provisions of this Schedule 3B will prevail.

PART 3 OF SCHEDULE 3B - OPEN BOOK, RECONCILIATION AND DISPUTE RESOLUTION

1. ACCOUNTING PERIOD RECONCILIATION AND ADJUSTMENT

1.1 Within 20 Operational Days of each Accounting Period end, the Provider shall submit to the Commissioner and the NHS Accountant:

1.1.1 Accounts ("**Accounts**" shall comprise a profit and loss account and balance sheet of the Provider) for such Accounting Period;

1.1.2 Accounting Period actual Qualifying Cost schedule (including any corrections to prior Accounting Periods);

1.1.3 a reconciliation between the submissions pursuant to paragraphs 1.1.1 and 1.1.2; and

1.1.4 the Provider's estimate, approved by the board of the Provider, of the Qualifying Costs expected to be incurred in the weeks from the relevant Accounting Period end up to the expected date of the next Adjustment;

(paragraphs 1.1.1 to 1.1.4 together the "**Monthly Reporting**").

1.2 The Provider shall use best endeavours to ensure the completeness and accuracy of the Monthly Reporting information provided.

1.3 The NHS Accountant shall review the Monthly Reporting and within 15 Operational Days the Provider shall be informed by the Commissioner (or the NHS Accountant acting on its behalf) of the Adjustment (if any) and the Weekly Payment applicable to each week until the following Adjustment.

1.4 The "**Adjustment**" shall be the net difference between the actual Qualifying Costs incurred up to the end of the Accounting Period, less the cumulative total of the Initial Payment, the Weekly Payments and any exceptional payments on account up to the end of the Accounting Period, and may be positive or negative.

1.5 Any positive Adjustment shall be added to the next invoice by way of an additional payment on account. Any negative Adjustment shall be deducted from the settlement of the next Weekly Payment invoice(s) from the Provider.

1.6 The Initial Payment, and each Weekly Payment, Adjustment and any exceptional payments on account will be communicated to the Provider by the Commissioner (or the NHS Accountant acting on its behalf).

1.7 Without prejudice to the provisions of Clause 2 of Part 3 of this Schedule 3B "Final Reconciliation and Adjustment", in the event of a Dispute between the Parties with regards to whether any particular cost(s) fall within the definition of Qualified Costs, and the resulting appropriate amount of each Weekly Payment, exceptional payment or Adjustment, the Parties shall use reasonable endeavours to resolve the Dispute, acting reasonably in good faith and considering where relevant the principles, frequently asked question responses and/or decisions made by representatives of the Commissioner and (with the prior approval of the Commissioner) the Independent Health Provider Network with regards to interpretation of the definition of Qualifying Costs from time to time.

1.8 If the Parties are unable to settle the Dispute then either the Commissioner or the Provider may refer the remaining disputed matters for determination of the appropriate Weekly Payment, exceptional payment or Adjustment (in each case by way of a payment on account and without prejudice to Clause 2 of this Part 3 of Schedule 3B) by an Expert as part of the determination of the Final Statement and Final Adjustment under GC14.7 to 14.21.

2. FINAL RECONCILIATION AND ADJUSTMENT

2.1 As soon as is reasonably possible, but in any event within 60 Operational Days of the end of the Final Accounting Period, the Provider shall submit Monthly Reporting for the Final Accounting Period, together with a statement of total Qualifying Costs for the whole of the Block Booking Period.

2.2 Within 60 Operational Days of receipt of the information under paragraph 2.1 of this Part 3, the NHS Accountant, on behalf of the Commissioner, shall provide a draft statement of amounts due to or from the Provider under the Contract (the "**Draft Final Statement**") and the final Adjustment payment (the "**Final Adjustment**") required to or from the Provider.

2.3 The Provider shall have 20 Operational Days from receipt of the Draft Final Statement and draft Final Adjustment to submit to the Commissioner and the NHS Accountant a notice setting out any matters they wish to dispute, providing reasonable detail as to the nature and quantum of the proposed adjustments. All other items will be deemed to be agreed.

2.4 If no notice is submitted in accordance with paragraph 2.3 of this Part 3, the Draft Final Statement shall become final and binding and the Final Adjustment shall be due and payable within 10 Operational Days.

2.5 If a notice is submitted in accordance with paragraph 2.3 of this Part 3, the Provider and the NHS Accountant, on behalf of the Commissioner, shall use reasonable endeavours to agree the disputed matters within 20 Operational Days of submission of the notice.

2.6 If the Parties are unable to agree, either the Commissioner or the Provider may refer the remaining disputed matters for determination by an Expert under GC14.7 to 14.21.

3. BASIS OF PREPARATION OF ACCOUNTS AND FINAL STATEMENT

3.1 The Accounts shall be prepared in accordance with the Accounting Principles.

3.2 The Final Statement shall be prepared in accordance with the requirements of paragraph 2, Part 3 of Schedule 3B and shall take account of adjusting post balance sheet events (as defined in IAS 10 "Events after the Reporting Period") occurring up to the time the Draft Final Statement is delivered to the Provider, but shall not take any account of such events occurring thereafter.

4. OPEN BOOK AND ACCESS TO INFORMATION

4.1 To such extent as is reasonably required:

4.1.1 to allow the NHS Accountant to review the Costs due under this Contract;

4.1.2 for the purposes of the NHS Accountant to review the Monthly Reporting; and

4.1.3 for the purposes of the NHS Accountant to prepare and agree the Draft Final Statement;

the Provider shall make available, without limitation, to the NHS Accountant all books and records including access to relevant accounting records, systems, premises, data and personnel on request including the right to take copies. The Commissioner shall procure that the NHS Accountant shall only use such information strictly for the purposes of this Contract and shall (subject to any relevant statutory or regulatory requirements applicable to the NHS Accountant) be bound by confidentiality obligations which are no less onerous than the obligations set out in GC 20.2.

4.2 The NHS Accountant's rights pursuant to paragraph 4.1 above shall include access to relevant records of other companies in the Provider Group in respect of any costs charged by such company to the Provider which are claimed by the Provider as due for reimbursement under this Contract.

5. RETENTION OF INFORMATION BY THE PROVIDER

5.1 The Provider shall retain all relevant books and records including all supporting contracts, invoices and other documents related to the Qualifying Costs and provision of the Services for a period of at least 5 years.

Template local payment approach statement for COVID-19 Services provided by independent healthcare providers

COMMISSIONER: THE NHS COMMISSIONING BOARD ("NHS England")[4]

PROVIDER : Xxxxx xxxxxx

("the Provider")

The payment approach set out in this statement is to apply to payment for the temporary provision of:

(a) NHS inpatient and outpatient (including full supporting pathology and imaging) services and urgent elective care and cancer treatment to NHS patients in line with nationally set criteria;

(b) NHS inpatient non-elective care (either direct admission or transfer from the NHS) but not including patients who are medically fit for discharge; and

(c) care for COVID-19 infected NHS patients needing high dependency respiratory support on oxygen therapy, NIV therapy, or mechanical ventilation,

by the Provider under the contract between NHS England and the Provider ("the Contract").

Revised payment arrangements are necessary to ensure the efficient and effective provision of services by the Provider as part of the NHS response to the coronavirus pandemic, ensuring sufficient funding for the provision of

[4] NHS England is commissioning the relevant services in the exercise of the functions of clinical commissioning groups which it has been directed to exercise by the Secretary of State – see *the Exercise of Functions by the National Health Service Commissioning Board (Coronavirus) Directions 2020,* given on 28 March 2020.

services to patients while minimising the administrative burdens on NHS England and the Provider. The arrangements are consistent with the local pricing principles set out in Section 6.1 of the National Tariff – in particular, that arrangements are in the best interests of patients, having regard to coronavirus pandemic and the extraordinary and emergency circumstances in which the services will be provided.

The price to be paid by NHS England to the Provider for the provision of services under arrangements referred to above shall be an amount to reimburse the Provider for certain costs properly incurred in operating and providing the services, as defined by and otherwise in accordance with the Contract.

In order to adopt that payment arrangement, NHS England and the Provider have agreed to:

(a) in respect of services which are subject to national prices specified in the national tariff published under section 116 of the Health and Social Care Act 2012 ("the national tariff"), vary the specifications and national prices of those services;

(b) in respect of services subject to a blended payment arrangement prescribed by local pricing rules under Section 7 of the national tariff, depart from those arrangements; and

(c) in respect of services which are not subject to either national prices or a blended payment, but which are subject to a national currency, not use those currencies for the purposes of payment,

so that the price payable for the services provided by the Provider is the amount described above.

Any other local variations, local departures, local modifications and local pricing arrangements agreed between NHS England or any clinical commissioning group and the Provider which would otherwise be applicable to payment for the services shall not apply.

This statement is to be submitted by NHS England to NHS Improvement pricing@improvement.nhs.uk. NHS Improvement will publish the statement on behalf of the NHS England in accordance with section 116(3) of the Health and Social Care Act 2012 and the relevant rules in the national tariff.

Signed

Name:
Position:
NHS England

Date:

SCHEDULE 3 – PAYMENT

C. Local Modifications

Not Applicable

SCHEDULE 3 – PAYMENT

D. Emergency Care Rule: Agreed Blended Payment Arrangements

Not Applicable

SCHEDULE 3 – PAYMENT

E. Intentionally omitted

F. Expected Annual Contract Values

Not Applicable

G. Timing and Amounts of Payments in First and/or Final Contract Year

Not Applicable

SCHEDULE 4 – QUALITY REQUIREMENTS

A. Operational Standards

Ref	Operational Standards	Threshold	Guidance on definition	Timing of application of consequence	Application
	RTT waiting times for non-urgent consultant-led treatment				
E.B.3	***Percentage of Service Users on incomplete RTT pathways (yet to start treatment) waiting no more than 18 weeks from Referral***	***Operating standard of 92% at specialty level (as reported to NHS Digital)***	***See RTT Rules Suite and Recording and Reporting FAQs at: https://www.england.nhs.uk/statistics/statistical-work-areas/rtt-waiting-times/rtt-guidance/***	***Monthly***	***Services to which 18 Weeks applies***
	Diagnostic test waiting times				
E.B.4	***Percentage of Service Users waiting 6 weeks or more from Referral for a diagnostic test***	***Operating standard of no more than 1%***	***See Diagnostics Definitions and Diagnostics FAQs at: https://www.england.nhs.uk/statistics/statistical-work-areas/diagnostics-waiting-times-and-activity/monthly-diagnostics-waiting-times-and-activity/***	***Monthly***	***A CR D***

Ref	Operational Standards	Threshold	Guidance on definition	Timing of application of consequence	Application
	Cancer waits - 2 week wait				
E.B.6	***Percentage of Service Users referred urgently with suspected cancer by a GP waiting no more than two weeks for first outpatient appointment***	***Operating standard of 93%***	***See Annex F1, NHS Operational Planning and Contracting Guidance 2020/21 at: https://www.england.nhs.uk/publication/nhs-operational-planning-and-contracting-guidance-2020-21-annex-f-activity-and-performance/***	***Quarterly***	***A CR R***
E.B.7	***Percentage of Service Users referred urgently with breast symptoms (where cancer was not initially suspected) waiting no more than two weeks for first outpatient appointment***	***Operating standard of 93%***	***See Annex F1, NHS Operational Planning and Contracting Guidance 2020/21 at: https://www.england.nhs.uk/publication/nhs-operational-planning-and-contracting-guidance-2020-21-annex-f-activity-and-performance/***	***Quarterly***	***A CR R***
	Cancer waits – 28 / 31 days				
E.B.27	***Percentage of Service Users waiting no more than 28 days from urgent referral to receiving a***	***Operating standard of 75%***	***See Annex F1, NHS Operational Planning and Contracting Guidance 2020/21 at:***	***Quarterly***	***A CR R***

Ref	Operational Standards	Threshold	Guidance on definition	Timing of application of consequence	Application
	communication of diagnosis for cancer or a ruling out of cancer		***https://www.england.nhs.uk/publication/nhs-operational-planning-and-contracting-guidance-2020-21-annex-f-activity-and-performance/***		
E.B.8	***Percentage of Service Users waiting no more than one month (31 days) from diagnosis to first definitive treatment for all cancers***	***Operating standard of 96%***	***See Annex F1, NHS Operational Planning and Contracting Guidance 2020/21 at: https://www.england.nhs.uk/publication/nhs-operational-planning-and-contracting-guidance-2020-21-annex-f-activity-and-performance/***	***Quarterly***	***A CR R***
E.B.9	***Percentage of Service Users waiting no more than 31 days for subsequent treatment where that treatment is surgery***	***Operating standard of 94%***	***See Annex F1, NHS Operational Planning and Contracting Guidance 2020/21 at: https://www.england.nhs.uk/publication/nhs-operational-planning-and-contracting-guidance-2020-21-annex-f-activity-and-performance/***	***Quarterly***	***A CR R***
E.B.10	***Percentage of Service Users waiting no more than 31 days for subsequent treatment where that treatment is***	***Operating standard of 98%***	***See Annex F1, NHS Operational Planning and Contracting Guidance 2020/21 at:***	***Quarterly***	***A CR R***

Ref	Operational Standards	Threshold	Guidance on definition	Timing of application of consequence	Application
	an anti-cancer drug regimen		***https://www.england.nhs.uk/publication/nhs-operational-planning-and-contracting-guidance-2020-21-annex-f-activity-and-performance/***		
E.B.11	***Percentage of Service Users waiting no more than 31 days for subsequent treatment where the treatment is a course of radiotherapy***	***Operating standard of 94%***	***See Annex F1, NHS Operational Planning and Contracting Guidance 2020/21 at: https://www.england.nhs.uk/publication/nhs-operational-planning-and-contracting-guidance-2020-21-annex-f-activity-and-performance/***	***Quarterly***	***A CR R***
	Cancer waits – 62 days				
E.B.12	***Percentage of Service Users waiting no more than two months (62 days) from urgent GP referral to first definitive treatment for cancer***	***Operating standard of 85%***	***See Annex F1, NHS Operational Planning and Contracting Guidance 2020/21 at: https://www.england.nhs.uk/publication/nhs-operational-planning-and-contracting-guidance-2020-21-annex-f-activity-and-performance/***	***Quarterly***	***A CR R***

Ref	Operational Standards	Threshold	Guidance on definition	Timing of application of consequence	Application
E.B.13	***Percentage of Service Users waiting no more than 62 days from referral from an NHS screening service to first definitive treatment for all cancers***	***Operating standard of 90%***	***See Annex F1, NHS Operational Planning and Contracting Guidance 2020/21 at: https://www.england.nhs.uk/publication/nhs-operational-planning-and-contracting-guidance-2020-21-annex-f-activity-and-performance/***	***Quarterly***	***A CR R***
	Mixed-sex accommodation breaches				
E.B.S.1	Mixed-sex accommodation breach	>0	See Mixed-Sex Accommodation Guidance, Mixed-Sex Accommodation FAQ and Professional Letter at: https://www.england.nhs.uk/statistics/statistical-work-areas/mixed-sex-accommodation/	Monthly	A CR
	Cancelled operations				
E.B.S.2	All Service Users who have operations cancelled, on or after the day of admission (including the day of surgery), for non-clinical	Number of Service Users who are not offered another binding date	See Cancelled Operations Guidance and Cancelled Operations FAQ at: https://www.england.nhs.uk/statistics/statistical-work-	Monthly	A CR

Ref	Operational Standards	Threshold	Guidance on definition	Timing of application of consequence	Application
	reasons to be offered another binding date within 28 days, or the Service User's treatment to be funded at the time and hospital of the Service User's choice	within 28 days >0	areas/cancelled-elective-operations/		

The Provider must report its performance against each applicable Operational Standard through its Service Quality Performance Report, in accordance with Schedule 6A.

SCHEDULE 4 – QUALITY REQUIREMENTS

B. National Quality Requirements

	National Quality Requirement	Threshold	Guidance on definition	Timing of application of consequence	Application
E.A.S.4	Zero tolerance methicillin-resistant *Staphylococcus aureus*	>0	See Contract Technical Guidance Appendix 3	Monthly	A
E.B.S.4	Zero tolerance RTT waits over 52 weeks for incomplete pathways	>0	See RTT Rules Suite and Recording and Reporting FAQs at: https://www.england.nhs.uk/statistics/statistical-work-areas/rtt-waiting-times/rtt-guidance/	Monthly	Services to which 18 Weeks applies
E.B.S.6	No urgent operation should be cancelled for a second time	>0	See Contract Technical Guidance Appendix 3	Monthly	A CR
	VTE risk assessment: all inpatient Service Users undergoing risk assessment for VTE	***95%***	***See Contract Technical Guidance Appendix 3***	***Quarterly***	***A***
	Duty of candour	Each failure to notify the Relevant Person of a suspected or actual Notifiable Safety	See CQC guidance on Regulation 20 at: https://www.cqc.org.uk/guidance-providers/regulations-	Monthly	All

	National Quality Requirement	Threshold	Guidance on definition	Timing of application of consequence	Application
		Incident in accordance with Regulation 20 of the 2014 Regulations	enforcement/regulation-20-duty-candour		
	Proportion of Service Users presenting as emergencies who undergo sepsis screening and who, where screening is positive, receive IV antibiotic treatment within one hour of diagnosis	***Operating standard of 90% (based on a sample of 50 Service Users each Quarter)***	***See Contract Technical Guidance Appendix 3***	***Quarterly***	***A***
	Proportion of Service User inpatients who undergo sepsis screening and who, where screening is positive, receive IV antibiotic treatment within one hour of diagnosis	***Operating standard of 90% (based on a sample of 50 Service Users each Quarter)***	***See Contract Technical Guidance Appendix 3***	***Quarterly***	***A***

The Provider must report its performance against each applicable National Quality Requirement through its Service Quality Performance Report, in accordance with Schedule 6A.

SCHEDULE 4 – QUALITY REQUIREMENTS

C. Local Quality Requirements

Not Applicable

SCHEDULE 4 – QUALITY REQUIREMENTS

D. Commissioning for Quality and Innovation (CQUIN)

Not Applicable

E. Local Incentive Scheme

Not Applicable

SCHEDULE 5 – GOVERNANCE

A. Documents Relied On

Date	Document
	https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2020/03/ihpn-partnership-letter-25-march-2020.pdf

SCHEDULE 5 - GOVERNANCE

B. Provider's Material Sub-Contracts

Sub-Contractor **[Name]** **[Registered Office]** **[Company number]**	**Service Description**	**Start date/expiry date**	**Processing Personal Data – Yes/No**	**If the Sub-Contractor is processing Personal Data, state whether the Sub-Contractor is a Data Processor OR a Data Controller OR a joint Data Controller**
CBRE Managed Services Limited Registered office: St Martin's Court, 10 Paternoster Row, London, EC4M 7HP Company number: 01415100	Facilities management	Start date and expiry date: 18 September 2015 / 30 May 2021	No	
Sodexo Limited Registered address: 1 Southampton Row, London, WC1B 5HA Company number: 0842846	Catering	Start date and expiry date: 14 December 2017 / 31 January 2023	No	
NES Healthcare Limited Registered address: Ground Floor, Townshend House, 30 Crown Road, Norwich, Norfolk, NR1 3DT Company number: 3299836	Provision of Resident Medical Officers	Start date and expiry date: 1 April 2017 / 31 March 2022	No	
InHealth Limited	Mobile scanning services	Start date and expiry date: 1 August 2014 / 1 August 2021	No	

Registered address: Beechwood Hall, Kingsmead Road, High Wycombe, Buckinghamshire, HP11 1JL Company number: 05190234				
InHealth Limited Registered address: Beechwood Hall, Kingsmead Road, High Wycombe, Buckinghamshire, HP11 1JL Company number: 05190234	Diagnostic imaging services (static sites)	Start date and expiry date: Dates vary for different sites, as set out below Bristol – 13 October 2013 / 31 January 2021 Ipswich – 30 June 2014 / 30 June 2021 North Staffordshire – 28 May 2015 / 28 May 2025	No	
Alliance Medical Limited Registered address: Iceni Centre, Warwick Technology Park, Warwick, Warwickshire, CV34 6DA Company number: 02128897	Diagnostic imaging services	Start date and expiry date: 14 December 2014 / expiry dates determined by reference to Site Agreement for relevant hospital, as set out below Bournemouth – 19 August 2020 Brighton – 12 November 2022 Chester – 19 September 2021 Cheltenham – 27 March 2020 Leicester – 18 August 2021	No	
Medical Imaging Partnership Limited Registered address: The Pavilions Unit 7, Brighton	Diagnostic imaging services	Start date and expiry date: 15 April 2016 / 15 April 2026	No	

Road, Pease Pottage, Crawley, England, RH11 9BJ Company number: 06713311				

SCHEDULE 5 - GOVERNANCE

C. Commissioner Roles and Responsibilities

SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

A. Reporting Requirements

The Parties acknowledge that the reporting requirements set out in this Schedule 6A will be read in light of the letter titled "Reducing burden and releasing capacity at NHS providers and commissioners to manage the COVID-19 pandemic" dated 28 March 2020 and shall apply to the Provider as if it is a NHS Trust / NHS Foundation Trust and not a non-NHS acute provider (https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2020/03/C0113-28-March-2020-Reducing-burden-and-releasing-capacity-at-NHS-providers-and-commissioners-to-manage-the-CO.pdf)

	Reporting Period	Format of Report	Timing and Method for delivery of Report	Application
National Requirements Reported Centrally				
1. As specified in the DCB Schedule of Approved Collections published on the NHS Digital website at https://digital.nhs.uk/isce/publication/nhs-standard-contract-approved-collections where mandated for and as applicable to the Provider and the Services	As set out in relevant Guidance	As set out in relevant Guidance	As set out in relevant Guidance	**All**
2. Patient Reported Outcome Measures (PROMS) https://digital.nhs.uk/data-and-information/data-tools-and-services/data-services/patient-reported-outcome-measures-proms	As set out in relevant Guidance	As set out in relevant Guidance	As set out in relevant Guidance	**All**
National Requirements Reported Locally				
1. Activity and Finance Report (*note that, if appropriately designed, this report may also serve as the reconciliation account to be sent by the Provider by the First Reconciliation Date under SC36.28, or under SC36.31*)	Monthly	[For local agreement]	By no later than the First Reconciliation Date for the month to which it relates, consistent with data submitted to SUS, where applicable	**All**
2. Service Quality Performance Report, detailing performance against Operational Standards, National Quality Requirements, Local Quality Requirements, Never Events and the duty of candour, including, without limitation:	Monthly	[For local agreement]	Within 15 Operational Days of the end of the month to which it relates.	
a. details of any thresholds that have been breached and any Never Events and breaches in respect of the duty of candour that have occurred;				**All**
b. details of all requirements satisfied;				**All**
c. details of, and reasons for, any failure to meet requirements;				**All**
d. report on performance against the HCAI				**All except**

		Reporting Period	Format of Report	Timing and Method for delivery of Report	Application
	Reduction Plan				**111**
3.	Not used				
4.	Report on performance in respect of venous thromboembolism, catheter-acquired urinary tract infections, falls and pressure ulcers, in accordance with SC22.1.	Annual	[For local agreement]	[For local agreement]	**A**
5.	Complaints monitoring report, setting out numbers of complaints received and including analysis of key themes in content of complaints	[For local agreement]	[For local agreement]	[For local agreement]	**All**
6.	Not used				
7.	Summary report of all incidents requiring reporting	Monthly	[For local agreement]	[For local agreement]	**All**
8.	Data Quality Improvement Plan: report of progress against milestones	In accordance with relevant DQIP	In accordance with relevant DQIP	In accordance with relevant DQIP	**All**
9.	Report and provide monthly data and detailed information relating to violence-related injury resulting in treatment being sought from Staff in A+E departments, urgent care and walk-in centres to the local community safety partnership and the relevant police force, in accordance with applicable Guidance (Information Sharing to Tackle Violence (ISTV)) Initial Standard Specification https://digital.nhs.uk/isce/publication/isb1594	Monthly	As set out in relevant Guidance	As set out in relevant Guidance	**A**
10.	Report on outcome of reviews and evaluations in relation to Staff numbers and skill mix in accordance with GC5.2 (*Staff*)	Annually (or more frequently if and as required by the Co-ordinating Commissioner from time to time)	[For local agreement]	[For local agreement]	**All**
11.	Report on compliance with the National Workforce Race Equality Standard.	Annually	[For local agreement]	[For local agreement]	**All**
12.	Report on compliance with the National Workforce Disability Equality Standard.	Annually	[For local agreement]	[For local agreement]	**All**
13.	Not used				
14.	Not used				

SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

B. Data Quality Improvement Plans

Not Applicable

SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

C. Incidents Requiring Reporting Procedure

Procedure(s) for reporting, investigating, and implementing and sharing Lessons Learned from: (1) Serious Incidents (2) Notifiable Safety Incidents (3) other Patient Safety Incidents
The Parties acknowledge that the procedure(s) for reporting, investigating, and implementing and sharing Lessons Learned from: (1) Serious Incidents (2) Notifiable Safety Incidents (3) other Patient Safety Incidents with which the Provider will comply will be those of the Provider or the Local NHS Lead. The Parties agree that the procedure(s) which applies will be included here as soon as reasonably practicable.

SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

D. Service Development and Improvement Plans

Not Applicable

E. Surveys

Not Applicable

SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

F. Provider Data Processing Agreement

[NOTE: This Schedule 6F applies only where the Provider is appointed to act as a Data Processor under this Contract]

1. SCOPE

1.1 The Co-ordinating Commissioner appoints the Provider as a Data Processor to perform the Data Processing Services.

1.2 When delivering the Data Processing Services, the Provider must, in addition to its other obligations under this Contract, comply with the provisions of this Schedule 6F.

1.3 This Schedule 6F applies for so long as the Provider acts as a Data Processor in connection with this Contract.

2. DATA PROTECTION

2.1 The Parties acknowledge that for the purposes of Data Protection Legislation in relation to the Data Processing Services the Co-ordinating Commissioner is the Data Controller and the Provider is the Data Processor. The Provider must process the Processor Data only to the extent necessary to perform the Data Processing Services and only in accordance with written instructions set out in this Schedule, including instructions regarding transfers of Personal Data outside the EU or to an international organisation unless such transfer is required by Law, in which case the Provider must inform the Co-ordinating Commissioner of that requirement before processing takes place, unless this is prohibited by Law on the grounds of public interest.

2.2 The Provider must notify the Co-ordinating Commissioner immediately if it considers that carrying out any of the Co-ordinating Commissioner's instructions would infringe Data Protection Legislation.

2.3 The Provider must provide all reasonable assistance to the Co-ordinating Commissioner in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Co-ordinating Commissioner, include:

(a) a systematic description of the envisaged processing operations and the purpose of the processing;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the Data Processing Services;

(c) an assessment of the risks to the rights and freedoms of Data Subjects; and

(d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

2.4 The Provider must, in relation to any Personal Data processed in connection with its obligations under this Schedule 6F:

(a) process that Personal Data only in accordance with Annex A, unless the Provider is required to do otherwise by Law. If it is so required the Provider must promptly notify the Co-ordinating Commissioner before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Co-ordinating Commissioner as appropriate to protect against a Data Loss Event having taken account of the:

(i) nature, scope, context and purposes of processing the data to be protected;

(ii) likelihood and level of harm that might result from a Data Loss Event;

(iii) state of technological development; and

(iv) cost of implementing any measures;

(c) ensure that:

(i) when delivering the Data Processing Services the Provider Staff only process Personal Data in accordance with this Schedule 6F (and in particular Annex A);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Provider Staff who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Provider's duties under this paragraph;

(B) are subject to appropriate confidentiality undertakings with the Provider and any Sub-processor;

(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Co-ordinating Commissioner or as otherwise permitted by this Contract;

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(E) are aware of and trained in the policies and procedures identified in GC21.11 (*Patient Confidentiality, Data Protection, Freedom of Information and Transparency*).

(d) not transfer Personal Data outside of the EU unless the prior written consent of the Co-ordinating Commissioner has been obtained and the following conditions are fulfilled:

(i) the Co-ordinating Commissioner or the Provider has provided appropriate safeguards in relation to the transfer as determined by the Co-ordinating Commissioner;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Provider complies with its obligations under Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Co-ordinating Commissioner in meeting its obligations); and

(iv) the Provider complies with any reasonable instructions notified to it in advance by the Co-ordinating Commissioner with respect to the processing of the Personal Data;

(e) at the written direction of the Co-ordinating Commissioner, delete or return Personal Data (and any copies of it) to the Co-ordinating Commissioner on termination of the Data Processing Services and certify to the Co-ordinating Commissioner that it has done so within five Operational Days of any such instructions being issued, unless the Provider is required by Law to retain the Personal Data;

(f) if the Provider is required by any Law or Regulatory or Supervisory Body to retain any Processor Data that it would otherwise be required to destroy under this paragraph 2.4, notify the Co-ordinating Commissioner in writing of that retention giving details of the Processor Data that it must retain and the reasons for its retention; and

(g) co-operate fully with the Co-ordinating Commissioner during any handover arising from the cessation of any part of the Data Processing Services, and if the Co-ordinating Commissioner directs the Provider to migrate Processor Data to the Co-ordinating Commissioner or to a third party, provide all reasonable assistance with ensuring safe migration including ensuring the integrity

of Processor Data and the nomination of a named point of contact for the Co-ordinating Commissioner.

2.5 Subject to paragraph 2.6, the Provider must notify the Co-ordinating Commissioner immediately if, in relation to any Personal Data processed in connection with its obligations under this Schedule 6F, it:

(a) receives a Data Subject Access Request (or purported Data Subject Access Request);

(b) receives a request to rectify, block or erase any Personal Data;

(c) receives any other request, complaint or communication relating to obligations under Data Protection Legislation owed by the Provider or any Commissioner;

(d) receives any communication from the Information Commissioner or any other Regulatory or Supervisory Body (including any communication concerned with the systems on which Personal Data is processed under this Schedule 6F);

(e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;

(f) becomes aware of or reasonably suspects a Data Loss Event; or

(g) becomes aware of or reasonably suspects that it has in any way caused the Co-ordinating Commissioner or other Commissioner to breach Data Protection Legislation.

2.6 The Provider's obligation to notify under paragraph 2.5 includes the provision of further information to the Co-ordinating Commissioner in phases, as details become available.

2.7 The Provider must provide whatever co-operation the Co-ordinating Commissioner reasonably requires to remedy any issue notified to the Co-ordinating Commissioner under paragraphs 2.5 and 2.6 as soon as reasonably practicable.

2.8 Taking into account the nature of the processing, the Provider must provide the Co-ordinating Commissioner with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 2.5 (and insofar as possible within the timescales reasonably required by the Co-ordinating Commissioner) including by promptly providing:

(a) the Co-ordinating Commissioner with full details and copies of the complaint, communication or request;

(b) such assistance as is reasonably requested by the Co-ordinating Commissioner to enable the Co-ordinating Commissioner to comply with a Data Subject Access Request within the relevant timescales set out in Data Protection Legislation;

(c) assistance as requested by the Co-ordinating Commissioner following any Data Loss Event;

(d) assistance as requested by the Co-ordinating Commissioner with respect to any request from the Information Commissioner's Office, or any consultation by the Co-ordinating Commissioner with the Information Commissioner's Office.

2.9 Without prejudice to the generality of GC15 *(Governance, Transaction Records and Audit),* the Provider must allow for audits of its delivery of the Data Processing Services by the Co-ordinating Commissioner or the Co-ordinating Commissioner's designated auditor.

2.10 For the avoidance of doubt the provisions of GC12 *(Assignment and Sub-contracting)* apply to the delivery of any Data Processing Services.

2.11 Without prejudice to GC12, before allowing any Sub-processor to process any Personal Data related to this Schedule 6F, the Provider must:

(a) notify the Co-ordinating Commissioner in writing of the intended Sub-processor and processing;

(b) obtain the written consent of the Co-ordinating Commissioner;

(c) carry out appropriate due diligence of the Sub-processor and ensure this is documented;

(d) enter into a binding written agreement with the Sub-processor which as far as practicable includes equivalent terms to those set out in this Schedule 6F and in any event includes the requirements set out at GC21.16.3; and

(e) provide the Co-ordinating Commissioner with such information regarding the Sub-processor as the Co-ordinating Commissioner may reasonably require.

2.12 The Provider must create and maintain a record of all categories of data processing activities carried out under this Schedule 6F, containing:

(a) the categories of processing carried out under this Schedule 6F;

(b) where applicable, transfers of Personal Data to a third country or an international organisation, including the identification of that third country or international organisation and, where relevant, the documentation of suitable safeguards;

(c) a general description of the Protective Measures taken to ensure the security and integrity of the Personal Data processed under this Schedule 6F; and

(d) a log recording the processing of the Processor Data by or on behalf of the Provider comprising, as a minimum, details of the Processor Data concerned, how the Processor Data was processed, when the Processor Data was processed and the identity of any individual carrying out the processing.

2.13 The Provider warrants and undertakes that it will deliver the Data Processing Services in accordance with all Data Protection Legislation and this Contract and in particular that it has in place Protective Measures that are sufficient to ensure that the delivery of the Data Processing Services complies with Data Protection Legislation and ensures that the rights of Data Subjects are protected.

2.14 The Provider must comply at all times with those obligations set out at Article 32 of the GDPR and equivalent provisions implemented into Law by DPA 2018.

2.15 The Provider must assist the Commissioners in ensuring compliance with the obligations set out at Article 32 to 36 of the GDPR and equivalent provisions implemented into Law, taking into account the nature of processing and the information available to the Provider.

2.16 The Provider must take prompt and proper remedial action regarding any Data Loss Event.

2.17 The Provider must assist the Co-ordinating Commissioner by taking appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Commissioners' obligation to respond to requests for exercising rights granted to individuals by Data Protection Legislation.

Annex A

Data Processing Services

Processing, Personal Data and Data Subjects

1. The Provider must comply with any further written instructions with respect to processing by the Co-ordinating Commissioner.

2. Any such further instructions shall be incorporated into this Annex.

Description	Details
Subject matter of the processing	*[This should be a high level, short description of what the processing is about i.e. its subject matter]*
Duration of the processing	*[Clearly set out the duration of the processing including dates]*
Nature and purposes of the processing	*[Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]*
Type of Personal Data	*[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]*
Categories of Data Subject	*[Examples include: Staff (including volunteers, agents, and temporary workers), Co-ordinating Commissioners/clients, suppliers, patients, students/pupils, members of the public, users of a particular website etc]*
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	*[Describe how long the data will be retained for, how it be returned or destroyed]*

SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

G. Data Sharing Agreement

Dated XX/XX/2020

(1) [INSERT NAME AND DETAILS OF THE INDIVIDUAL PRIVATE HEALTHCARE PROVIDER] ('the Provider')

and

(2) NHS [INSERT NAME AND DETAILS OF THE INDIVIDUAL NHS TRUST] ('the Trust')

together referred to as the 'Parties' or individually as a 'Party'.

Data Sharing Agreement

1. Definitions

1.1. Unless defined elsewhere in this DSA, all defined terms shall have the meanings ascribed to them under the Services Agreement.

1.2. In this DSA:

1.2.1. **DSA** means this Data Sharing Agreement

1.2.2. **Services Agreement**: means the central agreement between NHS England and the Provider entered into on or around the 4th April 2020, which sets out the terms and conditions pursuant to which the Provider shall make available to NHS England all necessary facilities, staffing, management and organisations capabilities to support the NHS response to the COVID-19 (Coronavirus) pandemic including any memorandum of understanding agreed between the Parties under which Service Users will receive healthcare services at the Provider's premises.

1.2.3. **Trust Staff** means Consultants, clinicians, employees, agents and sub-contractors undertaking work for the Trust.

1.2.4. **Provider Staff** means Consultants, Clinicians, employees, agents and sub-contractors undertaking work for the Provider.

1.2.5. **Consultant** means consultants engaged under a Practising Privileges agreement with the Provider.

1.2.6. **Approved Collection Methods** means the methods as set out in Clause 10 of this DSA.

2. Introduction and Purpose

2.1. The Provider and NHS England ('the Commissioner') have entered into the Services Agreement:

2.2. The Provider is an independent healthcare provider with hospitals in the UK. The Provider has agreed to support the Commissioner in its response to the COVID-19 (Coronavirus) pandemic:

2.3. This DSA has been established to provide a framework for the lawful, secure, and confidential sharing of Personal Data between the Provider and the Trust for the purpose of supporting the Commissioner in its response to the COVID-19 (Coronavirus) pandemic and the provision of Services by the Provider under the Services Agreement.

2.4. This DSA is supplemental to the data protection provisions set out in the Services Agreement. In the event of conflict between this DSA and the Services Agreement, the terms of this DSA shall apply:

2.5. This DSA is necessary to clearly set out a specific and practical set of terms, so both Parties are clear on how Personal Data will be processed and shared:

2.6. This DSA sets out the framework for the sharing of Personal Data when one Data Controller discloses Personal Data to another Data Controller. Both Parties are deemed to be Data Controllers for the data processed under this DSA.

3. Objectives of the Personal Data Sharing

3.1. This DSA governs the sharing of Personal Data by the Provider and the Trust of Service Users receiving treatment (or who have received treatment) at the Provider's premises, Provider Staff and Trust Staff to enable the Provider to perform its obligations under the Services Agreement:

3.2. The overall objective is to ensure collaboration and the delivery of quality care to Service Users. The objectives of this DSA are:

3.2.1. To safeguard the Service Users' rights under the Data Protection Legislation, this DSA shall clarify:

- What Personal Data is needed
- Why Personal Data is needed
- How it is collected
- How it will be used
- How it is stored
- How long it is stored for
- How it is disposed/deleted
- Who it is shared with
- How Service Users can access their Personal Data
- How Service Users can exercise their Data Subject rights in accordance with the Data Protection Legislation.

3.2.2. To support Provider Staff and Trust Staff to process Personal Data securely and lawfully.

4. Information Governance

4.1. The Parties in their respective performance of this DSA shall be solely responsible for their own compliance with the provisions of the Data Protection Legislation:

4.2. Each Party shall ensure that it has complied with all applicable registrations required by a regulatory authority including the Information Commissioner:

4.3. The Parties must conform to the recommendations and principles of Information Governance and comply with all applicable legislation including the Data Protection Legislation.

5. Supporting Staff

5.1. The Provider shall support their Provider Staff and the Trust Staff by ensuring they:

- Only have access to Personal Data necessary to carry out their respective roles
- Are given sufficient information to carry out their role safely and securely when working in a new or unfamiliar environment e.g. a member of Trust Staff working in a Provider's hospital
- Are provided with the details of the Data Protection Officer or the person responsible for information governance for the premises they are working at
- Have received Information Governance training on processing Personal Data
- Have received training on IT systems which store Personal Data
- Can carry out their work in compliance with the applicable legal and professional requirements.

5.2. Consultants engaged by a Provider who are involved in the provision of services to the Trust shall do so in accordance with the terms of their Practising Privileges agreement entered into with that Provider.

6. Lawful Sharing and Fair Processing of Personal Data

6.1. It is a requirement of the principles of the Data Protection Legislation and, where Personal Data of Service Users is involved; the Caldicott Principles, that Personal Data must only be shared for specified reasons, and only when it is justifiable to do so.

6.2. Personal Data will be shared between the Parties to this DSA for the following purposes:

- To facilitate the provision of the services to Service Users under the Services Agreement

- As is necessary to allow the Parties to carry out their business functions lawfully and in accordance with best practice.

6.3. The Parties agree to comply with their respective obligations under the Data Protection Legislation in relation to fair processing and transparency.

7. Data Sharing Principles, Protocols and Procedures for Access

7.1. The principles on which this DSA is based are as follows:

- All Provider Staff and Trust Staff are regarded as authorised, on a 'need to know' basis, to access Personal Data held by their own or other signatory organisations
- The Parties must ensure that Service Users are aware that data sharing agreements are in place and that Personal Data will only be accessed for specified and lawful purposes, and only where its use can be justified.

8. Personal Data processed under this DSA

8.1. It is anticipated that the Personal Data processed by the Parties under this DSA may include (without limitation):

- Service User Demographic details (name, address, registered GP, etc...)
- Hospital Identifiers
- Service User NHS Number
- Medical condition, reason for admission, condition to date, treatment already given, date of admission etc… when a Service User is transferred from one Party's hospital to the other Party's hospital
- Medical history, history of previous treatment etc… in the form of the Service User's medical record
- Name, job title and qualifications/registrations of any Provider Staff members or Trust Staff members if they are working on the other Party's premises
- Any other Personal Data required to provide the Service User with appropriate medical treatment as agreed between the Parties (including under the Services Agreement).

This list is by no means exhaustive and there may be other Personal Data processed under this DSA, depending on the services provided from time to time.

9. Data Quality

9.1. Personal Data will only be collected using Approved Collection Methods, ensuring the Personal Data shared under this DSA is complete and up-to-date to the extent reasonably practicable.

9.2. The procedure for updating Personal Data will be agreed between the Parties:

9.3. All reasonable steps must be taken to ensure that anyone who has received Personal Data is notified of any relevant changes and if any inaccuracies are found the necessary amendments will be made.

10. Security of Personal Data

10.1. The Parties must have local information security/information governance policies in place, in line with Data Protection Legislation, which include, but are not limited to:

10.1.1. Measures for the security of Personal Data of Service Users

10.1.2. A requirement for confidentiality clauses in contracts for staff and third parties

10.1.3. That any transfer of Personal Data is exchanged either (i) over email must be encrypted and any attachments containing Personal Data must be password protected (ii) by hard copy, in which case a secure sealed envelope must be used, or (iii) : an alternative secure portal or transport layer security (TLS) (together the "Approved Collection Methods"):

10.2. The Parties shall ensure that they implement appropriate technical, physical, administrative and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental destruction or loss of, or damage to, Personal Data processed under this DSA. Such measures shall include (but shall not be limited to) the encryption of Personal Data processed under this DSA, and the secure storage of any Personal Data held in hard copy format under this DSA.

10.3. Where Personal Data of Service Users is being shared, the Provider must be signed up to completion of the DSP Toolkit https://www.dsptoolkit.nhs.uk/ and must have achieved a 'standards met' rating. Both Parties agree they will process Personal Data in accordance with the requirements set out in the Data Protection Legislation. Each Party must produce, upon request, details of the arrangements they currently have in place to control access to Personal Data they hold about Service Users who have been or are in contact with their organisation. This should include descriptions of how Personal Data is stored, how long Personal Data is stored for, who has access, how access is controlled, and the security arrangements.

11. Retention, Disposal & Deletion

11.1. The Personal Data processed under this DSA will:

11.1.1. not be held for longer than necessary to fulfil the purpose for which it was obtained

11.1.2. be retained in accordance with the Data Protection Legislation together with applicable national guidance, industry standards and/or each Party's retention schedules; and

11.1.3. be securely deleted, destroyed or otherwise disposed of at the end of the relevant retention period.

12. Subject Access Requests and Other Data Subject's Rights

12.1. Any Individual whose Personal Data is processed by either of the Parties, has the right to request access to the Personal Data processed by the Parties and to receive further information about how that Personal Data has been processed:

12.2. The Parties acknowledge a duty to assist one another in meeting their individual responsibilities under the Data Protection Legislation to provide information subject to this DSA in response to formal requests:

12.3. Where one Party receives such a request and that Party requires support from the other Party, details about the support required and applicable timescales should be put in writing to the Data Protection Officer using the details below:

12.4. Where one Party receives a request and they do not process any Personal Data, but believe the other Party processes Personal Data, they must provide the original request to the Data Protection Officer of the other Party using the details below.

13. Confidentiality

13.1. Both Parties shall ensure that all persons with access to the Personal Data processed pursuant to this DSA:

- Have been subject to appropriate vetting procedures and have received training on Data Protection Legislation and as a result are aware of their personal obligations with regards to this DSA and the Data Protection Legislation
- Are subject to an obligation of confidentiality for all data, including commercially sensitive data, or are under an appropriate statutory obligation of confidentiality; and
- Are notified of the confidential nature of the Personal Data.

14. Personal Data Breaches and Reporting Procedures of this DSA

14.1. If a breach of this DSA occurs, the Party in breach of this DSA must:

- Record and investigate the incident in line with each Party's own adverse incident reporting policy and procedure and notify the other Party of the incident without undue delay
- Ensure any immediate action is taken to contain the incident or mitigate any effects it may have on the affected Service User(s)
- Conduct a root cause analysis with learning outcomes taken forward through action plans and audit
- Ensure the incident is reported to the Data Protection Officer to comply with its obligations to report a notifiable Personal Data Breach to the Information Commissioner's Office (and where applicable) Data Subjects in accordance with Article 33 and Article 34 of the GDPR, respectively. The Data Protection Officer will notify the Caldicott Guardian as required
- Consider whether the other Party to this DSA needs to be notified
- The Party in breach should consider whether formal disciplinary action should be taken against any person who caused a breach of this DSA e.g. if they have accessed Personal Data without authorisation

15. Contacts

The primary contact for matters relating to the operation and management of this DSA are:

Information Sharing Partner Organisations	Responsible Person – Operational Level
The Provider	
The Trust	

The Data Protection Officer contact details for each Party are:

Information Sharing Partner Organisations	Data Protection Officer

The Provider

The Trust

16. Review process

This document will be reviewed by the Data Protection Officers at both Parties as and when legislation and national guidance dictates or as and when there is a change to the way Personal Data is being processed under this DSA Changes will be recorded on the version control. Changes will be recorded in writing between the Parties.

17. Term and Termination

This DSA shall commence (or be deemed to have commenced) on the date of signature by the Parties or the date on which the Services Agreement comes into effect (whichever is the earlier) and shall continue until expiry or termination of the Services Agreement. Any clauses which are intended to or by their nature ought to survive termination of this DSA shall continue in full force and effect notwithstanding termination of this DSA.

18. General

18.1. If either Party has any issues, concerns or complaints concerning the provisions of this DSA, it shall in the first instance seek to resolve that issue by a process of consultation with the other Party. The Parties shall in good faith use all reasonable efforts to resolve the issue(s) through internal consultation as soon as reasonably practicable, mindful of the context in which this DSA is entered into:

18.2. This DSA constitutes the whole agreement relating to the subject-matter of this DSA and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this DSA:

18.3. This DSA may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart shall constitute an original of this DSA but all counterparts together shall constitute one and the same DSA and any party may execute this DSA by signing any one or more of such counterparts:

18.4. Any dispute or claim arising out of or in connection with this DSA or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this DSA or its subject matter or formation (including non-contractual disputes or claims).

19. Authorised Signatories

In signing the document each signature is an undertaking to adopt this DSA on behalf of their organisation

Signed on behalf of: [INSERT DETAILS OF THE LOCAL PRIVATE HEALTHCARE PROVIDER]

Signature: Date:

Name:

Designation:

Information Governance Role:

Signature: Date:

Name:

Designation:

Information Governance Role: Caldicott Guardian

Signed on behalf of: The Trust

Signature: Date:

Name:

Designation:

Information Governance Role:

Signature:	Date:
Name:	
Designation:	
Information Governance Role: Caldicott Guardian	

SCHEDULE 7 – PENSIONS

Not Applicable

SCHEDULE 8 – LOCAL SYSTEM PLAN OBLIGATIONS

Not Applicable

SCHEDULE 9 – SYSTEM COLLABORATION AND FINANCIAL MANAGEMENT AGREEMENT

Not Applicable

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NHS Standard Contract 2020/21

Service Conditions (Full Length)

Prepared by: NHS Standard Contract Team, NHS England
nhscb.contractshelp@nhs.net
(please do not send contracts to this email address)

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Conditions will apply to all or only some Service categories, as indicated in the right column using the following abbreviations:

All Services	All
Accident and Emergency Services (Type 1 and Type 2 only)	A+E
Acute Services	A
Ambulance Services	AM
Cancer Services	CR
Continuing Healthcare Services (including continuing care for children)	CHC
Community Services	CS
Diagnostic, Screening and/or Pathology Services	D
End of Life Care Services	ELC
Mental Health and Learning Disability Services	MH
Mental Health and Learning Disability Secure Services	MHSS
NHS 111 Services	111
Patient Transport Services	PT
Radiotherapy Services	R
Urgent Treatment Centre Services (including Walk-in Centre Services/Minor Injuries Units)	U

PROVISION OF SERVICES	
SC1 Compliance with the Law and the NHS Constitution 1.1 The Provider must provide the Services in accordance with the Fundamental Standards of Care and the Service Specifications. The Provider must perform all of its obligations under this Contract in accordance with: 1.1.1 the terms of this Contract; and 1.1.2 the Law; and 1.1.3 Good Practice. The Provider must, when requested by the Co-ordinating Commissioner, provide evidence of the development and updating of its clinical process and procedures to reflect Good Practice.	**All**
1.2 The Commissioners must perform all of their obligations under this Contract in accordance with: 1.2.1 the terms of this Contract; and 1.2.2 the Law; and 1.2.3 Good Practice.	**All**
1.3 The Parties must abide by and promote awareness of the NHS Constitution, including the rights and pledges set out in it. The Provider must ensure that all Sub-Contractors and all Staff abide by the NHS Constitution.	**All**
1.4 The Parties must ensure that, in accordance with the Armed Forces Covenant, those in the armed forces, reservists, veterans and their families are not disadvantaged in accessing the Services.	**All**
SC2 Regulatory Requirements 2.1 The Provider must: 2.1.1 comply, where applicable, with the registration and regulatory compliance guidance of any relevant Regulatory or Supervisory Body; 2.1.2 respond to all applicable requirements and enforcement actions issued from time to time by any relevant Regulatory or Supervisory Body; 2.1.3 comply, where applicable, with the standards and recommendations issued from time to time by any relevant Regulatory or Supervisory Body;	**All**

	2.1.4 consider and respond to the recommendations arising from any audit, Serious Incident report or Patient Safety Incident report; 2.1.5 comply with the standards and recommendations issued from time to time by any relevant professional body and agreed in writing between the Co-ordinating Commissioner and the Provider; 2.1.6 comply, where applicable, with the recommendations contained in NICE Technology Appraisals and have regard to other Guidance issued by NICE from time to time; 2.1.7 respond to any reports and recommendations made by Local Healthwatch; and 2.1.8 meet its obligations under Law in relation to the production and publication of Quality Accounts.	
2.2	The Provider must comply with all applicable EU Exit Guidance.	**All**
2.3	The Parties must comply, where applicable, with their respective obligations under, and with recommendations contained in, MedTech Funding Mandate Guidance.	**All**
SC3	**Service Standards**	
3.1	The Provider must 3.1.1 not breach the thresholds in respect of the Operational Standards; 3.1.2 not breach the thresholds in respect of the National Quality Requirements; and 3.1.3 Intentionally omitted.	**All**
3.2A	A failure by the Provider to comply with SC3.1 will be excused if it is directly attributable to or caused by an act or omission of a Commissioner, including, for the avoidance of doubt, Commissioner compliance with GC5.1B.	**All**
3.2B	Intentionally omitted.	**AM, 111**
3.3	If the Provider does not comply with SC3.1 the Co-ordinating Commissioner may, in addition and without affecting any other rights that it or any Commissioner may have under this Contract: 3.3.1 Intentionally omitted. 3.3.2 take action to remove any Service User affected from the Provider's care; and/or	**All** **All** **All except AM, 111**

	3.3.3 if it reasonably considers that there may be further non-compliance of that nature in relation to other Service Users, take action to remove those Service Users from the Provider's care.	**All except AM, 111**
3.4	Intentionally omitted.	**All**
3.5	The Provider must implement policies and procedures for reviewing deaths of Service Users whilst under the Provider's care and for engaging with bereaved families and Carers.	**All**
3.6	Intentionally omitted.	**NHS Trust/FT**
3.7	The Provider must: 3.7.1 Intentionally omitted; 3.7.2 comply with Medical Examiner Guidance as applicable.	**A (NHS Trust/FT only)** **All**
3.8	The Provider must co-operate fully with the Responsible Commissioner and the original Referrer in any re-referral of the Service User to another provider (including providing Service User Health Records, other information relating to the Service User's care and clinical opinions if reasonably requested). Any failure to do so will constitute a material breach of this Contract.	**All**
3.9	If a Service User is admitted for acute Elective Care services and the Provider cancels that Service User's operation after admission for non-clinical reasons, the Provider must ensure that the referrer of that Service User is notified of the cancellation as soon as practicable to enable compliance with the NHS Constitution Handbook cancelled operations pledge.	**A**
3.10	The Provider (whether or not it is required to be CQC registered for the purpose of the Services) must identify and give notice to the Co-ordinating Commissioner of the name, address and position in the Provider of the Nominated Individual.	**All**
3.11	Intentionally omitted.	**A, A+E, CR**
3.12	Where the Provider provides vascular surgery Services, hyper-acute stroke Services, major trauma Services, STEMI heart attack Services or children's critical care Services, the Provider must ensure that those Services comply in full with Seven Day Service Hospital Priority Clinical Standards, to the extent applicable from time to time.	**A**
3.13	Where the Provider provides maternity Services, it must: 3.13.1 comply with the Saving Babies' Lives Care Bundle, and	**A, CS**

	3.13.2 Intentionally omitted.	
3.14	Intentionally omitted.	**NHS Trust/FT**
3.15	Intentionally omitted.	**MH, MHSS**
3.16	Intentionally omitted.	**MH, MHSS**
SC4	**Co-operation**	
4.1	The Parties must at all times act in good faith towards each other and in the performance of their respective obligations under this Contract.	**All**
4.2	The Parties must co-operate in accordance with the Law and Good Practice to facilitate the delivery of the Services in accordance with this Contract, having regard at all times to the welfare and rights of Service Users.	**All**
4.3	The Provider and each Commissioner must, in accordance with Law and Good Practice, co-operate fully and share information with each other and with any other commissioner or provider of health or social care in respect of a Service User in order to: 4.3.1 ensure that a consistently high standard of care for the Service User is maintained at all times; 4.3.2 ensure that high quality, integrated and co-ordinated care for the Service User is delivered across all pathways spanning more than one provider; 4.3.3 achieve continuity of service that avoids inconvenience to, or risk to the health and safety of, the Service User, employees of the Commissioners or members of the public; and 4.3.4 seek to ensure that the Services and other health and social care services delivered to the Service User are delivered in such a way as to maximise value for public money, optimise allocation of resources and minimise unwarranted variations in quality and outcomes. For the avoidance of doubt, this SC4.3 does not relate to information governed by the provisions of GC20.	**All**
4.4	The Provider must ensure that its provision of any service to any third party does not hinder or adversely affect its delivery of the Services or its performance of this Contract.	**All**
4.5	Intentionally omitted.	**MH**

4.6	In performing their respective obligations under this Contract the Parties must use all reasonable endeavours, in cooperation with others, to promote the NHS's "triple aim" of better health for everyone, better care for all patients, and sustainability for the NHS locally and throughout England.	**All**
4.7	Intentionally omitted.	**CS**
4.8	Intentionally omitted.	**MH**
4.9	Intentionally omitted.	**NHS Trust/FT**
4.10	Intentionally omitted.	**Enhanced Health in Care Homes**
SC5	**Commissioner Requested Services/Essential Services**	
5.1	Intentionally omitted.	**All**
5.2	Intentionally omitted.	**Essential Services**
5.3	Intentionally omitted.	**Essential Services**
5.4	Intentionally omitted.	**Essential Services**
SC6	**Choice and Referral**	
6.1	Intentionally omitted.	**All except AM, ELC, MHSS, PT**
6.2	Intentionally omitted.	**A**
6.3	Intentionally omitted.	**A**
6.4	Intentionally omitted.	**MH**
6.5	Intentionally omitted.	**A, CS, D, MH**
	18 Weeks Information	
6.6	Intentionally omitted.	**18 weeks**

6.7	Intentionally omitted.	**18 weeks**
	Acceptance and Rejection of Referrals	
6.8	Subject to SC6.3 and to SC7 (*Withholding and/or Discontinuation of Service*), the Provider must: 6.8.1 accept any Referral of a Service User made in accordance with the Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties; and 6.8.2 Intentionally omitted; and 6.8.3 Intentionally omitted.	**All except CHC**
6.9	Intentionally omitted.	**MH, MHSS**
6.10	Intentionally omitted.	**MH, MHSS**
6.11	Intentionally omitted.	**MH, MHSS**
6.12	Intentionally omitted.	**MH, MHSS**
6.13	The existence of this Contract does not entitle the Provider to accept referrals in respect of, provide services to, nor to be paid for providing services to, individuals made otherwise than in accordance with the Referral processes set out or referred to in this Contract and/or as otherwise agreed between the Parties.	**All**
	Urgent and Emergency Care Directory of Services	
6.14	Intentionally omitted.	**UEC DoS**
6.15	Intentionally omitted.	**UEC DoS**
6.16	Intentionally omitted.	**UEC DoS**
6.17	Intentionally omitted.	**U**
SC7	**Withholding and/or Discontinuation of Service**	
7.1	Nothing in this SC7 allows the Provider to refuse to provide or to stop providing a Service if that would be contrary to the Law.	**All**

7.2	The Provider will not be required to provide or to continue to provide a Service to a Service User:	
	7.2.1 who in the Provider's reasonable professional opinion is unsuitable to receive the relevant Service, for as long as they remain unsuitable;	**All**
	7.2.2 in respect of whom no valid consent (where required) has been given in accordance with the Service User consent policy;	**All except 111**
	7.2.3 who displays abusive, violent or threatening behaviour unacceptable to the Provider, or behaviour which the Provider determines constitutes discrimination or harassment towards any Staff or other Service User (within the meaning of the Equality Act 2010) (the Provider in each case acting reasonably and taking into account that Service User's mental health and clinical presentation and any other health conditions which may influence their behaviour);	**All**
	7.2.4 in that Service User's domiciliary care setting or circumstances (as applicable) where that environment poses a level of risk to the Staff engaged in the delivery of the relevant Service that the Provider reasonably considers to be unacceptable; or	**All except 111**
	7.2.5 where expressly instructed not to do so by an emergency service provider who has authority to give that instruction, for as long as that instruction applies.	**All**
7.3	If the Provider proposes not to provide or to stop providing a Service to any Service User under SC7.2:	**All**
	7.3.1 where reasonably possible, the Provider must explain to the Service User, Carer or Legal Guardian (as appropriate), taking into account any communication or language needs, the action that it is taking, when that action takes effect, and the reasons for it (confirming that explanation in writing within 2 Operational Days);	
	7.3.2 the Provider must tell the Service User, Carer or Legal Guardian (as appropriate) that they have the right to challenge the Provider's decision through the Provider's complaints procedure and how to do so;	
	7.3.3 wherever possible, the Provider must inform the relevant Referrer (and if the Service User's GP is not the relevant Referrer, subject to obtaining consent in accordance with Law and Guidance, the Service User's GP) in writing without delay before taking the relevant action; and	
	7.3.4 the Provider must liaise with the Responsible Commissioner and the relevant Referrer to seek to maintain or restore the provision of the relevant care to the Service User in a way that minimises any disruption to the Service User's care and risk to the Service User.	
7.4A	Except in respect of Services to which SC7.4B, SC7.4C or SC7.4D applies:	**All except AM, MHSS, 111**

	7.4A1 If the Provider, the Responsible Commissioner and the Referrer cannot agree on the continued provision of the relevant Service to a Service User, the Provider must (subject to any requirements under SC11 (*Transfer of and Discharge from Care; Communication with GPs*)) notify the Responsible Commissioner (and where applicable the Referrer) that it will not provide or will stop providing the Service to that Service User. 7.4A2 The Responsible Commissioner must then liaise with the Referrer to procure alternative services for that Service User.	
7.4B	Intentionally omitted.	**AM**
7.4C	Intentionally omitted.	**MHSS**
7.4D	Intentionally omitted.	**111**
7.5	If the Provider stops providing a Service to a Service User under SC7.2, and the Provider has complied with SC7.3, the Responsible Commissioner must pay the Provider in accordance with SC36 (*Payment Terms*) for the Service provided to that Service User before the discontinuance.	**All**
SC8	**Unmet Needs, Making Every Contact Count and Self Care**	
8.1	If the Provider believes that a Service User or a group of Service Users may have an unmet health or social care need, it must notify the Responsible Commissioner accordingly. The Responsible Commissioner will be responsible for making an assessment to determine any steps required to be taken to meet those needs.	**All**
8.2	If the Provider considers that a Service User has an immediate need for treatment or care which is within the scope of the Services it must notify the Service User, Carer or Legal Guardian (as appropriate) of that need without delay and must provide the required treatment or care in accordance with this Contract, acting at all times in the best interest of the Service User. The Provider must notify the Service User's GP as soon as reasonably practicable of the treatment or care provided.	**All except 111**
8.3	If the Provider considers that a Service User has an immediate need for care which is outside the scope of the Services, it must notify the Service User, Carer or Legal Guardian (as appropriate) and the Service User's GP of that need without delay and must co-operate with the Referrer to secure the provision to the Service User of the required treatment or care, acting at all times in the best interests of the Service User. In fulfilling its obligations under this SC8.3, the Provider must ensure that it takes account of all available information relating to the relevant locally-available services (including information held in the UEC DoS).	**All**
		All except 111

8.4	If the Provider considers that a Service User has a non-immediate need for treatment or care which is within the scope of the Services and which is directly related to the condition or complaint which was the subject of the Service User's original Referral or presentation, it must notify the Service User, Carer or Legal Guardian (as appropriate) of that need without delay and must (unless referral back to the Service User's GP is required as a condition of an Activity Planning Assumption or Prior Approval Scheme) provide the required treatment or care in accordance with this Contract, acting at all times in the best interest of the Service User. The Provider must notify the Service User's GP as soon as reasonably practicable of the treatment or care provided.	
8.5	Except as permitted under an applicable Prior Approval Scheme, the Provider must not carry out, nor refer to another provider to carry out, any non-immediate or routine treatment or care that is not directly related to the condition or complaint which was the subject of the Service User's original Referral or presentation without the agreement of the Service User's GP.	**All except 111**
8.6	Intentionally omitted.	**All**
8.7	Intentionally omitted.	**A, MH, MHSS**
8.8	Where clinically appropriate, the Provider must support Service Users to develop the knowledge, skills and confidence to take increasing responsibility for managing their own ongoing care.	**All**
8.9	Intentionally omitted.	**MH, MHSS**
SC9	**Consent**	
9.1	The Provider must publish, maintain and operate a Service User consent policy which complies with Good Practice and the Law.	**All**
SC10	**Personalised Care**	
10.1	Intentionally omitted.	**All**
10.2	The Provider must comply with regulation 9 of the 2014 Regulations. In planning and reviewing the care or treatment which a Service User receives, the Provider must employ Shared Decision-Making, using supporting tools and techniques approved by the Co-ordinating Commissioner, and must have regard to NICE guideline NG56 (*multi-morbidity clinical assessment and management*).	**All**
10.3	Where required by Guidance, the Provider must, in association with other relevant providers of health and social care, develop and agree a Personalised Care and Support Plan with the Service User and/or their Carer or Legal Guardian, and must	**All except A+E, AM, D, 111, PT, U**

	provide the Service User and/or their Carer or Legal Guardian (as appropriate) with a copy of that Personalised Care and Support Plan.	
10.4	The Provider must prepare, evaluate, review and audit each Personalised Care and Support Plan on an on-going basis. Any review must involve the Service User and/or their Carer or Legal Guardian (as appropriate).	**All except A+E, AM, D, 111, PT, U**
10.5	Intentionally omitted.	**MH, MHSS**
10.6	Intentionally omitted.	**A, CS, MH**
SC11	**Transfer of and Discharge from Care; Communication with GPs**	
11.1	The Provider must comply with:	
	11.1.1 the Transfer of and Discharge from Care Protocols;	**All**
	11.1.2 Intentionally omitted;	**MH, MHSS**
	11.1.3 Intentionally omitted;	**MH, MHSS**
	11.1.4 Intentionally omitted;	**MH, MHSS**
	11.1.5 the 2014 Act and the Care and Support (Discharge of Hospital Patients) Regulations 2014; and	**All**
	11.1.6 Transfer and Discharge Guidance and Standards where appropriate and reasonable to do so and provided this does not conflict with compliance with the Transfer of and Discharge from Care Protocols.	**All**
11.2	The Provider and each Commissioner must use its best efforts to support safe, prompt discharge from hospital and to avoid circumstances and transfers and/or discharges likely to lead to emergency readmissions or recommencement of care.	**All**
11.3	Before the transfer of a Service User to another Service under this Contract and/or before a Transfer of Care or discharge of a Service User, the Provider must liaise as appropriate with any relevant third party health or social care provider, and with the Service User and any Legal Guardian and/or Carer, to prepare and agree a Care Transfer Plan. The Provider must implement the Care Transfer Plan when delivering the further Service, or transferring and/or discharging the Service User, unless (in exceptional circumstances) to do so would not be in accordance with Good Practice.	**All except 111, PT**
11.4	A Commissioner may agree a Shared Care Protocol in respect of any clinical pathway with the Provider and representatives of local primary care and other providers. Where there is a proposed Transfer of Care and a Shared Care Protocol is applicable, the Provider must, where the Service User's GP has	**All except 111, PT**

	confirmed willingness to accept the Transfer of Care, initiate and comply with the Shared Care Protocol.	
11.5	When transferring or discharging a Service User from an inpatient or day case or accident and emergency Service, the Provider must within 24 hours following that transfer or discharge issue a Discharge Summary to the Service User's GP and/or Referrer and to any relevant third party provider of health or social care, using the applicable Delivery Method. The Provider must ensure that it is at all times able to send and receive Discharge Summaries via all applicable Delivery Methods.	**A, A+E, CR, MH, MHSS**
11.6	When transferring or discharging a Service User from a Service which is not an inpatient or day case or accident and emergency Service, the Provider must, if required by the relevant Transfer of and Discharge from Care Protocol, issue the Discharge Summary to the Service User's GP and/or Referrer and to any relevant third party provider of health or social care within the timescale, and in accordance with any other requirements, set out in that protocol.	**All except A+E, 111, PT**
11.6A	Intentionally omitted.	**111**
11.7	Where, in the course of delivering an outpatient Service to a Service User, the Provider becomes aware of any matter or requirement pertinent to that Service User's ongoing care and treatment which would necessitate the Service User's GP taking prompt action, the Provider must communicate this by issue of a Clinic Letter to the Service User's GP. The Provider must send the Clinic Letter as soon as reasonably practicable and in any event within 7 days following the Service User's outpatient attendance. The Provider must issue such Clinic Letters using the applicable Delivery Method.	**A, CR, MH**
11.8	The Commissioners must use all reasonable endeavours to assist the Provider to access the necessary national information technology systems to support electronic submission of Discharge Summaries and Clinic Letters and to ensure that GPs are in a position to receive Discharge Summaries and Clinic Letters via the Delivery Method applicable to communication with GPs.	**All except AM, PT**
11.9	Where a Service User has a clinical need for medication to be supplied on discharge from inpatient or day case care, the Provider must ensure that the Service User will have on discharge an adequate quantity of that medication to last: 11.9.1 for the period required by local practice, in accordance with any requirements set out in the Transfer of and Discharge from Care Protocols (but at least 7 days); or 11.9.2 (if shorter) for a period which is clinically appropriate. The Provider must supply that quantity of medication to the Service User itself, except to the extent that the Service User already has an adequate quantity and/or will receive an adequate supply via an existing repeat prescription from the Service User's GP or other primary care provider.	**A, CR, MH**

11.10 Where a Service User has an immediate clinical need for medication to be supplied following outpatient clinic attendance, the Provider must itself supply to the Service User an adequate quantity of that medication to last for the period required by local practice, in accordance with any requirements set out in the Transfer of and Discharge from Care Protocols (but at least sufficient to meet the Service User's immediate clinical needs until the Service User's GP receives the relevant Clinic Letter and can prescribe accordingly).	**A, CR, MH**
11.11 The Parties must at all times have regard to NHS Guidance on Prescribing Responsibilities, including, in the case of the Provider, in fulfilling its obligations under SC11.4, 11.9 and/or 11.10 (as appropriate). When supplying medication to a Service User under SC11.9 or SC11.10 and/or when recommending to a Service User's GP any item to be prescribed for that Service User by that GP following discharge from inpatient care or clinic attendance, the Provider must have regard to Guidance on Prescribing in Primary Care.	**A, CR, MH**
11.12 Where a Service User either: 11.12.1 is admitted to hospital under the care of a member of the Provider's medical Staff; or 11.12.2 is discharged from such care; or 11.12.3 attends an outpatient clinic or accident and emergency service under the care of a member of the Provider's medical Staff, the Provider must, where appropriate under and in accordance with Fit Note Guidance, issue free of charge to the Service User or their Carer or Legal Guardian any necessary medical certificate to prove the Service User's fitness or otherwise to work, covering the period until the date by which it is anticipated that the Service User will have recovered or by which it will be appropriate for a further clinical review to be carried out.	**A, A+E, CR, MH**
11.13 Intentionally omitted.	**A, CHC, CS, MH, MHSS, ELC**
SC12 Communicating with and involving Service Users, Public and Staff 12.1 The Provider must: 12.1.1 arrange and carry out all necessary steps in a Service User's care and treatment promptly and in a manner consistent with the relevant Service Specifications and Quality Requirements until such point as the Service User can appropriately be discharged in accordance with the Transfer of and Discharge from Care Protocols; 12.1.2 ensure that Staff work effectively and efficiently together, across professional and Service boundaries, to manage their interactions with Service Users so as to ensure that they experience co-ordinated, high quality care without unnecessary duplication of process;	**All**

12.1.3 notify the Service User (and, where appropriate, their Carer and/or Legal Guardian) of the results of all investigations and treatments promptly and in a readily understandable, functional, clinically appropriate and cost effective manner; and 12.1.4 communicate in a readily understandable, functional and timely manner with the Service User (and, where appropriate, their Carer and/or Legal Guardian), their GP and other providers about all relevant aspects of the Service User's care and treatment.	
12.2 The Provider must: 12.2.1 provide Service Users (in relation to their own care) and Referrers (in relation to the care of an individual Service User) with clear information in respect of each Service about who to contact if they have questions about their care and how to do so; 12.2.2 ensure that there are efficient arrangements in place in respect of each Service for responding promptly and effectively to such questions and that these are publicised to Service Users and Referrers using all appropriate means, including appointment and admission letters and on the Provider's website; and 12.2.3 wherever possible, deal with such questions from Service Users itself, and not by advising the Service User to speak to their Referrer.	**All**
12.3 The Provider must comply with the Accessible Information Standard.	**All**
12.4 The Provider must actively engage, liaise and communicate with Service Users (and, where appropriate, their Carers and Legal Guardians), Staff, GPs and the public in an open and clear manner in accordance with the Law and Good Practice, seeking their feedback whenever practicable.	**All**
12.5 Intentionally omitted.	**All**
12.6 Intentionally omitted.	**All**
12.7 Intentionally omitted.	**All**
SC13 Equity of Access, Equality and Non-Discrimination 13.1 The Parties must not discriminate between or against Service Users, Carers or Legal Guardians on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation, or any other non-medical characteristics, except as permitted by Law.	**All**

13.2	The Provider must provide appropriate assistance and make reasonable adjustments for Service Users, Carers and Legal Guardians who do not speak, read or write English or who have communication difficulties (including hearing, oral or learning impairments). The Provider must carry out an annual audit of its compliance with this obligation and must demonstrate at Review Meetings the extent to which Service improvements have been made as a result.	**All**
13.3	In performing its obligations under this Contract the Provider must comply with the obligations contained in section 149 of the Equality Act 2010, the Equality Act 2010 (Specific Duties) Regulations and section 6 of the HRA. If the Provider is not a public authority for the purposes of those sections and regulations it must comply with them as if it were.	**All**
13.4	Intentionally omitted.	**All**
13.5	Intentionally omitted.	**NHS Trust/FT**
13.6	The Provider must implement and comply with the National Workforce Race Equality Standard.	**All**
13.7	Intentionally omitted.	**NHS Trust/FT**
13.8	Intentionally omitted.	**NHS Trust/FT**
13.9	In performing its obligations under this Contract, the Provider must use all reasonable endeavours to support the Commissioners in carrying out their duties under the 2012 Act in respect of the reduction of inequalities in access to health services and in the outcomes achieved from the delivery of health services.	**All**
SC14	**Pastoral, Spiritual and Cultural Care**	
14.1	The Provider must take account of the spiritual, religious, pastoral and cultural needs of Service Users.	**All**
14.2	Intentionally omitted.	**NHS Trust/FT**
SC15	**Urgent Access to Mental Health Care**	
15.1	The Parties must have regard to the Mental Health Crisis Care Concordat and must reach agreement on the identification of, and standards for operation of, Places of Safety in accordance with the Law, the 1983 Act Code, the Royal College of Psychiatrists Standards and the Urgent and Emergency Mental Health Care Pathways.	**A, A+E, MH, MHSS, U**

15.2	The Parties must co-operate to ensure that individuals under the age of 18 with potential mental health conditions are referred for, and receive, age-appropriate assessment, care and treatment in accordance with the 1983 Act.	**A, A+E, MH, MHSS, U**
15.3	The Parties must use all reasonable endeavours to ensure that, where an individual under the age of 18 requires urgent mental health assessment, care or treatment, that individual is not: 15.3.1 held in police custody in a cell or station; or 15.3.2 admitted to an adult inpatient service (unless this is clinically appropriate in line with the requirements of the 1983 Act); or 15.3.3 admitted to an acute paediatric ward (unless this is required in accordance with NICE guideline CG16 (*Self-harm in over 8s*) or if the individual has an associated physical health or safeguarding need).	**A, A+E, MH, MHSS, U**
15.4	The Parties must use all reasonable endeavours to ensure that, where an individual under the age of 18 requiring urgent mental health assessment, care or treatment attends or is taken to an accident and emergency department: 15.4.1 a full biopsychosocial assessment is undertaken and an appropriate care plan is put in place; and 15.4.2 the individual is not held within the accident and emergency department beyond the point where the actions in SC15.4.1 have been completed.	**A, A+E, MH, MHSS, U**
SC16 Complaints		
16.1	The Commissioners and the Provider must each publish, maintain and operate a complaints procedure in compliance with the Fundamental Standards of Care and other Law and Guidance.	**All**
16.2	The Provider must: 16.2.1 provide clear information to Service Users, their Carers and representatives, and to the public, displayed prominently in the Services Environment as appropriate, on how to make a complaint or to provide other feedback and on how to contact Local Healthwatch; and 16.2.2 ensure that this information informs Service Users, their Carers and representatives, of their legal rights under the NHS Constitution, how they can access independent support to help make a complaint, and how they can take their complaint to the Health Service Ombudsman should they remain unsatisfied with the handling of their complaint by the Provider.	**All**
SC17 Services Environment and Equipment		

17.1	The Provider must ensure that the Services Environment and the Equipment comply with the Fundamental Standards of Care.	**All**
17.2	Unless stated otherwise in this Contract, and in particular in accordance with the provisions of Schedule 3B of the Particulars, the Provider must provide all Equipment necessary to provide the Services in accordance with the Law and any necessary Consents.	**All**
17.3	Subject to Commissioner compliance with GC5.1B, the Provider must ensure that all Staff using Equipment, and all Service Users and Carers using Equipment independently as part of the Service User's care or treatment, have received appropriate and adequate training and have been assessed as competent in the use of that Equipment.	**All**
17.4	Intentionally omitted.	**NHS Trust/FT**
17.5	Intentionally omitted.	**NHS Trust/FT**
17.6	Intentionally omitted.	**NHS Trust/FT**
17.7	The Provider must ensure that supplies of appropriate sanitary products are available and are, on request, provided promptly to inpatient Service Users free of charge.	**A, MH, MHSS**
17.8	Intentionally omitted.	**NHS Trust/FT**
17.9	Intentionally omitted.	**NHS Trust/FT**
17.10	Intentionally omitted.	**NHS Trust/FT**
SC18 Sustainable Development		
18.1	In performing its obligations under this Contract the Provider must take all reasonable steps to minimise its adverse impact on the environment.	**All**
18.2	Intentionally omitted.	**All**
18.3	Intentionally omitted.	**All**
18.4	Intentionally omitted.	**All**

18.5 Intentionally omitted.	**All**
SC19 Food Standards **Food Standards** 19.1 The Provider must comply with NHS Food Standards.	**All**
19.2 Intentionally omitted.	**NHS Trust/FT**
Sales of Sugar-Sweetened Beverages 19.3 Intentionally omitted.	**NHS Trust/FT**
RECORDS AND REPORTING	
SC20 Service Development and Improvement Plan 20.1 Intentionally omitted.	**All**
20.2 Intentionally omitted.	**All**
20.3 Intentionally omitted.	**All**
SC21 Antimicrobial Resistance, Healthcare Associated Infections and Influenza Vaccination 21.1 The Provider must: 21.1.1 comply with the Code of Practice on the Prevention and Control of Infections;	**All except 111**
21.1.2 have regard to NICE guideline NG15 (*Antimicrobial stewardship: systems and processes for effective antimicrobial medicine use*); and	**All except 111**
21.1.3 have regard to the Antimicrobial Stewardship Toolkit for English Hospitals.	**A**
21.2 The Provider must ensure that all laboratory services (whether provided directly or under a Sub-Contract) comply with the UK Standard Methods for Investigation.	**All except 111**
21.3 Intentionally omitted.	**All except 111**

21.4	Intentionally omitted.	**A (NHS Trust/FT only)**
21.5	The Provider must use all reasonable endeavours to ensure that all frontline Staff in contact with Service Users are vaccinated against influenza.	**All**
SC22 Assessment and Treatment for Acute Illness		
22.1	The Provider must have regard to Guidance (including NICE Guidance) relating to venous thromboembolism, catheter-acquired urinary tract infections, falls and pressure ulcers, must review and evaluate its implementation of such Guidance and must provide an annual report to the Co-ordinating Commissioner on its performance.	**A**
22.2	The Provider must implement the methodology described in NEWS 2 Guidance for assessment of acute illness severity for adult Service Users, ensuring that each adult Service User is monitored at the intervals set out in that guidance and that in respect of each adult Service User an appropriate clinical response to their NEW Score, as defined in that guidance, is always effected.	**A, AM**
22.3	The Provider must comply with Sepsis Implementation Guidance.	**A**
SC23 Service User Health Records		
23.1	The Provider must create and maintain Service User Health Records as appropriate for all Service Users. The Provider must securely store, retain and destroy those records in accordance with Data Guidance, Records Management Code of Practice for Health and Social Care and in any event in accordance with Data Protection Legislation.	**All**
23.2	The Provider must: 23.2.1 if and as so reasonably requested by a Commissioner, whether during or after the Contract Term, promptly deliver to any third party provider of healthcare or social care services nominated by that Commissioner a copy of the Service User Health Record held by the Provider for any Service User for whom that Commissioner is responsible; and 23.2.2 notwithstanding SC23.1, if and as so reasonably requested by a Commissioner at any time following the expiry or termination of this Contract, promptly deliver to any third party provider of healthcare or social care services nominated by that Commissioner, or to the Commissioner itself, the Service User Health Record held by the Provider for any Service User for whom that Commissioner is responsible.	**All**
23.3	The Provider must give each Service User full and accurate information regarding their treatment and must evidence that in writing in the relevant Service User Health Record.	**All except 111, PT**

	NHS Number	
23.4	Subject to and in accordance with Law and Guidance the Provider must: 23.4.1 ensure that the Service User Health Record includes the Service User's verified NHS Number; 23.4.2 use the NHS Number as the consistent identifier in all clinical correspondence (paper or electronic) and in all information it processes in relation to the Service User; and 23.4.3 be able to use the NHS Number to identify all Activity relating to a Service User; and 23.4.4 use all reasonable endeavours to ensure that the Service User's verified NHS Number is available to all clinical Staff when engaged in the provision of any Service to that Service User.	**All**
23.5	The Commissioners must ensure that each Referrer (except a Service User presenting directly to the Provider for assessment and/or treatment) uses the NHS Number as the consistent identifier in all correspondence in relation to a Referral.	**All**
	Information Technology Systems	
23.6	Subject to GC21 (*Patient Confidentiality, Data Protection, Freedom of Information and Transparency*) the Provider must ensure that all Staff involved in the provision of urgent, emergency and unplanned care are able to view key Service User clinical information from GP records, whether via the Summary Care Records Service or a locally integrated electronic record system supplemented by the Summary Care Records Service.	**All**
23.7	The Provider must ensure that (subject to GC21 (*Patient Confidentiality, Data Protection, Freedom of Information and Transparency*)) all of its major clinical information technology systems enable clinical data to be accessible to other providers of services to Service Users as structured information through open interfaces in accordance with Open API Policy and Guidance and Care Connect APIs.	**All**
23.8	The Provider must ensure that its information technology systems comply with DCB0160 in relation to clinical risk management.	**All**
	Internet First and Code of Conduct	
23.9	Intentionally omitted.	**All**
	Urgent Care Data Sharing Agreement	

23.10 The Provider must enter into an Urgent Care Data Sharing Agreement with the Commissioners and such other providers of urgent and emergency care services as the Co-ordinating Commissioner may specify, consistent with the requirements of GC21 (*Patient Confidentiality, Data Protection, Freedom of Information and Transparency*) and otherwise on such terms as the Co-ordinating Commissioner may reasonably require.	**A, A+E, AM, 111, U**
Health and Social Care Network 23.11 Intentionally omitted.	**All**
SC24 NHS Counter-Fraud and Security Management 24.1 The Provider must put in place and maintain appropriate arrangements to address: 24.1.1 counter fraud issues, having regard to NHSCFA Standards; and 24.1.2 security management issues.	**All**
24.2 If the Provider: 24.2.1 is an NHS Trust; or 24.2.2 holds Monitor's Licence (unless required to do so solely because it provides Commissioner Requested Services as designated by the Commissioners or any other commissioner), it must take the necessary action to meet NHSCFA Standards.	**All**
24.3 If requested by the Co-ordinating Commissioner, or NHSCFA or any Regulatory or Supervisory Body, the Provider must allow a person duly authorised to act on behalf of NHSCFA, any Regulatory or Supervisory Body or on behalf of any Commissioner to review, in line with the appropriate standards, security management and counter-fraud arrangements put in place by the Provider.	**All**
24.4 The Provider must implement any reasonable modifications to its security management and counter-fraud arrangements required by a person referred to in SC24.3 in order to meet the appropriate standards within whatever time periods as that person may reasonably require.	**All**
24.5 The Provider must, on becoming aware of: 24.5.1 any suspected or actual bribery, corruption or fraud involving a Service User or public funds, promptly report the matter to the Local Counter Fraud Specialist of the relevant NHS Body and to NHSCFA; and	**All**

24.5.2 any suspected or actual security incident or security breach involving staff who deliver NHS funded services or involving NHS resources, promptly report the matter to the Local Security Management Specialist of the relevant NHS Body.	
24.6 On the request of the Department of Health and Social Care, NHS England, NHSCFA, any Regulatory or Supervisory Body or the Co-ordinating Commissioner, the Provider must allow NHSCFA or any Local Counter Fraud Specialist or any Local Security Management Specialist appointed by a Commissioner, as soon as it is reasonably practicable and in any event not later than 5 Operational Days following the date of the request, access to: 24.6.1 all property, premises, information (including records and data) owned or controlled by the Provider; and 24.6.2 all Staff who may have information to provide, relevant to the detection and investigation of cases of bribery, fraud or corruption, or security incidents or security breaches directly or indirectly in connection with this Contract.	**All**
SC25 Procedures and Protocols 25.1 If requested by the Co-ordinating Commissioner or the Provider, the Co-ordinating Commissioner or the Provider (as the case may be) must within 5 Operational Days following receipt of the request send or make available to the other copies of any Services guide or other written agreement, policy, procedure or protocol implemented by any Commissioner or the Provider (as applicable).	**All**
25.2 The Co-ordinating Commissioner must notify the Provider and the Provider must notify the Co-ordinating Commissioner of any material changes to any items it has disclosed under SC25.1.	**All**
25.3 The Commissioner will use reasonable endeavours to request that: 25.3.1 where there is to be collaboration on staffing arrangements between the Provider and local NHS providers, the local NHS provider will enter into the Staffing Collaboration MOU in substantially the form of the template set out in Schedule 2G; and 25.3.2 where a local NHS provider will take responsibility for certain clinical governance arrangements in respect of patients being treated at any Provider's Premises. the local NHS provider will enter into the Clinical Governance MOU in substantially the form of the template set out in Schedule 2G.	**All**
SC26 Clinical Networks, National Audit Programmes and Approved Research Studies 26.1 Intentionally omitted.	**All except PT**

26.2 Intentionally omitted.	**All except PT**
26.3 Intentionally omitted.	**All**
26.4 If the Provider chooses to participate in any Commercial Contract Research Study that directly relates to the Services and which is submitted to the Health Research Authority for approval, the Provider must ensure that that participation will be in accordance with the National Directive on Commercial Contract Research Studies, at a price determined by NIHR for each Provider in accordance with the methodology prescribed in the directive and under such other contractual terms and conditions as are set out in the directive.	**All**
26.5 The Provider must comply with HRA/NIHR Research Reporting Guidance, as applicable.	**All**
26.6 The Parties must comply with NHS Treatment Costs Guidance, as applicable.	**All**
SC27 Formulary 27.1 Where any Service involves or may involve the prescribing of drugs, the Provider must: 27.1.1 ensure that its current Formulary is published and readily available on the Provider's website; 27.1.2 ensure that its Formulary reflects all relevant positive NICE Technology Appraisals; and 27.1.3 make available to Service Users all relevant treatments recommended in positive NICE Technology Appraisals.	**A, MH, MHSS, CR, R**
SC28 Information Requirements 28.1 The Parties acknowledge that the submission of complete and accurate data in accordance with this SC28 is necessary to support the commissioning of all health and social care services in England.	**All**
28.2 The Provider must: 28.2.1 provide the information specified in this SC28 and in Schedule 6A (*Reporting Requirements*): 28.2.1.1 with the frequency, in the format, by the method and within the time period set out or referred to in Schedule 6A (*Reporting Requirements*); and	**All**

	28.2.1.2 as detailed in relevant Guidance; and 28.2.1.3 if there is no applicable time period identified, in a timely manner; 28.2.2 where and to the extent applicable, conform to all NHS information standards notices, data provision notices and information and data standards approved or published by the Secretary of State, NHS England or NHS Digital; 28.2.3 implement any other datasets and information requirements agreed from time to time between it and the Co-ordinating Commissioner; 28.2.4 comply with Data Guidance issued by NHS England and NHS Digital and with Data Protection Legislation in relation to protection of patient identifiable data; 28.2.5 subject to and in accordance with Law and Guidance and any relevant standards issued by the Secretary of State, NHS England or NHS Digital, use the Service User's verified NHS Number as the consistent identifier of each record on all patient datasets; 28.2.6 comply with the Data Guidance and Data Protection Legislation on the use and disclosure of personal confidential data for other than direct care purposes; and 28.2.7 Intentionally omitted.	
28.3	The Co-ordinating Commissioner may request from the Provider any information in addition to that to be provided under SC28.2 which any Commissioner reasonably and lawfully requires in relation to this Contract. The Provider must supply that information in a timely manner.	**All**
28.4	The Co-ordinating Commissioner must act reasonably in requesting the Provider to provide any information under this Contract, having regard to the burden which that request places on the Provider, and may not, without good reason, require the Provider: 28.4.1 to supply any information to any Commissioner locally where that information is required to be submitted centrally under SC28.2; or 28.4.2 where information is required to be submitted in a particular format under SC28.2, to supply that information in a different or additional format (but this will not prevent the Co-ordinating Commissioner from requesting disaggregation of data previously submitted in aggregated form); or 28.4.3 to supply any information to any Commissioner locally for which that Commissioner cannot demonstrate purpose and value in connection with the discharge of that Commissioner's statutory duties and functions.	**All**

28.5	The Provider and each Commissioner must ensure that any information provided to any other Party in relation to this Contract is accurate and complete.	**All**
	Counting and coding of Activity	
28.6	Intentionally omitted.	**All**
28.7	The Parties must comply with Guidance relating to clinical coding published by NHS Digital and with the definitions of Activity maintained under the NHS Data Model and Dictionary.	**All**
28.8	Where NHS Digital issues new or updated Guidance on the counting and coding of Activity and that Guidance requires the Provider to change its counting and coding practice, the Provider must: 28.8.1 as soon as reasonably practicable inform the Co-ordinating Commissioner in writing of the change it is making to effect the Guidance; and 28.8.2 implement the change on the date (or in the phased sequence of dates) mandated in the Guidance.	**All**
28.9	Intentionally omitted.	**All**
28.10	Intentionally omitted.	**All**
28.11	Intentionally omitted.	**All**
28.12	Intentionally omitted.	**All**
28.13	Intentionally omitted.	**All**
28.14	Intentionally omitted.	**All**
28.15	Intentionally omitted.	**All**
	Aggregation and disaggregation of information	
28.16	Intentionally omitted.	**All**
	SUS	**All**

28.17	The Provider must submit commissioning data sets to SUS in accordance with SUS Guidance, where applicable. Where SUS is applicable, if: 28.17.1 there is a failure of SUS; or 28.17.2 there is an interruption in the availability of SUS to the Provider or to any Commissioner, the Provider must comply with Guidance issued by NHS England and/or NHS Digital in relation to the submission of the national datasets collected in accordance with this SC28 pending resumption of service, and must submit those national datasets to SUS as soon as reasonably practicable after resumption of service.	
	Information Breaches	
28.18	If the Co-ordinating Commissioner becomes aware of an Information Breach it must notify the Provider accordingly. The notice must specify: 28.18.1 the nature of the Information Breach; and 28.18.2 Intentionally omitted.	**All**
28.19	Intentionally omitted.	**All**
28.20	Intentionally omitted.	**All**
28.21	Intentionally omitted.	**All**
28.22	Intentionally omitted.	**All**
28.23	Intentionally omitted.	**All**
	Data Quality Improvement Plan	
28.24	Intentionally omitted.	**All**
28.25	Intentionally omitted.	**All**
28.26	Intentionally omitted.	**All**
	MANAGING ACTIVITY AND REFERRALS	

SC29	**Managing Activity and Referrals**	
29.1	The Commissioners and the Provider must each monitor and manage Activity and Referrals for the Services in accordance with this SC29.	**All**
29.2	Intentionally omitted.	**All**
29.3	Intentionally omitted	**All except 111**
29.3A	Intentionally omitted.	**111**
29.4	The Provider must: 29.4.1 comply with and use all reasonable endeavours to manage Activity in accordance with Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties; and 29.4.2 comply with the reasonable requests of the Commissioners to assist the Commissioners in understanding and managing patterns of Referrals.	**All**
	Indicative Activity Plan	
29.5	Intentionally omitted.	**IAP**
29.6	Intentionally omitted.	**IAP**
	Activity Planning Assumptions	
29.7	Intentionally omitted.	**APA**
	Early Warning	
29.8	The Co-ordinating Commissioner must notify the Provider within 3 Operational Days after becoming aware of any unexpected or unusual patterns of Referrals and/or Activity, specifying the nature of the unexpected pattern and the Commissioner's initial opinion as to its likely cause.	**All**
29.9	The Provider must notify the Co-ordinating Commissioner and the relevant Commissioner within 3 Operational Days after becoming aware of any unexpected or unusual patterns of Referrals and/or Activity, specifying the nature of the unexpected pattern and the Provider's initial opinion as to its likely cause.	**All**

Reporting and Monitoring Activity 29.10 Intentionally omitted.	**All**
29.11A Intentionally omitted.	**IAP and APA or IAP only**
29.11B Intentionally omitted.	**APA but no IAP**
29.11C Intentionally omitted.	**No IAP No APA**
Activity Management Meeting 29.12 Intentionally omitted.	**All**
29.13 Intentionally omitted.	**All**
29.14 Intentionally omitted.	**All**
Utilisation Review Meeting 29.15 Intentionally omitted.	**All**
Joint Activity Review 29.16 Intentionally omitted.	**All**
29.17 Intentionally omitted.	**All**
29.18 Intentionally omitted.	**All**
29.19 Intentionally omitted.	**All**
29.20 Intentionally omitted.	**All**
Prior Approval Scheme 29.21 Intentionally omitted.	**All except AM, ELC, 111**
29.22 Intentionally omitted.	**All except AM, ELC, 111**

29.23 Intentionally omitted.	**All except AM, ELC, 111**
29.24 Intentionally omitted.	**All except AM, ELC, 111**
29.25 Intentionally omitted.	**All except AM, ELC, 111**
29.26 Intentionally omitted.	**All except AM, ELC, 111**
29.27 Intentionally omitted.	**All except AM, ELC, 111**
Evidence-Based Interventions Policy 29.28 The Parties must comply with their respective obligations under the Evidence-Based Interventions Policy.	**A**
29.29 The Commissioners must use all reasonable endeavours to procure that, when making Referrals, Referrers comply with the Evidence-Based Interventions Policy.	**A**
29.30 The Provider must manage Referrals and provide the Services in accordance with the Evidence-Based Interventions Policy.	**A**
29.31 Intentionally omitted.	**A**
EMERGENCIES AND INCIDENTS	
SC30 Emergency Preparedness, Resilience and Response 30.1 The Provider must comply with EPRR Guidance if and when applicable. The Provider must identify and have in place an Accountable Emergency Officer.	**All**
30.2 The Provider must notify the Co-ordinating Commissioner as soon as reasonably practicable and in any event no later than 5 Operational Days following: 30.2.1 the activation of its Incident Response Plan; 30.2.2 Intentionally omitted; and/or 30.2.3 the activation of its Business Continuity Plan.	**All**
	All

30.3	The Commissioners must have in place arrangements that enable the receipt at all times of a notification made under SC30.2.	
30.4	The Provider must provide whatever support and assistance may reasonably be required by the Commissioners and/or NHS England and NHS Improvement and/or Public Health England in response to any national, regional or local public health emergency or incident.	**All**
30.5	The right of any Commissioner to: 30.5.1 Intentionally omitted; and/or 30.5.2 suspend Services under GC16 (Suspension), will not apply if the relevant right to withhold, retain or suspend has arisen only as a result of the Provider complying with its obligations under this SC30.	**All**
30.6	The Provider must use reasonable endeavours to minimise the effect of an Incident or Emergency on the Services and to continue the provision of Elective Care and Non-elective Care notwithstanding the Incident or Emergency. If a Service User is already receiving treatment when the Incident or Emergency occurs, or is admitted after the date it occurs, the Provider must not: 30.6.1 discharge the Service User, unless clinically appropriate to do so in accordance with Good Practice; or 30.6.2 transfer the Service User, unless it is clinically appropriate to do so in accordance with Good Practice.	**A**
30.7	Intentionally omitted.	**A**
30.8	Intentionally omitted.	**A**
30.9	Intentionally omitted.	**A**
30.10	Intentionally omitted.	**A**
SC31	**Force Majeure: Service-specific provisions**	
31.1	Nothing in this Contract will relieve the Provider from its obligations to provide the Services in accordance with this Contract and the Law (including the Civil Contingencies Act 2004) if the Services required relate to an unforeseen event or circumstance including war, civil war, armed conflict or terrorism, strikes or lock outs, riot, fire, floor or earthquake.	

31.2	This will not however prevent the Provider from relying upon GC28 (*Force Majeure*) if such event described in SC31.1 is itself an Event of Force Majeure or if the subsequent occurrence of a separate Event of Force Majeure prevents the Provider from delivering those Services.	
31.3	Intentionally omitted.	**MHSS**
31.4	Intentionally omitted.	**111**
	SAFETY AND SAFEGUARDING	
	SC32 Safeguarding Children and Adults	
32.1	The Provider must ensure that Service Users are protected from abuse, exploitation, radicalisation, serious violence, grooming, neglect and improper or degrading treatment, and must take appropriate action to respond to any allegation or disclosure of any such behaviours in accordance with the Law.	**All**
32.2	The Provider must nominate: 32.2.1 a Safeguarding Lead and/or a named professional for safeguarding children, young people and adults, in accordance with Safeguarding Guidance; 32.2.2 a Child Sexual Abuse and Exploitation Lead; 32.2.3 a Mental Capacity and Liberty Protection Safeguards Lead; and 32.2.4 a Prevent Lead, and must ensure that the Co-ordinating Commissioner is kept informed at all times of the identity of the persons holding those positions.	**All**
32.3	The Provider must comply with the requirements and principles in relation to the safeguarding of children, young people and adults, including in relation to deprivation of liberty safeguards, child sexual abuse and exploitation, domestic abuse, radicalisation and female genital mutilation (as relevant to the Services) set out or referred to in: 32.3.1 the 2014 Act and associated Guidance; 32.3.2 the 2014 Regulations; 32.3.3 the Children Act 1989 and the Children Act 2004 and associated Guidance; 32.3.4 the 2005 Act and associated Guidance; 32.3.5 the Modern Slavery Act 2015 and associated Guidance;	**All**

	32.3.6 Safeguarding Guidance; 32.3.7 Child Sexual Abuse and Exploitation Guidance; and 32.3.8 Prevent Guidance.	
32.4	The Provider has adopted and must comply with the Safeguarding Policies and MCA Policies. The Provider has ensured and must at all times ensure that the Safeguarding Policies and MCA Policies reflect and comply with: 32.4.1 the Law and Guidance referred to in SC32.3; and 32.4.2 the local multi-agency policies and any Commissioner safeguarding and MCA requirements.	**All**
32.5	The Provider must implement comprehensive programmes for safeguarding (including in relation to child sexual abuse and exploitation) and MCA training for all relevant Staff and must have regard to Intercollegiate Guidance on Safeguarding Training. The Provider must undertake an annual audit of its conduct and completion of those training programmes and of its compliance with the requirements of SC32.1 to 32.4.	**All**
32.6	At the reasonable written request of the Co-ordinating Commissioner, and by no later than 10 Operational Days following receipt of that request, the Provider must provide evidence to the Co-ordinating Commissioner that it is addressing any safeguarding concerns raised through the relevant multi-agency reporting systems.	**All**
32.7	If requested by the Co-ordinating Commissioner, the Provider must participate in the development of any local multi-agency safeguarding quality indicators and/or plan.	**All**
32.8	The Provider must co-operate fully and liaise appropriately with third party providers of social care services as necessary for the effective operation of the Child Protection Information Sharing Project.	**A+E, A, AM, U**
32.9	The Provider must: 32.9.1 include in its policies and procedures, and comply with, the principles contained in the Government Prevent Strategy and the Prevent Guidance; and 32.9.2 include in relevant policies and procedures a comprehensive programme to raise awareness of the Government Prevent Strategy among Staff and volunteers in line with the NHS England Prevent Training and Competencies Framework and Intercollegiate Guidance on Safeguarding Training.	**All**

SC33 Incidents Requiring Reporting		
33.1	The Provider must comply with the arrangements for notification of deaths and other incidents to CQC, in accordance with CQC Regulations and Guidance (where applicable), and to any other relevant Regulatory or Supervisory Body, any NHS Body, any office or agency of the Crown, or to any other appropriate regulatory or official body in connection with Serious Incidents, or in relation to the prevention of Serious Incidents (as appropriate), in accordance with Good Practice and the Law.	**All**
33.2	The Provider must comply with the NHS Serious Incident Framework and the Never Events Policy Framework, or any framework which replaces them, as applicable, and must report all Serious Incidents and Never Events in accordance with the requirements of the applicable framework. The Provider must ensure that it is able to report Patient Safety Incidents to the National Reporting and Learning System and to any system which replaces it.	**All**
33.3	The Parties must comply with their respective obligations in relation to deaths and other incidents in connection with the Services under Schedule 6C (*Incidents Requiring Reporting Procedure*) and under Schedule 6A (*Reporting Requirements*).	**All**
33.4	If a notification the Provider gives to any relevant Regulatory or Supervisory Body directly or indirectly concerns any Service User, the Provider must send a copy of it to the relevant Commissioner, in accordance with the timescales set out in Schedule 6C (*Incidents Requiring Reporting Procedure*) and in Schedule 6A (*Reporting Requirements*).	**All**
33.5	The Commissioners will have complete discretion (subject only to the Law) to use the information provided by the Provider under this SC33, Schedule 6C *(Incidents Requiring Reporting Procedure*) and Schedule 6A (*Reporting Requirements*) in any report which they make to any relevant Regulatory or Supervisory Body, any NHS Body, any office or agency of the Crown, or to any other appropriate regulatory or official body in connection with Serious Incidents, or in relation to the prevention of Serious Incidents, provided that in each case they notify the Provider of the information disclosed and the body to which they have disclosed it.	**All**
33.6	The Provider must have in place arrangements to ensure that it can: 33.6.1 receive National Patient Safety Alerts; and 33.6.2 in relation to each National Patient Safety Alert it receives, identify appropriate Staff: 33.6.2.1 to coordinate and implement any actions required by the alert within the timescale prescribed; and 33.6.2.2 to confirm and record when those actions have been completed.	**All**

33.7 The Provider must 33.7.1 designate one or more Patient Safety Specialists; and 33.7.2 ensure that the Co-ordinating Commissioner is kept informed at all times of the person or persons holding this position.	**All**
SC34 Care of Dying People and Death of a Service User 34.1 The Provider must have regard to Guidance on Care of Dying People and must, where applicable, comply with SCCI 1580 (Palliative Care Co-ordination: Core Content) and the associated EPACCS IT System Requirements to ensure implementation of interoperable solutions.	**All**
34.2 The Provider must maintain and operate a Death of a Service User Policy.	**All**
SC35 Duty of Candour 35.1 The Provider must act in an open and transparent way with Relevant Persons in relation to Services provided to Service Users.	**All**
35.2 The Provider must, where applicable, comply with its obligations under regulation 20 of the 2014 Regulations in respect of any Notifiable Safety Incident.	**All**
35.3 If the Provider fails to comply with any of its obligations under SC35.2 the Co-ordinating Commissioner may: 35.3.1 notify the CQC of that failure; and/or 35.3.2 require the Provider to provide the Relevant Person with a formal, written apology and explanation for that failure, signed by the Provider's chief executive and copied to the relevant Commissioner; and/or 35.3.3 require the Provider to publish details of that failure prominently on the Provider's website.	**All**
35.4 Intentionally omitted.	**All**
PAYMENT TERMS	
SC36 Payment Terms **Payment Principles**	

36.1	The Commissioner will pay the Provider in accordance with Schedule 3B (*Local Variations*).	**All**
36.2	Intentionally omitted.	**All**
	Prices	
36.3	The Prices payable by the Commissioners under this Contract will be as set out in Schedule 3B (*Local Variations*).	**All**
	Local Prices	
36.4	Intentionally omitted.	**All**
36.5	Intentionally omitted.	**All**
36.6	Intentionally omitted.	**All**
36.7	Intentionally omitted.	**All**
36.8	Intentionally omitted.	**All**
36.9	Intentionally omitted.	**All**
36.10	Intentionally omitted.	**All**
	Local Variations	
36.11	The Co-ordinating Commissioner and the Provider have agreed a Local Variation for for the duration of this Contract as set out in Schedule 3B.	**All**
36.12	Intentionally omitted.	**All**
36.13	Intentionally omitted.	**All**
36.14	Intentionally omitted.	**All**
36.15	Intentionally omitted.	**All**

	Local Modifications	
36.16	Intentionally omitted.	**All**
36.17	Intentionally omitted.	**All**
36.18	Intentionally omitted.	**All**
36.19	Intentionally omitted.	**All**
36.20	Intentionally omitted.	**All**
	Emergency Care Rule	
36.21	Intentionally omitted.	**A, A+E**
	Outpatient Care Value	
36.22	Intentionally omitted.	**All**
	Aggregation and Disaggregation of Payments	
36.23	Intentionally omitted.	**All**
	Payment where the Parties have agreed an Expected Annual Contract Value	
36.24	Intentionally omitted.	**EACV agreed**
36.25	Intentionally omitted.	**EACV agreed**
36.26	Intentionally omitted.	**EACV agreed**
36.27	Intentionally omitted.	**EACV agreed**
	Reconciliation where the Parties have agreed an Expected Annual Contract Value and SUS applies to some or all of the Services	
36.28	Intentionally omitted.	**EACV agreed; SUS applies**
36.29	Intentionally omitted.	

		EACV agreed; SUS applies
36.30	Intentionally omitted.	**EACV agreed; SUS applies**
	Reconciliation for Services where the Parties have agreed an Expected Annual Contract Value and SUS does not apply to any of the Services	
36.31	Intentionally omitted.	**EACV agreed; SUS does not apply**
36.32	Intentionally omitted.	**EACV agreed; SUS does not apply**
	Other aspects of reconciliation for all Prices where the Parties have agreed an Expected Annual Value	
36.33	Intentionally omitted.	**EACV agreed**
36.34	Intentionally omitted.	**EACV agreed**
	Payment where the Parties have not agreed an Expected Annual Contract Value for any Services and SUS applies to some or all of the Services	
36.35	Intentionally omitted.	**EACV not agreed; SUS applies**
	Payment where the Parties have not agreed an Expected Annual Contract Value for any Services and SUS does not apply to any of the Services	
36.36	Intentionally omitted.	**EACV not agreed; SUS does not apply**
	GENERAL PROVISIONS	
	Operational Standards, National Quality Requirements and Local Quality Requirements	
36.37	Intentionally omitted.	**All**
36.38	Intentionally omitted.	**All**

Statutory and Other Charges	
36.39 Where applicable, the Provider must administer all statutory benefits to which the Service User is entitled and within a maximum of 20 Operational Days following receipt of an appropriate invoice the relevant Commissioner must reimburse the Provider any statutory benefits correctly administered.	**All except 111**
36.40 The Provider must administer and collect all statutory charges which the Service User is liable to pay and which may lawfully be made in relation to the provision of the Services, and must account to whoever the Co-ordinating Commissioner reasonably directs in respect of those charges.	**All except 111**
36.41 The Parties acknowledge the requirements and intent of the Overseas Visitor Charging Regulations and Overseas Visitor Charging Guidance, and accordingly: 36.41.1 the Provider must comply with all applicable Law and Guidance (including the Overseas Visitor Charging Regulations, the Overseas Visitor Charging Guidance and the Who Pays? Guidance) in relation to the identification of and collection of charges from Chargeable Overseas Visitors, including the reporting of unpaid NHS debts in respect of Services provided to non-EEA national Chargeable Overseas Visitors to the Department of Health and Social Care; 36.41.2 if the Provider has failed to take all reasonable steps to: 36.41.2.1 identify a Chargeable Overseas Visitor; or 36.41.2.2 recover charges from the Chargeable Overseas Visitor or other person liable to pay charges in respect of that Chargeable Overseas Visitor under the Overseas Visitor Charging Regulations, no Commissioner will be liable to make any payment to the Provider in respect of any Services delivered to that Chargeable Overseas Visitor and where such a payment has been made the Provider must refund it to the relevant Commissioner; 36.41.3 (subject to SC36.41.2) each Commissioner must pay the Provider, in accordance with all applicable Law and Guidance (including the Overseas Visitor Charging Regulations, Overseas Visitor Charging Guidance and Who Pays? Guidance), the appropriate contribution on account for all Services delivered by the Provider in accordance with this Contract to any Chargeable Overseas Visitor in respect of whom that Commissioner is the Responsible Commissioner; 36.41.4 the Provider must refund to the relevant Commissioner any such contribution on account if and to the extent that charges are collected from a Chargeable Overseas Visitor or other person liable to pay charges in respect of that Chargeable Overseas Visitor, in accordance with all applicable Law and Guidance (including Overseas Visitor Charging Regulations, Overseas Visitor Charging Guidance and the Who Pays? Guidance);	**All**

	36.41.5 the Provider must make full use of existing mechanisms designed to increase the rates of recovery of the cost of Services provided to overseas visitors insured by another EEA state, including the EEA reporting portal for EHIC and S2 activity; and each Commissioner must pay the Provider, in accordance with all applicable Law and Guidance (including Overseas Visitor Charging Regulations, Overseas Visitor Charging Guidance and the Who Pays? Guidance), the appropriate sum for all Services delivered by the Provider to any overseas visitor in respect of whom that Commissioner is the Responsible Commissioner and which have been reported through the EEA reporting portal.	
36.42	In its performance of this Contract the Provider must not provide or offer to a Service User any clinical or medical services for which any charges would be payable by the Service User except in accordance with this Contract, the Law and/or Guidance.	**All**
	Patient Pocket Money	
36.43	Intentionally omitted.	**MH, MHSS**
	VAT	
36.44	Payment is exclusive of any applicable VAT for which the Commissioners will be additionally liable to pay the Provider upon receipt of a valid tax invoice at the prevailing rate in force from time to time. The Parties acknowledge that healthcare related services should be VAT exempt.	**All**
	Contested Payments	
36.45	The Parties acknowledge that Schedule 3B of the Particulars sets out the process for disputes related to payments.	**All**
	Interest on Late Payments	
36.46	Subject to any express provision of this Contract to the contrary (including without limitation the Withholding and Retention of Payment Provisions), each Party will be entitled, in addition to any other right or remedy, to receive interest at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998 on any payment not made from the date after the date on which payment was due up to and including the date of payment.	**All**
	Set Off	
36.47	Intentionally omitted.	**All**
	Invoice Validation	

36.48 Intentionally omitted.	**All**
Submission of Invoices 36.49 Intentionally omitted.	**All**
QUALITY REQUIREMENTS AND INCENTIVE SCHEMES	
SC37 Local Quality Requirements and Quality Incentive Scheme 37.1 Intentionally omitted.	**All**
37.2 Intentionally omitted.	**All**
37.3 Intentionally omitted.	**All**
37.4 Intentionally omitted.	**All**
37.5 Intentionally omitted.	**All**
SC38 Commissioning for Quality and Innovation (CQUIN) 38.1 The Parties agree that the CQUIN Guidance is not applicable to this Contract.	**All**
38.2 Intentionally omitted.	**All**
Payment on Account 38.3 Intentionally omitted.	**All**
38.4 Intentionally omitted.	**All**
CQUIN Performance Report 38.5 Intentionally omitted.	**All**
38.6 Intentionally omitted.	**All**

38.7 Intentionally omitted.	**All**
38.8 Intentionally omitted.	**All**
38.9 Intentionally omitted.	**All**
Reconciliation 38.10 Intentionally omitted.	**All**
38.11 Intentionally omitted.	**All**
38.12 Intentionally omitted.	**All**
38.13 Intentionally omitted.	**All**
38.14 Intentionally omitted.	**All**
Small-Value Contract 38.15 Intentionally omitted.	**All**
PROCUREMENT OF GOODS AND SERVICES	
SC39 Procurement of Good and Services 39.A1 The Parties will use their respective best endeavours to maximise efficient use of their respective supply chains for the provision and distribution of supplies and equipment required by the Provider for the provision of clinical services to Service Users. **Nominated Supply Agreements** 39.1 Intentionally omitted.	**A, A+E, CR, R (NHS Trust/FT only)**
Nationally Contracted Products Programme	

39.2	Intentionally omitted.	**NHS Trust/FT**
	National Genomic Test Directory	
39.3	Where, in the course of providing the Services, the Provider or any Sub-Contractor requires a sample taken from a Service User to be subject to a genomic laboratory test listed in the National Genomic Test Directory, that sample must be submitted to the appropriate Genomic Laboratory Hub commissioned by NHS England to arrange and/or perform the relevant test. Each submission of a sample must be made in accordance with the criteria for ordering tests set out in the National Genomic Test Directory.	**A+E, A, CR, CS, D, MH, MHSS, R**
	National Ambulance Vehicle Specification	
39.4	Intentionally omitted.	**AM (NHS Trust/FT only)**

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NHS Standard Contract 2020/21

General Conditions (Full Length)

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GC1. Definitions and Interpretation

1.1 This Contract is to be interpreted in accordance with the Definitions and Interpretation, unless the context requires otherwise.

1.2 If there is any conflict or inconsistency between the provisions of this Contract, that conflict or inconsistency must be resolved according to the following order of priority:

1.2.1 Schedule 2A (*Service Specifications*);

1.2.2 Schedule 3B (*Local Variations*);

1.2.3 the General Conditions;

1.2.4 the Service Conditions; and

1.2.5 the Particulars except Schedule 2A (*Service Specification*) and Schedule 3B (*Local Variations*).

1.3 If there is any conflict or inconsistency between the provisions of this Contract and any of the documents listed or referred to in Schedule 1B (*Commissioner Documents*), Schedule 2G (*Other Local Agreements, Policies and Procedures*) or Schedule 5A (*Documents Relied On*), the provisions of this Contract will prevail.

GC2. Effective Date and Duration

2.1 This Contract took effect on the Effective Date.

2.2 This Contract will continue until it is terminated in accordance with GC17 (*Termination*).

GC3. Service Commencement

3.1 The Provider began delivery of the Services on the Service Commencement Date.

GC4. Transition Period

4.1 Intentionally Omitted.

4.2 Intentionally Omitted.

4.3 The Parties acknowledge and confirm that they have worked collaboratively to facilitate the delivery of the Services with effect from the Service Commencement Date.

4.4 Intentionally Omitted.

4.5 Intentionally Omitted.

GC5. Staff

General

5.1 The Provider must apply the Principles of Good Employment Practice (where applicable) and the staff pledges and responsibilities outlined in the NHS Constitution.

5.1A In order to assist public response to COVID-19, the Coronavirus Act 2020 received Royal Assent on 25 March 2020. In line with this emergency legislation key healthcare regulators are also adopting new approaches to how they fulfil their functions, amongst which the CQC announced alterations to registration with CQC and changes to statements of purpose during COVID-19, also on 25 March 2020. These evolving flexibilities will govern the provision of the Services and are important context relating to the Provider's delivery of the Services.

5.1B The Commissioner shall use all reasonable endeavours to procure that the Provider has access (through secondments) to such available, appropriately qualified medical and clinical personnel (satisfying without limitation the requirements of GC5.4.1 to GC5.4.3 (inclusive), GC5.4.5, GC5.10 and GC5.11) from a NHS Trust or NHS Foundation Trust as the Provider requires, from time to time, to facilitate the Provider's proper delivery of the Services (for example, and without limitation, through procuring access to NHS consultants and anaesthetists).

5.1C The Provider's Staff may be utilised:

5.1C.1 in locations other than the Provider's Premises under the direction and control of a NHS Trust or a NHS Foundation Trust; or

5.1C.2 in the Provider's Premises but under the direction and control of medical personnel seconded into the Provider's Premises from a NHS Trust or a NHS Foundation Trust,

in accordance with Schedule 2A (*Service Specification*).

5.1D Where GC5.1B and/or GC5.1C applies, the Provider will enter into the Staffing Collaboration MOU with the relevant party or parties and will comply with the relevant obligations placed on the Provider contained within the Staffing Collaboration MOU.

5.2 Subject to GC5.1A and GC5.1B, and to any applicable provisions of the Staffing Collaboration MOU, the Provider must comply with regulations 18 and 19 of the 2014 Regulations, and without prejudice to that obligation must:

5.2.1 ensure that there are appropriately registered, qualified and experienced medical, nursing and other clinical and non-clinical Staff to enable the Services to be provided in all respects and at all times in accordance with this Contract;

5.2.2 in determining planned Staff numbers and skill mix for Services, have regard to applicable Staffing Guidance;

5.2.3 use all reasonable endeavours to undertake robust quality impact assessments, as required by Staffing Guidance, before making any material changes to Staff numbers, skill-mix or roles;

5.2.4 use all reasonable endeavours to continually evaluate in respect of each Service individually and the Services as a whole:

5.2.4.1 actual numbers and skill mix of clinical Staff on duty against planned numbers and skill mix of clinical Staff on a shift-by-shift basis; and

5.2.4.2 the impact of variations in actual numbers and skill mix of clinical Staff on duty on Service User experience and outcomes, by reference to the measures recommended in Staffing Guidance;

5.2.5 Intentionally Omitted;

5.2.6 Intentionally Omitted;

5.2.7 report to the Co-ordinating Commissioner immediately any material concern in relation to the safety of Service Users and/or the quality or outcomes of any Service arising from those evaluations;

5.2.8 report to the Co-ordinating Commissioner on the outcome of those evaluations as soon as practicable and by no later than 20 Operational Days following receipt of written request;

5.2.9 implement Lessons Learned from those evaluations, and demonstrate at Review Meetings the extent to which improvements to each affected Service have been made as a result; and

5.2.10 Intentionally Omitted.

5.3 Always acknowledging GC5.1B and the unique challenges posed by COVID-19, and subject to any applicable provisions of the Staffing Collaboration MOU, the Provider must use all reasonable endeavours to implement a standard operating procedure, as required by Staffing Guidance, for responding to any day-to-day shortfalls in the number and skill mix of Staff available to provide each Service and inform the Co-ordinating Commissioner immediately of any actual or expected material impact on the delivery of Services arising from any such shortfall and/or implementation of the procedure. The implementation of any such standard operating procedure will not affect the rights and obligations of the Parties under this Contract in respect of any Suspension Event or Event of Force Majeure. The rights and obligations of the Parties under this Contract in respect of any failure on the part of the Provider to comply with any obligation on its part under this Contract shall be assessed on a case by case basis, taking into account the mutual rights and obligations of the Parties that are relevant to the failure in question.

5.4 Subject to GC5.1B, and to any applicable provisions of the Staffing Collaboration MOU, the Provider must ensure that all Staff:

5.4.1 if applicable, are registered with and where required have completed their revalidations by the appropriate professional regulatory body;

5.4.2 have the appropriate qualifications, experience, skills and competencies to perform the duties required of them and are appropriately supervised (including where appropriate through preceptorship, clinical supervision and rotation arrangements), managerially and professionally;

5.4.3 are covered by the Provider's (and/or by the relevant Sub-Contractor's) Indemnity Arrangements for the provision of the Services;

5.4.4 carry, and where appropriate display, valid and appropriate identification; and

5.4.5 are aware of and respect equality and human rights of colleagues, Service Users, Carers and the public.

5.5 The Provider must have in place systems for seeking and recording specialist professional advice and must ensure that, subject to GC5.1B and to any applicable provision of the Staffing Collaboration MOU, every member of Staff involved in the provision of the Services receives:

5.5.1 proper and sufficient induction, continuing professional and personal development, clinical supervision, training and instruction;

5.5.2 full and detailed appraisal (in terms of performance and on-going education and training) using where applicable the Knowledge and Skills Framework or a similar equivalent framework; and

5.5.3 professional leadership appropriate to the Services,

each in accordance with Good Practice and the standards of their relevant professional body, if any.

5.5A The Provider acknowledges and confirms that it will treat NHS staff provided to it pursuant to GC5.1B in the same manner as it treats its own staff while such NHS staff work for the Provider.

5.6 At the request of the Co-ordinating Commissioner, the Provider must provide details of its analysis of Staff training needs and a summary of Staff training provided and appraisals undertaken.

5.7 Intentionally Omitted.

5.8 If any Staff (other than those provided pursuant to GC5.1B) are members of the NHS Pension Scheme the Provider must participate and must ensure that any Sub-Contractors participate in any applicable data collection exercise and must ensure that all data relating to Staff membership of the NHS Pension Scheme is up to date and is provided to the NHS Business Services Authority in accordance with Guidance.

5.9 The Provider must:

5.9.1 appoint one or more Freedom To Speak Up Guardians to fulfil the role set out in and otherwise comply with the requirements of National Guardian's Office Guidance;

5.9.2 Intentionally Omitted;

5.9.3 have in place, promote and operate (and must ensure that all Sub-Contractors have in place, promote and operate) a policy and effective procedures to ensure that Staff have appropriate means through which they may speak up about any concerns they may have in relation to the Services;

5.9.4 Intentionally Omitted;

5.9.5 Intentionally Omitted;

5.9.6 Intentionally Omitted.

Pre-employment Checks

5.10 Subject to GC5.1B and/or to any applicable provisions of the Staffing Collaboration MOU and GC5.11, before the Provider or any Sub-Contractor engages or employs any person in the provision of the Services, or in any activity related to or connected with, the provision of Services, the Provider must, and must ensure that any Sub-Contractor will, at its own cost, comply with:

5.10.1 NHS Employment Check Standards; and

5.10.2 other checks as required by the DBS or which are to be undertaken in accordance with current and future national guidelines and policies.

5.11 The Provider or any Sub-Contractor may engage a person in an Enhanced DBS Position or a Standard DBS Position (as applicable) pending the receipt of the Standard DBS Check or Enhanced DBS Check or Enhanced DBS & Barred List Check (as appropriate) with the agreement of the Co-ordinating Commissioner and subject to any additional requirement of the Co-ordinating Commissioner for that engagement.

TUPE

5.12 The Parties agree that TUPE will not apply to the commencement of the Services by the Provider under the terms of this Contract. The Parties agree that TUPE will not apply to the termination of this Contract.

5.13 Nothing in this Contract shall act in any way to transfer the employment of Staff from the Provider to any other employer including any NHS Trust and/or any NHS Foundation Trust and/or other independent health sector provider. The Parties agree that the Staff employed or engaged by the Provider may, from time to time, on a temporary and/or ad hoc basis, whilst carrying out the Services:

5.13.1 work alongside, and/or under the management, direction or supervision of; and/or

5.13.2 be required to supervise, manage or direct,

individuals not employed by the Provider, including potentially individuals employed by a NHS Trust and/or a NHS Foundation Trust and/or other independent health sector provider whilst remaining employed by the Provider.

5.14 On the termination of this Contract the following provisions apply:

5.14.1 the Provider will, and will procure that any Sub-Contractor will, remain responsible for all employment related outgoings including salaries, wages, bonus or commission, holiday pay, expenses, national insurance and pension contributions and any liability to taxation and any statutory or contractual or discretionary redundancy payments in relation to its or their employees and other workers (save for individuals provided pursuant to GC5.1B), whether or not employed, engaged or assigned to providing the Services; and

5.14.2 the Provider will indemnify any relevant or alleged transferee within the meaning of TUPE ("**the Transferee**") from and against all demands suffered or incurred by the Transferee including, for the avoidance of doubt, any claims relating to the termination of employment of any such individuals or any claims or allegations that TUPE applied or should have applied to transfer their employment to the Transferee, arising out of, or in relation to any breach by the Provider or any Sub-Contractor of its or their obligations under GC5.14.1 above.

5.14A On the termination of this Contract the following provisions apply:

5.14A.1 the Commissioner will, and will procure that each NHS organisation will, remain responsible for all employment related outgoing including salaries, wages, bonus or commission, holiday pay, expenses, national insurance and pension contributions and any liability to taxation and any statutory or contractual or discretionary redundancy payments in relation to its or their employees and other workers, whether or not employed, engaged or assigned to providing the Services; and

5.14A.2 the Commissioner will indemnify any relevant or alleged Transferee from and against all demands suffered or incurred by the Transferee including, for the avoidance of doubt, any claims or allegations that TUPE applied or should have applied to transfer their employment to the Transferee, arising out of, or in relation to any breach by the Commissioner or any NHS organisation of its obligations under GC5.14A.1 above.

5.15 Intentionally Omitted.

Employment or Engagement following NHS Redundancy

5.16 Intentionally Omitted.

5.16A Intentionally Omitted.

5.17 Intentionally Omitted.

5.18 Intentionally Omitted.

GC6. Intentionally Omitted

GC7. Intentionally Omitted

GC8. Review

8.1 At the intervals set out in the Particulars, the Co-ordinating Commissioner and the Provider must hold Review Meetings to review and discuss as necessary or appropriate:

8.1.1 Intentionally Omitted;

8.1.2 performance of the Parties under this Contract;

8.1.3 performance of the Provider under any agreed plan in place under or in connection with this Contract;

8.1.4 levels of Activity, Referrals and Utilisation under this Contract;

8.1.5 any Variation proposed in relation to this Contract;

8.1.6 the Qualifying Costs or elements of such costs; and

8.1.7 any other matters that either considers necessary in relation to this Contract.

8.2 Following each Review Meeting the Co-ordinating Commissioner must prepare and both the Co-ordinating Commissioner and the Provider must sign a Review Record recording (without limitation) all the matters raised during the Review, actions taken, agreements reached, Disputes referred to Dispute Resolution, and any Variations agreed.

8.3 If any Dispute which has arisen during the Review is not shown in the Review Record or is not referred to Dispute Resolution within 10 Operational Days after signature of that Review Record it will be deemed withdrawn.

8.4 Notwithstanding GC8.1, if either the Co-ordinating Commissioner or the Provider:

8.4.1 reasonably considers that a circumstance constitutes an emergency or otherwise requires immediate resolution; or

8.4.2 Intentionally Omitted,

that Party may by notice require that a Review Meeting be held as soon as practicable and in any event within 5 Operational Days following that notice.

GC9. Contract Management

9.1 Intentionally Omitted.

9.2 Intentionally Omitted.

9.3 Intentionally Omitted.

Contract Performance Notice

9.4 Intentionally Omitted.

9.5 Intentionally Omitted.

Contract Management Meeting

9.6 Intentionally Omitted.

9.7 Intentionally Omitted.

Joint Investigation

9.8 Intentionally Omitted.

9.9 Intentionally Omitted.

9.10 Intentionally Omitted.

Remedial Action Plan

9.11 Intentionally Omitted.

9.12 Intentionally Omitted.

9.13 Intentionally Omitted.

9.14 Intentionally Omitted.

Withholding Payment for Failure to Engage or Agree

9.15 Intentionally Omitted.

9.16 Intentionally Omitted.

9.17 Intentionally Omitted.

Implementation and Breach of Remedial Action Plan

9.18 Intentionally Omitted.

9.19 Intentionally Omitted.

Exception Report

9.20 Intentionally Omitted.

Withholding of Payment at Exception Report for Breach of Remedial Action Plan

9.21 Intentionally Omitted.

Retention of Sums Withheld for Breach of Remedial Action Plan

9.22 Intentionally Omitted.

Unjustified Withholding or Retention of Payment

9.23 Intentionally Omitted.

Retention of Sums Withheld on Expiry or Termination of this Contract

9.24 Intentionally Omitted.

9.25 Intentionally Omitted.

Financial Improvement Trajectory

9.26 Intentionally Omitted.

GC10. Co-ordinating Commissioner and Representatives

10.1 For Co-ordinating Commissioner, read Commissioner.

10.2 Intentionally Omitted.

10.3 The Commissioner Representatives and the Provider Representative will be the relevant Party's respective key points of contact for day-to-day communications.

GC11. Liability and Indemnity

11.1 Without affecting its liability for breach of any of its obligations under this Contract, the Commissioner will be liable to the Provider for, and must indemnify and keep the Provider indemnified against:

11.1.1 any loss, damages, costs, expenses, liabilities, claims, actions and/or proceedings (including the cost of legal and/or professional services) whatsoever in respect of:

11.1.1.1 any loss of or damage to property (whether real or personal); and

11.1.1.2 any injury to any person, including injury resulting in death; and

11.1.2 any Losses of the Provider,

that result from or arise out of the Commissioner's negligence or breach of contract in connection with the performance of this Contract except insofar as that loss, damage or injury has been caused by any act or omission by or on the part of, or in accordance with the instructions of, the Provider, any Sub-Contractor, their Staff or agents.

11.1A The Commissioner must indemnify and keep the Provider indemnified against any loss, damages, costs, expenses, liabilities, claims, actions and/or proceedings (including the cost of legal and/or professional services) in respect of the Provider's, any Sub-Contractor's, or any Staff's clinical

negligence in connection with the provision or non-provision of any part of the Services or otherwise in connection with this Contract but only if and to the extent that:

11.1A.1 such loss, damages, costs, expenses, liabilities, claims, actions and/or proceedings are not covered by Usual Clinical Negligence Indemnity Arrangements which the Provider is required to put in place and maintain in force (or procure that its Sub-Contractors put in place and maintain in force) in accordance with GC11.3 (or which would be covered by such Usual Clinical Negligence Indemnity Arrangements but for the Provider's failure to comply with its obligations under GC11.3); and

11.1A.2 such loss, damages, costs, expenses, liabilities, claims, actions and/or proceedings are covered by CNSC; and

11.1A3 the Provider complies with GC11.13.

11.1B The Commissioner must indemnify and keep the Provider indemnified against liability for bodily injury or disease sustained by the Provider's employees (including sub-contractors to which it owes duties as employer) arising out of and in the course of their employment in England in the delivery of the Services in accordance with this Contract but only if and to the extent not covered by Indemnity Arrangements which the Provider is required to put in place and maintain in force (or procure that its Sub-Contractors put in place and maintain in force) in accordance with GC11.3 (or which would be covered by such Indemnity Arrangements but for the Provider's failure to comply with its obligations under GC11.3).

11.2 Subject to GC11.1A and GC11.1B, and without affecting its liability for breach of any of its obligations under this Contract, the Provider will be liable to the Commissioner for, and must indemnify and keep the Commissioner indemnified against:

11.2.1 any loss, damages, costs, expenses, liabilities, claims, actions and/or proceedings (including the cost of legal and/or professional services) whatsoever in respect of:

11.2.1.1 any loss of or damage to property (whether real or personal); and

11.2.1.2 any injury to any person, including injury resulting in death; and

11.2.2 any Losses of the Commissioner,

that result from or arise out of the Provider's or any Sub-Contractor's negligence or breach of contract in connection with the performance of this Contract or the provision of the Services (including its use of Equipment or other materials or products, and the actions or omissions of Staff or any Sub-Contractor in the provision of the Services), except insofar as that loss, damage or injury has been caused by any act or omission by or on the part of, or in accordance with the instructions of, the Commissioner, its employees or agents.

11.3 The Provider must put in place and maintain in force (and procure that its Sub-Contractors put in place and maintain in force) at its (or their) own cost (and not that of any employee) appropriate Indemnity Arrangements in respect of:

11.3.1 employers' liability;

11.3.2 clinical negligence to the extent of its Usual Clinical Negligence Indemnity Arrangements;

11.3.3 public liability; and

11.3.4 professional negligence.

11.4 Within 5 Operational Days following written request from the Co-ordinating Commissioner, the Provider must provide documentary evidence that Indemnity Arrangements required under GC11.3 are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.

11.5 (Subject only to GC11.1A and GC11.1B), If the proceeds of any Indemnity Arrangements are insufficient to cover the settlement of any claim relating to this Contract the Provider must make good any deficiency.

11.6 The Provider must not take any action or fail to take any reasonable action nor (in so far as it is reasonable and within its power) allow others to take action or fail to take any reasonable action, as a result of which any Indemnity Arrangements put in place in accordance with GC11.3 may be rendered wholly or partly void, voidable, unenforceable, or be suspended or impaired, or which may otherwise render any sum paid out under those Indemnity Arrangements wholly or partly repayable.

11.7 On and following expiry or termination of this Contract, the Provider must (and must use its reasonable endeavours to procure that each of its Sub-Contractors must) procure that any ongoing liability it has or may have in negligence to any Service User or Commissioner arising out of a Service User's care and treatment under this Contract will continue to be the subject of appropriate Usual Clinical Negligence Indemnity Arrangements for 21 years following termination or expiry of this Contract or (if earlier) until that liability may reasonably be considered to have ceased.

11.8 No later than 3 months prior to the expiry of this Contract, or within 10 Operational Days following the date of service of notice to terminate or of agreement to terminate this Contract (as appropriate), the Provider must provide to the Co-ordinating Commissioner satisfactory evidence in writing of its (and its Sub-Contractors') arrangements to satisfy the requirements of GC11.7. If the Provider fails to do so the Commissioners may themselves procure appropriate Indemnity Arrangements in respect of such ongoing liabilities and the Provider must indemnify and keep the Commissioners indemnified against the costs incurred by them in doing so.

11.9 Unless the Co-ordinating Commissioner and the Provider otherwise agree in writing, the Provider will not require, and must ensure that no other person will require, any Service User to sign any document whatsoever containing any waiver of the Provider's liability (other than a waiver in reasonable terms relating to personal property) to that Service User in relation to the Services, unless required by medical research procedures approved by the local research ethics committee and the Service User has given consent in accordance with the Provider's Service User consent policy.

11.10 Nothing in this Contract will exclude or limit the liability of either Party for death or personal injury caused by negligence or for fraud or fraudulent misrepresentation.

11.11 Except where expressly stated to the contrary, an indemnity under this Contract will not apply and there will be no right to claim damages for breach of this Contract, in tort or on any other basis whatsoever, to the extent that any loss claimed by any Party under that indemnity or on that basis is for Indirect Losses.

11.12 Each Party will at all times take all reasonable steps to minimise and mitigate any Losses or other matters for which one Party is entitled to be indemnified by or to bring a claim against the other under this Contract.

11.13 In relation to any claim to which CNSC applies or might apply, and/or in respect of which the Provider and/or any Sub-Contract is seeking indemnity via CNST, the Provider must comply with all reasonable requirements of NHS Resolution, and in any event must:

11.1.1 notify NHS Resolution immediately on becoming aware of any actual or potential claim, and must forward to NHS Resolution any letter before action, claim form and/or other correspondence or papers received in relation to it immediately on receipt;

11.1.2 allow NHS Resolution to handle any such claim at NHS Resolution's absolute discretion and in such manner as it sees fit;

11.1.3 cooperate fully with NHS Resolution in its conduct of any such claim and must allow NHS Resolution full and unfettered access to its Staff, premises and records;

11.1.4 make no admission of legal liability in respect of such claim without the prior written consent of and on terms expressly approved by NHS Resolution.

As a further condition of the indemnity set out in GC11.1A, the Provider consents to the Commissioner sharing a copy of this Contract with NHS Resolution.

GC12. Assignment and Sub-contracting

Obligations relating to the Provider

12.1 The Provider must not novate this Contract nor assign, delegate, sub-contract, transfer, charge or otherwise dispose of all or any of its rights or obligations or duties under this Contract without the prior written approval of the Co-ordinating Commissioner.

12.2 The Co-ordinating Commissioner may require, as a condition of the approval of any assignment or novation, the assignee or novatee to provide a guarantee from its parent or other party acceptable to the Co-ordinating Commissioner (acting reasonably), in such form as the Co-ordinating Commissioner may reasonably require.

12.3 The approval of any sub-contracting arrangement may:

12.3.1 include approval of the terms of the proposed Sub-Contract (such approval not to be unreasonably withheld or delayed); and

12.3.2 require, as a condition of that approval, that appropriate Indemnity Arrangements are in place in relation to the proposed Sub-Contractor.

12.4 The Co-ordinating Commissioner has designated the Sub-Contracts listed in Schedule 5B (Provider's Material Sub-Contracts) as Material Sub-Contracts and may (at its discretion but acting reasonably) designate any further sub-contracting arrangement approved by it as a Material Sub-Contract.

12.5 The Provider must not:

12.5.1 terminate a Material Sub-Contract; or

12.5.2 make any material changes to the terms of a Material Sub-Contract; or

12.5.3 replace a Material Sub-Contractor under a Material Sub-Contract (and must ensure that a replacement does not otherwise occur), including by delivering all or part of a Service itself; or

12.5.4 enter into a new Material Sub-Contract with an existing Material Sub-Contractor,

without the prior written approval of the Co-ordinating Commissioner. Schedule 5B (*Provider's Material Sub-Contracts*) must be updated as appropriate to reflect any designation made, or termination, change or replacement approved, by the Co-ordinating Commissioner.

12.6 If the Provider enters into a Sub-Contract it must:

12.6.1 ensure that a provision is included in that Sub-Contract which requires payment to be made of all sums due by the Provider to the Sub-Contractor within a specified period not exceeding 30 days from the receipt of a valid invoice;

12.6.2 not vary any such provision referred to in GC12.6.1 above;

12.6.3 ensure that the Sub-Contractor does not further sub-contract its obligations under the Sub-contract without the approval of the Co-ordinating Commissioner (such approval not to be unreasonably withheld or delayed).

12.7 Sub-contracting any part of this Contract will not relieve the Provider of any of its obligations or duties under this Contract. The Provider will be responsible for the performance of and will be liable to the Commissioners for the acts and/or omissions of all Sub-Contractors as though they were its own.

12.8 Any positive obligation or duty on the part of the Provider under this Contract includes an obligation or duty to ensure that all Sub-Contractors comply with that positive obligation or duty. Any negative duty or obligation on the part of the Provider under this Contract includes an obligation or duty to ensure that all Sub-Contractors comply with that negative obligation or duty.

12.9 The Provider will remain responsible for the performance and will be liable to the Commissioners for the acts and omissions of any third party to which the Provider assigns or transfers any obligation or duty under this Contract, unless and until:

12.9.1 the Provider has obtained the prior written approval of the Co-ordinating Commissioner in accordance with this GC12; and

12.9.2 the terms of that assignment, transfer or disposal have been accepted by the third party so that the third party is liable to the Commissioners for its acts and omissions.

Obligations relating to the Commissioner

12.10 The Commissioners may not transfer or assign all or any of their rights or obligations under this Contract, except (always strictly subject to GC20):

12.10.1 Intentionally Omitted;

12.10.2 to a CCG; or

12.10.3 to a Local Authority pursuant to a Partnership Agreement or to arrangements pursuant to regulations made under the Cities and Local Government Devolution Act 2016 or to an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009; or

12.10.4 otherwise with the prior written approval of the Provider.

12.11 Subject to strict compliance with GC12.14, the Commissioners may delegate or sub-contract or (subject to GC12.10 above) otherwise dispose of all or any of their rights or obligations under this Contract without the approval of the Provider.

12.12 Sub-contracting any part of the Contract will not relieve the Commissioners of any of their obligations or duties under this Contract. Commissioners will be responsible for the performance of and will be liable to the Provider for the acts and/or omissions of their sub-contractors as though they were their own.

Replacement of Sub-Contractors

12.13 If any Suspension Event occurs that has not arisen due to inadequacies in the provision of such support as is anticipated pursuant to GC5.1B, or if the Co-ordinating Commissioner is entitled to terminate this Contract in accordance with GC17.10, wholly or partly in connection with any Sub-Contract or as a result of any act or omission on the part of a Sub-Contractor, the Co-ordinating Commissioner may (without prejudice to any other rights the Co-ordinating Commissioner may have in relation to that event) by serving written notice upon the Provider, require the Provider to remove or replace the relevant Sub-Contractor within:

12.13.1 5 Operational Days; or

12.13.2 whatever period may be reasonably specified by the Co-ordinating Commissioner (taking into account any factors which the Co-ordinating Commissioner considers relevant in its absolute discretion, including the interests of Service Users and the need for the continuity of Services),

and the Provider must remove or replace the relevant Sub-Contractor (as required) within the period specified in that notice.

Disclosure of Information

12.14 Notwithstanding GC20 (*Confidential Information of the Parties*), a Commissioner which assigns, transfers, delegates or sub-contracts all or any of its rights or obligations under this Contract to any person may disclose to such person any information in its possession that relates to this Contract or its subject matter, the negotiations relating to it, or the Provider, provided always that such information (i) is strictly necessary for the proper exercise of the assignment, transfer, delegation or sub-contract; (ii) is transferred in accordance with Data Protection Legislation and Data Guidance; and (iii) imposes equivalent duties of confidentiality on such person as those set out in GC20.

Tender Documentation, Publication of Contracts and E-Procurement

12.15 The Provider must comply with Transparency Guidance if and when applicable.

12.16 The Provider must comply with e-Procurement Guidance if and when applicable.

General Provisions

12.17 This Contract will be binding on and will be to the benefit of the Provider and each Commissioner and their respective successors and permitted transferees and assigns.

GC13. Variations

13.1 This Contract may not be amended or varied except in accordance with this GC13.

13.2 Intentionally Omitted.

13.3 The provisions of this Contract may be varied at any time by a Variation Agreement signed by the Co-ordinating Commissioner on behalf of the Commissioners and by the authorised signatory of the Provider.

13.4 If a Party wishes to propose a Variation, the Co-ordinating Commissioner must serve on the Provider, or the Provider must serve on the Co-ordinating Commissioner, (as appropriate) a draft Variation Agreement.

13.5 Intentionally Omitted.

13.6 The Proposer must have regard to the impact of the proposed Variation on other Services.

13.7 Any draft Variation Agreement must set out the Variation proposed and the date on which the Proposer requires it to take effect.

13.8 The Recipient must respond to a draft Variation Agreement in writing within 10 Operational Days following receipt, setting out whether:

13.8.1 it accepts the Variation; and/or

13.8.2 it has any concerns with the contents of the draft Variation Agreement.

13.9 If necessary, the Parties must meet within 10 Operational Days following the date of the Recipient's response (or as otherwise agreed in writing) to discuss the draft Variation Agreement and the Recipient's response and must use reasonable endeavours to agree the Variation.

13.10 As soon as reasonably practicable and in any event within 10 Operational Days following the meeting which takes place pursuant to GC13.9, the Recipient must serve a written notice on the Proposer confirming either:

13.10.1 that it accepts the draft Variation Agreement (and whether or not that acceptance is subject to any amendments to the draft Variation Agreement agreed between the Parties in writing); or

13.10.2 that it refuses to accept the draft Variation Agreement, and setting out its reasonable grounds for that refusal.

13.11 Intentionally Omitted.

13.12 Intentionally Omitted.

13.13 Intentionally Omitted.

13.14 If, the Parties having followed the procedure in GC13.3 to GC13.10, the Provider refuses to accept a Service Variation, the Co-ordinating Commissioner may, terminate the Service affected by the proposed Service Variation by giving the Provider not less than one (1) month's notice in writing (such notice not to expire prior to the Commissioner Earliest Termination Date), following the issue of a notice that the proposed Service Variation is refused or not accepted.

13.15 The right of the Co-ordinating Commissioner to terminate a Service under GC13.14 will not apply if:

13.15.1 the proposed Service Variation is substantially a proposal that a Service should be performed for a different price to that agreed under this Contract and without material change to the delivery of that Service justifying that proposed change in price; or

13.15.2 the proposal does not meet the requirements of a Service Variation.

13.16 If the Parties fail to agree a proposed Variation which is not a Service Variation the Proposer must withdraw the draft Variation Agreement.

GC14. Dispute Resolution

14.1 The provisions of GC14.2 to GC14.21 will not apply in relation to a Dispute in which any Party seeks an injunction relating to a matter arising out of GC20 *(Confidential Information of the Parties)*. For the avoidance of doubt, the Parties agree that a Party shall be entitled to the remedy of an injunction in relation to:

14.1.1 an alleged, or actual, breach of any provision of this Contract pursuant to which a Party has an obligation to procure that a third party be subject to legally enforceable obligations that are no less onerous than those stipulated in GC20; and/or

14.1.2 circumstances where the Contract provides that a third party should be subject to an obligation to comply with standards no less onerous than those provided in GC20 (or other materially analogous obligation provided in the Contract), but where such third party obligation is, or appears to be:

14.1.2.1 not duly completed and/or duly or properly signed or executed (as applicable) in such manner as to give the relevant third party arrangements legal enforceability;

14.1.2.2 materially deficient (in the reasonable opinion of the Party claiming injunctive relief) as compared against the relevant Contract obligation(s) applicable to such third party arrangement; and/or

14.1.2.3 breached by any party to such legally binding terms, or that appear, in all the circumstances, likely to be imminently breached by any party to such legally binding terms (as determined in the sole opinion of the Party claiming injunctive relief, acting reasonably).

14.1A Each Party shall provide reasonable assistance and cooperation to the other Party in relation to any proceedings seeking injunctive relief against any third party in connection with any of the circumstances identified in GC14.1.2.1 to 14.1.2.3 above including, without limitation, taking actions (including taking such actions on the claiming Party's behalf, whether in that Party's name or on behalf of the other Party) as the Party seeking injunctive relief may reasonably require from the other Party in order to claim (and provide a reasonable chance of success in such claim) such injunctive relief. Where a Party requires assistance from the other Party in seeking injunctive relief pursuant to this GC14.1A, the Party seeking injunctive relief shall meet the reasonable costs of the other Party relating to providing such support.

14.1B Where a Dispute relates to a matter referred to in Schedule 3B of the Particulars, the provisions of Schedule 3B of the Particulars will apply to that Dispute and the Parties acknowledge that Schedule 3B cross refers to certain provisions of this GC14 (*Dispute Resolution*).

Escalated Negotiation

14.2 If any Dispute arises, the Parties in Dispute must first attempt to settle it by any of them making a written offer to negotiate to the others. During the Negotiation Period each of the Parties in Dispute must negotiate and be represented:

14.2.1 for the first 10 Operational Days, by a senior person who where practicable has not had any direct day-to-day involvement in the matter and has authority to settle the Dispute; and

14.2.2 for the last 5 Operational Days, by their chief executive, director, or member of its Governing Body who has authority to settle the Dispute.

14.3 Where practicable, no Party in Dispute should be represented by the same individual under GC14.2.1 and 14.2.2.

Mediation

14.4 If the Parties in Dispute are unable to settle the Dispute by negotiation, they must, within 5 Operational Days after the end of the Negotiation Period, submit the Dispute:

14.4.1 to mediation arranged by NHS England and NHS Improvement, where the Commissioners are CCGs and/or NHS England and the Provider is an NHS Trust or an NHS Foundation Trust; or

14.4.2 to mediation by CEDR or other independent body or organisation agreed between the Parties and set out in the Particulars, in all other cases.

14.5 Mediations under GC14.4.1 will follow the mediation process agreed between NHS England and NHS Improvement from time to time.

14.6 Mediations under GC14.4.2 will follow the mediation process of CEDR or other independent body or organisation named in the Particulars.

Expert Determination

14.7 If the Parties in Dispute are unable to settle the Dispute through mediation, the Dispute must be referred to expert determination, by one Party in Dispute giving written notice to that effect to the other Parties in Dispute 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.

14.8 Where the Commissioners are CCGs and/or NHS England and the Provider is an NHS Trust or NHS Foundation Trust, the Expert will be an independent person with relevant expertise nominated by NHS England and NHS Improvement and deemed appointed by the Parties in Dispute.

14.9 Where GC14.8 does not apply:

14.9.1 if the Parties in Dispute 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; and

14.9.2 if the Parties in Dispute have not agreed upon an expert, or where that person has not confirmed their willingness to act, then any Party in Dispute 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 Parties in Dispute. The other Parties in Dispute may make representations to CEDR regarding the expertise required in the expert. The person nominated by CEDR will be appointed as the Expert.

14.10 The Party in Dispute serving the Expert Determination Notice must send to the Expert and to the other Parties in Dispute 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.

14.11 The Parties in Dispute not serving the Expert Determination Notice must reply to the Expert and to the other Parties in Dispute within 5 Operational Days of receiving the statement of case, giving details of what is agreed and what is disputed in the statement of case and the reasons why.

14.12 The Expert must produce a written decision with reasons within 30 Operational Days of receipt of the statement of case referred to in GC14.11, or any longer period as is agreed by the Parties in Dispute after the Dispute has been referred.

14.13 The Expert will have complete discretion as to how to conduct the expert determination, and will establish the procedure and timetable.

14.14 The Parties in Dispute must comply with any request or direction of the Expert in relation to the expert determination.

14.15 The Expert must decide the matters set out in the Expert Determination Notice, together with any other matters which the Parties in Dispute and the Expert agree are within the scope of the expert determination.

14.16 The Parties in Dispute must bear their own costs and expenses incurred in the expert determination and are jointly liable for the costs of the Expert.

14.17 The decision of the Expert is final and binding, except in the case of fraud, collusion, bias, manifest error 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:

14.17.1 the Expert reconsider his decision (either all of it or part of it); or

14.17.2 the Expert's decision be set aside (either all of it or part of it).

14.18 If a Party in Dispute does not abide by the Expert's decision the other Parties in Dispute may apply to Court to enforce it.

14.19 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.

14.20 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.

14.21 The Expert is appointed to determine the Dispute or Disputes between the Parties in Dispute and the Expert's decision may not be relied upon by third parties, to whom the Expert will have no duty of care.

GC15. Governance, Transaction Records and Audit

15A The provisions of this GC15 are all strictly subject to the provisions of GC20.

15.1 The Provider must comply with regulation 17 of the 2014 Regulations.

15.2 The Provider must comply with all reasonable written requests made by any relevant Regulatory or Supervisory Body (or its authorised representatives), a Local Auditor or any Authorised Person for entry to the Provider's Premises and/or the Services Environment and/or the premises of any Sub-Contractor for the purposes of auditing, viewing, observing or inspecting those premises and/or the provision of the Services, and for information relating to the provision of the Services.

15.3 Subject to Law, an Authorised Person may enter the Provider's Premises and/or the Services Environment and/or the premises of any Sub-Contractor without notice for the purposes of auditing, viewing, observing or inspecting those premises and/or the provision of the Services, and for information relating to the provision of the Services. During those visits, subject to Law and Good Practice (also taking into consideration the nature of the Services and the effect of the visit on Services Users), the Provider must not restrict access and will give all reasonable assistance and provide all reasonable facilities.

15.4 Within 10 Operational Days following the Co-ordinating Commissioner's reasonable request, the Provider must send the Co-ordinating Commissioner the results of any audit, evaluation, inspection, investigation or research in relation to the Services, the Services Environment or services of a similar nature to the Services delivered by the Provider, to which the Provider has access and which it can disclose in accordance with the Law.

15.5 Subject to compliance with the Law and Good Practice the Parties must implement and/or respond to all relevant recommendations:

15.5.1 made in any report by a relevant Regulatory or Supervisory Body; or

15.5.2 agreed with the National Audit Office or a Local Auditor following any audit; or

15.5.3 of any appropriate clinical audit; or

15.5.4 that are otherwise agreed by the Provider and the Co-ordinating Commissioner to be implemented.

15.6 The Parties must maintain complete and accurate Transaction Records.

15.7 The Provider must, at its own expense, in line with applicable Law and Guidance:

15.7.1 implement an ongoing, proportionate programme of clinical audit of the Services in accordance with Good Practice;

15.7.2 implement an ongoing, proportionate audit of the accuracy of its recording and coding of clinical activity relating to the Services; and

15.7.3 provide to the Co-ordinating Commissioner on request the findings of any audits carried out under GC15.7.1 and/or 15.7.2.

15.8 The Co-ordinating Commissioner may at any time, having given the Provider not less than 10 Operational Days' notice of its intention to do so, appoint an Auditor to conduct an objective and impartial audit of:

15.8.1 the quality and outcomes of any Service; and/or

15.8.2 the Provider's recording and coding of clinical activity; and/or

15.8.3 the Provider's calculation of reconciliation accounts under SC36 (*Payment Terms*); and/or

15.8.4 the Provider's recording of performance and calculation of reconciliation accounts in relation to Quality Incentive Scheme Indicators; and/or

15.8.5 the Provider's recording of performance in respect of the Quality Requirements; and/or

15.8.6 the Provider's compliance with Other Local Agreements, Policies and Procedures and/or any Prior Approval Scheme and/or the Service Specifications; and/or

15.8.7 the basis of any Local Prices, taking into account the actual costs incurred by the Provider in providing the Services to which those Local Prices apply; and/or

15.8.8 pass-through costs on high cost drugs, devices and procedures; and/or

15.8.9 the identification of Chargeable Overseas Visitors and collection of charges from them or other persons liable to pay charges in respect of them under the Overseas Visitor Charging Regulations,

and subject to compliance with Data Protection Legislation (including any applicable Service User consent requirements), the Provider must allow the Auditor reasonable access to (and the right to take copies of) the Transaction Records, books of account and other sources of relevant information, and any Confidential Information so disclosed will be treated in accordance with GC20 (*Confidential Information of the Parties*). Except as provided in GC15.11 and 15.12, the cost of any audit carried out under this GC15.8 will be borne by the Commissioners.

15.9 In respect of any audit carried out under GC15.8, the Co-ordinating Commissioner must share the Auditor's draft report with the Provider, to allow discussion of the findings and the correction of any inaccuracies or misinterpretations before the production by the Auditor of a final report.

15.10 In respect of any audit carried out under GC15.8.1 or 15.8.6, if the Auditor's final report identifies any deficiencies in the Services, the Provider must take appropriate action to address those deficiencies without delay.

15.11 In respect of any audit carried out under GC15.8.2, 15.8.3, 15.8.4, 15.8.5, 15.8.6, 15.8.8 or 15.8.9 the consequences of such audit shall be managed in accordance with the provisions relating to reconciliation set out in Schedule 3B of the Particulars:

15.11.1 Intentionally Omitted;

15.11.2 Intentionally Omitted;

15.11.3 Intentionally Omitted.

15.12 In respect of any audit carried out under GC15.8.7:

15.12.1 the Provider must provide the Auditor with particulars of its costs (including the costs of Sub-Contractors and suppliers) and permit those costs to be verified by inspection of accounts and other documents and records;

15.12.2 the consequences of such audit shall be managed in accordance with the provisions relating to reconciliation set out in Schedule 3B of the Particulars.

GC16. Suspension

16.1 If a Suspension Event occurs, the Co-ordinating Commissioner:

16.1.1 may by written notice to the Provider require the Provider with immediate effect to suspend the provision of any affected Service, or the provision of any affected Service from any part of the Services Environment, until the Provider demonstrates to the reasonable satisfaction of the Co-ordinating Commissioner that it is able to and will provide the suspended Service to the required standard; and

16.1.2 must promptly notify any appropriate Regulatory or Supervisory Body of that suspension.

16.2 If and when the Co-ordinating Commissioner is reasonably satisfied that the Provider is able to and will provide the suspended Service to the required standard, it must by written notice require the Provider to restore the provision of the suspended Service.

16.3 The Provider must continue to comply with any steps that the Co-ordinating Commissioner may reasonably specify in order to remedy a Suspension Event, even if the matter has been referred to Dispute Resolution

Consequence of Suspension

16.4 During the suspension of any Service under GC16.1, the Provider will not be entitled to claim or receive any payment for the suspended Service except in respect of:

16.4.1 all or part of the suspended Service the delivery of which took place before the date on which the relevant suspension took effect in accordance with GC16.1.1; and/or.

16.4.2 all or part of the suspended Service which the Provider continues to deliver during the period of suspension in accordance with the notice served under GC16.1.1.

16.5 Unless suspension occurs as a result of the Commissioner considering that the circumstances constitute an emergency not caused in whole or part by any act or omission on the part of the Provider or any Sub-Contract (which may include an Event of Force Majeure), the Provider will indemnify the Commissioners in respect of any Losses reasonably incurred by them in respect of a suspension (including for the avoidance of doubt Losses incurred in commissioning the suspended Service from an alternative provider).

16.6 The Parties must use all reasonable endeavours to minimise any inconvenience to Service Users as a result of the suspension of the Service.

16.7 While any Service is suspended the Commissioners must use reasonable efforts to ensure that no further Service Users are referred to the Provider for that Service.

16.8 While any Service is suspended the Provider must:

16.8.1 not accept any further Referrals of Service Users for that Service;

16.8.2 co-operate fully with the Co-ordinating Commissioners and any interim or successor provider of that Service in order to ensure continuity and smooth transfer of the suspended Service and to avoid any inconvenience to or risk to the health and safety of Service Users, employees of the Commissioners or members of the public including:

16.8.2.1 promptly providing all reasonable assistance and all information necessary to effect an orderly assumption of that Service by any interim or successor provider; and

16.8.2.2 delivering to the Co-ordinating Commissioner all materials, papers, documents and operating manuals owned by the Commissioners and used by the Provider in the provision of that Service. For the avoidance of doubt such transfer shall not include Commercially Sensitive Information; and

16.8.2.3 Intentionally Omitted.

16.9 As part of its compliance with GC16.8 the Provider may be required by the Co-ordinating Commissioner to agree a transition plan with the Co-ordinating Commissioner and any interim or successor provider.

GC17. Termination

Termination: No Fault

17.1 The Co-ordinating Commissioner and the Provider may terminate this Contract or any Service at any time by mutual agreement.

17.2 The Co-ordinating Commissioner may terminate this Contract or any Service in respect of any one or more of the Provider's Premises by giving to the Provider written notice of not less than the Commissioner Notice Period, expiring no earlier than the Commissioner Earliest Termination Date.

17.3 Intentionally Omitted.

17.4 Intentionally Omitted.

17.5 Intentionally Omitted.

17.6 Intentionally Omitted.

17.7 Either the Co-ordinating Commissioner or the Provider may terminate this Contract or any affected Service by written notice, with immediate effect, if and to the extent that the Commissioners or the Provider suffer an Event of Force Majeure and that Event of Force Majeure persists for more than 20 Operational Days without the Parties agreeing alternative arrangements.

17.8 Intentionally Omitted.

Termination: Commissioner Default

17.9 The Provider may terminate this Contract, in whole or in respect of the relevant Commissioners, with immediate effect, by written notice to the Co-ordinating Commissioner:

17.9.1 if at any time the aggregate undisputed amount due to the Provider from the Co-ordinating Commissioner and/or any Commissioner exceeds:

17.9.1.1 Intentionally Omitted;

17.9.1.2 if there is no applicable Expected Annual Contract Value or the Expected Annual Contract Value is zero, the equivalent of 3 times the average monthly income to the Provider under this Contract,

and full payment is not made within 20 Operational Days of receipt of written notice from the Provider referring to this GC17.9 and requiring payment to be made; or

17.9.2 if any Commissioner is in persistent material breach of any of its obligations under this Contract so as to have a material and adverse effect on the ability of the Provider to provide the Services, and the Commissioner fails to remedy that breach within 40 Operational Days of the Co-ordinating Commissioner's receipt of the Provider's written notice identifying the breach; or

17.9.3 if any Commissioner breaches the terms of GC12.10 (*Assignment and Sub-Contracting*); or

17.9.4 any warranty given by any Commissioner under GC25.2 (*Warranties*) is found to be materially untrue or misleading.

Termination: Provider Default

17.10 The Co-ordinating Commissioner may terminate this Contract or any affected Service, with immediate effect, by written notice to the Provider if:

17.10.1 Intentionally Omitted; or

17.10.2 the Provider ceases to carry on its business or substantially all of its business, save as a result of its delivery of the Services; or

17.10.3 a Provider Insolvency Event occurs; or

17.10.4 the Provider is in persistent or repetitive breach of the Quality Requirements and such breach is not as a result of NHS England and/or NHS Improvement's non-compliance with GC5.1B; or

17.10.5 the Provider is in material breach of any regulatory compliance standards issued by any Regulatory or Supervisory Body or has been issued any warning notice under section 29 or 29A of the 2008 Act, or termination is otherwise required by any Regulatory or Supervisory Body; or

17.10.6 the Provider has been issued with any enforcement or penalty notice under the DPA 2018, or the Provider or any member of Staff is found guilty or admits guilt in respect of an offence under the DPA 2018, in relation to any matter connected with this Contract or the Services; or

17.10.7 Intentionally Omitted; or

17.10.8 the Provider does not comply with GC24.2 (*Change in Control*) or GC24.5 (*Change in Control*) and fails to remedy that breach within 20 Operational Days following receipt of a notice from the Co-ordinating Commissioner identifying the breach; or

17.10.9 there is:

17.10.9.1 a Provider Change in Control and, within 30 Operational Days after having received the Change in Control Notification, the Co-ordinating Commissioner reasonably determines that, as a result of that Provider Change in Control, there is (or is likely to be) an adverse effect on the ability of the Provider to provide the Services in accordance with this Contract; or

17.10.9.2 a breach of GC24.9.1 (*Change in Control*); or

17.10.9.3 a breach of GC24.9.2 (*Change in Control*) and the Provider has not replaced the Material Sub-Contractor within the relevant period specified in the notice served upon the Provider under GC24.10 (*Change in Control*); or

17.10.9.4 a Material Sub-Contractor Change in Control and the Provider has not replaced the Material Sub-Contractor within the relevant period specified in the notice served on the Provider under GC24.8.3 (*Change in Control*); or

17.10.10 the Provider:

17.10.10.1 fails to obtain any Consent; or

17.10.10.2 loses any Consent; or

17.10.10.3 has any Consent varied or restricted,

and that is reasonably considered by the Co-ordinating Commissioner to have a material adverse effect on the provision of the Services; or

17.10.11 the Provider fails materially to comply with the requirements of GC23 (*NHS Identity, Marketing and Promotion*); or

17.10.12 the Provider has breached any of its obligations under SC1 (*Compliance with the Law and the NHS Constitution*) in any material respect, and the Provider has not remedied that breach within 40 Operational Days following receipt of notice from the Co-ordinating Commissioner identifying the breach; or

17.10.13 the Provider has breached the terms of GC26 (*Prohibited Acts*); or

17.10.14 Monitor's Licence for the Provider or any Material Sub-Contractor is revoked, varied or restricted; or

17.10.15 the Provider breaches the terms of GC12 (*Assignment and Sub-Contracting*); or

17.10.16 the NHS Business Services Authority has notified the Commissioners that the Provider or any Sub-Contractor has, in the opinion of the NHS Business Services Authority, failed in any material respect to comply with its obligations in relation to the NHS Pension Scheme (including those under any Direction Letter/Determination); or

17.10.17 any warranty given by the Provider under GC25.1 (*Warranties*) is found to be materially untrue or misleading; or

17.10.18 the Co-ordinating Commissioner reasonably believes that the circumstances set out in regulation 73(1)(b) of the Public Contracts Regulations 2015 apply.

GC18. Consequence of Expiry or Termination

18.1 Expiry or termination of this Contract, or termination of any Service, will not affect any rights or liabilities of the Parties that have accrued before the date of that expiry or termination or which later accrue.

18.2 Intentionally Omitted.

18.3 On or pending expiry or termination of this Contract or termination of any Service the Co-ordinating Commissioner, the Provider, and if appropriate any successor provider, will agree a Succession Plan.

18.4 For a reasonable period before and after termination of this Contract or of any Service, and where reasonable and appropriate before and after the expiry of this Contract, the Provider must:

18.4.1 co-operate fully with the Co-ordinating Commissioner and any successor provider of the terminated Services in order to ensure continuity and a smooth transfer of the expired or terminated Services, and to avoid any inconvenience or any risk to the health and safety of Service Users or employees of any Commissioner or members of the public; and

18.4.2 at the reasonable cost and reasonable request of the Co-ordinating Commissioner:

18.4.2.1 promptly provide all reasonable assistance and information to the extent necessary to effect an orderly assumption of the terminated Services by a successor provider;

18.4.2.2 deliver to the Co-ordinating Commissioner all materials, papers, documents, and operating manuals owned by the Commissioners and used by the Provider in the provision of any terminated Services, which shall not include, for the avoidance of doubt, Commercially Sensitive Information; and

18.4.2.3 use all reasonable efforts to obtain the consent of third parties to the assignment, novation or termination of existing contracts between the Provider and any third party which were entered into specifically for the delivery of the terminated Services.

18.5 On and pending expiry or termination of this Contract, or termination of any Service, the Parties must:

18.5.1 implement and comply with their respective obligations under the Succession Plan; and

18.5.2 use all reasonable endeavours to minimise any inconvenience caused or likely to be caused to Service Users or prospective service users as a result of the expiry or termination of this Contract or any Service.

18.6 Intentionally Omitted.

18.7 On expiry or termination of this Contract or termination of any Service:

18.7.1 the Commissioners must ensure that no further Service Users who require any expired or terminated Service are referred to the Provider;

18.7.2 the Provider must stop accepting any Referrals that require any expired or terminated Service; and

18.7.3 subject to any appropriate arrangements made under GC18.4 and 18.5, the Provider must immediately cease its treatment of Service Users requiring the expired or terminated Service, and/or arrange for their transfer or discharge as soon as is practicable,

in accordance with Good Practice and the Succession Plan.

18.8 If termination of this Contract or of any Service takes place with immediate effect in accordance with GC17 (*Termination*), and the Provider is unable or not permitted to continue to provide any affected Service under any Succession Plan, or implement arrangements for the transition to a successor provider, the Provider must co-operate fully with the Co-ordinating Commissioner and any relevant Commissioners to ensure that:

18.8.1 any affected Service is commissioned without delay from an alternative provider; and

18.8.2 Intentionally Omitted.

18.9 On and pending expiry or termination of this Contract, or termination of any Service, any arrangements set out in Schedule 2I (*Exit Arrangements*) will apply.

GC19. Provisions Surviving Termination

19.1 Any rights, duties or obligations of any of the Parties which are expressed to survive, or which otherwise by necessary implication survive the expiry or termination for any reason of this Contract, together with all indemnities, will continue after expiry or termination, subject to any limitations of time expressed in this Contract.

GC20. Confidential Information of the Parties

20.1 Except as this Contract otherwise provides Confidential Information is owned by the disclosing Party and the receiving Party has no right to use it.

20.2 Subject to GC20.3 and GC20.4, the receiving Party agrees:

20.2.1 to use the disclosing Party's Confidential Information only in connection with the receiving Party's performance under this Contract;

20.2.2 not to disclose the disclosing Party's Confidential Information to any third party or to use it to the detriment of the disclosing Party; and

20.2.3 to maintain the confidentiality of the disclosing Party's Confidential Information and to return it immediately on receipt of written demand from the disclosing Party.

20.2A The Parties acknowledge and confirm that the subject matter of this Contract will require the Provider to allow the Co-ordinating Commissioner access to Commercially Sensitive Information. The Co-ordinating Commissioner shall:

20.2A.1 not use such Commercially Sensitive Information other than strictly for the purposes of this Contract;

20.2A.2 not disclose Commercially Sensitive Information except as set out in GC20.3;

20.2A.3 use Commercially Sensitive Information as set out in Schedule 3B of the Particulars; and

20.2A.4 destroy or return, and procure the NHS Accountant destroys or returns, Commercially Sensitive Information and all copies of the same in a reasonable timeframe, taking into account any regulatory requirements, following expiry or termination of this Contract.

20.3 The receiving Party may disclose the disclosing Party's Confidential Information:

20.3.1 in connection with any Dispute Resolution;

20.3.2 in connection with any litigation between the Parties;

20.3.3 to comply with the Law;

20.3.4 to any appropriate Regulatory or Supervisory Body;

20.3.5 to its staff, who in respect of that Confidential Information will be under a duty no less onerous than the receiving Party's duty under GC20.2 and GC20.2A;

20.3.6 to NHS Bodies for the purposes of carrying out their duties, provided that such NHS Bodies will be under a duty in relation to the Confidential Information that is no less onerous than the receiving Party's duty under GC20.2 and GC20.2A;

20.3.7 as permitted under or as may be required to give effect to GC9 (*Contract Management*);

20.3.8 as permitted under or as may be required to give effect to SC24 (*NHS Counter-Fraud and Security Management*); and

20.3.9 as permitted under any other express arrangement or other provision of this Contract.

20.4 The obligations in GC20.1 and GC20.2 will not apply to any Confidential Information which:

20.4.1 is in or comes into the public domain other than by breach of this Contract;

20.4.2 the receiving Party can show by its records was in its possession before it received it from the disclosing Party; or

20.4.3 the receiving Party can prove it obtained or was able to obtain from a source other than the disclosing Party without breaching any obligation of confidence.

20.5 Subject to GC25.1.3 and GC25.2.3 (*Warranties*), the disclosing Party does not warrant the accuracy or completeness of the Confidential Information.

20.6 The receiving Party must indemnify the disclosing Party and keep the disclosing Party indemnified against Losses and Indirect Losses suffered or incurred by the disclosing Party as a result of any breach of this GC20.

20.7 The Parties acknowledge that damages would not be an adequate remedy for any breach of this GC20 by the receiving Party, and in addition to any right to damages the disclosing Party will be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of this GC20.

20.8 This GC20 will survive the expiry or the termination of this Contract for a period of 5 years.

20.9 This GC20 will not limit valid application of the Public Interest Disclosure Act 1998 in any way whatsoever.

GC21. Patient Confidentiality, Data Protection, Freedom of Information and Transparency

Information Governance – General Responsibilities

21.1 The Parties must comply with Data Protection Legislation, Data Guidance, the FOIA and the EIR, and must assist each other as necessary to enable each other to comply with these obligations.

21.2 The Provider must complete and publish an annual information governance assessment in accordance with, and comply with the mandatory requirements of, the NHS Data Security and Protection Toolkit, as applicable to the Services and the Provider's organisation type.

21.3 The Provider must:

21.3.1 nominate an Information Governance Lead;

21.3.2 nominate a Caldicott Guardian and Senior Information Risk Owner, who must be a member of the Provider's Governing Body;

21.3.3 where required by Data Protection Legislation, nominate a Data Protection Officer;

21.3.4 ensure that the Co-ordinating Commissioner is kept informed at all times of the identities and contact details of the Information Governance Lead, Data Protection Officer, Caldicott Guardian and the Senior Information Risk Owner; and

21.3.5 ensure that NHS England is kept informed at all times of the identities and contact details of the Information Governance Lead, Data Protection Officer, Caldicott Guardian and the Senior Information Risk Owner.

21.4 The Provider must adopt and implement the National Data Guardian's Data Security Standards and must comply with further Guidance issued by the Department of Health and Social Care, NHS England and/or NHS Digital pursuant to or in connection with those standards. The Provider must be able to demonstrate its compliance with those standards in accordance with the requirements and timescales set out in such Guidance, including requirements for enabling patient choice.

21.5 The Provider must, at least once in each Contract Year, audit its practices against quality statements regarding data sharing set out in NICE Clinical Guideline 138.

21.6 The Provider must ensure that its NHS Data Security and Protection Toolkit submission is audited in accordance with Information Governance Audit Guidance where applicable. The Provider must inform the Co-ordinating Commissioner of the results of each audit and publish the audit report both within the NHS Data Security and Protection Toolkit and on its website.

21.7 The Provider must report and publish any Data Breach and any Information Governance Breach in accordance with IG Guidance for Serious Incidents. If the Provider is required under Data Protection Legislation to notify the Information Commissioner or a Data Subject of a Personal Data Breach then as soon as reasonably practical and in any event on or before the first such notification is made the Provider must inform the Co-ordinating Commissioner of the Personal Data Breach. This GC21.7 does not require the Provider to provide the Co-ordinating Commissioner with information which identifies any individual affected by the Personal Data Breach where doing so would breach Data Protection Legislation.

Data Protection

21.8 The Provider must have in place a communications strategy and implementation plan to ensure that Service Users are provided with, or have made readily available to them, Privacy Notices, and to disseminate nationally-produced patient information materials. Any failure by the Provider to inform Service Users as required by Data Protection Legislation or Data Guidance about the uses of Personal Data that may take place under this Contract cannot be relied on by the Provider as evidence that such use is unlawful and therefore not contractually required.

21.9 Whether or not a Party or Sub-Contractor is a Data Controller or Data Processor will be determined in accordance with Data Protection Legislation and the ICO Guidance on Data Controllers and Data Processors and any further Data Guidance from a Regulatory or Supervisory Body. The Parties acknowledge that a Party or Sub-Contractor may act as both a Data Controller and a Data Processor. The Parties have indicated in the Particulars whether they consider the Provider to be a Data Processor on behalf of one or more of the Commissioners for the purposes of this Contract.

21.10 The Provider must ensure that all Personal Data processed by or on behalf of the Provider in the course of delivering the Services is processed in accordance with the relevant Parties' obligations under Data Protection Legislation and Data Guidance.

21.11 In relation to Personal Data processed by the Provider in the course of delivering the Services, the Provider must publish, maintain and operate:

21.11.1 policies relating to confidentiality, data protection and information disclosures that comply with the Law, the Caldicott Principles and Good Practice;

21.11.2 policies that describe the personal responsibilities of Staff for handling Personal Data;

21.11.3 a policy that supports the Provider's obligations under the NHS Care Records Guarantee;

21.11.4 agreed protocols to govern the sharing of Personal Data with partner organisations; and

21.11.5 where appropriate, a system and a policy in relation to the recording of any telephone calls or other telehealth consultations in relation to the Services, including the retention and disposal of those recordings,

and apply those policies and protocols conscientiously.

21.12 Where a Commissioner requires information for the purposes of quality management of care processes, the Provider must consider whether the Commissioner's request can be met by providing anonymised or aggregated data which does not contain Personal Data. Where Personal Data must be shared in order to meet the requirements of the Commissioner, the Provider must:

21.12.1 provide such information in pseudonymised form where possible; and in any event

21.12.2 ensure that there is a legal basis for the sharing of Personal Data.

21.13 Notwithstanding GC21.12, the Provider must (unless it can lawfully justify non-disclosure) disclose defined or specified confidential patient information to or at the request of the Co-ordinating Commissioner where support has been provided under the Section 251 Regulations, respecting any individual Service User's objections and complying with other conditions of the relevant approval.

The Provider as a Data Processor

21.14 Where the Provider, in the course of delivering the Services, acts as a Data Processor on behalf of a Commissioner, the provisions of Schedule 6F *(Provider Data Processing Agreement)* will apply.

Data sharing agreement

21.14A The Commissioner will use reasonable endeavours to request that local NHS providers transferring patients to the Provider enter into a data sharing agreement in substantially the form of the template set out in Schedule 6G.

Responsibilities when engaging Sub-Contractors

21.15 Subject always to GC12 (*Assignment and Sub-Contracting*), if the Provider is to engage any Sub-Contractor to deliver any part of the Services (other than as a Data Processor) and the Sub-Contractor is to access personal or confidential information or interact with Service Users, the Provider must impose on its Sub-Contractor obligations that are no less onerous than the obligations imposed on the Provider by this GC21.

21.16 Without prejudice to GC12 (*Assignment and Sub-Contracting*), if the Provider is to require any Sub-Contractor to act as a Data Processor on its behalf, the Provider must:

21.16.1 require that Sub-Contractor to provide sufficient guarantees in respect of its technical and organisational security measures governing the data processing to be carried out, and take reasonable steps to ensure compliance with those measures;

21.16.2 carry out and record appropriate due diligence before the Sub-Contractor processes any Personal Data in order to demonstrate compliance with Data Protection Legislation; and

21.16.3 as far as practicable include in the terms of the sub-contract terms equivalent to those set out in Schedule 6F *(Provider Data Processor Agreement)* and in any event ensure that the Sub-Contractor is engaged under the terms of a binding written agreement requiring the Sub-Contractor to:

21.16.3.1 process Personal Data only in accordance with the Provider's instructions as set out in the written agreement, including instructions regarding transfers of Personal Data outside the EU or to an international organisation unless such transfer is required by Law, in which case the Data Processor shall inform the Provider of that requirement before processing takes place, unless this is prohibited by law on the grounds of public interest;

21.16.3.2 ensure that persons authorised to process the Personal Data on behalf of the Sub-Contractor have committed themselves to confidentiality or are under appropriate statutory obligations of confidentiality;

21.16.3.3 comply at all times with those obligations set out at Article 32 of the GDPR and equivalent provisions implemented into Law by DPA 2018;

21.16.3.4 impose obligations as set out in this GC21.16.3 on any Sub-processor appointed by the Sub-Contractor;

21.16.3.5 taking into account the nature of the processing, assist the Provider by taking appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Provider's obligation to respond to requests for exercising rights granted to individuals by Data Protection Legislation;

21.16.3.6 assist the Provider in ensuring compliance with the obligations set out at Article 32 to 36 of the GDPR and equivalent provisions implemented into Law, taking into account the nature of processing and the information available to the Sub-Contractor;

21.16.3.7 at the choice of the Provider, delete or return all Personal Data to the Provider after the end of the provision of services relating to processing, and delete existing copies unless the Law requires storage of the Personal Data;

21.16.3.8 create and maintain a record of all categories of data processing activities carried out under the Sub-Contract, containing:

21.16.3.8.1 the name and contact details of the Data Protection Officer (where required by Data Protection Legislation to have one);

21.16.3.8.2 the categories of processing carried out on behalf of the Provider;

21.16.3.8.3 where applicable, transfers of Personal Data to a third country or an international organisation, including the identification of that third country or international organisation and, where relevant, the documentation of suitable safeguards; and

21.16.3.8.4 a general description of the technical and organisation security measures taken to ensure the security and integrity of the Personal Data processed under this Contract;

21.16.3.9 guarantee that it has technical and organisational measures in place that are sufficient to ensure that the processing complies with Data Protection Legislation and ensures that the rights of Data Subject are protected;

21.16.3.10 allow rights of audit and inspection in respect of relevant data handling systems to the Provider or to the Co-ordinating Commissioner or to any person authorised by the Provider or by the Co-ordinating Commissioner to act on its behalf; and

21.16.3.11 impose on its own Sub-Contractors (in the event the Sub-Contractor further sub-contracts any of its obligations under the Sub-Contract) obligations that are substantially equivalent to the obligations imposed on the Sub-Contractor by this GC21.16.3.

21.17 The agreement required by GC21.16 must also set out:

21.17.1 the subject matter of the processing;

21.17.2 the duration of the processing;

21.17.3 the nature and purposes of the processing;

21.17.4 the type of personal data processed;

21.17.5 the categories of data subjects; and

21.17.6 the plan for return and destruction of the data once processing is complete unless the Law requires that the data is preserved.

Freedom of Information and Transparency

21.18 The Provider acknowledges that the Commissioners are subject to the requirements of FOIA and EIR. The Provider must assist and co-operate with each Commissioner to enable it to comply with its disclosure obligations under FOIA and EIR. The Provider agrees:

21.18.1 that this Contract and any other recorded information held by the Provider on a Commissioner's behalf for the purposes of this Contract are subject to the obligations and commitments of the Commissioner under FOIA and EIR;

21.18.2 that the decision on whether any exemption under FOIA or exception under EIR applies to any information is a decision solely for the Commissioner to whom a request for information is addressed;

21.18.3 that where the Provider receives a request for information relating to the Services provided under this Contract and the Provider itself is subject to FOIA or EIR, it will liaise with the relevant Commissioner as to the contents of any response before a response to a request is issued and will promptly (and in any event within 2 Operational Days) provide a copy of the request and any response to the relevant Commissioner;

21.18.4 that where the Provider receives a request for information and the Provider is not itself subject to FOIA or as applicable EIR, it will not respond to that request (unless directed to do so by the relevant Commissioner to whom the request relates) and will promptly (and in any event within 2 Operational Days) transfer the request to the relevant Commissioner;

21.18.5 that any Commissioner, acting in accordance with the codes of practice issued and revised from time to time under both section 45 of FOIA and regulation 16 of EIR, may disclose information concerning the Provider and this Contract either without consulting with the Provider, or following consultation with the Provider and having taken its views into account; and

21.18.6 to assist the Commissioners in responding to a request for information, by processing information or environmental information (as the same are defined in FOIA or EIR) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA, and providing copies of all information requested by that Commissioner within 5 Operational Days of that request and without charge.

21.19 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of FOIA, or for which an exception applies under EIR, the content of this Contract is not Confidential Information.

21.20 Notwithstanding any other term of this Contract, the Provider consents to the publication of this Contract in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of FOIA or for which an exception applies under EIR.

21.21 In preparing a copy of this Contract for publication under GC21.20 the Commissioners may consult with the Provider to inform decision-making regarding any redactions but the final decision in relation to the redaction of information will be at the Commissioners' absolute discretion.

21.22 The Provider must assist and cooperate with the Commissioners to enable the Commissioners to publish this Contract.

NHS Data Sharing Principles

21.23 The Provider must have regard to the NHS Data Sharing Principles.

GC22. Intellectual Property

22.1 Except as set out expressly in this Contract no Party will acquire the IPR of any other Party.

22.2 The Provider grants the Commissioners a fully paid-up, non-exclusive, perpetual licence to use the Provider Deliverables for the purposes of the exercise of their statutory and contractual functions and obtaining the full benefit of the Services under this Contract.

22.3 The Commissioners grant the Provider a fully paid-up, non-exclusive licence:

22.3.1 to use the Commissioner Deliverables; and

22.3.2 to use the NHS Identity,

in each case for the sole purpose of providing the Services. The Provider may not grant any sub-licence of the NHS Identity without the express permission of NHS England's NHS Identity team.

22.4 The Provider must co-operate with the Commissioners to enable the Commissioners to understand and adopt Best Practice (including the dissemination of Best Practice to other commissioners or providers of NHS services), and must supply such materials and information in relation to Best Practice as the Commissioners may reasonably request, and (to the extent that any IPR (not relating to Commercially Sensitive Information) attaches to Best Practice), grants the Commissioners a fully paid-up, non-exclusive, perpetual licence for the Commissioners to use such Best Practice IPR for the commissioning of NHS services and to share any Best Practice IPR with other commissioners of NHS services (and other providers of NHS services) to enable those parties to adopt such Best Practice.

GC23. NHS Identity, Marketing and Promotion

23.1 The Provider must comply with NHS Identity Guidelines.

23.2 Goodwill in the Services, to the extent branded as NHS services, will belong separately to both the Secretary of State and the Provider. The Provider may enforce its rights in its own branding even if it includes the NHS Identity. The Provider must provide whatever assistance the Secretary of State may reasonably require to allow the Secretary of State to maintain and enforce his rights in respect of the NHS Identity.

23.3 The Provider must indemnify the Secretary of State and the Commissioners for any Losses suffered in relation of any claim made against the Secretary of State or any Commissioner by virtue of section 2 of the Consumer Protection Act 1987 in respect of the use of any defective product by the Provider or any Staff or Sub-Contractor in the provision of the Services.

GC24. Change in Control

24.1 This GC24 applies to any Provider Change in Control and/or any Material Sub-Contractor Change in Control, but not to a Change in Control of a company which is a Public Company.

24.2 The Provider must:

24.2.1 as soon as possible on, and in any event within 5 Operational Days following, a Provider Change in Control; and/or

24.2.2 immediately on becoming aware of a Material Sub-Contractor Change in Control,

notify the Co-ordinating Commissioner of that Change in Control and submit to the Co-ordinating Commissioner a completed Change in Control Notification.

24.3 If the Provider indicates in the Change in Control Notification an intention or proposal to make any consequential changes to its operations then, to the extent that those changes require a change to the terms of this Contract in order to be effective, they will only be effective when a Variation is made in accordance with GC13 (*Variations*). The Co-ordinating Commissioner will not and will not be deemed by a failure to respond or comment on the Change in Control Notification to have agreed to or otherwise to have waived its rights under to GC13 (*Variations*) in respect of that intended or proposed change.

24.4 The Provider must specify in the Change in Control Notification any intention or proposal to make a consequential change to its operations which would or would be likely to have an adverse effect on the Provider's ability to provide the Services in accordance with this Contract. If the Provider does not do so it will not be entitled to propose a Variation in respect of that for a period of 6 months following the date of that Change in Control Notification, unless the Co-ordinating Commissioner agrees otherwise.

24.5 If (and subject always to GC24.3) the Provider does not specify in the Change in Control Notification an intention or proposal to sell or otherwise dispose of any legal or beneficial interest in the Provider's Premises as a result of or in connection with the Change in Control then, unless the Co-ordinating Commissioner provides its written consent to the relevant action, the Provider must:

24.5.1 ensure that there is no such sale or other disposal which would or would be likely to have an adverse effect on the Provider's ability to provide the Services in accordance with this Contract; and

24.5.2 continue providing the Services from the Provider's Premises,

in each case for at least 12 months following the date of that Change in Control Notification. The provisions of this GC24.5 will not apply to an assignment by way of security or the grant of any other similar rights by the Provider consequent upon a financing or re-financing of the transaction resulting in Change of Control.

24.6 The Provider must supply (and must use its reasonable endeavours to procure that the relevant Material Sub-Contractor supplies) to the Co-ordinating Commissioner, whatever further information relating to the Change in Control the Co-ordinating Commissioner may, within 20 Operational Days after receiving the Change in Control Notification, reasonably request.

24.7 The Provider must use its reasonable endeavours to ensure that the terms of its contract with any Material Sub-Contractor include a provision obliging the Material Sub-Contractor to inform the Provider in writing on, and in any event within 5 Operational Days following, a Material Sub-Contractor Change in Control in respect of that Material Sub-Contractor.

24.8 If:

24.8.1 there is a Material Sub-contractor Change in Control; and

24.8.2 following consideration of the information provided to the Co-ordinating Commissioner in the Change in Control Notification or under GC24.6, the Co-ordinating Commissioner

reasonably concludes that, as a result of that Material Sub-Contractor Change in Control, there is (or is likely to be) an adverse effect on the ability of the Provider and/or the Material Sub-Contractor to provide Services in accordance with this Contract (and, in reaching that conclusion, the Co-ordinating Commissioner may consider any factor, in its absolute discretion, that it considers relevant to the provision of Services),

then:

24.8.3 the Co-ordinating Commissioner may, by serving a written notice upon the Provider, require the Provider to replace the relevant Material Sub-Contractor within 10 Operational Days (or other period reasonably specified by the Co-ordinating Commissioner taking into account the interests of Service Users and the need for the continuity of Services); and

24.8.4 the Provider must replace the relevant Material Sub-Contractor within the period specified under GC24.8.3; and

24.8.5 for the avoidance of doubt, the provisions of GC12 (*Assignment and Sub-Contracting*) will apply in relation to the replacement Material Sub-Contractor and, on the granting of the approval referred to in GC12 (*Assignment and Sub-Contracting*), the provisions of Schedule 5B (*Provider's Material Sub-Contracts*) will be amended accordingly.

24.9 Notwithstanding any other provision of this Contract:

24.9.1 a Restricted Person must not hold, and the Provider must not permit a Restricted Person to hold, at any time 5% or more of the total value of any Security in the Provider or in the Provider's Holding Company or any of the Provider's subsidiaries (as defined in the Companies Act 2006); and

24.9.2 a Restricted Person must not hold, and the Provider must not permit (and must procure that a Material Sub-Contractor must not at any time permit) a Restricted Person to hold, at any time 5% or more of the total value of any Security in a Material Sub-Contractor or in any Holding Company or any of the subsidiaries (as defined in the Companies Act 2006) of a Material Sub-Contractor.

24.10 If the Provider breaches GC24.9.2, the Co-ordinating Commissioner may by serving written notice upon the Provider, require the Provider to replace the relevant Material Sub-Contractor within:

24.10.1 5 Operational Days; or

24.10.2 whatever period may be reasonably specified by the Co-ordinating Commissioner (taking into account any factors which the Co-ordinating Commissioner considers relevant in its absolute discretion, including the interests of Service Users and the need for the continuity of Services),

and the Provider must replace the relevant Material Sub-Contractor within the period specified in that notice.

24.11 Nothing in this GC24 will prevent or restrict the Provider from discussing with the Co-ordinating Commissioner a proposed Change in Control before it occurs. In those circumstances, all and any information provided to or received by the Co-ordinating Commissioner in relation to that proposed Change in Control will be Confidential Information for the purposes of GC20 (*Confidential Information of the Parties*).

24.12 Subject to the Law and to the extent reasonable the Parties must co-operate in any public announcements arising out of a Change in Control.

GC25. Warranties

25.1 The Provider warrants to each Commissioner that:

25.1.1 it has full power and authority to enter into this Contract and all governmental or official approvals and consents and all necessary Consents have been obtained and are in full force and effect;

25.1.2 its execution of this Contract does not and will not contravene or conflict with its constitution, Monitor's Licence, any Law, or any agreement to which it is a party or which is binding on it or any of its assets;

25.1.3 the copies of all documents supplied to the Commissioners or any of their advisers by or on its behalf and listed in Schedule 5A (*Documents Relied On*) from time to time are complete and their contents are true;

25.1.4 it has the right to permit disclosure and use of its Confidential Information for the purpose of this Contract;

25.1.5 to the best of its knowledge, and in the context of the current circumstances relating to COVID-19, nothing will have, or is likely to have, a material adverse effect on its ability to perform its obligations under this Contract;

25.1.6 any Material Sub-Contractor will have and maintain all Indemnity Arrangements and Consents and will deliver the subcontracted services in accordance with the Provider's obligations under this Contract;

25.1.7 all information supplied by it to the Commissioners leading to the award of this Contract is, to its reasonable knowledge and belief, true and accurate and it is not aware of any material facts or circumstances which have not been disclosed to the Commissioners which would, if disclosed, be likely to have an adverse effect on a reasonable public sector entity's decision whether or not to contract with the Provider substantially on the terms of this Contract; and

25.1.8 it has notified the Co-ordinating Commissioner in writing of any Occasions of Tax Non-compliance or any litigation in which it is involved in connection with any Occasions of Tax Non-compliance.

25.2 Each Commissioner warrants to the Provider that:

25.2.1 it has full power and authority to enter into this Contract and all necessary approvals and consents have been obtained and are in full force and effect;

25.2.2 its execution of this Contract does not and will not contravene or conflict with its constitution, any Law, or any agreement to which it is a party or which is binding on it or any of its assets;

25.2.3 the copies of all documents supplied to the Provider or any of its advisers by it or on its behalf and listed in Schedule 5A (*Documents Relied On*) from time to time are complete and their contents are true;

25.2.4 it has the right to permit disclosure and use of its Confidential Information for the purpose of this Contract; and

25.2.5 to the best of its knowledge, and in the context of the current circumstances relating to COVID-19,, nothing will have, or is likely to have, a material adverse effect on its ability to perform its obligations under this Contract.

25.3 The warranties set out in this GC25 are given on the Effective Date and repeated on every day during the Contract Term.

25.4 Each Party must notify the others within 5 Operational Days following the occurrence of any event or circumstance which would or might render any warranty on its part untrue or misleading, providing full details as appropriate.

GC26. Prohibited Acts

26.1 The Provider must not commit any Prohibited Act.

26.2 If the Provider or its employees or agents (or anyone acting on its or their behalf) commits any Prohibited Act in relation to this Contract with or without the knowledge of the Co-ordinating Commissioner, the Co-ordinating Commissioner will be entitled:

26.2.1 to exercise its right to terminate under GC17.10.12 (*Termination*) and to recover from the Provider the amount of any loss resulting from the termination; and

26.2.2 to recover from the Provider the amount or value of any gift, consideration or commission concerned; and

26.2.3 to recover from the Provider any loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence.

GC27. Conflicts of Interest and Transparency on Gifts and Hospitality

27.1 If a Party becomes aware of any actual, potential or perceived conflict of interest which is likely to affect another Party's decision (that Party acting reasonably) whether or not to contract or continue to contract substantially on the terms of this Contract, the Party aware of the conflict must immediately declare it to the other. The other Party may then, without affecting any other right it may have under Law, take whatever action under this Contract as it deems necessary.

27.2 The Provider must and must ensure that, in delivering the Services, all Staff comply with Law, with Managing Conflicts of Interest in the NHS and other Guidance, and with Good Practice, in relation to gifts, hospitality and other inducements and actual or potential conflicts of interest. As soon as possible after the end of each Contract Year, the Provider must publish on its website the name and position of any Decision-Making Staff who have neither completed a declaration of interest nor submitted a nil return in respect of that Contract Year, as required of them under Managing Conflicts of Interest in the NHS. In accordance with its general obligation to comply with Data Protection Legislation under GC21.1, the Provider must ensure that an appropriate Privacy Notice is provided to Staff to enable publication of such information.

GC28. Force Majeure

28.1 This GC28 must be read in conjunction with SC31 (*Force Majeure: Service-specific provisions*).

28.2 If an Event of Force Majeure occurs, the Affected Party must:

28.2.1 take all reasonable steps to mitigate the consequences of that event;

28.2.2 resume performance of its obligations as soon as practicable; and

28.2.3 use all reasonable efforts to remedy its failure to perform its obligations under this Contract.

28.3 The Affected Party must serve an initial written notice on the other Parties immediately when it becomes aware of the Event of Force Majeure. This initial notice must give sufficient detail to identify the Event of Force Majeure and its likely impact. The Affected Party must then serve a more detailed written notice within a further 5 Operational Days. This more detailed notice must contain all relevant information as is available, including the effect of the Event of Force Majeure, the mitigating action being taken and an estimate of the period of time required to overcome the event and resume full delivery of Services.

28.4 If it has complied with its obligations under GC28.2 and GC28.3, the Affected Party will be relieved from liability under this Contract if and to the extent that it is not able to perform its obligations under this Contract due to the Event of Force Majeure.

28.5 The Commissioners will not be entitled to exercise their rights under the Withholding and Retention of Payment Provisions to the extent that the circumstances giving rise to those rights arise as a result of an Event of Force Majeure.

GC29. Third Party Rights

29.1 A person who is not a Party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of this Contract, except that, to the extent that it applies in its or their favour, this Contract may be enforced by:

29.1.1 a person who is the Provider's employee and is performing the Services for the Provider, if the matter to be enforced or the benefit to be enjoyed arises under GC5 (*Staff*), other than GC5.2, GC5.4.2 and GC5.16 to GC5.18 (*Staff*);

29.1.2 the Secretary of State;

29.1.3 a Regulatory or Supervisory Body

29.1.4 any CCG or Local Authority;

29.1.5 the NHS Business Services Authority;

29.1.6 a previous provider of services equivalent to the Services or any of them before the Service Commencement Date, or a new provider of services equivalent to the Services or any of them after the expiry or termination of this Contract or any Service, if the matter to be enforced or the benefit to be enjoyed arises under GC5.12 to GC5.15 (*Staff*);

29.1.7 the relevant NHS Employer, if the matter to be enforced or the benefit to be enjoyed arises under GC5.16 to GC5.18 (*Staff*).

29.2 Subject to GC13.2.2 (*Variations*), the rights of the Parties to terminate, rescind or agree any Variation, waiver or settlement under this Contract are not subject to the consent of any person who is not a party to this Contract, save (where applicable) members of the Provider Group.

GC30. Entire Contract

30.1 This Contract constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties relating to the subject matter of this Contract, except for any contract entered into between the Commissioners and the Provider to the extent that it relates to the same or similar services and is designed to remain effective until the Service Commencement Date.

30.2 Each of the Parties acknowledges and agrees that in entering into this Contract it does not rely on and has no remedy in respect of any statement, representation, warranty or undertaking (if negligently or innocently made) or any person (whether a party to this Contract or not) other than as expressly set out in this Contract as a warranty or in any document agreed by the Parties to be relied on and listed in Schedule 5A (*Documents Relied On*).

30.3 Nothing in this GC30 will exclude any liability for fraud or any fraudulent misrepresentation.

GC31. Severability

31.1 If any provision or part of any provision of this Contract is declared invalid or otherwise unenforceable, that provision or part of the provision as applicable will be severed from this Contract. This will not affect the validity and/or enforceability of the remaining part of that provision or of other provisions.

GC32. Waiver

32.1 Any relaxation of or delay by any Party in exercising any right under this Contract must not be taken as a waiver of that right and will not affect the ability of that Party subsequently to exercise that right.

GC33. Remedies

33.1 Except as expressly set out in this Contract, no remedy conferred by any provision of this Contract is intended to be exclusive of any other remedy and each and every remedy will be cumulative and will be in addition to every other remedy given under this Contract or existing at law or in equity, by statute or otherwise.

GC34. Exclusion of Partnership

34.1 Nothing in this Contract will create a partnership or joint venture or relationship of employer and employee or principal and agent between any Commissioner and the Provider.

GC35. Non-Solicitation

35.1 During the life of this Contract neither the Provider nor any Commissioner is to solicit any medical, clinical or nursing staff engaged or employed by the other without the other's prior written consent.

35.2 Subject to Guidance, it will not be considered to be a breach of GC35.1 if:

35.2.1 an individual becomes an employee of a Party as a result of a response by that individual to an advertisement placed by or on behalf of that Party for the recruitment of clinical or nursing staff or Consultants; and

35.2.2 where it is apparent from the wording of the advertisement, the manner of its publication, or otherwise that the advertisement was equally likely to attract applications from individuals who were not employees of the other Party.

GC36. Notices

36.1 Any notices given under this Contract must be in writing and must be served by hand, post, or e-mail to the address for service of notices for the relevant Party set out in the Particulars.

36.2 Notices:

36.2.1 by post will be effective upon the earlier of actual receipt, or 5 Operational Days after mailing;

36.2.2 by hand will be effective upon delivery; and

36.2.3 by e-mail will be effective when sent in legible form, but only if, following transmission, the sender does not receive a non-delivery message.

GC37. Costs and Expenses

37.1 Each Party is responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Contract.

GC38. Counterparts

38.1 This Contract may be executed in any number of counterparts, each of which will be regarded as an original, but all of which together will constitute one agreement binding on all of the Parties, notwithstanding that all of the Parties are not signatories to the same counterpart.

GC39. Governing Law and Jurisdiction

39.1 This Contract will be considered as a Contract made in England and will be subject to the laws of England.

39.2 Subject to the provisions of GC14 (*Dispute Resolution*), the Parties agree that the courts of England have exclusive jurisdiction to hear and settle any action, suit, proceedings or dispute in connection with this Contract (whether contractual or non-contractual in nature).

DEFINITIONS AND INTERPRETATION

1. The headings in this Contract will not affect its interpretation.

2. Reference to any statute or statutory provision, to Law, or to Guidance, includes a reference to that statute or statutory provision, Law or Guidance as from time to time updated, amended, extended, supplemented, re-enacted or replaced.

3. Reference to a statutory provision includes any subordinate legislation made from time to time under that provision.

4. References to Conditions and Schedules are to the Conditions and Schedules of this Contract, unless expressly stated otherwise.

5. References to any body, organisation or office include reference to its applicable successor from time to time.

6. Any references to this Contract or any other documents or resources includes reference to this Contract or those other documents or resources as varied, amended, supplemented, extended, restated and/or replaced from time to time and any reference to a website address for a resource includes reference to any replacement website address for that resource.

7. Use of the singular includes the plural and vice versa.

8. Use of the masculine includes the feminine and vice versa.

9. Use of the term “including” or “includes” will be interpreted as being without limitation.

10. Where a word or phrase has a meaning set out in Schedule 3B (*Local Variation*), that meaning applies to all references of that word or phrase in this Contract.

11. The following words and phrases have the following meanings:

18 Weeks Information information as to the Service User’s rights under the NHS Constitution to access the relevant Services within maximum waiting times, as further described and explained in the NHS Constitution Handbook and Guidance

18 Weeks Referral-to-Treatment Standard in relation to Consultant-led Services, the NHS’s commitment that no-one should wait more than 18 weeks from the time they are referred to the start of their treatment unless it is clinically appropriate to do so, or they choose to wait longer, as set out in the Rules Suite published by the Department of Health and Social Care (**https://www.gov.uk/government/publications/right-to-start-consultant-led-treatment-within-18-weeks**) and in the recording and reporting guidance published by NHS England (**https://www.england.nhs.uk/statistics/statistical-work-areas/rtt-waiting-times/rtt-guidance/**)

1983 Act the Mental Health Act 1983

1983 Act Code the ‘code of practice’ published by the Department of Health and Social Care under section 118 of the 1983 Act

2005 Act the Mental Capacity Act 2005

2006 Act the National Health Service Act 2006

2008 Act the Health and Social Care Act 2008

2012 Act the Health and Social Care Act 2012

2014 Act the Care Act 2014

2014 Regulations the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

Access and Waiting Time Standard for Children and Young People with an Eating Disorder guidance on establishing and maintaining a community eating disorder service, published at: **https://www.england.nhs.uk/mental-health/cyp/eating-disorders/**

Accessible Information Standard guidance aimed at ensuring that disabled people have access to information that they can understand and any communication support they might need, as set out at: **http://www.england.nhs.uk/ourwork/patients/accessibleinfo-2/**

Accountable Emergency Officer the individual appointed by the Provider as required by section 252A(9) of the 2006 Act

Activity Service User flows and clinical activity under this Contract

Activity and Finance Report a report showing actual Activity and the associated costs to Commissioners, in the format agreed and specified in Schedule 6A (*Reporting Requirements*)

Activity Management Plan a plan which, without limitation:

(i) specifies any thresholds set out in any Activity Planning Assumptions which have been breached and/or otherwise identifies any unexpected or unusual patterns of Referrals and/or Activity in relation to the relevant Commissioners;

(ii) includes the findings of any Joint Activity Review;

(iii) includes an analysis of the causes and factors that contribute to the unexpected or unusual patterns of Referrals and/or Activity;

(iv) includes specific locally agreed actions and timescales by which those actions must be met and completed by the Provider and/or the relevant Commissioners in order to restore levels of Referrals and/or Activity to within agreed thresholds;

(v) (except in respect of unexpected or unusual patterns of Referrals and/or Activity caused wholly or mainly as a result of the exercise by Service Users of their legal rights to choice) includes the consequences for the Provider and/or the relevant Commissioners for breaching or failing to implement the Activity Management Plan; and

(vi) (except in respect of unexpected or unusual patterns of Referrals and/or Activity caused wholly or mainly as a result of the exercise by Service Users of their legal rights to choice) may specify the immediate consequences (whether in relation to payment for Services delivered or to be delivered or otherwise) in relation to the identified unexpected or unusual patterns of Referrals and/or Activity

Activity Planning Assumptions the ratios and/or obligations, consistent with the relevant Indicative Activity Plan, to be met and satisfied by the Provider in relation to Service User flows and Activity following initial assessment regarding the Services, as identified in Schedule 2C (*Activity Planning Assumptions*) and/or as notified by the Commissioner to the Provider in accordance with SC29.7

Activity Query Notice a notice setting out in reasonable detail a query on the part of the Co-ordinating Commissioner or the Provider in relation to levels of Referrals and/or Activity

Actual Annual Value for the relevant Contract Year the aggregate of all payments made to the Provider under this Contract in respect of all Services delivered in that Contract Year (excluding VAT and payments in relation to any CQUIN Indicator or Local Incentive Scheme and after any deductions, withholdings or set-off), as reconciled under SC36 (*Payment Terms*). For the purposes of Schedule 4 (*Quality Requirements*) and SC38 (*Commissioning for Quality and Innovation (CQUIN)*) only, the Actual Annual Value will exclude the value of any items or Activity on which CQUIN is not payable, as set out in CQUIN Guidance

Actual Monthly Value for the relevant month the aggregate of all payments made to the Provider under this Contract in respect of all Services delivered in that month (excluding VAT and payments in relation to any CQUIN Indicator or Local Incentive Scheme but before any deductions, withholdings or set-off), as reconciled under SC36 (*Payment Terms*), excluding the value of any items or Activity on which CQUIN is not payable, as set out in CQUIN Guidance

Actual Quarterly Value for the relevant Quarter the aggregate of all payments made to the Provider under this Contract in respect of all Services delivered in that Quarter (excluding VAT and payments in relation to any CQUIN Indicator or Local Incentive Scheme but before any deductions, withholdings or set-off), as reconciled under SC36 (Payment Terms), excluding the value of any items or Activity on which CQUIN is not payable, as set out in CQUIN guidance

Adalimumab Framework the NHS National Framework Agreement for the Supply of Adalimumab for NHS England, pursuant to tender reference CM/PHR/18/5567, notified by NHS England, through which the Provider can call off supplies of adalimumab from specified suppliers

A-EQUIP Guidance the model of clinical midwifery supervision published by NHS England and available at: https://www.england.nhs.uk/publication/a-equip-a-model-of-clinical-midwifery-supervision/

Affected Party a party the performance of whose obligations under this Contract is affected by an Event of Force Majeure

Agenda for Change the single pay system in operation in the NHS, which applies to all directly-employed NHS staff with the exception of doctors, dentists and some very senior managers

Alcohol and Tobacco Brief Interventions Guidance the guidance published by Public Health England at:
https://www.gov.uk/government/publications/preventing-ill-health-commissioning-for-quality-and-innovation/guidance-and-information-on-the-preventing-ill-health-cquin-and-wider-cquin-scheme

Antibiotic Usage the number of defined daily doses of antibiotics dispensed by the Provider to NHS patients undergoing care on an outpatient, day case or inpatient basis during a Contract Year, per 1000 admissions of NHS patients during the same Contract Year, calculated in accordance with the more detailed definition in the Public Health England AMR Local Indicators database, available at: https://fingertips.phe.org.uk/profile/amr-local-indicators/data#page/6/gid/1938132909/pat/158/par/TE_trust/ati/118/are/RWE/iid/92201/age/1/sex/4

Antibiotic Usage 2018 Baseline the number of defined daily doses of antibiotics dispensed by the Provider to NHS patients undergoing care on an outpatient, day case or inpatient basis during 2018, per 1000 admissions of NHS patients during 2018, calculated in accordance with the more detailed definition in the Public Health England AMR Local Indicators database, available at: https://fingertips.phe.org.uk/profile/amr-local-indicators/data#page/6/gid/1938132909/pat/158/par/TE_trust/ati/118/are/RWE/iid/92201/age/1/sex/4

Antimicrobial Stewardship Toolkit for English Hospitals the document entitled *Start Smart – Then Focus*, published by Public Health England and available at: https://www.gov.uk/government/publications/antimicrobial-stewardship-start-smart-then-focus

Approved Research Study a clinical research study:
(i) which is of clear value to the NHS;
(ii) which is subject to high quality peer review (commensurate with the size and complexity of the study);
(iii) which is subject to NHS research ethics committee approval where relevant;
(iv) which meets all the requirements of any relevant Regulatory or Supervisory Body; and
(v) in respect of which research funding is in place compliant with NHS Treatment Costs Guidance

Armed Forces Covenant the armed forces covenant guidance document and the *Armed forces covenant: today and tomorrow* document outlining actions to be taken, available at: **https://www.gov.uk/government/publications/the-armed-forces-covenant**

Auditor an appropriately qualified, independent third party auditor appointed by the Co-ordinating Commissioner in accordance with GC15.8 (*Governance, Transaction Records and Audit*)

Authorised Person the Co-ordinating Commissioner and each Commissioner or their authorised representatives, any body or person concerned with the treatment or care of a Service User approved by the Co-ordinating Commissioner or the relevant Commissioner, and (for the purposes permitted by Law) any authorised representative of any Regulatory or Supervisory Body

Best Practice any methodologies, pathway designs and processes relating to the Services developed by the Provider or any Sub-Contractor (whether singly or jointly with any Commissioner or other provider) for the purposes of delivering the Services and which are capable of wider use in the delivery of healthcare services for the purposes of the NHS, but not including inventions that are capable of patent protection and for which patent protection is being sought or has been obtained, registered designs, or copyright in software

Block Arrangement an arrangement described in Schedule 3A (*Local Prices*), 3B (*Local Variations*) or 3C (*Local Modifications*) under which an overall fixed price is agreed which is not varied as a result of any changes in Activity levels

Business Continuity Plan the Provider's plan for continuity of all of the Services in adverse circumstances, in accordance with the NHS England Business Continuity Management Framework (Service Resilience) and the principles of PAS 2015 (British Standards Institution 21 October 2010) and ISO 22301)

Caldicott Guardian the senior health professional responsible for safeguarding the confidentiality of patient information

Caldicott Information Governance Review the Information Governance Review (March 2013) also known as Caldicott 2, available at: **https://www.gov.uk/government/publications/the-information-governance-review**

Caldicott Principles the principles applying to the handling of patient-identifiable information set out in the report of the Caldicott Committee (1 December 1997)

Care and Treatment Review a review of a Service User undertaken in accordance with Care and Treatment Review Guidance, including a Care, Education and Treatment Review for a child or young person

Care and Treatment Review Guidance the guidance documents for commissioners and providers on Care and Treatment Reviews, and on Care, Education and Treatment Reviews for children and young people, published by NHS England at: **https://www.england.nhs.uk/publication/care-and-treatment-reviews-policy-and-guidance/**

Care Connect APIs the seventeen resource APIs listed at: https://nhsconnect.github.io/CareConnectAPI/

Care Programme Approach the framework introduced to deliver effective mental healthcare for people with severe mental health problems (as amended, revised, re-issued or replaced from time to time by the Department of Health and Social Care), being the Care Programme Approach referred to in:

(i) *Department of Health, Effective care co-ordination in mental health services; modernising the Care Programme Approach 1999* (a policy booklet), available at: **http://webarchive.nationalarchives.gov.uk/20120503230316/http:/www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4057270.pdf**

(ii) *Reviewing the Care Programme Approach* 2006 (a consultation document) Care Services Improvement Partnership Department of Health, available at: **http://webarchive.nationalarchives.gov.uk/+/http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_063354**; and

(iii) *Re-focusing the Care Programme Approach – Policy and Positive Practice Guidance* 2008, being the process used to assess the care needs of Service Users based on the Principles of HC 90(23), available at: **http://webarchive.nationalarchives.gov.uk/20130105012529/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_083647**

Care Transfer Plan an appropriately detailed and comprehensive plan relating to the transfer of and/or discharge from care of a Service User, to ensure a consistently high standard of care for that Service User is at all times maintained

Carer a family member or friend of the Service User who provides day-to-day support to the Service User without which the Service User could not manage

Category 1 Interventions interventions which should not be routinely commissioned or performed, described as Category 1 Interventions in Evidence-Based Interventions Policy

Category 2 Interventions interventions which should only be routinely commissioned or performed when specific criteria are met, described as Category 2 Interventions in Evidence-Based Interventions Policy

CEDR the Centre for Effective Dispute Resolution

Change in Control

(i) any sale or other disposal of any legal, beneficial or equitable interest in any or all of the equity share capital of a corporation (the effect of which is to confer on any person (when aggregated with any interest(s) already held or controlled) the ability to control the exercise of 50% or more of the total voting rights exercisable at general meetings of that corporation on all, or substantially all, matters), provided that a Change in Control will be deemed not to have occurred if after any such sale or disposal the same entities directly or indirectly exercise the same degree of control over the relevant corporation; or

(ii) any change in the ability to control an NHS Foundation Trust, NHS Trust or NHS Body by virtue of the entering into of any franchise, management or other agreement or arrangement, under the terms of which the control over the management of the relevant NHS Foundation Trust, NHS Trust or NHS Body is conferred on another person without the Co-ordinating Commissioner's prior written consent

Change in Control Notification a notification in the form of the template to be found via: **http://www.england.nhs.uk/nhs-standard-contract/** completed as appropriate

Chargeable Overseas Visitor a patient who is liable to pay charges for NHS services under the Overseas Visitor Charging Regulations

Child Protection Information Sharing Project a project to improve the way that health and social care services work together across England to protect vulnerable children: **https://digital.nhs.uk/services/child-protection-information-sharing-project**

Child Sexual Abuse and Exploitation Guidance the *Child Sexual Exploitation: Health Working Group Report* and the Department of Health and Social Care's response to its recommendations, available at: **https://www.gov.uk/government/publications/health-working-group-report-on-child-sexual-exploitation** and all Guidance issued pursuant to those recommendations

Child Sexual Abuse and Exploitation Lead the officer of the Provider responsible for implementation and dissemination of Child Sexual Abuse and Exploitation Guidance

Clinic Letter a summary of information relevant to the Service User to be produced by the Provider following outpatient clinic attendance, which must be a structured message capable of carrying both human readable narrative and coded (SNOMED CT) information, consistent with the standards published by the Professional Record Standards Body at: **https://theprsb.org/standards/**

Clinical Commissioning Group or **CCG** a clinical commissioning group as defined in Section 1I of 2006 Act

Clinical Networks groups of commissioners and providers of health or social care concerned with the planning and/or delivery of integrated health or social care across organisational boundaries, whether on a national, regional or local basis

CNSC the Clinical Negligence Scheme for Coronavirus, being the indemnity scheme for clinical negligence put in place by the Department of Health and Social Care pursuant to section 11 of the Coronavirus Act 2020 and administered by NHS Resolution

CNST the Clinical Negligence Scheme for Trusts

Code of Conduct for Data-Driven Health and Care Technology the principles published by DHSC to enable the development and adoption of safe, ethical and effective data-driven health and care technologies, available at: **https://www.gov.uk/government/publications/code-of-conduct-for-data-driven-health-and-care-technology/initial-code-of-conduct-for-data-driven-health-and-care-technology**

Code of Practice on the Prevention and Control of Infections the *Health and Social Care Act 2008: Code of Practice on the prevention and control of infections* and related guidance, available at: **https://www.gov.uk/government/publications/the-health-and-social-care-act-2008-code-of-practice-on-the-prevention-and-control-of-infections-and-related-guidance**

Commercial Contract Research Study a research project that is fully sponsored and fully funded by a commercial company

Commercially Sensitive Information information or know-how relating to the Provider's and/or the Provider Group's business which the Provider and/or the Provider Group would not ordinarily wish to share with a competitor, commissioner of its services, an insurer, a user of its services or other third parties, including, without limitation, business secrets, know-how, commercially-

sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to the Provider and/or the Provider Group, the Provider and/or the Provider Group's current or future costing or pricing information (including without limitation, any and all information provided to the NHS Accountant) documents relating to the Provider's and/or the Provider Group's strategy or from which the Provider's and/or the Provider Group's strategy can be reasonably deduced and/or confidential marketing information

Commissioner a party identified as such in the Particulars

Commissioner Assignment Methodology Guidance detailed technical guidance published by NHS England to enable Providers to allocate the correct commissioner code within specified commissioning data sets for the healthcare activities they provide, available at: https://www.england.nhs.uk/data-services/commissioning-flows/

Commissioner Documents the documents listed in Schedule 1B (*Commissioner Documents*)

Commissioner Deliverables all documents, products and materials developed by any Commissioner in relation to the Services in any form and submitted by any Commissioner to the Provider under this Contract, including data, reports, policies, plans and specifications

Commissioner Earliest Termination Date the date referred to as such in the Particulars

Commissioner Notice Period the period specified as such in the Particulars

Commissioner Representative a person identified as such in the Particulars

Confidential Information any information or data in whatever form disclosed, which by its nature is confidential or which the disclosing Party acting reasonably states in writing to the receiving Party is to be regarded as confidential, or which the disclosing Party acting reasonably has marked 'confidential' (including, financial information, or marketing or development or workforce plans and information, and information relating to services or products) but which is not Service User Health Records or information relating to a particular Service User, or Personal Data, or information which is disclosed in accordance with GC21 (*Patient Confidentiality, Data Protection, Freedom of Information and Transparency*), in response to an FOIA request, or information which is published as a result of government policy in relation to transparency

Consent

(i) any permission, consent, approval, certificate, permit, licence, statutory agreement, authorisation, exception or declaration required by Law for or in connection with the performance of Services; and/or

(ii) any necessary consent or agreement from any third party needed either for the performance of the Provider's obligations under this Contract or for the provision by the Provider of the Services in accordance with this Contract, including any registration with any relevant Regulatory or Supervisory Body

Consultant a person employed or engaged by the Provider of equivalent standing and skill as a person appointed by an NHS Body in accordance with the Law governing the appointment of consultants

Consultant-led Service a Service for which a Consultant retains overall clinical responsibility (without necessarily being present at each Service User appointment), and in respect of which Referrals of Service Users are made directly to a named Consultant

Continuity of Carer Standard the requirement in respect of maternity Services for at least 51% of Service Users to receive continuity of carer by March 2021, as described in *Measuring Continuity*

of Carer: a Monitoring and Evaluation Framework, published by the Royal College of Midwives, available at: **https://www.rcm.org.uk/promoting/professional-practice/continuity-of-carer/**

Contract Management Meeting a meeting of the Co-ordinating Commissioner and the Provider held in accordance with GC9.6 (*Contract Management*)

Contract Technical Guidance technical guidance in relation to the NHS Standard Contract, available at: **https://www.england.nhs.uk/nhs-standard-contract/**

Contract Term the period specified as such in the Particulars (or where applicable that period as extended in accordance with Schedule 1C (*Extension of Contract Term*))

Contract Year the period starting on the Service Commencement Date and ending on the following 31 March and each subsequent period of 12 calendar months starting on 1 April, provided that the final Contract Year will be the period starting on the relevant 1 April and ending on the Expiry Date or date of earlier termination

Co-ordinating Commissioner the party identified as such in the Particulars

COSOP the Cabinet Office Statement of Practice *Staff Transfers in the Public Sector* January 2000

CQC the Care Quality Commission established under section 1 of the 2008 Act

CQC Regulations the Care Quality Commission (Registration) Regulations 2009

CQUIN Commissioning for Quality and Innovation

CQUIN Guidance CQUIN guidance for the relevant Contract Year, as published by NHS England from time to time

CQUIN Indicator an indicator or measure of the Provider's performance as set out in CQUIN Table 1

CQUIN Payment a payment to be made to the Provider for having met the goals set out in the CQUIN Scheme as determined in accordance with CQUIN Table 1

CQUIN Payments on Account the payments to be made on account in respect of the relevant CQUIN Payments as set out in CQUIN Table 2 (and as adjusted from time to time in accordance with SC38.10 (*Commissioning for Quality and Innovation* (*CQUIN*))

CQUIN Performance Report a report prepared by the Provider detailing (with supporting clinical and other relevant evidence) the Provider's performance against and progress towards satisfying the CQUIN Indicators in each month to which the report relates, comprising part of the Service Quality Performance Report

CQUIN Query Notice a notice prepared by or on behalf of any Commissioner setting out in reasonable detail the reasons for challenging or querying a CQUIN Performance Report

CQUIN Reconciliation Account an account prepared by or on behalf of the Provider which:

(i) identifies the CQUIN Payments to which the Provider is entitled, on the basis of the Provider's performance against the CQUIN Indicators during the relevant Contract Year, as recorded in the relevant CQUIN Performance Reports;
(ii) confirms the CQUIN Payments on Account already made to the Provider in respect of the relevant Contract Year;
(iii) may correct the conclusions of any previous reconciliation account; and

(iv) must identify any reconciliation payments now due from the Provider to any Commissioner, or from any Commissioner to the Provider

CQUIN Table 1, CQUIN Table 2 the tables at Schedule 4D (*Commissioning for Quality and Innovation (CQUIN)*) under those headings

Critical Care healthcare or treatment at a higher level or more intensive level than is normally provided in an acute ward (often to support one or more of a patient's organs) and normally forming part of a comprehensive acute care pathway, but which may be required in other circumstances alone or together with Emergency Care

CRS commissioner requested services, as defined in CRS Guidance

CRS Guidance the Guidance published by NHS Improvement in relation to commissioner requested services, available at: **https://www.gov.uk/government/publications/guidance-for-commissioners-ensuring-the-continuity-of-healthcare-services**

Data Breach has the meaning given to it in the Caldicott Information Governance Review

Data Controller has the same meaning as "Controller" in the Data Protection Legislation

Data Guidance any applicable guidance, guidelines, direction or determination, framework, code of practice, standard or requirement regarding information governance, confidentiality, privacy or compliance with Data Protection Legislation (whether specifically mentioned in this Contract or not) to the extent published and publicly available or their existence or contents have been notified to the Provider by the Co-ordinating Commissioner and/or any relevant Regulatory or Supervisory Body. This includes but is not limited to guidance issued by NHS Digital, the National Data Guardian for Health & Care, the Department of Health and Social Care, NHS England, the Health Research Authority, Public Health England, the European Data Protection Board and the Information Commissioner

Data Landing Portal the secure and confidential portal hosted by NHS Digital for the receipt of electronic submissions of local patient-level datasets from providers, available at: **https://digital.nhs.uk/services/data-landing-portal**

Data Landing Portal Acceptable Use Statement the acceptable use statement published by NHS Digital which sets out requirements on providers relating to the use of the Data Landing Portal, available at: **https://digital.nhs.uk/services/data-landing-portal**

Data Loss Event any event that results, or may result, in unauthorised processing of Personal Data held by the Provider under this Contract or Personal Data for which the Provider has responsibility under this Contract including without limitation actual or potential loss, destruction, corruption or inaccessibility of Personal Data, including any Personal Data Breach

Data Processing Services the data processing services described in the Annex to Schedule 6F

Data Processor has the same meaning as "Processor" in the Data Protection Legislation

Data Protection Impact Assessment an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data

Data Protection Legislation (i) the GDPR, the LED and any applicable national Laws implementing them as amended from time to time (ii) the DPA 2018 (iii) all applicable Law concerning privacy, confidentiality or the processing of personal data including but not limited to the Human Rights Act 1998, the Health and Social Care (Safety and Quality) Act 2015, the

common law duty of confidentiality and the Privacy and Electronic Communications (EC Directive) Regulations

Data Protection Officer has the meaning given to it in Data Protection Legislation

Data Quality Maturity Index the NHS Digital publication which assesses the completeness and quality of datasets submitted nationally by individual providers in relation to different services, available at: **https://digital.nhs.uk/data-and-information/data-tools-and-services/data-services/data-quality**

Data Subject has the meaning given to it in Data Protection Legislation

Data Subject Access Request a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to Data Protection Legislation to access their Personal Data

DBS the Disclosure and Barring Service established under section 87 of the Protection of Freedoms Act 2012

DCB0160 the standard defined in *Clinical Risk Management: its Application in the Deployment and Use of Health IT Systems*, available at: **https://digital.nhs.uk/services/solution-assurance/the-clinical-safety-team/clinical-risk-management-standards**

Death of a Service User Policy a policy that complies with Good Practice and the Law, and which details the procedures which the Provider is to follow in the event of the death of a Service User while in the Provider's care

Debt Securities debentures, debenture or loan stock, bonds and notes, whether secured or unsecured

Decision-Making Staff has the meaning given to it in Managing Conflicts of Interest in the NHS

De-escalation Period has the meaning given in Schedule 2A (*Service Specification*)

Definitions and Interpretation the section of the General Conditions under that heading

Delivery Method

i) in respect of communications with a Service User's GP, direct automatic transfer onto the GP practice electronic patient record system through a suitable secure interface; or
ii) in respect of communications with any other Referrer or with any third party provider of health or social care, either direct automatic transfer onto that party's electronic patient record system through a suitable secure interface or secure email using an NHS secure account or equivalent, as required or permitted by the relevant Transfer of and Discharge from Care Protocol

Department of Health and Social Care or **DHSC** the Department of Health and Social Care in England of HM Government and its predecessor departments, or such other body superseding or replacing it from time to time and/or the Secretary of State

Development Plan for Personalised Care the agreed plan describing actions which the Provider and/or the Commissioners will take, aimed at ensuring that Service Users have choice and control over the way their care is planned and delivered, as set out in Schedule 2M (*Development Plan for Personalised Care*)

Direction Letter/Determination a letter or determination issued by the NHS Business Services Authority (on behalf of the Secretary of State pursuant to Section 7(2) of the Superannuation (Miscellaneous Provisions) Act 1967 or Section 25(5) of the Public Service Pensions Act 2013) to

the Provider (or any Sub-Contractor, as appropriate), setting out the terms on which the Provider (or any Sub-Contractor, as appropriate) is to be granted access to the NHS Pension Scheme in connection with this Contract (or the relevant Sub-Contract, as appropriate)

Directly Bookable in relation to any Service, the Provider's patient administration system being compliant with and able to communicate with the NHS e-Referral Service enabling available appointment slots to show on the NHS e-Referral Service, thereby enabling a Referrer or Service User to book a Service User appointment directly onto the Provider's patient administration system

Directory of Service a directory of information that describes the services that organisations offer, provides a window through which providers can display their services and enables referring clinicians to search for clinically appropriate services to which they can refer service users

Discharge Summary a summary of information relevant to the Service User to be produced by the Provider in accordance with the relevant Transfer of and Discharge from Care Protocol which, for discharges from inpatient, day case or A+E Services, must be a structured message capable of carrying both human readable narrative and coded (SNOMED CT) information, consistent with the standards published by the Professional Record Standards Body at: **https://theprsb.org/standards/**

Dispute a dispute, conflict or other disagreement between the Parties arising out of or in connection with this Contract

Dispute Resolution the procedure for resolution of disputes set out in GC14 (*Dispute Resolution*)

DOTAS the Disclosure of Tax Avoidance Schemes rules, requiring a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation pursuant to Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992

DPA 2018 the Data Protection Act 2018

Early Intervention in Psychosis Scoring Matrix the quality improvement and accreditation scoring matrix published by the Royal College of Psychiatrists at: **https://www.rcpsych.ac.uk/improving-care/ccqi/national-clinical-audits/national-clinical-audit-of-psychosis/EIP-spotlight-audit-resources**

EDS2 the *Equality Delivery System for the NHS – EDS2*, being a tool designed to help NHS organisations, in discussion with local stakeholders, to review and improve their equality performance for people with characteristics protected by the Equality Act 2010, and to support them in meeting their duties under section 1 of the Equality Act 2010, available at: **http://www.england.nhs.uk/wp-content/uploads/2013/11/eds-nov131.pdf**

Education, Health and Care Needs Assessment a joint assessment by the relevant professionals of the healthcare and social care needs of a child or young person, required under the Special Educational Needs and Disability Regulations 2014

Effective Date the date referred to as such in the Particulars

e-Invoicing Guidance guidance relating to the application and use of the NHS Shared Business Services e-Invoicing Platform, available at: **https://networkgrowth.s3.amazonaws.com/Tradeshift%20Supplier%20Training%20Guide.pdf**

e-Invoicing Platform the NHS Shared Business Services e-invoicing platform provided by Tradeshift

EIR the Environmental Information Regulations 2004

Elective Care pre-arranged, non-emergency care including scheduled operations provided by medical specialists (and unexpected returns to theatre and/or admissions to Critical Care units) in a hospital or other secondary care setting

Emergency Care healthcare or treatment for which a Service User has an urgent clinical need (assessed in accordance with Good Practice and which is in the Service User's best interests)

Emergency Care Services has the meaning given to it in section 7.1 of the National Tariff

Emergency Care Threshold each Emergency Care Services activity threshold in respect of the relevant Commissioner, as set out in Schedule 3D (*Emergency Care Rule: Agreed Blended Payment Arrangements)*

Enhanced DBS & Barred List Check a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS children's barred list, adults' barred list and children's and adults' barred list

Enhanced DBS Check a disclosure of information comprised in a Standard DBS Check together with any information held locally by police forces that it is reasonably considered might be relevant to the post applied for

Enhanced DBS Position any position listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended), which also meets the criteria set out in the Police Act 1997 (Criminal Records) Regulations 2002 (as amended), and in relation to which an Enhanced DBS Check or an Enhanced DBS & Barred List Check (as appropriate) is permitted

EPACCS IT System Requirements guidance on the implementation of Electronic Palliative Care Co-ordination Systems available at: **https://digital.nhs.uk/binaries/content/assets/website-assets/data-collections/epaccsreq.pdf**

e-Prescribing use of electronic systems to facilitate and enhance the communication of a prescription or medicine order, aiding the choice, administration and supply of a medicine through knowledge and decision support and providing a robust audit trail for the entire medicines use processes

e-Procurement Guidance Department of Health and Social Care guidance in *NHS E-Procurement Strategy* available at: **http://www.gov.uk/government/collections/nhs-procurement**

EPRR Guidance the emergency preparedness, resilience and response guidance published by NHS England and NHS Improvement, including:
(i) *NHS Emergency Preparedness, Resilience and Response Framework;*
(ii) *NHS Core Standards for Emergency Preparedness, Resilience and Response (EPRR); and*
(iii) *Guidance relating to COVID-19*
available at: **http://www.england.nhs.uk/ourwork/eprr/**

Equipment any medical or non-medical equipment that the Provider may use in the delivery of the Services (including Vehicles)

Escalation Period has the meaning given in Schedule 2A (*Service Specification*)

Essential Services the Services identified as such listed in Schedule 2D (*Essential Services),* being those Services for which sufficient capacity does not exist at appropriate alternative providers or potential alternative providers and/or which cannot be provided in a different way and/or where vulnerable groups may have particular problems accessing alternative providers and/or where the Provider ceasing to provide the Service would render other Services unviable

Essential Services Continuity Plan a plan agreed with the Co-ordinating Commissioner to ensure the continual availability of the Essential Services in the event of an interruption or suspension of the Provider's ability to provide any Essential Services and/or on any termination of this Contract or of any Service, as appended at Schedule 2E (*Essential Services Continuity Plan*) and updated from time to time

EU Exit Guidance guidance on preparation for EU exit as may be published by the Government, DHSC or NHS England and NHS Improvement from time to time

European Data Protection Board has the meaning given to it in Data Protection Legislation

European Economic Area or EEA the European Economic Area which consists of the European Union and all the European Free Trade Association (EFTA) countries except Switzerland

Event of Force Majeure an event or circumstance which is beyond the reasonable control of the Party claiming relief under GC28 (*Force Majeure*), including war, civil war, armed conflict or terrorism, strikes or lock outs, riot, fire, flood or earthquake, and which directly causes that Party to be unable to comply with all or a material part of its obligations under this Contract in relation to any Service

Evidence-Based Interventions Policy the national policy relating to the commissioning of interventions which are clinically inappropriate or which are appropriate only when performed in specific circumstances, published by NHS England at: **https://www.england.nhs.uk/publication/evidence-based-interventions-guidance-for-clinical-commissioning-groups-ccgs/**

Exception Report a report issued in accordance with GC9.20 (*Contract Management*) notifying the relevant Party's Governing Body of that Party's breach of a Remedial Action Plan and failure to remedy that breach

Existing NHS Contracts has the meaning given in Schedule 2A (*Service Specification*)

Expected Annual Contract Value the sum (if any) set out in Schedule 3F (*Expected Annual Contract Values*) for each Commissioner in respect of each relevant Service for the Contract Year including, where applicable, the relevant Value of Planned Activity

Expected Service Commencement Date the date referred to as such in the Particulars

Expert the person designated to determine a Dispute in accordance with GC14.8 or 14.9 (*Dispute Resolution*)

Expert Determination Notice notice in writing showing an intention to refer a Dispute for expert determination

Expiry Date the last day of the Contract Term

FFT Guidance the NHS Friends and Family Test Implementation Guidance available at: **https://www.england.nhs.uk/fft/fft-guidance/revised-fft-guidance/**

Final Reconciliation Date the date when the final SUS reconciliation report for the relevant month is available for the Commissioners to view and use to validate reconciliation accounts received from the Provider, as advised by NHS Digital from time to time

Financial Improvement Trajectory the trajectory for the organisational financial position to be achieved by an NHS Trust or NHS Foundation Trust for each of the financial years 2020/21 to 2023/24, as described in *NHS Operational Planning and Contracting Guidance 2020/21* **available at: https://www.england.nhs.uk/operational-planning-and-contracting/** and as agreed with NHS England and NHS Improvement

First Reconciliation Date the date when the first SUS reconciliation report on Activity for the relevant month is available for the Commissioners to view to facilitate reconciliation between the Provider and Commissioners, as advised by NHS Digital from time to time

Fit Note Guidance the guidance relating to the issue of fit notes, available at: **https://www.gov.uk/government/collections/fit-note**

FOIA the Freedom of Information Act 2000

Formulary a list of medications that are approved by the Provider on the basis of their proven efficacy, safety and cost-effectiveness to be prescribed for Service Users by the Provider's clinical Staff

Freedom To Speak Up Guardian the individual appointed by the Provider in accordance with the Department of Health and Social Care publication *Learning Not Blaming* available at: **https://www.gov.uk/government/publications/learning-not-blaming-response-to-3-reports-on-patient-safety and identified as** such in the Particulars

Friends and Family Test the Friends and Family Test as defined in FFT Guidance

Fundamental Standards of Care the requirements set out in regulations 9 to 19 of the 2014 Regulations

GDPR the General Data Protection Regulation *(Regulation (EU) 2016/679)*

Genomic Laboratory Hub an organisation which holds a contract with NHS England to arrange and/or perform genomic laboratory services for a defined geographical population, listed at: **https://www.england.nhs.uk/genomics/genomic-laboratory-hubs/**

General Anti-abuse Rule the legislation in Part 5 of the Finance Act 2013

General Condition or **GC** any of these General Conditions forming part of the Contract

Good Practice using standards, practices, methods and procedures conforming to the Law and reflecting up-to-date published evidence and using that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, efficient and experienced clinical services provider and a person providing services the same as or similar to the Services at the time the Services are provided, including (where appropriate) assigning a Consultant to each Service User who will be clinically responsible for that Service User at all times during the Service User's care by the Provider

Governing Body in respect of any Party, the board of directors, governing body, executive team or other body having overall responsibility for the actions of that Party

Government Buying Standards *Government Buying Standards for Food and Catering Services* (Department of Environment, Food and Rural Affairs)

https://www.gov.uk/government/publications/sustainable-procurement-the-gbs-for-food-and-catering-services

Government Prevent Strategy the policy forming part of HM Government's counter-terrorism strategy, available at:
http://www.homeoffice.gov.uk/publications/counter-terrorism/prevent/prevent-strategy/prevent-strategy-review?view=Binary

GP a general medical practitioner or general dental practitioner registered on the performers list prepared, maintained and published in accordance with regulations made under sections 91 and 106 of the 2006 Act

GP Referred Service a Service which accepts elective Referrals from GPs, as set out in NHS e-Referral Service guidance

Green Plan the plan to be produced and maintained by the Provider in accordance with Green Plan Guidance and SC18 (*Sustainable Development*) (also sometimes referred to as a Sustainable Development Management Plan)

Green Plan Guidance guidance issued by NHS England and NHS Improvement on the development, content and/implementation of an organisational Green Plan, including *Sustainable Development Management Plan (SDMP) Guidance for Health and Social Care Organisations,* available at: https://www.sduhealth.org.uk/delivery/plan.aspx

Guidance any applicable health or social care guidance, guidelines, direction or determination, framework, code of practice, standard or requirement to which the Commissioners and/or the Provider have a duty to have regard (and whether specifically mentioned in this Contract or not), to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Provider by the Co-ordinating Commissioner and/or any relevant Regulatory or Supervisory Body

Guidance on Care of Dying People *One chance to get it right: Improving people's experience of care in the last few days and hours of life,* published by the Leadership Alliance for the Care of Dying People, available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/323188/One_chance_to_get_it_right.pdf
and, for providers of acute services, *Transforming end of life care in acute hospitals*, available at:
https://www.england.nhs.uk/wp-content/uploads/2016/01/transforming-end-of-life-care-acute-hospitals.pdf

Guidance on Personalised Care guidance published by NHS England aimed at ensuring that people have choice and control over the way their care is planned and delivered, available at:
https://www.england.nhs.uk/publication/universal-personalised-care-implementing-the-comprehensive-model/

Guidance on Prescribing in Primary Care NHS England guidance to CCGs to support them to fulfill their duties around appropriate use of prescribing resources, including:
https://www.england.nhs.uk/publication/conditions-for-which-over-the-counter-items-should-not-routinely-be-prescribed-in-primary-care-guidance-for-ccgs/ and
https://www.england.nhs.uk/medicines/items-which-should-not-be-routinely-prescribed/

Halifax Abuse Principle the principle explained in the CJEU Case C-255/02 Halifax and others

HCAI healthcare associated infections, as defined in sections 20(6) and 20(7) of the 2008 Act

HCAI Reduction Plan the plan for the Contract Year agreed between the Provider and the Commissioner which sets out obligations for the management and reduction of HCAI

Health and Social Care Network the new data network for health and care organisations (replacing the previous N3 arrangements) under which providers are able to obtain network connectivity from multiple suppliers in a competitive market place, described further at: **https://digital.nhs.uk/services/health-and-social-care-network**

Healthcare Professional a person qualified in a healthcare-related profession

Healthcare Safety Investigation Branch the body established to provide support and guidance on investigations, and to carry out its own investigations, into patient safety incidents: **https://www.gov.uk/government/groups/independent-patient-safety-investigation-service-ipsis-expert-advisory-group**

Health Education England the non-departmental public body supporting delivery of excellent healthcare and health improvement in England by ensuring that the workforce has the right numbers, skills, values and behaviours, in the right time and in the right place

Health Research Authority the executive non-departmental public body sponsored by the Department of Health and Social Care which protects and promotes the interests of patients and the public in health and social care research

Health Service Ombudsman the Parliamentary and Health Service Ombudsman, the independent body the role of which is to investigate complaints that individuals have been treated unfairly or have received poor service from government departments and other public organisations and the NHS: http://www.ombudsman.org.uk/

Healthwatch England the independent consumer champion for health and social care in England

HEE Quality Framework the Health Education England Quality Framework, available at: **https://hee.nhs.uk/our-work/quality**

HM Government the government of the United Kingdom of Great Britain and Northern Ireland

Holding Company has the definition given to it in section 1159 of the Companies Act 2006

Hospital Food Standards Report the Hospital Food Standards Panel's report on standards for food and drink in NHS hospitals, available at: **https://www.gov.uk/government/publications/establishing-food-standards-for-nhs-hospitals**

HQIP Guidance guidance issued by the Healthcare Quality Improvement Partnership, available at: **http://www.hqip.org.uk/**

HRA the Human Rights Act 1998

HRA/NIHR Research Reporting Guidance the guidance published by the Health Research Authority and the National Institute for Health Research regarding publication by any Provider of data showing the progress of research studies in which that Provider is participating, available at: **https://www.nihr.ac.uk/researchers/manage-your-funding/manage-your-project/reporting-impact.htm**

IG Guidance for Serious Incidents NHS Digital's *Checklist Guidance for Information Governance Serious Incidents Requiring Investigation* June 2013, available at:

https://www.igt.hscic.gov.uk/KnowledgeBaseNew/HSCIC%20IG%20SIRI%20%20Checklist%20Guidance%20V2%200%201st%20June%202013.pdf

Incident or Emergency an event or occurrence which:
(i) constitutes an emergency for the purposes of the Civil Contingencies Act 2004; and/or
(ii) is defined as an incident in the NHS England Emergency Preparedness, Resilience and Response Framework; and/or
(iii) constitutes an emergency under local and community risk registers; and/or
(iv) is designated as an incident under the Incident Response Plan

Incident Response Plan means each Party's operational plan for response to and recovery from Incidents or Emergencies as identified in national, local and community risk registers and in accordance with the requirements of the NHS England Emergency Preparedness, Resilience and Response Framework and the Civil Contingencies Act 2004

Indemnity Arrangements either:
(i) a policy of insurance;
(ii) an arrangement made for the purposes of indemnifying a person or organisation; or
(iii) a combination of (i) and (ii)

Indicative Activity Plan a plan identifying the anticipated indicative Activity and specifying the threshold for each Activity (which may be zero) for one or more Contract Years, set out in Schedule 2B (*Indicative Activity Plan*) and reflecting, where applicable, the anticipated level of Emergency Care Services on the basis of which the relevant Value of Planned Activity has been calculated

Indirect Losses loss of profits (other than profits directly and solely attributable to provision of the Services), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis but, for the avoidance of doubt, excluding any costs incurred in remedying any breach of Data Protection Legislation

Information Breach any material failure on the part of the Provider to comply with its obligations under SC23.4 (*Service User Health* Records), SC28 (*Information Requirements*) and Schedule 6A (*Reporting Requirements*)

Information Commissioner the independent authority established to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals ico.org.uk and any other relevant data protection or supervisory authority recognised pursuant to Data Protection Legislation

Information Governance Audit Guidance guidance issued by the Department of Health and Social Care and/or NHS England available at: http://www.gov.uk/government/publications/a-question-of-balance-independent-assurance-of-information-governance-returns

Information Governance Breach an information governance serious incident requiring investigation, as defined in IG Guidance for Serious Incidents

Information Governance Lead the individual responsible for information governance and for providing the Provider's Governing Body with regular reports on information governance matters, including details of all incidents of data loss and breach of confidence

Integrated Care System or **ICS** a collaborative arrangement through which NHS organisations, in partnership with local authorities and others, take collective responsibility for managing resources, delivering NHS standards, and improving the health of the population they serve. See: https://www.england.nhs.uk/integratedcare/integrated-care-systems/

Intercollegiate Guidance in Relation to Safeguarding Training intercollegiate guidance in relation to safeguarding training, including

(i) *Safeguarding children and young people: roles and competences for health care staff,* available at: https://www.rcn.org.uk/clinical-topics/children-and-young-people/safeguarding-children-and-young-people

(ii) *Looked after children: Knowledge, skills and competences of health care staff*, available at: https://www.rcn.org.uk/clinical-topics/children-and-young-people/looked-after-children; and

(iii) *Adult Safeguarding: Roles and Competencies for Health Care Staff*, available at: https://www.rcn.org.uk/professional-development/publications/pub-007069

Invoice Validation Guidance the NHS England publication *Who Pays? Information Governance Advice for Invoice Validation* December 2013, available at: **https://www.england.nhs.uk/ig/in-val/invoice-validation-faqs/**

IPR inventions, copyright, patents, database right, trademarks, designs and confidential know-how and any similar rights anywhere in the world whether registered or not, including applications and the right to apply for any such rights

ISO 22301 the systems standard defining the requirements for a management systems approach to business continuity management

IUC Clinical Assessment Service a telephone-based urgent care clinical assessment service, commissioned to operate in conjunction with 111 services and described in the Integrated Urgent Care Service Specification published by NHS England at: **https://www.england.nhs.uk/wp-content/uploads/2014/06/Integrated-Urgent-Care-Service-Specification.pdf**

JI Report a report detailing the findings and outcomes of a Joint Investigation

Joint Activity Review a joint review of Activity by the Co-ordinating Commissioner and the Provider held in accordance with SC29.16 (*Managing Activity and Referrals*)

Joint Investigation an investigation into the matters referred to in a Contract Performance Notice in accordance with GC9.8

Knowledge and Skills Framework an element of the career and pay progressions strand of Agenda for Change

Law

(i) any applicable statute or proclamation or any delegated or subordinate legislation or regulation;

(ii) any enforceable EU right within the meaning of section 2(1) European Communities Act 1972;

(iii) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;

(iv) Guidance; and

(v) any applicable code,

in each case in force in England and Wales

Learning Disability Improvement Standards the standards for the provision of healthcare services for people with learning disabilities, published by NHS Improvement at: **https://improvement.nhs.uk/resources/learning-disability-improvement-standards-nhs-trusts/**

LED Law Enforcement Directive *(Directive (EU) 2016/680)*

Legal Guardian an individual who, by legal appointment or by the effect of a written law, is given custody of both the property and the person of one who is unable to manage their own affairs

Legal Services Provider a solicitor or firm of solicitors, claims management organisation or other provider, promoter or arranger of legal services

Lessons Learned experience derived from provision of the Services or otherwise, the sharing and implementation of which would be reasonably likely to lead to an improvement in the quality of the Provider's provision of the Services

Lester Tool the tool used to assess the cardiovascular and metabolic health of Services Users with severe mental illness, published by NHS England and the Royal College of Psychiatrists at: **https://www.rcpsych.ac.uk/docs/default-source/improving-care/ccqi/national-clinical-audits/ncap-library/ncap-e-version-nice-endorsed-lester-uk-adaptation.pdf?sfvrsn=39bab4_2**

LETB the local education and training board for each area in which the Provider provides the Services and any local education and training board which represents the Provider by virtue of arrangements made by Health Education England under paragraph 2(4)(c) of Schedule 6 to the Care Act 2014

Letter to Systems has the meaning given in Schedule 2A (*Service Specification*)

Loaned Item has the meaning given in Schedule 2A (*Service Specification*)

Loan Period has the meaning given in Schedule 2A (*Service Specification*)

Local Access Policy a policy, consistent with the 18 Weeks Referral-to-Treatment Standard, setting out the application of waiting time rules, the role and the rights and responsibilities of the Provider and of Service Users and describing how the Provider will manage situations where a Service User does not attend an appointment or chooses to delay an appointment or treatment, ensuring that any decisions to discharge patients after non-attendance are made by clinicians in the light of the circumstances of individual Service Users and avoiding blanket policies which require automatic discharge to the GP following a non-attendance

Local Auditor a local auditor appointed by a relevant authority in accordance with the Local Audit and Accountancy Act 2014

Local Authority a county council in England, a county borough council in England, a district council in England, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly

Local Counter Fraud Specialist the accredited local counter fraud specialist appointed by the Commissioner or the Provider (as appropriate)

Local Healthwatch an organisation established under section 222 of the Local Government and Public Involvement in Health Act 2007

Local Incentive Scheme the locally agreed incentive scheme or schemes set out in Schedule 4E (*Local Incentive Scheme*) from time to time

Local Modification a modification to a National Price where provision of a Service by the Provider at the National Price would be uneconomic, as approved or granted by NHS Improvement in accordance with the National Tariff

Local NHS Lead has the meaning given in Schedule 2A (*Service Specification*)

Local Price the price agreed by the Co-ordinating Commissioner and the Provider or determined as payable for a health care service for which no National Price is specified by the National Tariff

Local Quality Requirements the requirements set out in Schedule 4C (*Local Quality Requirements*) as may be amended by the Parties in accordance with this Contract or with the recommendations or requirements of NICE

Local Security Management Specialist the local security management specialist appointed by the Commissioner or the Provider (as appropriate)

Local System Plan any system-wide strategic or operational plan developed by a Sustainability and Transformation Partnership or Integrated Care System, in accordance with guidance issued by NHS England and NHS Improvement

Local Variation a variation to a National Price or the currency for a Service subject to a National Price agreed by the Co-ordinating Commissioner and the Provider in accordance with the National Tariff

Longstop Date each date referred to as such in the Particulars

Losses all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses

Making Every Contact Count Guidance the guidance and tools issued by NHS England, Public Health England and Health Education England, available at: **https://www.makingeverycontactcount.co.uk/**

Managing Conflicts of Interest in the NHS the NHS publication by that name available at: **https://www.england.nhs.uk/about/board-meetings/committees/coi/**

Material Sub-Contract a Sub-Contract for the delivery of any clinical or clinical support service which comprises (irrespective of financial value) all of any Service, or a significant and necessary element of any Service, or a significant and necessary contribution towards the delivery of any Service, as designated by the Co-ordinating Commissioner and listed at Schedule 5B (*Provider's Material Sub-Contracts*) from time to time

Material Sub-Contractor a Sub-Contractor under any Material Sub-Contract

Material Sub-Contractor Change in Control any Change in Control of a Material Sub-Contractor or any of its Holding Companies

MCA Policies the Provider's written policies for compliance with the 2005 Act and the Deprivation of Liberty Safeguards, as appended in Schedule 2K (*Safeguarding Policies and Mental Capacity Act Policies*) and updated from time to time in accordance with SC32 (*Safeguarding Children and Adults*)

Medical Examiner Guidance guidance published by NHS England and NHS Improvement from time to time at: **https://improvement.nhs.uk/resources/establishing-medical-examiner-system-nhs/**

Medical Examiner Office the function for scrutiny and oversight of deaths not referred to the relevant coroner, described at: **https://improvement.nhs.uk/resources/establishing-medical-examiner-system-nhs/**

MedTech Funding Mandate Guidance guidance in relation to the adoption of and payment for innovations that are effective, deliver material savings to the NHS, are cost-saving in-year and are affordable to the NHS: **https://www.england.nhs.uk/aac/what-we-do/what-innovations-do-we-support/**

Mental Capacity and Liberty Protection Safeguards Lead the officer of the Provider responsible for advice, support, training and audit to ensure compliance with the 2005 Act, the Deprivation of Liberty Safeguards (and/or, once in effect, the Liberty Protection Safeguards) (where appropriate) and associated codes of practice, identified as such in the Particulars

Mental Health Crisis Care Concordat a national agreement between services and agencies involved in the care and support of people in crisis, setting out how organisations will work together better to make sure that people get the help they need when they are having a mental health crisis: **http://www.crisiscareconcordat.org.uk/**

Monitor the corporate body known as Monitor provided by section 61 of the 2012 Act

Monitor's Licence a licence granted by Monitor under section 87 of the 2012 Act

National Ambulance Vehicle Specification the national specification for emergency ambulance vehicles to be used in the provision of NHS-funded services, published by NHS England and NHS Improvement at: **https://improvement.nhs.uk/resources/2019-20-standard-ambulance-vehicle-specification/**

National Ambulance Vehicle Supply Agreement the NHS National Agreement for the Supply of Ambulance Base Vehicles, to be notified by NHS England and NHS Improvement, through which the Provider can call off supplies of ambulance base vehicles or the NHS National Agreement for the Supply of Ambulance Vehicle Conversions, to be notified by NHS England and NHS Improvement, through which the Provider can call off supplies of ambulance vehicle conversions, as appropriate

National Audit Office the independent office established under section 3 of the National Audit Act 1983 which conducts financial audits and reports to Parliament on the spending of public money (and any successor body or bodies from time to time)

National Clinical Audit and Patient Outcomes Programme a set of centrally commissioned national clinical audits that measure Provider performance against national quality standards or evidence-based best practice, and allows comparisons to be made between provider organisations to improve the quality and outcomes of care: **https://www.hqip.org.uk/national-programmes/#.XfkmCqq7JJU**

National Data Guardian the body which advises and challenges the health and care system to help ensure that citizens' confidential information is safeguarded securely and used properly: **https://www.gov.uk/government/organisations/national-data-guardian**, and its predecessor body the Independent Information Governance Oversight Panel

National Data Guardian's Data Security Standards the standards recommended by the National Data Guardian and approved by the Department of Health and Social Care, as set out in Annex D of *Your Data:*
Better Security, Better Choice, Better Care, available at:
https://www.gov.uk/government/consultations/new-data-security-standards-for-health-and-social-care

National Directive on Commercial Contract Research Studies the mandatory requirements governing participation by Providers in Commercial Research Studies, published jointly by NHS England, the National Institute for Health Research and the Health Research Authority from time

to time at: https://www.england.nhs.uk/commissioning/supporting-commissioners/research/supporting-and-applying-research-in-the-nhs/

National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care the document of this name published by DHSC which came into effect on 1 October 2018, available at: https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care

National Genomic Test Directory the document listing all of the genomic tests which are commissioned by the NHS in England, published by NHS England at: **https://www.england.nhs.uk/publication/national-genomic-test-directories**

National Guardian's Office the office of the National Guardian, which provides advice on the freedom to speak up guardian role and supports the freedom to speak up guardian network: http://www.cqc.org.uk/national-guardians-office/content/national-guardians-office

National Guardian's Office Guidance the example job description for a freedom to speak up guardian and other guidance published by the National Guardian's Office, available at: **http://www.cqc.org.uk/national-guardians-office/content/publications**

National Guidance on Learning from Deaths guidance published by the National Quality Board to help standardise and improve the way acute, mental health and community NHS Trusts and Foundation Trusts identify, report, review, investigate and learn from deaths, and engage with bereaved families and carers, available at: **https://www.england.nhs.uk/publication/national-guidance-on-learning-from-deaths/**

National Institute for Health Research or **NIHR** the organisation established by the Department of Health and Social Care to transform research in the NHS

National Medical Examiner the individual appointed at national level to provide professional and strategic leadership to regional and trust-based medical examiners, as described at: **https://improvement.nhs.uk/resources/establishing-medical-examiner-system-nhs/**

National Patient Safety Alert a communication on an issue critical to patient safety, issued to relevant providers of NHS-funded healthcare services using the national template and accredited process approved
by the National Patient Safety Alerting Committee (as described at: **https://improvement.nhs.uk/resources/national-patient-safety-alerting-committee/**)

National Price the national price for a health care service specified by the National Tariff, as may be adjusted by applicable national variation specified in the National Tariff under section 116(4)(a) of the 2012 Act

National Quality Requirements the requirements set out in Schedule 4B (*National Quality Requirements*)

National Reporting and Learning System the central database of patient safety incident reports at: **https://report.nrls.nhs.uk/nrlsreporting/**

National Requirements Reported Centrally the requirements set out under that heading in Schedule 6A (*Reporting Requirements*)

National Requirements Reported Locally the requirements set out under that heading in Schedule 6A (*Reporting Requirements*)

National Service Specifications the Service Specifications published by NHS England for prescribed specialised services, available at: https://www.england.nhs.uk/commissioning/spec-services/npc-crg/

National Tariff the national tariff, as published by Monitor under section 116 of the 2012 Act (including any rules included under section 116(4)(b) of the 2012 Act), as applicable at the time at which the relevant Service is provided

National Telephony Service the technology procured by NHS England which links a caller dialing 111 to the telephone number of either the Provider or another 111 provider

National Variation a Variation mandated by NHS England to reflect changes to the NHS Standard Contract and notified to the Parties by whatever means NHS England may consider appropriate

National Workforce Disability Equality Standard the workforce disability equality standard for the NHS, available at: https://www.england.nhs.uk/about/equality/equality-hub/wdes/

National Workforce Race Equality Standard the workforce race equality standard for the NHS, available at: http://www.england.nhs.uk/ourwork/gov/equality-hub/equality-standard/

Nationally Contracted Products Programme the procurement programme operated by NHS Improvement and NHS Supply Chain which aims to consolidate purchasing power in order to purchase products on a better-value basis for NHS Trusts and Foundation Trusts, as described at: https://www.supplychain.nhs.uk/savings/nationally-contracted-products/

Negotiation Period the period of 15 Operational Days following receipt of the first offer to negotiate

Never Event an event or occurrence in relation to a Service User as so defined in the Never Events Policy Framework from time to time

Never Events Policy Framework the *Never Events Policy Framework*, available at: https://improvement.nhs.uk/resources/never-events-policy-and-framework/

NEWS 2 Guidance *National Early Warning Score (NEWS) 2: Standardising the assessment of acute-illness severity in the NHS. Updated report of a working party*, Royal College of Physicians, London, 2017, available at: https://www.rcplondon.ac.uk/projects/outputs/national-early-warning-score-news-2

NEW Score the aggregate score for an individual Service User when assessed at any point using the parameters set out in NEWS 2 Guidance

NHS the National Health Service in England

NHS Body has the meaning given to it in section 275 of the 2006 Act

NHS Business Services Authority the Special Health Authority established under the NHS Business Services Authority (Establishment and Constitution Order) 2005 SI 2005/2414

NHS Care Records Guarantee the publication setting out the rules that govern how patient information is used in the NHS and what control the patient can have over this, available here: https://webarchive.nationalarchives.gov.uk/20130513181153/http://www.nigb.nhs.uk/pubs/nhscrg.pdf

NHS Car Parking Guidance NHS patient, visitor and staff car parking principles, published in October 2015 by DHSC at: https://www.gov.uk/government/publications/nhs-patient-visitor-and-staff-car-parking-principles/nhs-patient-visitor-and-staff-car-parking-principles, as

revised, supplemented or replaced by further guidance to be published, by spring 2020, by DHSC and/or NHS England and NHS Improvement to support and provide funding for implementation of the Government's commitment to enabling free parking for certain groups, as set out at: **https://www.gov.uk/government/news/free-hospital-parking-for-thousands-of-patients-staff-and-carers**

NHSCFA the NHS Counter Fraud Authority, the special health authority charged with identifying, investigating and preventing fraud and other economic crime within the NHS and the wider health group

NHSCFA Standards the counter-fraud standards and guidance issued from time to time by NHSCFA, available at: **https://cfa.nhs.uk/counter-fraud-standards**

NHS Chaplaincy Guidelines *NHS England – NHS Chaplaincy Guidelines 2015: Promoting Excellence in Pastoral, Spiritual & Religious Care*, available at: https://www.england.nhs.uk/wp-content/uploads/2015/03/nhs-chaplaincy-guidelines-2015.pdf

NHS Choice Framework the framework which sets out the choices available to individuals in respect of their health care, published by DHSC at: **https://www.gov.uk/government/publications/the-nhs-choice-framework**

NHS Constitution the constitution for the NHS in England which establishes the principles and values of the NHS in England and sets out the rights, pledges and responsibilities for patients, the public and staff (and including the *Handbook To The NHS Constitution,* available at: **https://www.gov.uk/government/publications/supplements-to-the-nhs-constitution-for-england***)*

NHS Data Model and Dictionary the reference source for information standards to support healthcare activities within the NHS in England

NHS Data Security and Protection Toolkit an online system which allows NHS Bodies and non-NHS providers of NHS-funded services to assess their compliance with GDPR and with the National Data Guardian's Data Security Standards, available at: **https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/data-security-and-protection-toolkit**

NHS Data Sharing Principles the document which sets out guiding principles and a framework to help the NHS realise benefits for patients and the public where the NHS shares data with researchers, published by DHSC at **https://www.gov.uk/government/publications/creating-the-right-framework-to-realise-the-benefits-of-health-data/creating-the-right-framework-to-realise-the-benefits-for-patients-and-the-nhs-where-data-underpins-innovation**

NHS Digital the Health and Social Care Information Centre **https://digital.nhs.uk/**

NHS Digital UTC Booking Standards the technical standards for information technology systems to enable direct electronic booking of appointments into Urgent Treatment Centre services from 111 services, published by NHS Digital at: **https://developer.nhs.uk/apis/uec-appointments/**

NHS Employer has the meaning given to it in Annex 1 to the NHS Terms and Conditions of Service Handbook but, for the purposes of GC5.16 and GC5.16A includes NHS Improvement

NHS Employment Check Standards the pre-appointment checks that are required by Law, those that are mandated by any Regulatory Body policy, and those that are required for access to Service

User Health Records: **http://www.nhsemployers.org/your-workforce/recruit/employment-checks**

NHS England the National Health Service Commissioning Board established by section 1H of the 2006 Act, also known as NHS England

NHS England Prevent Training and Competencies Framework the framework available at: **https://www.england.nhs.uk/publication/prevent-training-and-competencies-framework/**

NHS e-Referral Guidance guidance in relation to best practice use of the NHS e-Referral Service, available at: https://digital.nhs.uk/services/nhs-e-referral-service and on management of referrals (*e-Referral Service: guidance for managing referrals*), available at: https://www.england.nhs.uk/digitaltechnology/nhs-e-referral-service/

NHS e-Referral Service the national electronic booking service that gives patients a choice of place, date and time for first hospital or clinic appointments

NHS Food Standards the standards for catering services for Service Users, visitors and Staff set out in the following publications:

(i) For patient catering*: 10 key characteristics of good nutritional and hydration care (NHS England)* https://www.england.nhs.uk/commissioning/nut-hyd/10-key-characteristics/; *Nutrition and Hydration Digest (British Dietetic Association)* https://www.bda.uk.com/uploads/assets/6fa2c242-a626-46b8-bcf7ef74997b6151/NutritionHydrationDigest.pdf;
Malnutrition Universal Screening Tool or equivalent (British Association of Parenteral and Enteral Nutrition) http://www.bapen.org.uk/pdfs/must/must_full.pdf;

(ii) For all catering: Government Buying Standards

(iii) For staff and visitor catering - *Healthier and more sustainable catering guidance – nutrition principles (Public Health England)* https://www.gov.uk/government/publications/healthier-and-more-sustainable-catering-a-toolkit-for-serving-food-to-adults

as updated or supplemented by any additional or successor requirements published by NHS England and NHS Improvement

NHS Foundation Trust a body as defined in section 30 of the 2006 Act

NHS Guidance on Prescribing Responsibilities the document published by NHS England which describes the prescribing responsibilities of healthcare professionals from primary, secondary and tertiary care, available at: **https://www.england.nhs.uk/publication/responsibility-for-prescribing-between-primary-and-secondary-tertiary-care/**

NHS Identity the name and logo of the NHS and any other names, logos and graphical presentations as held by the Secretary of State required to be used in connection with the provision of the Services

NHS Identity Guidelines NHS Identity policy and guidelines, available at: **https://www.england.nhs.uk/nhsidentity/**, and any other Guidance issued from time to time in relation to the NHS Identity

NHS Improvement the combined organisation comprising Monitor and NHSTDA

NHS Internet First Policy the national policy under which all externally accessible health and social care digital services must be securely accessible over the public internet, as further described at: **https://digital.nhs.uk/services/internet-first**

NHS Managed Choice Guidance guidance relating to the offering of choice of alternative providers to patients at, or as soon as possible after, an 18-week wait (and no later than 26 weeks), to be published by NHS England and NHS Improvement in due course

NHS Model Employer Strategy the NHS Workforce Race Equality Standard leadership strategy, aimed at increasing black and minority ethnic representation at senior levels across the NHS, available at https://www.england.nhs.uk/publication/a-model-employer/

NHS Number the national unique patient identifier given to each person registered with the NHS in England and Wales. Further information is available at: **https://digital.nhs.uk/NHS-Number**

NHS Pension Scheme the National Health Service Pension Scheme for England and Wales, established under the Superannuation Act 1972, governed by subsequent regulations under that Act including the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), and the National Health Service Pension Scheme Regulations 2015 (SI 2015/94)

NHS People Plan the document to be published by NHS England and NHS Improvement and Health Education England, setting out a five-year national strategy for NHS workforce transformation and workforce growth, including action by local and national bodies to improve the experience of everyone working in the NHS

NHS People Offer the core standards in relation to the work environment and experience of work for people working in the NHS, to be published in conjunction with the NHS People Plan

NHS Premises Assurance Model or **PAM** the toolkit which allows NHS Trusts and NHS Foundation Trusts to assess how efficiently they run their estate and facilities, published by NHS England and NHS Improvement at: **https://improvement.nhs.uk/resources/nhs-premises-assurance-model/**

NHS Resolution an arm's-length body of the Department of Health and Social Care which (inter alia) administers CNST and other indemnity schemes and deals with claims for compensation on behalf of the NHS in England

NHS Serious Incident Framework NHS England's serious incident framework, available at: **https://improvement.nhs.uk/resources/serious-incident-framework/**

NHS Standard Contract the model commissioning contract or contracts published by NHS England from time to time pursuant to its powers under regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (*Responsibilities and Standing Rules*) Regulations 2012

NHS Supply Chain the organisation run by DHL Supply Chain on behalf of the NHS Business Services Authority, providing a dedicated supply chain to the NHS in England

NHSTDA the Special Health Authority known as the National Health Service Trust Development Authority established under the NHS Trust Development Authority (Establishment and Constitution) Order 2012 SI 901/2012

NHS Terms and Conditions of Service Handbook the handbook of NHS terms and conditions of service, available at: **http://www.nhsemployers.org/your-workforce/pay-and-reward/nhs-terms-and-conditions/nhs-terms-and-conditions-of-service-handbook**

NHS Treatment Costs Guidance

(i) *Attributing the costs of health and social care Research & Development* (AcoRD), available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/140054/dh_133883.pdf;

(ii) HSG (97) 32, available at: http://webarchive.nationalarchives.gov.uk/+/http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Healthserviceguidelines/DH_4018353; and
(iii) *Guidance on excess treatment costs*, available at: https://www.england.nhs.uk/wp-content/uploads/2015/11/etc-guidance.pdf
and any subsequent guidance to be published by NHS England and/or the Department of Health and Social Care

NHS Trust a body established under section 25 of the 2006 Act

NHS Website https://www.nhs.uk/

NICE the National Institute for Health and Care Excellence, the special health authority responsible for providing national guidance on the promotion of good health and the prevention and treatment of ill health

NICE Technology Appraisals technology appraisals conducted by NICE in order to make recommendations on the use of drugs and other health technologies within the NHS

Nominated Individual the person responsible for supervising the management of the Services, being:
(i) where the Provider is an individual, that individual; and
(ii) where the Provider is not an individual, an individual who is employed (within the meaning of the 2014 Regulations) as a director, manager or the company secretary of the Provider, (and who will, where appropriate, be the nominated individual notified to CQC in accordance with regulation 6 of the 2014 Regulations)

Non-elective Care care which is unplanned and which may include:
(i) Critical Care, whether or not provided with Emergency Care;
(ii) Emergency Care; and
(iii) healthcare or treatment provided to a Service User without prior schedule or referral, whether or not it is also Emergency Care

Notifiable Safety Incident has the definition given to it in the 2014 Regulations

Occasion of Tax Non-compliance
(i) any tax return of the Provider submitted to a Relevant Tax Authority on or after 1 October 2012 being found on or after 1 April 2013 to be incorrect as a result of either a Relevant Tax Authority successfully challenging the Provider under the General Anti-abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to either, or the failure of an avoidance scheme in which the Provider was involved and which was or should have been notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; or
(ii) any tax return of the Provider submitted to a Relevant Tax Authority on or after 1 October 2012 giving rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax-related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion

ODS the NHS Organisation Data Service that is responsible for:
(i) the publication of all organisation and practitioner codes;
(ii) the development of national policy and standards relating to organisation and practitioner codes; and
(iii) the development of national reference organisation data

Open API Policy and Guidance the following publications:

(i) the policy on Open Application Programming Interfaces, published by NHS England at: **https://www.england.nhs.uk/digitaltechnology/connecteddigitalsystems/interoperability/open-api/**; and
(ii) guidance on the NHS Standard Contract requirements on discharge summaries and clinic letters and on interoperability of clinical IT systems, published by NHS England at: **https://www.england.nhs.uk/publication/guidance-on-the-nhs-standard-contract-requirements-on-discharge-summaries-and-clinic-letters-and-on-interoperability-of-clinical-it-systems/**

Operational Day a day other than a Saturday, Sunday or bank holiday in England

Operational Standards the standards set out in Schedule 4A (*Operational Standards*)

Other IS Providers has the meaning given in Schedule 2A (*Service Specification*)

Other Local Agreements, Policies and Procedures the agreements, policies and procedures details of which are set out in Schedule 2G (*Other Local Agreements, Policies and Procedures*) or otherwise agreed between the Parties from time to time

Outpatient Care Value the price payable, as determined in accordance with rules 1-3 of section 7.2 of the National Tariff, for the outpatient attendances and advice and guidance services specified in those rules

Overseas Visitor Charging Guidance any guidance issued from time to time by the Secretary of State or by NHS England on the making and recovery of charges under the Overseas Visitor Charging Regulations, including that available at:
https://www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations and
https://www.england.nhs.uk/publication/improving-systems-for-cost-recovery-for-overseas-visitors/

Overseas Visitor Charging Regulations the regulations made by the Secretary of State under section 175 of the National Health Service Act 2006, available at:
http://www.legislation.gov.uk/uksi/2015/238/contents/made and
http://www.legislation.gov.uk/uksi/2017/756/contents/made

Particulars the Particulars to this Contract

Parties the Commissioners (or such of them as the context requires) and the Provider and "Party" means any one of them

Parties in Dispute the Co-ordinating Commissioner and/or other Commissioners directly concerned in the Dispute, as one Party in Dispute, and the Provider, as the other

Partnership Agreement an arrangement between a Local Authority and an NHS Body made under section 75 of the 2006 Act for the provision of combined health or social services and/or under section 10 of the Children Act 2004 to promote co-operation with a view to improving the well-being of children

Patient Pocket Money monies that the Provider and the Co-ordinating Commissioner agree from time to time may be paid by the Provider to a Service User to purchase sundry items and services

Patient Safety Incident any unintended or unexpected incident that occurs in respect of a Service User, during and as a result of the provision of the Services, that could have led, or did lead to, harm to that Service User

Patient Safety Specialist the individual designated by the Provider to provide leadership and visibility and expert support to patient safety in relation to the Services, as described in the NHS Patient Safety Strategy available at **https://improvement.nhs.uk/resources/patient-safety-strategy/**

Peak Surge Period has the meaning given in Schedule 2A (*Service Specification*)

PEPPOL Pan-European Public Procurement Online. See:
https://www.gov.uk/government/publications/nhs-e-procurement-strategy

Personal Data has the meaning given to it in Data Protection Legislation

Personal Data Breach has the meaning given to it in Data Protection Legislation

Personalised Care and Support Plan a plan developed by the Provider, in association with other relevant providers of health and social care and in partnership with a Service User and/or their Carer or Legal Guardian (as appropriate), to deliver Services appropriate to the Service User's needs, which:

(i) reflects the Service User's goals;
(ii) helps the Service User to manage their physical and mental health and wellbeing, including access to support for self-management;
(iii) pays proper attention to the Service User's preferences, culture, ethnicity, gender, age and sexuality; and
(iv) takes account of the needs of any children and Carers

NHS England, in partnership with The Coalition for Collaborative Care, has published a handbook which provides information on care and support, which is available at:
http://www.england.nhs.uk/resources/resources-for-ccgs/out-frwrk/dom-2/ltc-care/

Place of Safety a safe place where a mental health assessment can be carried out; this may be a hospital, care home, or any other suitable place where the occupier is willing to receive the person while the assessment is completed. Police stations should be only be used in exceptional circumstances

Plastics Pledge the NHS single-use plastics reduction campaign pledge:
https://www.engage.england.nhs.uk/survey/dee161d9/

Post Event Message a message summarising the Provider's contact with a Service User

Post Reconciliation Inclusion Date the date by which the Provider must submit to SUS all of the final activity data on which it believes payment for the month in question should be based, as advised by NHS Digital from time to time

Prevent Guidance Government guidance on the Prevent duty (available at: **https://www.gov.uk/government/publications/prevent-duty-guidance**) and on the Channel duty (available at **https://www.gov.uk/government/publications/channel-guidance**)

Previous Contract a contract between one or more of the Commissioners and the Provider for the delivery of services the same or substantially the same as the Services, the term of which immediately precedes the Contract Term

Prevent Lead the officer of the Provider responsible for implementation and dissemination of the Government Prevent Strategy, identified as such in the Particulars

Price a National Price, or a National Price adjusted by a Local Variation or Local Modification, or a Local Price, as appropriate

Primary Care Network or **PCN** a locally-established network of providers of general medical services, as described at: **https://www.england.nhs.uk/gp/gpfv/redesign/primary-care-networks/**

Primary Medical Services the primary medical services described in Schedule 2L (*Provisions Applicable to Primary Medical Services*), to which the provisions of that Schedule apply

Principles of Good Employment Practice the guidance note issued by the Cabinet Office in December 2010 titled *Supplier Information Note: Withdrawal of Two-Tier Code* available at: **https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62091/two-tier-code.pdf** including Annex A of that guidance note setting out a set of voluntary principles of good employment practice

Prior Approval the approval by the Responsible Commissioner of care or treatment, including diagnostics, to an individual Service User or a group of Service Users prior to referral or following initial assessment

Prior Approval Response Time Standard the timescale, set out in the Particulars, within which the relevant Commissioner must respond to a requirement for approval for treatment of an individual Service User under a Prior Approval Scheme

Prior Approval Scheme a scheme under which one or more Commissioners give Prior Approval for treatments and services prior to referral or following initial assessment that may form part of the Services required by the Service User following referral

Privacy Notice the information that must be provided to a Data Subject under whichever of the following Laws is in force at the relevant time:
(i) Article 13 and Article 14 of the GDPR; or
(ii) DPA 2018

Processor Data is any data processed by the Provider in connection with the Data Processing Services

Prohibited Act the Provider:
(i) offering, giving, or agreeing to give the Commissioners (or an of their officers, employees or agents) any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining of performance of this Contract or any other contract with the Provider, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Provider; and
(ii) in connection with this Contract, paying or agreeing to pay any commission, other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the Co-ordinating Commissioner; or
(iii) committing an offence under the Bribery Act 2010

Proposer Party proposing a Variation

Protective Measures appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures

Provider the party identified as such in the Particulars

Provider Change in Control means any Change in Control of the Provider or any of its Holding Companies

Provider Deliverables all documents, products and materials developed by the Provider or its agents, subcontractors, consultants and employees in relation to the Services in any form and required to be submitted to any Commissioner under this Contract, including data, reports, policies, plans and specifications but excluding Commercially Sensitive Information

Provider Earliest Termination Date the date referred to as such in the Particulars

Provider Insolvency Event the occurrence of any of the following events in respect of the Provider:

(i) the Provider being, or being deemed for the purposes of any Law to be, unable to pay its debts or insolvent;
(ii) the Provider admitting its inability to pay its debts as they fall due;
(iii) the value of the Provider's assets being less than its liabilities taking into account contingent and prospective liabilities;
(iv) the Provider suspending payments on any of its debts or announces an intention to do so;
(v) by reason of actual or anticipated financial difficulties, the Provider commencing negotiations with creditors generally with a view to rescheduling any of its indebtedness;
(vi) a moratorium is declared in respect of any of the Provider's indebtedness;
(vii) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Provider;
(viii) a composition, assignment or arrangement with any creditor of any member of the Provider;
(ix) the appointment of a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer (in each case, whether out of court or otherwise) in respect of the Provider or any of its assets;
(x) a resolution of the Provider or its directors is passed to petition or apply for the Provider's winding-up or administration;
(xi) the Provider's directors giving written notice of their intention to appoint a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, or administrator (whether out of court of otherwise); or
(xii) if the Provider suffers any event analogous to the events set out in (i) to (xi) of this definition in any jurisdiction in which it is incorporated or resident

Provider Notice Period the period specified as such in the Particulars

Provider Representative the person identified as such in the Particulars

Provider's Premises the Premises indicated as such in Schedule 2A (*Service Specification*)

PRSB Clinical Referral Information Standard the standard for information to be provided when referring patients to hospital consultants and other health care professionals providing outpatient services, as published by the Professional Record Standards Body at:
https://theprsb.org/standards/clinicalreferralinformation/

Public Company a company which:

(i) has shares that can be purchased by the public; and
(ii) has an authorised share capital of at least £50,000 with each of the company's shares being paid up at least as to one quarter of the nominal value of the share and the whole of any premium on it; and
(iii) has securities listed on a stock exchange in any jurisdiction

Public Health England an executive agency of the Department of Health and Social Care established under the 2012 Act

Quality Accounts has the meaning set out in section 8 of the Health Act 2009

Quality Incentive Scheme Indicator an indicator or measure of the Provider's performance in relation a CQUIN Scheme or a Local Incentive Scheme

Quality Requirements the Operational Standards, the National Quality Requirements and the Never Events

Quarter each 3 month period commencing on the Services Commencement Date and "Quarterly" will be construed accordingly

Raising Concerns Policy for the NHS the model whistleblowing policy for NHS organisations, published by NHS England and NHS Improvement, available at: **https://improvement.nhs.uk/resources/freedom-to-speak-up-whistleblowing-policy-for-the-nhs/**

Recipient a Party receiving a draft Variation Agreement

Records Management Code of Practice for Health and Social Care guidance on management and retention of records available at: **https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/records-management-code-of-practice-for-health-and-social-care-2016**

Redundancy Repayment the sum £R, calculated as follows:

£R = (**S** x (**A** – **B**)) – (**C** + **D**),

where:

S is the lesser of (a) the amount of a month's pay used to calculate your contractual redundancy payment, or (b) the amount of any maximum monthly sum for the purposes of that calculation applicable at the date of the redundancy, as determined by Agenda for Change

A is the number of years used in the calculation of the contractual redundancy payment;

B is the number of complete calendar months between the date of termination of the individual's employment by the NHS Employer and the date of commencement of their employment or engagement with the Provider or Sub-Contractor or consultancy;

C is the total statutory redundancy payment that the individual was were entitled to receive on redundancy from the NHS Employer; and

D is the amount of any income tax deducted by that NHS Employer from the contractual redundancy payment,

But for the avoidance of doubt the individual will have no liability to repay any sum if **B** is greater than or equal to **A**

Referral the referral of any Service User to the Provider by a Referrer or (for a Service for which a Service User may present or self-refer for assessment and/or treatment in accordance with this Contract and/or Guidance) presentation or self-referral by a Service User

Referrer
(i) the authorised Healthcare Professional who is responsible for the referral of a Service User to the Provider; and
(ii) any organisation, legal person or other entity which is permitted or appropriately authorised in accordance with the Law to refer the Service User for assessment and/or treatment by the Provider

Regulatory or Supervisory Body any statutory or other body having authority to issue guidance, standards or recommendations with which the relevant Party and/or Staff must comply or to which it or they must have regard, including:
(i) CQC;
(ii) NHS Improvement;
(iii) NHS England;
(iv) the Department of Health and Social Care;
(v) NICE;
(vi) Healthwatch England and Local Healthwatch;
(vii) Public Health England;
(viii) the General Pharmaceutical Council;
(ix) the Healthcare Safety Investigation Branch;
(x) the Information Commissioner; and
(xi) the European Data Protection Board

Relevant Person has the meaning given to it in the 2014 Regulations

Relevant Tax Authority HM Revenue & Customs or, if applicable, a tax authority in the jurisdiction in which the supplier is established

Remedial Action Plan or **RAP** a plan to rectify a breach of or performance failure under this Contract (or, where appropriate, a Previous Contract), specifying actions and improvements required, dates by which they must be achieved and consequences for failure to do so, as further described in GC9.12 (*Contract Management*)

Responsible Commissioner the Service User's responsible commissioner as determined in accordance with the Law and applicable Guidance (including Who Pays? Guidance)

Restricted Person

(i) any person, other than an organisation whose primary purpose is to invest its own assets or those held in trust by it for others, including a bank, mutual fund, pension fund, private equity firm, venture capitalist, insurance company or investment trust, who has a material interest in the production of tobacco products or alcoholic beverages; or

(ii) any person who the Co-ordinating Commissioner otherwise reasonably believes is inappropriate for public policy reasons to have a controlling interest in the Provider or in a Material Sub-Contractor

Review Meeting a meeting to be held in accordance with GC8.1 (*Review*) at the intervals set out in the Particulars or as otherwise requested in accordance with GC8.4 (*Review*)

Review Record a written record of a Review Meeting as described in GC8.2 (*Review*)

Royal College of Psychiatrists Standards standards on the application of section 136 of the Mental Health Act 1983 (England and Wales), published by the Royal College of Psychiatrists at: **https://www.rcpsych.ac.uk/docs/default-source/improving-care/better-mh-policy/college-reports/college-report-cr159.pdf**

Safeguarding Lead the officer of the Provider responsible for implementation and dissemination of Safeguarding Policies, identified as such in the Particulars

Safeguarding Guidance

(i) *Care and Support Statutory Guidance issued under the Care Act* **https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315993/Care-Act-Guidance.pdf**

(ii) *Working Together to Safeguard Children - A guide to inter-agency working to safeguard and promote the welfare of children – statutory guidance* **https://www.gov.uk/government/publications/working-together-to-safeguard-children--2**

(iii) *Working Together: transitional guidance Statutory guidance for Local Safeguarding Children Boards, local authorities, safeguarding partners, child death review partners, and the Child Safeguarding Practice Review Panel* **https://www.gov.uk/government/publications/working-together-to-safeguard-children--2**

(iv) *Safeguarding Children, Young People and Adults at Risk in the NHS: Safeguarding Accountability and Assurance Framework* *https://www.england.nhs.uk/wp-content/uploads/2015/07/safeguarding-children-young-people-***adults***-at-risk-saaf-1.pdf*

(v) *NICE Quality Standard QS116 Domestic Violence and Abuse* *https://www.nice.org.uk/guidance/qs116*

Safeguarding Policies the Provider's written policies for safeguarding children, young people and adults, as appended in Schedule 2K (*Safeguarding Policies and MCA Policies*) and updated from time to time in accordance with SC32 (*Safeguarding Children and Adults*)

Saving Babies' Lives Care Bundle the document setting out key evidence-based interventions aimed at reducing stillbirth rates, published by NHS England at: **https://www.england.nhs.uk/mat-transformation/saving-babies/**

SCCI 1580 (Palliative Care Co-ordination: Core Content) the information standard specifying the core content to be held in electronic palliative care co-ordination systems (EPaCCS), published at: **https://digital.nhs.uk/data-and-information/information-standards/information-standards-and-data-collections-including-extractions/publications-and-notifications/standards-and-collections/scci1580-palliative-care-co-ordination-core-content**

Secretary of State the Secretary of State for Health and Social Care and/or the Department of Health and Social Care

Section 251 Regulations the Health Service (Control of Patient Information) Regulations 2002, made pursuant to section 251 of the 2006 Act

Security Shares, Debt Securities, unit trust schemes (as defined in the Financial Services and Markets Act 2000), miscellaneous warrants, certificates representing Debt Securities, warrants or options to subscribe or purchase securities, other securities of any description and any other type of proprietary or beneficial interest in a limited company

Senior Information Risk Owner the Provider's nominated person, being an executive or senior manager on the Governing Body of the Provider, whose role it is to take ownership of the organisation's information risk policy, act as champion for information risk on the Governing Body of the Provider and provide written advice to the accounting officer on the content of the organisation's statement of internal control in regard to information risk

Sepsis Implementation Guidance *Sepsis guidance implementation advice for adults*, produced in collaboration with NICE, Royal College of Physicians, the Royal College of GPs, Health Education England, the UK Sepsis Trust, Patient Safety Collaboratives, front line clinicians and published by NHS England, available at: **https://www.england.nhs.uk/publication/sepsis-guidance-implementation-advice-for-adults/**

Serious Incident has the meaning given to it in the NHS Serious Incident Framework

Service Commencement Date the date the Services actually commence in accordance with the Service Specification

Service Condition or **SC** any Service Condition forming part of this Contract

Service Development and Improvement Plan or **SDIP** an agreed plan setting out improvements to be made by the Provider to the Services and/or Services Environment (which may comprise or include any Remedial Action Plan agreed in relation to a Previous Contract), as appended at Schedule 6D (*Service Development and Improvement Plan*)

Service Quality Performance Report the report required by Schedule 6A (*Reporting Requirements*)

Service Specifications each of
(i) the service specifications defined by the Commissioners and set out in Schedule 2A (*Service Specifications*); and
(ii) in the case of any Specialised Services each of the National Service Specifications listed and/or set out in Schedule 2A (*Service Specifications*); and
(iii) where appropriate, the provisions of Schedule 2L (*Provisions Applicable to Primary Medical Services*)

Service User a patient or service user for whom a Commissioner has statutory responsibility and who receives Services under this Contract

Service User Health Record a record which consists of information and correspondence relating to the particular physical or mental health or condition of a Service User (whether in electronic form or otherwise), including any such record generated by a previous provider of services to the Service User which is required to be retained by the Provider for medico-legal purposes

Service Variation a Variation proposed by the Co-ordinating Commissioner which relates to a Service and reflects:

(i) the assessment by Commissioners of pathway needs, the availability of alternative providers and demand for any Service; and/or

(ii) the joint assessment of the Provider and Commissioners of the quality and clinical viability of the relevant Service and the Services Environment; and/or

(iii) the likely impact of any transformational need and/or reconfiguration of a care pathway that might affect the Service

Services the services (and any part or parts of those services) described in each of, or, as the context admits, all of the Service Specifications, and/or as otherwise provided or to be provided by the Provider under and in accordance with this Contract

Services Environment the rooms, theatres, wards, treatment bays, clinics or other physical location, space, area, accommodation or other place as may be used or controlled by the Provider from time to time in which the Services are provided, excluding Service Users' private residences, Local Authority premises, schools and premises controlled by the Responsible Commissioner

Settlement Agreement Guidance NHS Employers' guidance *The Use of settlement agreements and confidentiality clauses*, available at: **https://www.nhsemployers.org/case-studies-and-resources/2019/02/the-use-of-settlement-agreements-and-confidentiality-clauses**

Seven Day Service Self-Assessment the self-assessment tool (7DSAT): **http://www.7daysat.nhs.uk/**

Shared Care Protocols shared care arrangements that are agreed at a regional or local level to enable the combination of primary and secondary care for the benefit of Service Users. They will, for example, support the seamless transfer of treatment from the tertiary to the secondary care sector and/or general practice

Shared Decision-Making the process of discussing options and the risks and benefits of various actions and courses of care or treatment based on the needs, goals and personal circumstances of the Service User, with a Service User and/or their Carer or Legal Guardian (as appropriate).

Shares has the meaning given in section 540 of the Companies Act 2006, including preference shares

Smoke-free no smoking of tobacco or anything which contains tobacco, or smoking of any other substance, or being in possession of lit tobacco or of anything lit which contains tobacco, or being in possession of any other lit substance in a form in which it could be smoked

Specialised Services the prescribed specialised services commissioned by NHS England as specified in the identification rules available at: **https://www.england.nhs.uk/commissioning/spec-services/key-docs/**

Staff all persons (whether clinical or non-clinical) employed or engaged by the Provider or by any Sub-Contractor (including volunteers, agency, locums, casual or seconded personnel) in the

provision of the Services or any activity related to or connected with the provision of the Services, including Consultants

Staffing Guidance any Guidance applicable to the Services in relation to Staff numbers or skill-mix, including such guidance as is issued in relation to responding to COVID-19, such as guidance from the cross-specialty clinical group supported by the Royal Colleges and COVID-19 clinical management guides issued in collaboration with NICE

Staff Survey Guidance guidance on the implementation of the NHS staff surveys and their applicability to different providers, available at:
http://www.nhsstaffsurveys.com/Page/1056/Home/NHS-Staff-Survey-2016/

Standard DBS Check a disclosure of information which contains details of an individual's convictions, cautions, reprimands or warnings recorded on police central records and includes both 'spent' and 'unspent' convictions

Standard DBS Position any position listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) and in relation to which a Standard DBS Check is permitted: **https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance**

Sub-Contract any sub-contract entered into by the Provider or by any Sub-Contractor of any level for the purpose of the performance of any obligation on the part of the Provider under this Contract

Sub-Contractor any sub-contractor, whether of the Provider itself or at any further level of sub-contracting, under any Sub-Contract

Sub-processor any Sub-Contractor appointed by a Data Processor to process Personal Data on behalf of the Commissioners pursuant to this Contract

Succession Plan a plan for the transition of any affected Service on the expiry or termination of this Contract or of that Service (as appropriate), to include:
(i) details of the affected Service;
(ii) details of Service Users and/or user groups affected;
(iii) the date on which the successor provider will take responsibility for providing the affected Service

Sugar-Sweetened Beverage any drink, hot or cold, carbonated or non-carbonated, including milk based drinks and milk substitute drinks such as soya, almond, hemp, oat, hazelnut or rice, which contains more than 20kcal/100ml energy (i.e. is **not** 'low energy (calorie)') **and also** has had any sugar added to it as an ingredient (i.e. is **not** 'no added sugar'). Products sweetened with a combination of artificial/natural sweeteners and sugars would, if they contain more than 20kcal/100ml energy (i.e. are **not** 'low energy (calorie)'), fall within this definition. For the purposes of this definition, added sugars:
(i) include sugars added to pre-packaged drinks or added to made-to-order drinks (including without limitation sugar syrup, hot chocolate powder, sweetened milk alternatives and whipped cream);
(ii) do not include sugars naturally occurring in fruit juices, vegetable juices and smoothies.
(iii) do not include sugars naturally occurring in milk.
(iv) do not include sugar added by the customer after the point of sale.
Further information on Nutrition Claims Legislation (that provides definitions of 'low energy (calorie)' and 'no added sugar') is available at: **https://ec.europa.eu/food/safety/labelling_nutrition/claims/nutrition_claims_en**

Summary Care Records Service the national system providing those treating Service Users in any emergency or out-of-hours with fast access to key clinical information, as described at: **https://digital.nhs.uk/summary-care-records**

Surveys the Friends and Family Test, Service User surveys, Carer surveys, Staff surveys and any other surveys reasonably required by the Commissioners in relation to the Services

SUS the Secondary Uses Service, the single, comprehensive repository for healthcare data in England, maintained by NHS Digital, described at: **https://digital.nhs.uk/services/secondary-uses-service-sus**

SUS Guidance guidance in relation to the use of SUS, available at: **https://digital.nhs.uk/services/secondary-uses-service-sus/secondary-uses-services-sus-guidance** and **https://digital.nhs.uk/services/secondary-uses-service-sus/payment-by-results-guidance**

Suspension Event the occurrence of any of the following:

(i) any Commissioner and/or any Regulatory or Supervisory Body having reasonable grounds to believe that the Provider is or may be in breach of the Law, or in material breach of the Quality Requirements or regulatory compliance Standards issued by a Regulatory or Statutory Body; or

(ii) any Commissioner and/or any Regulatory or Supervisory Body having reasonable and material concerns as to the continuity, quality or outcomes of any Service, or for the health and safety of any Service User; or

(iii) the Co-ordinating Commissioner, acting reasonably, considering that the circumstances constitute an emergency (which may include an Event of Force Majeure affecting provision of a Service or Services); or

(iv) the Provider or any Sub-Contractor being prevented from providing a Service due to the termination, suspension, restriction or variation of any Consent or Monitor's Licence

Sustainability and Transformation Partnership or **STP** a partnership formed by NHS organisations and local authorities to run services in a more coordinated way, to agree system-wide priorities, and to plan collectively how to improve residents' day-to-day health. See: **https://www.england.nhs.uk/integratedcare/stps/**

System Collaboration and Financial Management Agreement an agreement to which all CCGs, NHS Trusts and NHS Foundation Trusts within an ICS or STP, and NHS England as a commissioner of services from those Trusts and NHS Foundation Trusts, are party and which, as a minimum:

(i) describes the collaborative behaviours expected of the parties to it;

(ii) requires open book accounting by and financial transparency between parties to it;

(iii) describes processes for reaching consensus and resolving disputes between the parties to it about how best to use financial and other resources available to the ICS or STP;

(iv) sets out a mechanism for management of the aggregate financial position of the parties to achieve and maintain the System Financial Improvement Trajectory for the ICS or STP from time to time

System Financial Improvement Trajectory the overall system financial improvement trajectory for the relevant financial year for all CCGs, NHS Trusts and NHS Foundation Trusts within an ICS or STP, as agreed with NHS England and NHS Improvement

Transaction Records the accounts and transaction records of all payments, receipts and financial and other information relevant to the provision of the Services

Transfer and Discharge Guidance and Standards

(i) *Transition between inpatient hospital settings and community or care home settings for adults with social care needs* (NICE guideline NG27) (**https://www.nice.org.uk/guidance/ng27**)
(ii) *Transition between inpatient mental health settings and community or care home settings* (NICE guideline NG53) (**https://www.nice.org.uk/guidance/ng53**)
(iii) Care and support statutory guidance (**https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance**)
(iv) *the Assessment, Discharge and Withdrawal Notices between Hospitals and Social Services Information Standard (SCCI2075)*
(v) the National Framework for Inter-Facility Transfers (**https://www.england.nhs.uk/publication/inter-facility-transfers-framework/**)

Transfer of and Discharge from Care Protocols the protocols (to include all locally-agreed requirements in respect of information to be provided to the Service User and/or Referrer relating to updates on progress through the care episode, transfer and discharge) set out at Schedule 2J (*Transfer of and Discharge from Care Protocols*) and which must include content based on the *Guide to reducing long hospital stays*, available at: **https://improvement.nhs.uk/documents/2898/Guide_to_reducing_long_hospital_stays_FINAL_v2.pdf**

Transfer of Care the transfer of primary responsibility for a Service User's care from the Provider to another unit, hospital, responsible clinician or service provider within the pathway

Transition Arrangements the transition arrangements agreed between the Parties (and, where appropriate, with any previous provider of the Services) for transition of provision of the Services to the Provider, set out in Schedule 2H (*Transition Arrangements*)

Transparency Guidance the guidance in relation to the publication of tender documentation and the publication of contracts, available at: **https://www.gov.uk/government/collections/nhs-procurement**

TUPE the Transfer of Undertakings (Protection of Employment) Regulations 2006 and EC Council Directive 77/187

UEC DoS the central directory of services, supported by NHS Digital, which is accessed by staff involved in the provision of urgent and emergency care services and which provides real-time information about available services and clinicians across all care settings (**https://digital.nhs.uk/directory-of-services**)

UEC DoS Contact the officer or employee of the Provider responsible for validating that UEC DoS entries in relation to the Services are complete, accurate and up to date, identified as such in the Particulars

UEC DoS Lead the individual appointed by a Commissioner as the point of contact for validation of UEC DoS entries

UK Standard Methods for Investigation a comprehensive referenced collection of recommended algorithms and procedures for clinical microbiology: **https://www.gov.uk/government/collections/standards-for-microbiology-investigations-smi**

Unit Price has the meaning given to it in section 7 of the National Tariff

Urgent and Emergency Mental Health Care Pathways the evidence-based treatment pathways for urgent and emergency mental health care, developed by NHS England, NICE and the National

Collaborating Centre for Mental Health and published at: https://www.england.nhs.uk/mental-health/adults/crisis-and-acute-care/

Urgent Care Data Sharing Agreement an agreement providing for the sharing of certain clinical data between commissioners and providers of urgent and emergency care services in accordance with *Data Sharing Requirements to support Development of Urgent and Emergency Care Dashboards – Guidance for Data Providers* available at: **https://www.england.nhs.uk/nhs-standard-contract/**

Usual Clinical Negligence Indemnity Arrangements Indemnity Arrangements in respect of clinical negligence which would ordinarily be put in force and maintained by the Provider and/or its Sub-Contractors in its or their normal course of business as providers of NHS-funded healthcare in accordance with the requirements of a contract in the form of the NHS Standard Contract or any sub-contract to it, and not specifically in the context of or in contemplation of this specific Contract or any Sub-Contract and/or any Services to be delivered under it

Utilisation the Provider's capacity and use of resources in relation to both anticipated and accepted numbers of Referrals

Value of Planned Activity has the meaning given to in in section 7.1 of the National Tariff

Variable Elements
(i) Particulars – local insertions and selections only: refer to Contract Technical Guidance
(ii) Service Conditions – application only: refer to Contract Technical Guidance

Variation a variation to the provisions of this Contract agreed to be made by the Parties in accordance with GC13 (*Variations*) which may be a Service Variation or any other variation

Variation Agreement an agreement in writing in the form available at: **https://www.england.nhs.uk/nhs-standard-contract/**

VAT value added tax at the rate prevailing at the time of the relevant supply charged in accordance with the provisions of the Value Added Tax Act 1994

Vehicle any transport vehicle or aircraft, whether emergency or otherwise, to be used by the Provider in providing the Services

Very Senior Manager whether or not the relevant NHS Employer operates the *Pay Framework for Very Senior Managers in Strategic and Special Health Authorities, Primary Care Trusts and Ambulance Trusts*, an individual as described in paragraph 4 of that framework, whether that individual is engaged under a contract of employment or a contract for services

Who Pays? Guidance *Who Pays? Determining the responsibility for payments to providers*, available at: **https://www.england.nhs.uk/who-pays/**

Withholding and Retention of Payment Provisions the provisions in this Contract relating to withholding and/or retention of payment as set out in SC28.18 to SC28.23 (*Information Requirements*)

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