



**NHS Standard Contract 2017/2018
and 2018/2019
Service Conditions (Shorter Form)
Contract Reference: 01F - COPD
Community**

NHS Standard Contract 2017/2018 and 2018/2019 Service Conditions

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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.

1.2 The Parties must perform their respective 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.

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.

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.

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, and with any requirements, standards and recommendations issued from time to time by such a body;

2.1.2 consider and respond to the recommendations arising from any audit, Serious Incident report or Patient Safety Incident report;

2.1.3 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;

2.1.4 comply, where applicable, with the recommendations contained in NICE Technology Appraisals and have regard to other Guidance issued by NICE from time to time;

2.1.5 respond to any reports and recommendations made by Local Healthwatch.

SC3 Service Standards

3.1 The Provider must:

3.1.1 not breach the thresholds in respect of the Operational Standards, National Quality Requirements and Local Quality Requirements; and

3.1.2 ensure that Never Events do not occur.

3.2 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, but will not be excused if the failure was caused primarily by an increase in Referrals.

3.3 The Provider must continually review and evaluate the Services, must implement Lessons Learned from those reviews and evaluations, from feedback, complaints, Patient Safety Incidents, Never Events, and from Service User, Staff, GP and public involvement (including the outcomes of Surveys).

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. The Parties must co-operate and share information with each other and with other commissioners and providers of health or social care in respect of Service Users, in accordance with the Law and Good Practice, to facilitate the delivery of co-ordinated and integrated services for the benefit of Service Users.

SC5 Commissioner Requested Services/Essential Services

5.1 The Provider must comply with its obligations under Monitor's Licence (if required) in respect of any Services designated as CRS by any Commissioner from time to time in accordance with CRS Guidance.

5.2 Not Used

5.3 Not Used

5.3.1 Not Used

5.3.2 Not Used

SC6 Choice and Referral

6.1 The Parties must comply with Guidance issued by the Department of Health, NHS England and NHS Improvement regarding patients' rights to choice of provider and/or consultant.

6.2 The Provider must accept any Referral of a Service User made in accordance with the Referral processes or and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties.

6.3 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 whose Responsible Commissioner is not a Party to this Contract.

6.4 Except as permitted under the Service Specifications, the Provider must not carry out, nor refer to another provider to carry out, any treatment or care that is unrelated to a Service User's original Referral or presentation without the agreement of the Service User's GP.

SC7 Intentionally Omitted

SC8 Making Every Contact Count and Self Care

8.1 The Provider must develop and maintain an organisational plan to ensure that Staff use every contact that they have with Service Users and the public as an opportunity to maintain or improve health and wellbeing, in accordance with the principles and using the tools comprised in Making Every Contact Count Guidance.

8.2 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.

SC9 Intentionally Omitted

SC10 Personalised Care Planning and Shared Decision-Making

10.1 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*).

10.2 Where a Local Authority requests the cooperation of the Provider in securing an Education, Health and Care Needs Assessment, the Provider must use all reasonable endeavours to comply with that request within 6 weeks of the date on which it receives it.

SC11 Transfer of and Discharge from Care

11.1 The Provider must comply with the Transfer of and Discharge from Care Protocols and all Law and Guidance (including LD Guidance and Transfer and Discharge Guidance) relating to transfer of and discharge from care.

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.

11.3 The Provider must issue the Discharge Summary to the Service User's GP and/or Referrer and to any third party provider within the timescale, and in accordance with any other requirements, set out in the relevant Transfer of and Discharge from Care Protocol.

SC12 Communicating With and Involving Service Users, Public and Staff

12.1 The Provider must ensure that all communications about a Service User's care with that Service User (and, where appropriate, their Carer and/or Legal Guardian), their GP and other providers are clear and timely. The Provider must comply with the Accessible Information Standard.

12.2 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.

12.3 The Provider must:

- 12.3.1 carry out the Friends and Family Test Surveys as required in accordance with FFT Guidance, using all reasonable endeavours to maximise the number of responses from Service Users;
- 12.3.2 carry out other Surveys as agreed with the Co-ordinating Commissioner from time to time; and
- 12.3.3 provide a written report to the Co-ordinating Commissioner on the results of each Survey.

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.
- 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).

SC14 Intentionally Omitted

SC15 Places of Safety

- 15.1 Not Used

SC16 Complaints

- 16.1 The Commissioners and the Provider must each publish, maintain and operate a complaints procedure in compliance with the Fundamental Standards and other Law and Guidance.
- 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.

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.

17.2 Unless stated otherwise in this Contract, the Provider must at its own cost provide all Equipment necessary to provide the Services in accordance with the Law and any necessary Consents.

17.3 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.

SC18 – SC20 Intentionally Omitted

SC21 Antimicrobial Resistance and Healthcare Associated Infections

21.1 The Provider must comply with the Code of Practice on the Prevention and Control of Infections.

SC22 Intentionally Omitted

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 and retain those records for the periods of time required by Law and/or by Information Governance Alliance Guidance and/or otherwise by the Department of Health, NHS England or NHS Digital, and then securely destroy them.

23.2 At a Commissioner's request, the Provider must promptly deliver to any third party provider of healthcare or social care services nominated by that Commissioner a copy (or, at any time following the expiry or termination of this Contract, the original) of the Service User Health Record held by the Provider for any Service User for whom that Commissioner is responsible.

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.

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.

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.

SC24 NHS Counter-Fraud and Security Management

- 24.1 The Provider must put in place and maintain appropriate arrangements to address security management and counter-fraud issues, having regard to NHS Protect Standards
- 24.2 The Provider (if it holds Monitor's Licence or is an NHS Trust) must take the necessary action to meet NHS Protect Standards.
- 24.3 The Provider must allow a person duly authorised to act on behalf of NHS Protect or on behalf of any Commissioner to review security management and counter-fraud arrangements put in place by the Provider. The Provider must implement any reasonable modifications to those arrangements required by that person in order to meet the appropriate standards.
- 24.4 The Provider must, on becoming aware of any suspected or actual bribery, corruption or fraud, security incident or security breach involving Staff, a Service User or public funds, promptly report the matter to the Local Counter Fraud Specialist of the relevant NHS Body and to NHS Protect.

SC25 Procedures and Protocols

- 25.1 The Parties must comply with their respective obligations under any Other Local Agreements, Policies and Procedures.

SC26 – SC27 Intentionally Omitted

SC28 Information Requirements

- 28.1 The Provider must:
- 28.1.1 provide the information specified in and in accordance with this SC28 and Schedule 6A (*Reporting Requirements*);
 - 28.1.2 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 on their behalf, as appropriate;
 - 28.1.3 implement any other datasets and information requirements agreed from time to time between it and the Co-ordinating Commissioner;
 - 28.1.4 comply with Guidance issued by NHS England and NHS Digital, and with the Law, in relation to protection of patient identifiable data;
 - 28.1.5 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; and

comply with the Law and Guidance on the use and disclosure of personal confidential data for other than direct care purposes.

- 28.2 The Co-ordinating Commissioner may request from the Provider any information in addition to that to be provided under SC28.1 which any Commissioner reasonably and lawfully requires in relation to this Contract. The Provider must supply that information in a timely manner.
- 28.3 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 require the Provider 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.
- 28.4 The Provider and each Commissioner must ensure that any information provided to any other Party in relation to this Contract is accurate and complete.
- 28.5 The Provider must ensure that each dataset that it provides under this Contract contains the ODS code and/or other appropriate identifier for the relevant Commissioner. The Parties must have regard to Commissioner Assignment Methodology Guidance and Who Pays? Guidance when determining the correct Commissioner code in activity datasets.
- 28.6 The Parties must comply with Guidance relating to clinical coding published by the NHS Classifications Service and with the definitions of Activity maintained under the NHS Data Model and Dictionary

SC29 Managing Activity and Referrals

- 29.1 The Commissioners must use all reasonable endeavours to procure that that all Referrers adhere to Referral processes and clinical thresholds set out or referred to in this Contract and/or as otherwise agreed between the Parties.
- 29.2 The Provider must 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.
- 29.3 Before the start of each Contract Year, the Parties may agree an Indicative Activity Plan specifying the threshold for each activity (and those agreed thresholds may be zero).
- 29.4 The Provider must submit an Activity and Finance Report to the Co-ordinating Commissioner in accordance with Schedule 6A (*Reporting Requirements*).
- 29.5 The Co-ordinating Commissioner and the Provider will monitor actual Activity reported in each Activity and Finance Report in respect of each Commissioner against the thresholds set out in any agreed Indicative Activity Plan, any previous Activity and Finance Reports and generally.
- 29.6 Each Party must notify the other(s) as soon as reasonably practicable after becoming aware of any unexpected or unusual patterns of Referrals and/or Activity specifying the nature of the unexpected pattern and their initial opinion as to its likely cause.

29.7 29.7 The Parties must meet to discuss any notice given under SC29.6 as soon as reasonably practicable and must seek to agree any actions required of any Party in response to the circumstances identified.

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.

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 and/or Business Continuity Plan; or

30.2.2 any risk or any actual disruption to CRS or Essential Services.

30.3 The Provider must at the request of the Co-ordinating Commissioner provide whatever support and assistance may reasonably be required by the Commissioners and/or NHS England and/or Public Health England in response to any national, regional or local public health emergency or incident.

SC31 Intentionally Omitted

SC32 Safeguarding and Mental Capacity

32.1 The Provider must ensure that Service Users are protected from abuse, neglect and improper or degrading treatment, and must take appropriate action to respond to any allegation or disclosure of abuse in accordance with the Law.

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; and

32.2.3 a Mental Capacity and Deprivation of Liberty Lead,

and must ensure that the Co-ordinating Commissioner is kept informed at all times of the identity of the persons holding those positions.

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 and child abuse and sexual exploitation, domestic abuse and female genital mutilation (as relevant to the Services, set out or referred to in Law and Guidance (including Safeguarding Guidance and Child Sexual Exploitation 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 Law and Guidance;

32.4.2 the local multi-agency policies and any Commissioner safeguarding and MCA requirements.

32.5 The Provider must implement comprehensive programmes for safeguarding and MCA training for all relevant Staff and must have regard to Safeguarding Training Guidance.

SC33 Incidents Requiring Reporting

33.1 The Provider must notify deaths, Serious Incidents and other incidents to CQC, and to any relevant Regulatory or Supervisory Body or other official body, in accordance with Good Practice, Law and Guidance.

33.2 The Provider must comply with the NHS Serious Incident Framework and the Never Events Policy Framework, and must report all Serious Incidents and Never Events in accordance with the requirements of those Frameworks.

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*).

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*).

33.5 The Commissioners may (subject to Law) use any 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 in connection with Serious Incidents.

SC34 Care of Dying People

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.

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.

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.

SC36 Payment Terms

36.1 Subject to any express provision of this Contract to the contrary, each Commissioner must pay the Provider in accordance with the National Tariff, to the extent applicable, for all Services that the Provider delivers to it in accordance with this Contract

Prices

36.2 The Prices payable by the Commissioners under this Contract will be:

36.2.1 for any Service for which the National Tariff mandates or specifies a price:

36.2.1.1 the National Price; or

36.2.1.2 the National Price as modified by a Local Variation; or

36.2.1.3 (subject to SC36.15 to 36.19 (*Local Modifications*)) the National Price as modified by a Local Modification approved or granted by NHS Improvement,

for the relevant Contract Year;

36.2.2 for any Service for which the National Tariff does not mandate or specify a price, the Local Price for the relevant Contract Year.

Local Prices

36.3 The Co-ordinating Commissioner and the Provider have agreed and set out in Schedule 3A (*Local Prices*) the mechanism by which that Local Price is to be adjusted with effect from the start of each Contract Year. The Parties must in any event have regard to the efficiency and uplift factors set out in the National Tariff where applicable.

36.4 Any Local Price must be determined and agreed in accordance with the rules set out in the National Tariff.

36.5 The Co-ordinating Commissioner and the Provider must apply annually any adjustment mechanism agreed and documented in Schedule 3A (*Local Prices*). Where no adjustment mechanism has been agreed, the Co-ordinating Commissioner and the Provider must review and agree before the start of each Contract Year the Local Price to apply to the following Contract Year, having regard to the efficiency and uplift factors set out in the National Tariff where applicable. In either case the Local Price as adjusted or agreed will apply to the following Contract Year.

36.6 If the Co-ordinating Commissioner and the Provider fail to review or agree any Local Price for the following Contract Year by the date 2 months before the start of that Contract Year, or there is a dispute as to the application of any agreed adjustment mechanism, either may refer the matter to Dispute Resolution for escalated negotiation and then (failing agreement) mediation.

- 36.7 If on or following completion of the mediation process the Co-ordinating Commissioner and the Provider still cannot agree any Local Price for the following Contract Year, within 10 Operational Days of completion of the mediation process either the Co-ordinating Commissioner or the Provider may terminate the affected Services by giving the other not less than 6 months' written notice.
- 36.8 If any Local Price has not been agreed or determined in accordance with SC36.5 and 36.6 before the start of a Contract Year then the Local Price will be that which applied for the previous Contract Year increased or decreased in accordance with the efficiency and uplift factors set out in the National Tariff. The application of these prices will not affect the right to terminate this Contract as a result of non-agreement of a Local Prices under SC36.7.
- 36.9 All Local Prices and any annual adjustment mechanism agreed in respect of them must be recorded in Schedule 3A (*Local Prices*). Where the Co-ordinating Commissioner and the Provider have agreed to depart from an applicable national currency that agreement must be submitted by the Co-ordinating Commissioner to NHS Improvement in accordance with the National Tariff.

Local Variations

- 36.10 Not Used
- 36.11 Not Used
- 36.12 Not Used
- 36.13 Not Used
- 36.14 Not Used

Local Modifications

- 36.15 Not Used
- 36.16 Not Used
- 36.17 Not Used
- 36.18 Not Used
- 36.19 Not Used

Payment where the Parties have agreed an Expected Annual Contract Value

- 36.20 Each Commissioner must make payments on account to the Provider in accordance with the provisions of SC36.21 or if applicable SC36.22 and 36.23.

- 36.21 The Provider must supply to each Commissioner a monthly invoice at least 10 Operational Days before the first day of each month, setting out the amount to be paid by that Commissioner for that month. The amount to be paid will be one twelfth of the individual Expected Annual Contract Value for the Commissioner. Subject to receipt of the invoice, on the first day of each month beginning on or after the Service Commencement Date each Commissioner must pay that amount to the Provider.
- 36.22 In order to confirm the actual sums payable for Services delivered, the Provider must provide a separate reconciliation account for each Commissioner for each month showing the aggregate and a breakdown of the Prices for all Services delivered and completed in that month. Each reconciliation account must be based on the information submitted by the Provider to the Co-ordinating Commissioner under SC28 (*Information Requirements*) and must be sent by the Provider to the relevant Commissioner (or, where payments are to be aggregated, to the Co-ordinating Commissioner) within 25 Operational Days after the end of the month to which it relates.
- 36.23 For the avoidance of doubt, there will be no reconciliation in relation to Block Arrangements.
- 36.24 Each Commissioner must either agree the reconciliation account produced in accordance with SC36.22 or wholly or partially contest the reconciliation account in accordance with SC36.34. No Commissioner may unreasonably withhold or delay its agreement to a reconciliation account.
- 36.25 A Commissioner's agreement of a reconciliation account (or where agreed in part in relation to that part) will trigger a reconciliation payment by the relevant Commissioner (or, where payments are to be aggregated, by the Co-ordinating Commissioner) to the Provider or by the Provider to the relevant Commissioner (or, where payments are to be aggregated, to the Co-ordinating Commissioner), as appropriate. The Provider must provide to the Commissioner (or the Co-ordinating Commissioner) an invoice or credit note (as appropriate) within 5 Operational Days of that agreement and payment must be made within 10 Operational Days following the receipt of the invoice or the issue of the credit note.

Payment where the Parties have not agreed an Expected Annual Contract Value in relation to any Services

- 36.26 Not Used

National Quality Requirements and Local Quality Requirements

- 36.27 Subject to SC36.27A, if the Provider breaches any of the thresholds in respect of the Operational Standards, the National Quality Requirements or the Local Quality Requirements the Provider must repay to the relevant Commissioner or the relevant Commissioner must deduct from payments due to the Provider (as appropriate), the relevant sums as determined in accordance with Schedule 4A (*Operational Standards and National Quality Requirements*) and/or Schedule 4C (*Local Quality Requirements*). The sums repaid or deducted under this SC36.27 in respect of any Quarter will not in any event exceed 2.5% of the Actual Quarterly Value.
- 36.27A If the Provider has been granted access to the general element of the Sustainability and Transformation Fund, and has, as a condition of access:

36.27A.1 agreed with the national teams of NHS Improvement and NHS England an overall financial control total and other associated conditions for either the Contract Year 1 April 2017 to 31 March 2018 or the Contract Year 1 April 2018 to 31 March 2019 or both; and

36.27A.2 (where required by those bodies):

36.27A2.1 agreed with those bodies and with the Commissioners specific performance trajectories to be achieved during either the Contract Year 1 April 2017 to 31 March 2018 or the Contract Year 1 April 2018 to 31 March 2019 or both (as set out in an SDIP contained or referred to in Schedule 2G (*Other Local Agreements, Policies and Procedures*));and/or

36.27A2.2 submitted to those bodies assurance statements setting out commitments on performance against specific Operational Standards and National Quality Requirements to be achieved during either the Contract Year 1 April 2017 to 31 March 2018 or the Contract Year 1 April 2018 to 31 March 2019 or both which have been accepted by those bodies (as set out in an SDIP contained or referred to in Schedule 2G (*Other Local Agreements, Policies and Procedures*)),

no repayment will be required to be made, nor any deduction made, in relation to any breach of any threshold which occurs during any Contract Year or Contract Years for which such financial control totals and specific performance trajectories have been agreed and/or such assurance statements have been submitted and accepted in respect of any Operational Standard shown in bold italics in Schedule 4A (*Operational Standards and National Quality Requirements*).

Never Events

36.28 If a Never Event occurs, the relevant Commissioner may deduct from payments due to the Provider, if and as permitted by the Never Events Policy Framework, a sum equal to the costs to that Commissioner of the procedure or episode (or, where these cannot be accurately established, £2,000) plus any additional charges incurred by that Commissioner (whether under this Contract or otherwise) for any corrective procedure or necessary care in consequence of the Never Event.

Statutory and Other Charges

36.29 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.

36.30 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.

36.31 The Parties acknowledge the requirements and intent of the Overseas Visitor Charging Regulations and Overseas Visitor Charging Guidance, and accordingly:

- 36.31.1 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;
- 36.31.2 if the Provider has failed to take all reasonable steps to:
- 36.31.2.1 identify a Chargeable Overseas Visitor; or
 - 36.31.2.2 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;

- 36.31.3 (subject to SC36.31.2) 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;
- 36.31.4 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);
- 36.31.5 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
- 36.31.6 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.

36.32 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.

VAT

- 36.33 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.

Contested Payments

- 36.34 If a Party contests all or any part of any payment calculated in accordance with this SC36:

36.34.1 the contesting Party must (as appropriate):

36.34.1.1 within 5 Operational Days of the receipt of a reconciliation account in accordance with SC36.22; or

36.34.1.2 within 5 Operational Days of the receipt by that Party of an invoice in accordance with SC36.21 or 36.26,

notify the other Party or Parties, setting out in reasonable detail the reasons for contesting that account or invoice (as applicable), and in particular identifying which elements are contested and which are not contested; and

36.34.2 any uncontested amount must be paid in accordance with this Contract by the Party from whom it is due; and

36.34.3 if the matter has not been resolved within 20 Operational Days of the date of notification under SC36.34.1, the contesting Party must refer the matter to Dispute Resolution,

and following the resolution of any Dispute referred to Dispute Resolution in accordance with this SC36.34, insofar as any amount shall be agreed or determined to be payable the Provider must immediately issue an invoice or credit note (as appropriate) for such amount. Any sum due must be paid immediately together with interest calculated in accordance with SC36.35. For the purposes of SC36.35 the date the amount was due will be the date it would have been due had the amount not been disputed.

Interest on Late Payments

- 36.35 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 day after the date on which payment was due up to and including the date of payment.

Set Off

- 36.36 Whenever any sum is due from one Party to another as a consequence of reconciliation under this SC36 or Dispute Resolution or otherwise, the Party due to be paid that sum may deduct it from any amount that it is due to pay the other, provided that it has given 5 Operational Days' notice of its intention to do so.

Invoice Validation

- 36.37 The Parties must comply with Law and Guidance (including Who Pays? Guidance and Invoice Validation Guidance) in respect of the use of data in the preparation and validation of invoices.

Submission of Invoices

- 36.38 The Provider must use all reasonable endeavours to submit all invoices via the e-Invoicing Platform in accordance with e-Invoicing Guidance or via an alternative PEPOL-compliant e-invoicing system.

QUALITY REQUIREMENTS AND INCENTIVE SCHEMES

SC37 Local Quality Requirements

- 37.1 The Parties must comply with their duties under the Law to improve the quality of clinical and/or care services for Service Users.
- 37.2 Nothing in this Contract is intended to prevent this Contract from setting higher quality requirements than those laid down under NHS Improvement's Licence (if any) or required by any relevant Regulatory or Supervisory Body.
- 37.3 Before the start of each Contract Year, the Co-ordinating Commissioner and the Provider will agree the Local Quality Requirements that are to apply in respect of that Contract Year. In order to secure continual improvement in the quality of the Services, those Local Quality Requirements must not, except in exceptional circumstances, be lower or less onerous than those for the previous Contract Year.

SC38 Commissioning for Quality and Innovation (CQUIN)

- 38.1 Where and as required by CQUIN Guidance, the Parties must implement a performance incentive scheme in accordance with CQUIN Guidance for each Contract Year or the appropriate part of it.
- 38.2 If the Provider has satisfied a CQUIN Indicator a CQUIN Payment calculated in accordance with CQUIN Guidance will be payable by the Commissioners to the Provider in accordance with CQUIN Table 1.

CQUIN Performance Report

- 38.3 The Provider must submit to the Co-ordinating Commissioner a CQUIN Performance Report at the frequency and otherwise in accordance with the National Requirements Reported Locally. The Co-ordinating commissioner may raise with the Provider any queries it has on the content of any CQUIN Performance Report.

CQUIN Account

- 38.4 Within 20 Operational Days following the latest of:
- 38.4.1 the end of the Contract Year; and
 - 38.4.2 the agreement of the final reconciliation account under SC36 (*Payment Terms*); and

38.4.3 the agreement or resolution of all CQUIN Performance Reports in respect of that Contract Year,

the Provider must submit a CQUIN Account to the Co-ordinating Commissioner.

38.5 Within 5 Operational Days of receipt of the CQUIN Account the Co-ordinating Commissioner must either agree it or wholly or partially contest it in accordance with SC38.7. The Co-ordinating Commissioner's agreement of the CQUIN Account must not be unreasonably withheld or delayed.

38.6 The Co-ordinating Commissioner's agreement of the CQUIN Account (or where agreed in part in relation to that part) will trigger a payment by each relevant Commissioner to the Provider or by the Provider to each relevant Commissioner (as appropriate). The Provider must supply to each Commissioner an invoice within 5 Operational Days of the agreement and payment must be made within 10 Operational Days following receipt of the invoice.

38.7 If the Co-ordinating Commissioner contests the CQUIN Account:

38.7.1 the Co-ordinating Commissioner must within 5 Operational Days notify the Provider accordingly, setting out in reasonable detail the reasons for contesting the account, and in particular identifying which elements are contested and which are not contested;

38.7.2 any uncontested amount identified in the CQUIN Account must be paid in accordance with SC38.6; and

38.7.3 if the matter has not been resolved within 20 Operational Days following the date of notification under SC38.7.1, either the Provider or the Co-ordinating Commissioner may refer the matter to Dispute Resolution,

and within 20 Operational Days following the resolution of any Dispute referred to Dispute Resolution, if any amount is agreed or determined to be payable the Provider must immediately issue an invoice for that amount, which will be payable immediately together with Interest calculated in accordance with SC36.25. For the purposes of SC36.25 the date the amount was due will be the date it would have been due had the amount not been disputed.

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Service Categories

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)	

Contract Options

Essential Services (NHS Trusts only)	No
Expected Annual Contract Value Agreed	Yes
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