



# **NHS Standard Contract 2017/18 and 2018/19 Particulars (Shorter Form)**

May 2018 edition

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**Contract title/ref:** *Primary Care Occupational  
Health Service*

**NHS Standard Contract**  
**2017/18 and 2018/19**  
**Particulars (Shorter Form)**  
**May 2018 edition**

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<b>Contract Reference</b>	<b>Primary Care Occupational Health Service</b>
<b>DATE OF CONTRACT</b>	
<b>SERVICE COMMENCEMENT DATE</b>	
<b>CONTRACT TERM</b>	<b>4 years</b> Commencing [       ] (or as extended in accordance with Schedule 1C)
<b>COMMISSIONERS</b>	[       ] (ODS [    ])
<b>CO-ORDINATING Commissioner</b>	<b>NHS England - North Midlands (X76)                  Birch House                  Southwell Road West                  Rainworth                  Nottinghamshire                  NG21 0HJ</b>
<b>PROVIDER</b>	<b>TBC (ODS [    ])</b> Principal and/or registered office address:  <b>[Company number: [       ]</b>

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## CONTRACT

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

1. the **Particulars**;
2. the **Service Conditions (Shorter Form)**;
3. the **General Conditions (Shorter Form)**,

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** .....

**Signature**

**[INSERT AUTHORISED SIGNATORY'S NAME] for** .....

**Title**

**and on behalf of** .....

**[INSERT COMMISSIONER NAME]** .....

**Date**

**[INSERT AS ABOVE FOR EACH COMMISSIONER]**

**SIGNED by** .....

**Signature**

**[INSERT AUTHORISED SIGNATORY'S NAME] for** .....

**Title**

**and on behalf of** .....

**[INSERT PROVIDER NAME]** .....

**Date**

<b>SERVICE COMMENCEMENT AND CONTRACT TERM</b>	
Effective Date	[The date of this Contract] [or as specified here]
Expected Service Commencement Date	
Longstop Date	
Service Commencement Date	
Contract Term	4 years commencing [ ] [(or as extended in accordance with Schedule 1C)]
Option to extend Contract Term	Yes By 11 months
Notice Period (for termination under GC17.2)	[ ] months
<b>SERVICES</b>	
<b>Service Categories</b>	<b>Selected</b>
Community Services (CS)	Yes
Continuing Healthcare Services (CHC)	
Diagnostic, Screening and/or Pathology Services (D)	
End of Life Care Services (ELC)	
Mental Health and Learning Disability Services (MH)	
Patient Transport Services (PT)	
<b>Service Requirements</b>	
Essential Services (NHS Trusts only)	No
Is the Provider acting as a Data Processor in order to deliver the Services?	Yes
<b>PAYMENT</b>	
Expected Annual Contract Value Agreed	No
National Prices Apply to some or all Services (including where subject to Local Modification or Local Variation)	No
Local Prices Apply to Some or All Services	Yes

<b>GOVERNANCE AND REGULATORY</b>	
<b>Provider's Nominated Individual</b>	[ ] Email: [ ] Tel: [ ]
<b>Provider's Information Governance Lead</b>	[ ] Email: [ ] Tel: [ ]
<b>Provider's Data Protection Officer (if required by Data Protection legislation)</b>	[ ] Email: [ ] Tel: [ ]
<b>Provider's Caldicott Guardian</b>	[ ] Email: [ ] Tel: [ ]
<b>Provider's Senior Information Risk Owner</b>	[ ] Email: [ ] Tel: [ ]
<b>Provider's Accountable Emergency Officer</b>	[ ] Email: [ ] Tel: [ ]
<b>Provider's Safeguarding Lead</b>	[ ] Email: [ ] Tel: [ ]
<b>Provider's Child Sexual Abuse and Exploitation Lead</b>	[ ] Email: [ ] Tel: [ ]
<b>Provider's Mental Capacity and Deprivation of Liberty Lead</b>	[ ] Email: [ ] Tel: [ ]
<b>Provider's Freedom To Speak Up Guardian(s)</b>	[ ] Email: [ ] Tel: [ ]
<b>CONTRACT MANAGEMENT</b>	
<b>Addresses for service of Notices</b>	Co-ordinating Commissioner: [ ] Address: [ ] Email: [ ]  Commissioner: [ ] Address: [ ] Email: [ ]  Provider: [ ] Address: [ ] Email: [ ]
<b>Commissioner Representative(s)</b>	[ ] Address: [ ] Email: [ ] Tel: [ ]
<b>Provider Representative</b>	[ ] Address: [ ]

	<b>Email:</b> [            ] <b>Tel:</b> [            ]
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## **SCHEDULE 1 – SERVICE COMMENCEMENT AND CONTRACT TERM**

### **A. Conditions Precedent**

The Provider must provide the Co-ordinating Commissioner with the following documents and complete the following actions:

- |                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"><li>1. Evidence of appropriate Indemnity Arrangements</li><li>2. [Evidence of CQC registration (where required)]</li><li>3. [Evidence of Monitor's Licence (where required)]</li><li>4. [Insert text locally as required]</li></ol> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### **C. Extension of Contract Term**

*To be included only in accordance with NHS Standard Contract Technical Guidance.*

1. [As advertised to all prospective providers during the competitive tendering exercise leading to the award of this Contract], the Commissioners may opt to extend the Contract Term by 11 months.
2. If the Commissioners wish to exercise the option to extend the Contract Term, the Co-ordinating Commissioner must give written notice to that effect to the Provider no later than [ ] months before the original Expiry Date.
3. The option to extend the Contract Term may be exercised:
  - 3.1 only once, and only on or before the date referred to in paragraph 2 above;
  - 3.2 only by all Commissioners; and
  - 3.3 only in respect of all Services
4. If the Co-ordinating Commissioner gives notice to extend the Contract Term in accordance with paragraph 2 above, the Contract Term will be extended by the period specified in that notice and the Expiry Date will be deemed to be the date of expiry of that period.

## **SCHEDULE 2 – THE SERVICES**

### **A. Service Specifications**

[Insert text locally as required]

### **B. Indicative Activity Plan**

Insert text locally in respect of one or more Contract Years, or state Not Applicable

### **D. Essential Services (NHS Trusts only)**

Insert text locally or state Not Applicable

### **G. Other Local Agreements, Policies and Procedures**

Insert details / web links as required or state Not Applicable

### **J. Transfer of and Discharge from Care Policies**

[Insert text locally as required or state Not applicable]

### **K. Safeguarding Policies and Mental Capacity Act Policies**

[Insert text locally as required]

## SCHEDULE 3 – PAYMENT

### A. Local Prices

**Insert template in respect of any departure from an applicable national currency; insert text and/or attach spreadsheets or documents locally**

### B. Local Variations

*For each Local Variation which has been agreed for this Contract, copy or attach the completed publication template required by NHS Improvement (available at: <https://www.gov.uk/guidance/nhs-providers-and-commissioners-submit-locally-determined-prices-to-monitor>) – or state Not Applicable. Additional locally-agreed detail may be included as necessary by attaching further documents or spreadsheets.*

**Insert template; insert any additional text and/or attach spreadsheets or documents locally – or state Not Applicable**

### C. Local Modifications

*For each Local Modification Agreement (as defined in the National Tariff) which applies to this Contract, copy or attach the completed submission template required by NHS Improvement (available at: <https://www.gov.uk/guidance/nhs-providers-and-commissioners-submit-locally-determined-prices-to-monitor>). For each Local Modification application granted by NHS Improvement, copy or attach the decision notice published by NHS Improvement. Additional locally-agreed detail may be included as necessary by attaching further documents or spreadsheets.*

**Insert template; insert any additional text and/or attach spreadsheets or documents locally – or state Not Applicable**

### F. Expected Annual Contract Values

**Insert text locally (for one or more Contract Years) or state Not Applicable**

## SCHEDULE 4 – QUALITY REQUIREMENTS

### A. Operational Standards and National Quality Requirements

Ref	Operational Standards/National Quality Requirements	Threshold	Method of Measurement	Consequence of breach	Timing of application of consequence
<b><i>E.B.4</i></b>	<b><i>Percentage of Service Users waiting 6 weeks or more from Referral for a diagnostic test*</i></b>	<b><i>Operating standard of no more than 1%</i></b>	<b><i>Review of Service Quality Performance Reports</i></b>	<b><i>Where the number of Service Users waiting for 6 weeks or more at the end of the month exceeds the tolerance permitted by the threshold, £200 in respect of each such Service User above that threshold</i></b>	<b><i>Monthly</i></b>
	Duty of candour	Each failure to notify the Relevant Person of a suspected or actual Reportable Patient Safety Incident in accordance with Regulation 20 of the 2014 Regulations	Review of Service Quality Performance Reports	Recovery of the cost of the episode of care, or £10,000 if the cost of the episode of care is unknown or indeterminate	Monthly

In respect of the Operational Standards and National Quality Requirements shown in ***bold italics*** the provisions of SC36.27A apply.

\* as further described in *Joint Technical Definitions for Performance and Activity 2017/18-2018/19*, available at: <https://www.england.nhs.uk/wp-content/uploads/2015/12/joint-technical-definitions-performance-activity.pdf>



## SCHEDULE 4 – QUALITY REQUIREMENTS

### C. Local Quality Requirements

<b>Quality Requirement</b>	<b>Threshold</b>	<b>Method of Measurement</b>	<b>Consequence of breach</b>	<b>Timing of application of consequence</b>	<b>Applicable Service Specification</b>
<b>Insert text and/or attach spreadsheet or documents locally</b>					

## **SCHEDULE 4 – QUALITY REQUIREMENTS**

### **D. Commissioning for Quality and Innovation (CQUIN)**

#### **CQUIN Table 1: CQUIN Indicators**

<p><b>Insert completed CQUIN template spreadsheet(s) in respect of one or more Contract Years or state Not Applicable</b></p>
-------------------------------------------------------------------------------------------------------------------------------

## SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

### A. Reporting Requirements

	Reporting Period	Format of Report	Timing and Method for delivery of Report
<b>National Requirements Reported Centrally</b>			
1. As specified in the list of omnibus, secure electronic file transfer data collections and BAAS schedule of approved collections published on the NHS Digital website to be found at <a href="https://digital.nhs.uk/services/the-challenging-burden-service/central-register-of-collections">https://digital.nhs.uk/services/the-challenging-burden-service/central-register-of-collections</a> 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
<b>National Requirements Reported Locally</b>			
1. Activity and Finance Report ( <i>note that, if appropriately designed, this report may also serve as the reconciliation account to be sent by the Provider under SC36.22</i> )	[For local agreement, not less than quarterly]	[For local agreement]	[For local agreement]
2. Service Quality Performance Report, detailing performance against Operational Standards, National Quality Requirements, Local Quality Requirements, Never Events and the duty of candour	[For local agreement, not less than quarterly]	[For local agreement]	[For local agreement]
3. CQUIN Performance Report and details of progress towards satisfying any Quality Incentive Scheme Indicators, including details of all Quality Incentive Scheme Indicators satisfied or not satisfied	[For local agreement]	[For local agreement]	[For local agreement]
4. Complaints monitoring report, setting out numbers of complaints received and including analysis of key themes in content of complaints	[For local agreement, not less than annually]	[For local agreement]	[For local agreement]
5. Summary report of all incidents requiring reporting	[For local agreement, not less than annually]	[For local agreement]	[For local agreement]
<b>Local Requirements Reported Locally</b>			

	Reporting Period	Format of Report	Timing and Method for delivery of Report
Insert as agreed locally*			

\* In completing this section, the Parties should, where applicable, consider the change requirements for local commissioning patient-level data flows which will need to be implemented when the new national Data Services for Commissioners technical solution becomes operational. These change requirements will be published within the *Data Services for Commissioners Resources* webpage: <https://www.england.nhs.uk/ourwork/tsd/data-services/>

## **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**

**Insert text locally**

## **SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS**

### **F. Provider Data Processing Agreement**

#### **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 of the data to be protected;
  - (ii) 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 GC 21.16.3; 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 obligations equivalent to those imposed on the Co-ordinating Commissioner by virtue of Seventh Data Protection Principle for so long as the DPA 1998 remains in force and after that time with those set out at Article 32 of the GDPR and equivalent provisions implemented into Law.
- 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	<i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates]</i>
Nature and purposes of the processing	<i>[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]</i>
Type of Personal Data	<i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i>
Categories of Data Subject	<i>[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]</i>
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	<i>[Describe how long the data will be retained for, how it be returned or destroyed]</i>

## Annex B - Definitions

In this Schedule the following words and phrases have the following meanings:

**Data Processing Services** the data processing services described in Annex A to Schedule 6F

**Data Protection Impact Assessment** an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data

**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 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.

**Processor Data** is any data processed by the Provider in connection with the Data Processing Services

**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

## SCHEDULE 7 – PENSIONS

Insert text locally (template drafting available via <http://www.england.nhs.uk/nhs-standard-contract/>) or state Not Applicable

## SCHEDULE 8 – TUPE\*

1. The Provider must comply and must ensure that any Sub-Contractor will comply with their respective obligations under TUPE and COSOP in relation to any persons who transfer to the employment of the Provider or that Sub-Contractor by operation of TUPE and/or COSOP as a result of this Contract or any Sub-Contract, and that the Provider or the relevant Sub-Contractor (as appropriate) will ensure a smooth transfer of those persons to its employment. The Provider must indemnify and keep indemnified the Commissioners and any previous provider of services equivalent to the Services or any of them before the Service Commencement Date against any Losses in respect of:
  - 1.1 any failure by the Provider and/or any Sub-Contractor to comply with its obligations under TUPE and/or COSOP in connection with any relevant transfer under TUPE and/or COSOP;
  - 1.2 any claim by any person that any proposed or actual substantial change by the Provider and/or any Sub-Contractor to that person's working conditions or any proposed measures on the part of the Provider and/or any Sub-Contractor are to that person's detriment, whether that claim arises before or after the date of any relevant transfer under TUPE and/or COSOP to the Provider and/or Sub-Contractor; and/or
  - 1.3 any claim by any person in relation to any breach of contract arising from any proposed measures on the part of the Provider and/or any Sub-Contractor, whether that claim arises before or after the date of any relevant transfer under TUPE and/or COSOP to the Provider and/or Sub-Contractor.
2. If the Co-ordinating Commissioner notifies the Provider that any Commissioner intends to tender or retender any Services, the Provider must within 20 Operational Days following written request (unless otherwise agreed in writing) provide the Co-ordinating Commissioner with anonymised details (as set out in Regulation 11(2) of TUPE) of Staff engaged in the provision of the relevant Services who may be subject to TUPE. The Provider must indemnify and keep indemnified the relevant Commissioner and, at the Co-ordinating Commissioner's request, any new provider who provides any services equivalent to the Services or any of them after expiry or termination of this Contract or termination of a Service, against any Losses in respect any inaccuracy in or omission from the information provided under this Schedule.
3. During the 3 months immediately preceding the expiry of this Contract or at any time following a notice of termination of this Contract or of any Service being given, the Provider must not and must procure that its Sub-Contractors do not, without the prior written consent of the Co-ordinating Commissioner (that consent not to be unreasonably withheld or delayed), in relation to any persons engaged in the provision of the Services or the relevant Service:
  - 3.1 terminate or give notice to terminate the employment of any person engaged in the provision of the Services or the relevant Service (other than for gross misconduct);
  - 3.2 increase or reduce the total number of people employed or engaged in the provision of the Services or the relevant Service by the Provider and any Sub-Contractor by more than 5% (except in the ordinary course of business);
  - 3.3 propose, make or promise to make any material change to the remuneration or other terms and conditions of employment of the individuals engaged in the provision of the Services or the relevant Service;

- 3.4 replace or relocate any persons engaged in the provision of the Services or the relevant Service or reassign any of them to duties unconnected with the Services or the relevant Service; and/or
  - 3.5 assign or redeploy to the Services or the relevant Service any person who was not previously a member of Staff engaged in the provision of the Services or the relevant Service.
4. On termination or expiry of this Contract or of any Service for any reason, the Provider must indemnify and keep indemnified the relevant Commissioners and any new provider who provides any services equivalent to the Services or any of them after that expiry or termination against any Losses in respect of:
- 4.1 the employment or termination of employment of any person employed or engaged in the delivery of the relevant Services by the Provider and/or any Sub-Contractor before the expiry or termination of this Contract or of any Service which arise from the acts or omissions of the Provider and/or any Sub-Contractor;
  - 4.2 claims brought by any other person employed or engaged by the Provider and/or any Sub-Contractor who is found to or is alleged to transfer to any Commissioner or new provider under TUPE and/or COSOP; and/or
  - 4.3 any failure by the Provider and/or any Sub-Contractor to comply with its obligations under TUPE and/or COSOP in connection with any transfer to any Commissioner or new provider.
5. In this Schedule:

**COSOP** means the Cabinet Office Statement of Practice *Staff Transfers in the Public Sector* January 2000

**TUPE** means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and EC Council Directive 77/187

*\*Note: it may in certain circumstances be appropriate to omit the text set out in paragraphs 1-5 above or to amend it to suit the circumstances - in particular, if the prospect of employees transferring either at the outset or on termination/expiry is extremely remote because their work in connection with the subject matter of the Contract will represent only a minor proportion of their workload. However, it is recommended that legal advice is taken before deleting or amending these provisions.*

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