

STANDARD GENERAL MEDICAL SERVICES CONTRACT

The text of the Standard General Medical Services Contract has been prepared with Counsel and approved by the Department of Health's Solicitors and by the BMA's Legal Department.

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PART 1²

DEFINITIONS AND INTERPRETATION

1. The following terms and phrases shall have the following meanings for the purposes of this Contract:

“1990 Act” means the National Health Service and Community Care Act 1990;

“2006 Act” means the National Health Service Act 2006;”

“accredited service provider” has the meaning given to it by regulation 2 of the *Out of Hours Regulations*;

“the Act” means the National Health Service Act 1977;

“additional services” means one or more of-

- (a) *cervical screening services*;
- (b) *contraceptive services*;
- (c) *vaccines and immunisations*;
- (d) *childhood vaccines and immunisations*;
- (e) *child health surveillance services*;
- (f) *maternity medical services*; and
- (g) *minor surgery*;

“adjudicator” means the *Secretary of State* or a person or persons appointed by the *Secretary of State* under section 4(5) of the *1990 Act* or paragraph 101(5) of Schedule 6 to the *Regulations*;

persons who are entitled to a GMS Contract and, where such entitlement exists, this Order specifies particular requirements as to the terms of the GMS Contract to be entered into.

² Part 1 is not required by the *Regulations*, but is recommended.

“advanced electronic signature” means an electronic signature which is –

- (a) uniquely linked to the signatory,
- (b) capable of identifying the signatory,
- (c) created using means that the signatory can maintain under his sole control, and
- (d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;

“appliance” means an appliance which is included in a list for the time being approved by *the Secretary of State* for the purposes of section 41 of *the Act*;

“approved medical practice” has the same meaning as in section 11 of the Medical Act 1983;

“armed forces GP” means a medical practitioner who is employed on a contract of service by the Ministry of Defence, whether or not as a member of the United Kingdom Armed Forces of Her Majesty;

“assessment panel” means a committee or sub-committee of a Primary Care Trust (other than the PCT) appointed to exercise functions under paragraph 35 of Schedule 6 to *the Regulations*;

“bank holiday” means any day that is specified or proclaimed as a bank holiday in England and Wales pursuant to section 1 of the Banking and Financial Dealings Act 1971;

“batch issue” means a form provided by the PCT and issued by a *repeatable prescriber* at the same time as a *non-electronic repeatable*

prescription to enable a *chemist* to receive payment for the provision of *repeat dispensing services* which is in the format set out in respect of form FP10SS batch issue in the document issued by the Prescription Pricing Division of the NHS Business Services Authority entitled “Prescription Form Overprint Specifications – GP System Prescription Overprint Specification”, version 2 dated August 2006³, and which-

- (a) is generated by a computer and not signed by a *repeatable prescriber*,
- (b) relates to a particular *non-electronic repeatable prescription* and contains the same dates as that prescription,
- (c) is issued as one of a sequence of forms, the number of which is equal to the number of occasions on which the drugs, medicines or appliances ordered on the *non-electronic repeatable prescription* may be provided, and
- (d) specifies a number denoting its place in the sequence referred to in paragraph (c);

“CCT” means Certificate of Completion of Training awarded under section 34L(1) of the Medical Act 1983 including any such certificate awarded in pursuance of the competent authority functions of the General Medical Council specified in section 49B of, and Schedule 4A to, that Act;

“cervical screening services” means the services described in clause 69;

“the Charges Regulations” means the National Health Service (Charges for Drugs and Appliances) Regulations 2000;

“charity trustee” means one of the persons having the general control and management of the administration of a charity;

³ The overprint specification can be found at www.ppa.org.uk/ppa/prescform_overspec.htm

“chemist” means-

- (a) a registered pharmacist,
- (b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968, or
- (c) a supplier of appliances,

who is included in the list of a Primary Care Trust or a Local Health Board under section 42 of *the Act*, or who provides *local pharmaceutical services* in accordance with *LPS arrangements*;

“child” means a person under the age of 16 years;

“child health surveillance services” means the services described in clause 77;

“childhood vaccines and immunisations” means the services described in clauses 74 to 75;

“closed” in relation to the Contractor’s list of patients, means closed to application for inclusion in the list of patients other than from *immediate family members of registered patients*;

“complete course” means the course of treatment appropriate to the patient’s condition, being the same as the amount that would have been prescribed if the patient had been seen during core hours;

“contraceptive services” means the services described in clause 71;

“Contract” means this Contract between the PCT and the Contractor named in Schedule 1;

“Contractor’s list of patients” means the list prepared and maintained by the PCT under clause 166;

“core hours” means the period beginning at 8am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or *bank holidays*;

“default contract” means a contract with a Primary Care Trust made pursuant to article 13 of *the Transitional Order*;

“disease” means a disease included in the list of three-character categories contained in the tenth revision of the International Statistical Classification of Diseases and Related Health Problems (published by the World Health Organisation, 1992 ISBN 92 4 1544 19 8 (v.I) NLM Classification WB 15);

“dispenser” means a *chemist*, medical practitioner or contractor whom a patient wishes to dispense his *electronic prescriptions*;

“dispensing services” means the provision of drugs, medicines or appliances that may be provided as pharmaceutical services by a medical practitioner in accordance with arrangements made under regulation 60 of the *Pharmaceutical Regulations*;

“Drug Tariff” has the same meaning as in regulation 56 of the *Pharmaceutical Regulations*;

“electronic communication” has the same meaning as in section 15 of the Electronic Communications Act 2000;

“electronic prescription” means an *electronic prescription form* or an *electronic repeatable prescription*;

“electronic prescription form” means a *prescription form* which falls within paragraph (b) of the definition of “*prescription form*”;

“electronic repeatable prescription” means a prescription which falls within paragraph (a)(ii) of the definition of “*repeatable prescription*”;

“enhanced services” are-

- a) services other than *essential services, additional services or out of hours services*; or
- b) *essential services, additional services or out of hours services* or an element of such a service that a contractor agrees under a contract to provide in accordance with specifications set out in a plan, which requires of the contractor an enhanced level of service provision compared to that which it needs generally to provide in relation to that service or element of service;

“essential services” means the services required to be provided in accordance with clauses 46 to 52;

“ETP service” means the electronic prescription service which forms part of the *NHS Care Record Service*;

“general medical practitioner” means, unless the context otherwise requires, a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;

“general medical services contract” means a general medical services contract under section 28Q of *the Act*;

“geographical number” means a number which has a geographical area code as its prefix;

“global sum” has the same meaning as in the *GMS Statement of Financial Entitlements*;

“GMS Statement of Financial Entitlements” is the directions given by *the Secretary of State* under section 28T of *the Act*⁴;

“GP Registrar” means a medical practitioner who is being trained in general practice by a general medical practitioner who is approved under section 34I of the Medical Act 1983 for the purpose of providing training under that section, whether as part of training leading to a CCT or otherwise;

“Health and Social Services Board” means a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972;

“Health and Social Services Trust” means a Health and Social Services Trust established under Article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991;

“Health Board” means a Health Board established under section 2 of the National Health Service (Scotland) Act 1978;

“health care professional” has the same meaning as in section 28M of *the Act*, and “health care profession” shall be construed accordingly;

⁴ The directions in respect of the financial year 2004-05 will be given before 31st March 2004 and will be available on the Department of Health’s web site (www.doh.gov.uk).

“the health service” means the health service established in pursuance of section 1 of the National Health Service Act 1946 and continued under section 1(1) of *the Act*;

“health service body”, unless the context otherwise requires, has the meaning given to it in section 4(2) of *the 1990 Act*;

“home oxygen order form” means a form provided by the PCT and issued by a health care professional to authorise a person to supply home oxygen services to a patient requiring oxygen therapy at home;

“home oxygen services” means any of the following forms of oxygen therapy or supply –

- (a) ambulatory oxygen supply,
- (b) urgent supply,
- (c) hospital discharge supply,
- (d) long term oxygen therapy, and
- (e) short burst oxygen therapy;

“immediate family member” means-

- (a) a spouse or civil partner,
- (b) a person (whether or not of the opposite sex) whose relationship with the *registered patient* has the characteristics of the relationship between husband and wife,
- (c) a parent or step-parent,
- (d) a son,
- (e) a daughter, or
- (f) a *child* of whom the *registered patient* is-
 - a. the guardian, or

- b. the carer duly authorised by the local authority to whose care the child has been committed under the Children Act 1989; or
- (g) a grandparent;

“independent nurse prescriber” means a person-

- (a) who is either engaged or employed by the Contractor or is a party to the Contract;
- (b) who is registered in the *Nursing and Midwifery Register*; and
- (c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and appliances as a community practitioner nurse prescriber, a nurse independent prescriber or as a nurse independent/supplementary prescriber;

“licensing authority” shall be construed in accordance with section 6(3) of the Medicines Act 1968;

“licensing body” means any body that licenses or regulates any profession;

“limited partnership” means a partnership registered under the Limited Partnerships Act 1907;

“listed medicine” means a medicine mentioned in regulation 7C(1) of the *Charges Regulations*;

“listed medicines voucher” means a form provided by a Primary Care Trust for use for the purpose of ordering a listed medicine;

“Local Medical Committee” means a committee recognised under section 45A of *the Act*;

“local pharmaceutical services” has the same meaning as in regulation 2 of the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) Regulations 2002;

“LPS arrangements” means arrangements made under a pilot scheme established under section 28 of the Health and Social Care Act 2001;

“mandatory term” means a term required to be included in the Contract by *the Regulations*;

“maternity medical services” means the services described in clause 79;

“medical card” means a card issued by a Primary Care Trust, Local Health Board, Health Authority, *Health Board* or *Health and Social Services Board* to a person for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services;

“medical officer” means a medical practitioner who is—

- a) employed or engaged by the Department for Work and Pensions,
or
- b) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;

“medical performers list” means a list of medical practitioners prepared in accordance with regulations made under section 28X of *the Act*;

“Medical Register” means the registers kept under section 2 of the Medical Act 1983;

“minor surgery” means the services described in clauses 81 to 82;

“national disqualification” means—

- (a) a decision made by the First-tier Tribunal under section 49N of *the Act* or under regulations corresponding to that section made under section 28X(4) of the Act (persons performing primary medical and dental services),
- (b) a decision under provisions in force in Scotland or Northern Ireland corresponding to section 49N of *the Act*, or
- (c) a decision by the *NHS Tribunal* which was treated as a national disqualification by the Family Health Services Appeal Authority⁵ by virtue of regulation 6(4)(b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001 or regulation 6(4)(b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002;

“necessary drugs, medicines and appliances” means those drugs, medicines and appliances which the patient requires and for which, in the reasonable opinion of the Contractor, and in the light of the patient’s medical condition, it would not be reasonable in all the circumstances for the patient to wait until such time as he could obtain them during core hours;

“NHS Care Record” means the records relating to an individual patient held by the *NHS Care Record Service*;

⁵ The Family Health Services Appeal Authority was constituted under section 49S of the National Health Service Act 1977 (c.49) and was abolished on 18th January 2010 by article 3 of the Transfer of Tribunal Functions Order 2010 (S.I. 2010/22).

“NHS Care Record Service” means the information technology systems procured by the Department of Health and used by *the health service* to hold medical records relating to patients;

“NHS contract” has the meaning assigned to it in section 4 of *the 1990 Act*;

“NHS dispute resolution procedure” means the procedure for resolution of disputes specified in-

- a) paragraphs 101 and 102 of Schedule 6 to *the Regulations*; or
- b) a case to which paragraph 36 of Schedule 6 to *the Regulations* applies, in that paragraph.

“NHS Tribunal” means the Tribunal constituted under section 46 of *the Act* for England and Wales, and which, except for prescribed cases, had effect in relation to England only until 14th December 2001 and in relation to Wales only until 26th August 2002;

“nominated dispenser” means a *chemist*, medical practitioner or contractor whom a patient has nominated in his *NHS Care Record* to dispense his *electronic prescriptions*;

“non-electronic prescription form” means a *prescription form* which falls within paragraph (a) of the definition of “*prescription form*”;

“non-electronic repeatable prescription” means a prescription which falls within paragraph (a)(i) of the definition of “*repeatable prescription*”;

“normal hours” means those days and hours being the days on which and the times at which services under the Contract will normally be available and may be different for different services;

“NPSA” means the National Patient Safety Agency established as a Special Health Authority by the National Patient Safety Agency (Establishment and Constitution) Order 2001;

“Nursing and Midwifery Register” means the register maintained by the Nursing and Midwifery Council under the Nursing and Midwifery Order 2001;

“nursing officer” means a *health care professional* who is registered on the Nursing and Midwifery Register and –

- (a) employed or engaged by the Department for Work and Pensions, or
- (b) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;

“occupational therapist” means a health care professional who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001 relating to occupational therapists and –

- (a) employed or engaged by the Department for Work and Pensions, or
- (b) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;

“open” in relation to the Contractor’s list of patients, means open to applications from patients in accordance with clauses 171 to 176;

“optometrist independent prescriber” means a person –

(a) who is registered in the register of optometrists maintained under section 7(a) of the Opticians Act 1989⁶; and

(b) against whose name is recorded in that register an annotation signifying that the person is qualified to order drugs, medicines and appliances as an optometrist independent prescriber;

“opt out notice” means a notice given under clause 90 to *permanently opt out* or *temporarily opt out* of the provision of an *additional service*;

“out of hours arrangement” means an arrangement under clause 394 ;

“out of hours opt out notice” means a written notice served on the PCT specifying that the Contractor wishes to terminate its obligation to provide *out of hours services* pursuant to clause 128 or 136 (as the case may be);

“out of hours performer” means a *prescriber*, a person acting in accordance with a *Patient Group Direction* or any other *health care professional* employed or engaged by the Contractor who can lawfully supply a drug, medicine or appliance, who is performing *out of hours services* under the Contract;

“out of hours period” means-

(a) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8am on the following day;

(b) the period between 6.30pm on Friday and 8am on the following Monday; and

(c) Good Friday, Christmas Day and *bank holidays*

and “part” of an out of hours period means any part of one or more of the periods described in paragraphs (a) to (c);

⁶ 1989 c.44.

“Out of Hours Regulations” means the National Health Service (Out of Hours Medical Services) and National Health Service (General Medical Services) Amendment Regulations 2002 (S.I. 2002/2548);

“out of hours services” means services required to be provided in all or part of the *out of hours period* which-

- (a) would be *essential services* if provided by the Contractor to its *registered patients in core hours*; or
- (b) are included in the Contract as *additional services* funded under the *global sum*.

“parent” includes, in relation to any *child*, any adult who, in the opinion of the Contractor, is for the time being discharging in respect of that *child* the obligations normally attaching to a parent in respect of a *child*;

“patient” means-

- (a) a *registered patient*,
- (b) a *temporary resident*,
- (c) persons to whom the Contractor is required to provide immediately necessary treatment under clause 47.3 or 50,
- (d) any other person to whom the Contractor has agreed to provide services under the Contract;
- (e) any person for whom the Contractor is responsible under regulation 31 of *the Regulations*; and
- (f) any other person to whom the Contractor is responsible under arrangements made with another contractor of the kind referred to in clause 407;

“Patient Choice Scheme” means the scheme of that name established by the Secretary of State under which primary medical services may be

provided to persons under arrangements made in accordance with directions given by the Secretary of State under section 8 of the 2006 Act;"

"Patient Group Direction" has the same meaning as in the Prescription Only Medicines (Human Use) Order 1997;

"permanent opt out" in relation to the provision of an *additional service* that is funded through the *global sum*, means the termination of the obligation under the Contract for the Contractor to provide that service; and "permanently opt out" shall be construed accordingly;

"permanent opt out notice" means an *opt out notice to permanently opt out*;

"personal number" means a telephone number which starts with the number 070 followed by a further 8 digits;

"Pharmaceutical Regulations" means the National Health Service (Pharmaceutical Services) Regulations 2005;

"pharmacist independent prescriber" means a person—

- (a) who is either engaged or employed by the contractor or is party to the contract,
- (b) who is registered in the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954⁷ or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976⁸, and
- (c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs,

⁷ 1954 c.61.

⁸ S.I. 1976/1213 (N.I. 22)

medicines and appliances as a pharmacist independent prescriber;

“physiotherapist” means a *health care professional* who is registered in the part of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001 relating to physiotherapists and –

- (a) employed or engaged by the Department for Work and Pensions, or
- (b) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;

“pilot doctor” means a medical practitioner who performs personal medical services in connection with a *pilot scheme*;

“pilot scheme” means an agreement made under Part I of the National Health Service (Primary Care) Act 1997;

“POM Order” means the Prescription Only Medicines (Human Use) Order 1997;

“practice” means the business operated by the Contractor for the purpose of delivering services under the Contract;

“practice area” means the area referred to in clause 162;

“practice leaflet” means a leaflet drawn up in accordance with clause 438;

“practice premises” means an address specified in the Contract as one at which services are to be provided under the Contract;

“preliminary opt out notice” means a notice given under clause 88 that the Contractor wishes to *temporarily opt out* or *permanently opt out* of the provision of an *additional service*;

“prescriber” means-

- (a) a medical practitioner;
- (aa) a pharmacist independent prescriber;
- (ab) an optometrist independent prescriber;
- (b) an independent nurse prescriber; and
- (c) *a supplementary prescriber*

who is either engaged or employed by the Contractor or is a party to the Contract;

“prescription form” means –

- (a) a form provided by the Primary Care Trust and issued by a *prescriber*, or
- (b) where clause 277A applies, data that are created in an electronic form, signed with a *prescriber’s advanced electronic signature* and transmitted as an *electronic communication* to the *ETP service*,

to enable a person to obtain pharmaceutical services or *local pharmaceutical services* and does not include a *repeatable prescription*;

“primary care list” means-

- (a) a list of persons performing primary medical services, primary dental services or primary ophthalmic services under section 28X of *the Act*;
- (b) a list of persons undertaking to provide general medical services, general dental services, general ophthalmic services or, as the case may be, pharmaceutical services prepared in accordance with regulations made under sections 29, 36, 39, 42 or 43 of *the Act*,

- (c) a list of persons approved for the purposes of assisting in the provision of any services mentioned in paragraph (b) prepared in accordance with regulations made under section 43D of *the Act*,
- (d) a services list referred to in section 8ZA of the National Health Service (Primary Care) Act 1997, or
- (e) a list corresponding to a services list prepared by virtue of regulations made under section 41 of the Health and Social Care Act 2001; or
- (f) a list corresponding to any of the above lists in Scotland or Northern Ireland;

“primary carer” means, in relation to an adult, the adult or organisation primarily caring for him;

“registered patient” means-

- (a) a person who is recorded by the PCT as being on the Contractor’s list of patients; or
- (b) a person whom the Contractor has accepted for inclusion on its list of patients, whether or not notification of that acceptance has been received by the PCT and who has not been notified by the PCT as having ceased to be on that list;

“the Regulations” means The National Health Service (General Medical Services Contracts) Regulations 2004 (S.I. 2004/291);

“relevant register” means –

- a) in relation to a nurse, the *Nursing and Midwifery Register*; and
- b) in relation to a pharmacist, the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954 or the register maintained in

pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976;

“relevant Strategic Health Authority” means the Strategic Health Authority established for an area which includes the area for which the PCT is established;

“repeat dispensing services” means pharmaceutical services or *local pharmaceutical services* which involve the provision of drugs, medicines or appliances by a *chemist* in accordance with a *repeatable prescription*;

“repeatable prescriber” means a *prescriber* in a case where the Contractor provides *repeatable prescribing services* under clause 278;

“repeatable prescribing services” means services which involve the prescribing of drugs, medicines or appliances on a *repeatable prescription*;

“repeatable prescription” means a prescription which—

(a) either—

- (i) is contained in a form provided by the Primary Care Trust and issued by a *repeatable prescriber* which is in the format set out in respect of form FP10SS repeatable prescription (authorising form) in the document issued by the Prescription Pricing Division of the NHS Business Services Authority entitled “Prescription Form Overprint Specifications - GP System Prescription Overprint Specification”, version 2 dated August 2006 and which is generated by a computer and signed in ink by a *repeatable prescriber*; or
- (ii) where clause 277A applies, consists of data that are created in an electronic form, signed with a *repeatable prescriber’s*

advanced electronic signature and transmitted as an *electronic communication* to the *ETP service*,

(b) is issued or created to enable a person to obtain pharmaceutical services or *local pharmaceutical services*, and

(c) indicates that the drugs, medicines or appliances ordered on that prescription may be provided more than once and specifies the number of occasions on which they may be provided;

“restricted availability appliance” means an appliance which is approved for particular categories of persons or particular purposes only;

“Scheduled drug” means-

(a) a drug, medicine or other substance specified in any directions given by the Secretary of State under section 28U of *the Act* as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under the Contract, or

(b) except where the conditions in clause 291 are satisfied, a drug, medicine or other substance which is specified in any directions given by *the Secretary of State* under section 28U of *the Act* as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes.

“the Secretary of State” means, unless the context otherwise requires, one of Her Majesty’s Principal Secretaries of State;

“section 28C arrangements” means arrangements made under section 28C of *the Act* (personal medical services);

“section 28C provider” means a person who is providing services under a *pilot scheme* or in accordance with *section 28C arrangements*;

“supplementary prescriber” means a person who-

- (a) who is either engaged or employed by the Contractor or is a party to the Contract;
- (b) whose name is registered in-
 - (i) the *Nursing and Midwifery Register*;
 - (ii) the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954;
 - (iii) the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976;
 - (iv) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health Professions Order 2001 relating to –
 - (aa) chiropodists and podiatrists;
 - (bb) physiotherapists; or
 - (cc) radiographers: diagnostic or therapeutic, or
 - (v) the register of optometrists maintained by the General Optical Council in pursuance of section 7 of the Opticians Act 1989⁽⁹⁾, and
- (c) against whose name is recorded in the *relevant register* an annotation or entry signifying that he is qualified to order drugs medicines and appliances as a supplementary prescriber or, in the case of the Nursing and Midwifery Register, a nurse independent/supplementary prescriber;

“supply form” means a form provided by a Primary Care Trust and completed by or on behalf of the Contractor for the purpose of recording the provision of drugs, medicines or appliances to a patient during the out of hours period;

⁽⁹⁾ 1989 c.44, as amended by S.I. 2005/848.

“system of clinical governance” means a framework through which the Contractor endeavours continuously to improve the quality of its services and safeguard high standards of care by creating an environment in which clinical excellence can flourish;

“temporary opt out” in relation to the provision of an *additional service* that is funded through the *global sum*, means the suspension of the obligation under the Contract for the Contractor to provide that service for a period of more than six months and less than twelve months and includes an extension of a temporary opt out and “temporarily opt out” and “temporarily opted out” shall be construed accordingly;

“temporary opt out notice” means an *opt out notice to temporarily opt out*;

“temporary resident” means a person accepted by the Contractor as a temporary resident under clauses 177 to 180 and for whom the Contractor’s responsibility has not been terminated in accordance with those clauses;

“transferee doctor” means-

- (a) a person referred to in clause 397.2 who has undertaken to carry out the obligations of the Contractor during all or part of the *out of hours period* in accordance with an *out of hours arrangement* referred to in clause 394; or
- (b) where expressly provided in the Contract, the Contractor (where the Contractor has undertaken to carry out the obligations of another contractor during all or part of the *out of hours period* in accordance with an *out of hours arrangement*);

“the Transitional Order” means the General Medical Services Transitional and Consequential Provisions Order 2004;

“walk-in centre” means a centre at which information and treatment for minor conditions is provided to the public under arrangements made by or on behalf of *the Secretary of State*.

2. In this Contract unless the context otherwise requires:

2.1. Defined terms and phrases appear in italics, except for the terms “patient” and “Contract”;

2.2. Words denoting any gender include all genders and words denoting the singular include the plural and vice versa.

2.3. Reference to any person may include a reference to any firm, company or corporation.

2.4. Reference to “day”, “week”, “month” or “year” means a calendar day, week, month or year, as appropriate, and reference to a working day means any day except Saturday, Sunday, Good Friday, Christmas Day and any *bank holiday*.

2.5. The headings in this Contract are inserted for convenience only and do not affect the construction or interpretation of this Contract.

2.6. The schedules to this Contract are and shall be construed as being part of this Contract.

2.7. Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated (whether before or after the date

of this Contract), and all statutory instruments or orders made pursuant to it.

2.8. Where, pursuant to the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004-

2.8.1. any matter or act that took place, or

2.8.2. any notice that was served,

before the entry into force of the Contract is to be treated as if it took place pursuant to the Contract, it shall be so treated and the Contract, and obligations under the Contract, shall be interpreted consistently with that Order.

2.9. Any obligation relating to the completion and submission of any form that the Contractor is required to complete and submit to the PCT includes the obligation to complete and submit the form in such a format or formats (electronic, paper or otherwise) as the PCT may specify.

2.10. Any obligation on the Contractor to have systems, procedures or controls includes the obligation effectively to operate them.

2.11. Where this Contract imposes an obligation on the Contractor, the Contractor must comply with it and must take all reasonable steps to ensure that its personnel and contractors comply with it. Similarly, where this Contract imposes an obligation on the PCT, the PCT must comply with it and must take all reasonable steps to ensure that its personnel and contractors (save for the Contractor) comply with it.

3. Where there is any dispute as to the interpretation of a particular term in the Contract, the parties shall, so far as is possible, interpret the provisions of the Contract consistently with the European Convention on Human Rights, EC law, *the Regulations, the Transitional Order, the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004* and any other relevant regulations or orders made under *the Act*.
4. Where the parties have indicated in writing that a clause in the Contract is reserved, that clause is not relevant and has no application to the Contract¹⁰.
5. Where a particular clause is included in the Contract but is not relevant to the Contractor because that clause relates to matters which do not apply to the Contractor (for example, if the clause only applies to partnerships and the Contractor is an individual medical practitioner), that clause is not relevant and has no application to the Contract.

¹⁰ This provision has been included so that if, in relation to a particular contract, a particular clause number or numbers are not relevant (for example, because that clause or those clauses only need to be included in contracts with a partnership and the contractor concerned is an individual medical practitioner) the words of that clause can be deleted and the word 'reserved' can be inserted next to that clause number: this is to avoid renumbering the clauses or cross-references in the Contract.

PART 2¹¹

RELATIONSHIP BETWEEN THE PARTIES

6. The Contract is a contract for the provision of services. The Contractor is an independent provider of services and is not an employee, partner or agent of the PCT. The Contractor must not represent or conduct its activities so as to give the impression that it is the employee, partner or agent of the PCT.
7. The PCT does not by entering into this Contract, and shall not as a result of anything done by the Contractor in connection with the performance of this Contract, incur any contractual liability to any other person.
8. This Contract does not create any right enforceable by any person not a party to it.¹²
9. In complying with this Contract, in exercising its rights under the Contract and in performing its obligations under the Contract, the Contractor must act reasonably and in good faith.
10. In complying with this Contract, and in exercising its rights under the Contract, the PCT must act reasonably and in good faith and as a responsible public body required to discharge its functions under *the Act*.
11. Clauses 9 and 10 above do not relieve either party from the requirement to comply with the express provisions of this Contract and the parties are subject to all such express provisions.

¹¹ Except where indicated, Part 2 is not required by *the Regulations*, but is recommended.

12. The Contractor shall not give, sell, assign or otherwise dispose of the benefit of any of its rights under this Contract, [save in accordance with Schedule 1]¹³ [and subject to specific provision made in clauses 394 to 425]¹⁴. The Contract does not prohibit the Contractor from delegating its obligations arising under the Contract where such delegation is expressly permitted by the Contract.
13. The PCT may give, sell, assign or otherwise dispose of the benefit of its rights under this Contract to another Primary Care Trust.

¹² This clause is required by *the Regulations* (see paragraph 126 of Schedule 6).

¹³ The words indicated in square brackets only need to be included if the Contractor is a partnership and Schedule 1 (partnerships) has therefore been utilised.

¹⁴ The words indicated in square brackets only need to be included if clauses 394 to 425 are to be included in the Contract (see Part 14).

PART 3

NHS CONTRACT¹⁵

14. The Contractor has [not] elected to be regarded as a *health service body* for the purposes of section 4 of the 1990 Act. Accordingly, this Contract is [not] an *NHS contract*.¹⁶

¹⁵ If the Contractor has elected to be regarded as a *health service body* for the purposes of section 4 of the 1990 Act pursuant to regulation 10 of the Regulations, then the Contract must state that it is an *NHS contract*: see regulation 12 of the Regulations.

¹⁶ Where the contract is an *NHS contract*, it is not enforceable in the courts but instead is subject to the dispute resolution procedures set out in clauses 523 to 528 of the Contract and paragraph 36 and Part 7 of Schedule 6 to the Regulations. Therefore, the Contract must specify whether or not the Contractor has elected to be regarded as a *health service body*, and if it has, the Contractor must indicate that the Contract is an *NHS contract*.

PART 4

COMMENCEMENT OF THE CONTRACT

15. This Contract shall commence on [date].¹⁷

DURATION OF THE CONTRACT

16. [Subject to clause 17]¹⁸ The Contract shall subsist until [insert date]/[it is terminated in accordance with the terms of this Contract or the general law.]¹⁹

17. [If the parties agree that the Contractor is going to provide services other than *essential services, additional services* funded under the *global sum* or *out of hours services* provided pursuant to regulation 30 or 31 of *the Regulations*, (for example, *enhanced services* or *additional services* not funded under the *global sum*) details in relation to the period for which each of those services is to be provided should be inserted here: the period for which each of such services will be provided is a matter for negotiation between the parties]²⁰

18. []

¹⁷ The parties must insert the date of commencement: services can only be provided under the Contract on a date after 31st March 2004 (see regulation 28 of *the Regulations*).

¹⁸ The words in square brackets only need to be included if clause 17 et seq. are completed.

¹⁹ This clause is required by *the Regulations*: see Regulation 14 of *the Regulations*. The option for the Contract to subsist until it is terminated in accordance with the terms of the Contract or the general law must be included unless the PCT is entering into a temporary contract for a period not exceeding 12 months for the provision of services to the patients of the Contractor, following the termination of a previous contract that that Contractor held with the PCT. The PCT or the Contractor may, if it wishes to do so, invite the *Local Medical Committee* to participate in the negotiations intending to lead to a temporary contract.

19. []

20. []

²⁰ This clause, and clauses 18, 19 or 20 if further space is needed, need to be adapted and completed as indicated (see regulation 19 of *the Regulations*)– if it is not relevant because there are no such services to be provided under the Contract, these clauses should be omitted.

PART 5²¹

WARRANTIES

21. Each of the parties warrants that it has power to enter into this Contract and has obtained any necessary approvals to do so.

22. The Contractor warrants that:

22.1. all information in writing provided to the PCT in seeking to become a party to this Contract was, when given, true and accurate in all material respects, and in particular, that the Contractor satisfied the conditions set out in regulations 4 and 5 of *the Regulations*;

22.2. no information has been omitted which would make the information that was provided to the PCT materially misleading or inaccurate;

22.3. no circumstances have arisen which materially affect the truth and accuracy of such information;

22.4. it is not aware as at the date of this Contract of anything within its reasonable control which may or will materially adversely affect its ability to fulfil its obligations under this Contract.

23. The PCT warrants that:

23.1. all information in writing which it provided to the Contractor specifically to assist the Contractor to become a party to this Contract was, when given, true and accurate in all material respects;

²¹ This Part is not required by *the Regulations*, but is recommended.

23.2. no information has been omitted which would make the information that was provided to the Contractor materially misleading or inaccurate;

23.3. no circumstances have arisen which materially affect the truth and accuracy of such information.

24. The PCT and the Contractor have relied on, and are entitled to rely on, information provided by one party to the other in the course of negotiating the Contract.

PART 6

LEVEL OF SKILL²²

25. The Contractor shall carry out its obligations under the Contract in a timely manner and with reasonable care and skill.

PROVISION OF SERVICES²³

Premises

26. The address of each of the premises to be used by the Contractor or any sub-contractor for the provision of services under the Contract is as follows: []²⁴.

²² This clause is required by *the Regulations* (see paragraph 67 of Schedule 6)..

²³ Except where specifically indicated in a footnote, this whole section (Provision of Services) is required by *the Regulations* (see regulation 18(1)(b), (2) and (3), 26 and Part 1 of Schedule 6).

²⁴ All relevant addresses from which services under the Contract will be provided by the Contractor or any sub-contractor must be included here. It does not include the homes of patients or any other premises where services are provided on an emergency basis. This clause is required by regulation 18(1)(b) of *the Regulations*, together with regulation 18(2). However, where a medical practitioner who, on 31st March 2004, is providing general medical services under section 29 of *the Act*, enters into a *general medical services contract* on or before 31st March 2004 whether as an individual medical practitioner, as one or two or more individuals practising in partnership, or if that person is a legal and beneficial shareholder in a company which enters into a general medical services contract on or before 31st March 2004, the *practice* premises specified in the Contract at its commencement must, unless the PCT agrees otherwise in writing, be:-

- if the Contractor is an individual medical practitioner, all the premises which, on 31st March 2004 (or on the date on which the contract is signed, if earlier), were approved (whether with or without conditions) by the PCT or *the Secretary of State* under paragraph 29 or 29A of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992 in respect of that practitioner and whose approval had not been withdrawn;
- if the Contractor is a partnership, all the premises which, on 31st March 2004 (or on the date on which the contract is signed, if earlier), were approved (whether with or without conditions) by the PCT or *the Secretary of State* under paragraph 29 or 29A of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992 in respect of any of those practitioners and whose approval had not been withdrawn; or
- if the Contractor is a company, all the premises which, on 31st March 2004 (or on the date on which the Contract is signed if earlier), were approved (whether with or without conditions) by the PCT or *the Secretary of State* under paragraph 29 or 29A of Schedule 2 to the National Health Service (General Medical Services) Regulations

27. Subject to any plan which is included in the Contract pursuant to clause 28, the Contractor shall ensure that premises used for the provision of services under the Contract are:

27.1. suitable for the delivery of those services; and

27.2. sufficient to meet the reasonable needs of the Contractor's patients.

28. Where, on the date on which the Contract was signed, the PCT is not satisfied that all or any of the premises specified in clause 26 met the requirements set out in clause 27 and consequently the PCT and the Contractor have together drawn up a plan (contained in Schedule 6 to this Contract) which specifies-

28.1. the steps to be taken by the Contractor to bring the premises up to the relevant standard;

28.2. any financial support that is available from the PCT; and

28.3. the timescale in which such steps will be taken²⁵.

29. The Contractor shall comply with the plan specified in clause 28 and contained in Schedule 6 to this Contract as regards the steps to be taken by

1992 in respect of any of the medical practitioners who are legal and beneficial shareholders in that company and whose approval had not been withdrawn. This is a requirement of article 26 of *the Transitional Order*. The applicability of article 26 of the *Transitional Order* does not prevent the inclusion of a plan pursuant to clause 28 where the PCT does not consider that all or any one of the premises meets the standards in clause 27.
²⁵ Clause 28, clause 29 and Schedule 6 need only be included in the Contract if the PCT is not satisfied that any or all of the premises at which services are to be provided meet the standards set out in clause 27 at the date the Contract is signed. If the premises do meet the standards, these clauses can be deleted.

the Contractor to meet the requirements in clause 27 and the timescale in which those steps will be taken.

Telephone services

29A. The Contractor shall not be a party to any contract or other arrangement under which the number for telephone services to be used by –

29A.1 patients to contact the practice for any purpose related to the Contract; or

29A.2 any other person to contact the practice in relation to services provided as part of the *health service*,

starts with the digits 087, 090 or 091 or consists of a *personal number*, unless the service is provided free to the caller.

Cost of relevant calls

29B. The Contractor shall not enter into, renew or extend a contract or other arrangement for telephone services unless it is satisfied that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls to the practice than they would to make equivalent calls to a *geographical number*.

29B.1. Where the Contractor is party to an existing contract or other arrangement for telephone services under which persons making relevant calls to the practice call a number which is not a *geographical number*, the Contractor must comply with sub-clause 29B.2.

29B.2. The Contractor shall –

29B.2.1. before 1st April 2011, review the arrangement and consider whether, having regard to the arrangement as a whole, persons pay more to make relevant calls than they would to make equivalent calls to a *geographical number*, and

29B.2.2. if the Contractor so considers, take all reasonable steps, including in particular considering the matters specified in sub-clause 29B.3, to ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls than they would to make equivalent calls to a *geographical number*.

29B.3. The matters referred to in clause 29B.2.2. are –

29B.3.1. varying the terms of the contract or arrangement,

29B.3.2. renegotiating the contract or arrangement, and

29B.3.3. terminating the contract or arrangement.

29B.4. If, despite taking all reasonable steps referred to clause 29B.2.2, it has not been possible to ensure that, having regard to the arrangement as a whole, persons will not pay any more to make relevant calls to the practice than they would to make equivalent calls to a *geographical number*, the Contractor must consider introducing a system under which if a caller asks to be called back, the Contractor will do so at the Contractor's expense.

29B.5. For the purpose of clause 29B –

29B.5.1. “existing contract or other arrangement” means a contract or arrangement that was entered into prior to 1st April 2010 and which remains in force on 1st April 2010,

29B.5.2. “relevant calls” means calls—

29B.5.2.1. made by patients to the practice for any reason related to services provided under the contract, and

29B.5.2.2. made by persons, other than patients, to the practice in relation to services provided as part of the health service.

Attendance at *practice premises*

30. The Contractor shall take reasonable steps to ensure that any patient who has not previously made an appointment and attends at the *practice premises* during the *normal hours* for *essential services* is provided with such services by an appropriate *health care professional* during that surgery period except where:

30.1. it is more appropriate for the patient to be referred elsewhere for services under *the Act*; or

30.2. the patient is then offered an appointment to attend again within a time which is reasonable having regard to all the circumstances and his health would not thereby be jeopardised.

Attendance outside *practice premises*

31. In the case of a patient whose medical condition is such that in the reasonable opinion of the Contractor attendance on the patient is required and it would be inappropriate for the patient to attend at a place where services are provided in *normal hours* under the Contract, the Contractor shall provide services to that patient at whichever in its judgement is the most appropriate of the following places:

31.1. the place recorded in the patient's medical records as being his last home address;

31.2. such other place as the Contractor has informed the patient and the PCT is the place where it has agreed to visit and treat the patient;

31.3. some other place in the Contractor's *practice area*.

32. Nothing in this clause or clause 31 prevents the Contractor from:

32.1. arranging for the referral of a patient without first seeing the patient, in a case where the medical condition of that patient makes that course of action appropriate; or

32.2. visiting the patient in circumstances where this paragraph does not place it under an obligation to do so.

Newly registered patients

33. Where a patient has been accepted on the Contractor's list of patients under clauses 171 to 176 or assigned to that list by the PCT, the Contractor shall, in addition and without prejudice to its other obligations in respect of that patient under the Contract, invite the patient to participate in a consultation either at its *practice premises* or, if the medical condition of the

patient so warrants, at one of the places referred to in clause 31. Such an invitation shall be issued within six months of the date of the acceptance of the patient on, or their assignment to, the Contractor's list of patients.

34. Where a patient (or, where appropriate, in the case of a patient who is a *child*, his *parent*) agrees to participate in a consultation referred to in clause 33 above, the Contractor shall, in the course of that consultation, make such inquiries and undertake such examinations as appear to it to be appropriate in all the circumstances.

Patients not seen within 3 years

35. Where a *registered patient* who:

35.1. has attained the age of 16 years but has not attained the age of 75 years; and

35.2. has attended neither a consultation with, nor a clinic provided by, the Contractor within the period of three years prior to the date of his request,

requests a consultation the Contractor shall, in addition and without prejudice to its other obligations in respect of that patient under the Contract, provide such a consultation.

36. Where the Contractor provides a consultation referred to in clause 35, the Contractor shall, in the course of that consultation, make such inquiries and undertake such examinations as appear to it to be appropriate in all the circumstances.

Patients aged 75 years and over

37. Where a *registered* patient who-

37.1. has attained the age of 75 years; and

37.2. has not participated in a consultation under this clause within the period of twelve months prior to the date of his request,

requests a consultation, the Contractor shall, in addition and without prejudice to its other obligations in respect of that patient under the Contract, provide such a consultation in the course of which it shall make such inquiries and undertake such examinations as appear to it to be appropriate in all the circumstances.

38. A consultation under clause 37 shall take place in the home of the patient where, in the reasonable opinion of the Contractor, it would be inappropriate, as a result of the patient's medical condition, for him to attend at the *practice premises*.

Clinical reports

39. Where the Contractor provides any clinical services, other than under a private arrangement, to a patient who is not on its list of patients, it shall, as soon as reasonably practicable, provide a clinical report relating to the consultation, and any treatment provided, to the PCT. The PCT shall send any report received to the person with whom the patient is registered for the provision of *essential services* or their equivalent or if that person is not known to the PCT, the Primary Care Trust in whose area the patient is resident. This clause does not apply in relation to *out of hours services* provided by the Contractor on or after 1st January 2005.

Storage of vaccines

40. The Contractor shall ensure that-

40.1. all vaccines are stored in accordance with the manufacturer's instructions; and

40.2. all refrigerators in which vaccines are stored have a maximum/minimum thermometer and that readings are taken on all working days.

Infection control

41. The Contractor shall ensure that it has appropriate arrangements for infection control and decontamination.

Duty of co-operation in relation to *additional, enhanced and out of hours services*²⁶

42. If the Contractor is not, pursuant to the Contract, providing to its *registered patients* or to persons whom it has accepted as *temporary residents* –

²⁶ Although not every aspect of clauses 42 to 45 will be relevant to every Contractor, these clauses should be left in every GMS Contract as in many cases, a Contractor will not be providing each *additional service*, each *enhanced service* and *out of hours services*: these clauses

- 42.1. a particular *additional service*;
- 42.2. a particular *enhanced service*; or
- 42.3. *out of hours services*, either at all or in respect of some periods or some services,

the Contractor shall comply with the requirements specified in clause 43.

43. The requirements referred to in clause 42 are that the Contractor shall –

- 43.1. co-operate, insofar as is reasonable, with any person responsible for the provision of that service or those services;
- 43.2. comply in *core hours* with any reasonable request for information from such a person or from the PCT relating to the provision of that service or those services; and
- 43.3. in the case of *out of hours services*, take reasonable steps to ensure that any *patient* who contacts the *practice premises* during the *out of hours period* is provided with information about how to obtain services during that period.

44. Nothing in clauses 42 and 43 shall require the Contractor (if it is not providing *out of hours services* under the Contract) to make itself available during the *out of hours period*.

45. If the Contractor is to cease to be required to provide to its *patients* –

have been drafted so that they can be left in the Contract even if that were to be the case. These clauses are required by paragraph 12 of Schedule 6 to *the Regulations*.

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- 45.1. a particular *additional service*;
- 45.2. a particular *enhanced service*; or
- 45.3. *out of hours services*, either at all or in respect of some periods or some services,

it shall comply with any reasonable request for information relating to the provision of that service or those services made by the PCT or by any person with whom the Trust intends to enter into a contract for the provision of such services.

PART 7²⁷

ESSENTIAL SERVICES

46. The Contractor must provide the services described in clauses 47 to 52 (*essential services*) at such times, within *core hours*, as are appropriate to meet the reasonable needs of its patients, and to have in place arrangements for its patients to access such services throughout the *core hours* in case of emergency²⁸.

47. The Contractor must provide-

47.1. services required for the management of the Contractor's *registered patients* and *temporary residents* who are, or believe themselves to be-

47.1.1. ill with conditions from which recovery is generally expected;

47.1.2. terminally ill; or

47.1.3. suffering from chronic *disease*

delivered in the manner determined by the *practice* in discussion with the patient;

47.2. appropriate ongoing treatment and care to all *registered patients* and *temporary residents* taking account of their specific needs including-

²⁷ This Part is required by *the Regulations* (see regulation 15). Every GMS Contract must require the Contractor to provide *essential services*.

²⁸ This clause is also required by regulation 20 of *the Regulations*.

47.2.1. the provision of advice in connection with the patient's health, including relevant health promotion advice; and

47.2.2. the referral of the patient for other services under *the Act*; and

47.3. primary medical services required in *core hours* for the immediately necessary treatment of any person to whom the Contractor has been requested to provide treatment owing to an accident or emergency at any place in its *practice area*.

48. For the purposes of clause 47.1, "management" includes-

48.1. offering a consultation and, where appropriate, physical examination for the purpose of identifying the need, if any, for treatment or further investigation; and

48.2. the making available of such treatment or further investigation as is necessary and appropriate, including the referral of the patient for other services under *the Act* and liaison with other *health care professionals* involved in the patient's treatment and care.

49. For the purposes of clause 47.3, "emergency" includes any medical emergency whether or not related to services provided under the Contract.

50. The Contractor must provide primary medical services required in *core hours* for the immediately necessary treatment of any person falling within clause 51 who requests such treatment, for the period specified in clause 52.

51. A person falls within this clause if he is a person-

51.1. whose application for inclusion in the Contractor's list of patients has been refused in accordance with clauses 181 to 184 and who is not registered with another provider of *essential services* (or their equivalent) in the area of the PCT;

51.2. whose application for acceptance as a *temporary resident* has been rejected under clauses 181 to 184; or

51.3. who is present in the Contractor's *practice area* for less than 24 hours.

52. The period referred to in clause 50 is-

52.1. in the case of clause 51.1, 14 days beginning with the date on which that person's application was refused or until that person has been registered elsewhere for the provision of *essential services* (or their equivalent), whichever occurs first;

52.2. in the case of clause 51.2, 14 days beginning with the date on which that person's application was rejected or until that person has been subsequently accepted elsewhere as a *temporary resident*, whichever occurs first; and

52.3. in the case of clause 51.3, 24 hours or such shorter period as the person is present in the Contractor's *practice area*.

PART 8²⁹

ADDITIONAL SERVICES

²⁹ This Part only needs to be included in the Contract where the Contractor is to provide any one or more of the *additional services*. Where the contract is with-

- an individual medical practitioner who, on 31st March 2004, was providing services under section 29 of *the Act*;
- two or more individuals practising in partnership at least one of whom was, on 31st March 2004, a medical practitioner providing services under section 29 of *the Act*; or
- a company in which one or more of the shareholders was, on 31st March 2004, a medical practitioner providing services under section 29 of *the Act*

and services are to be provided under the Contract from 1st April 2004, the Contract must provide for the Contractor to provide in *core hours* to its *registered patients* and persons accepted by it as *temporary residents* such of the *additional services* as are equivalent to the services which that medical practitioner or practitioners was or were providing to his or their patients on the date that the Contract is entered into except to the extent that:-

- the provision of any of those services by that medical practitioner or practitioners was due to come to an end on or before the date on which services are required to start being provided under the Contract, or
- prior to the signing of the Contract, the PCT has accepted in writing a written request from the Contractor that the Contract should not require it to provide all or any of those *additional services* (see regulation 29 of *the Regulations*).

In any other circumstances, it is for the Contractor and the PCT to negotiate which *additional services* will be provided by the Contractor. If the Contractor is providing any one or more *additional services* under the Contract (whether or not pursuant to regulation 29), then the clauses relating to that particular *additional service* are required to be inserted into the Contract: clause 53 must be included where any one or more additional services is being provided by the Contractor under the Contract. This reflects the requirements of regulation 16 and Schedule 2 to *the Regulations*.

The first exception to these general principles (see article 17 of *the Transitional Order*) is where the Contractor was entitled to enter into a GMS Contract pursuant to article 8 or 10 of the *Transitional Order*: if this is the case, the Contract must, unless the PCT has accepted in writing a written request from the Contractor not to provide such services, provide for the Contractor to provide in *core hours* to the Contractor's registered patients and persons accepted by it as *temporary residents*-

- such of the *additional services* as are equivalent to the services which were specified in the notice of vacancy published under regulation 18D of the National Health Service (General Medical Services) Regulations 1992, or
- in a case in which the services required were not so specified, the services which the medical practitioner whose death or withdrawal or removal from the PCT's medical list led to the declaration of the vacancy was providing to his patients immediately prior to his death or withdrawal or removal from the list.

The second exception to these general principles (see article 18 of *the Transitional Order*) is where the Contract is being entered into with a Contractor who, immediately before the coming into force of the Contract, is a party to a *default contract* with the PCT: if this is the case, the Contract must require the Contractor to provide in *core hours* to its *registered patients* and persons accepted by it as *temporary residents* all of the *additional services* which were required to be provided under the *default contract*, except to the extent that, prior to the signing of the Contract, the PCT has accepted in writing a written request from the

53. In relation to each *additional service* it provides, the Contractor shall provide such facilities and equipment as are necessary to enable it properly to perform that service.

54. Where an *additional service* is to be funded under the *global sum*, the Contractor must provide that *additional service* at such times, within *core hours*, as are appropriate to meet the reasonable needs of its patients. The Contractor must also have in place arrangements for its patients to access such services throughout the *core hours* in case of emergency.

55. The Contractor shall provide the *additional services*³⁰ set out in clause 56 to-

55.1. its *registered patients*; and

55.2. persons accepted by it as *temporary residents*;

56. The Contractor shall provide to the patients specified in clause 55-

56.1. [*cervical screening services*];

56.2. [*contraceptive services*];

56.3. [*vaccines and immunisations*];

56.4. [*childhood vaccines and immunisations*];

56.5. [*child health surveillance services*];

Contractor that the Contract should not require it to provide all or any of those *additional services*.

³⁰ Delete from the list at clause 56 any of the *additional services* that the Contractor is not going to be providing under the Contract to the persons specified in clause 55.

56.6. [maternity medical services];

56.7. [minor surgery].

57. The Contractor shall provide the *additional services* set out in [] to []³¹

58. The Contractor shall provide to the patients specified in clause 57-

58.1. [cervical screening services];

58.2. [contraceptive services];

58.3. [vaccines and immunisations];

58.4. [childhood vaccines and immunisations];

58.5. [child health surveillance services];

58.6. [maternity medical services];

58.7. [minor surgery].

³¹ Clauses 57 and 58 only need to be included if the parties agree that the Contractor will provide *additional services* that are not funded by the *global sum*. If the parties do so agree, details need to be inserted at clause 57 of the patients to whom such services will be provided, and where particular *additional services* specified in clause 58 are to be provided to particular patients (for example *maternity medical services* is to be provided to one group of patients and *minor surgery* is to be provided to a different group of patients), the spaces in square brackets at clause 57 should be completed to make it clear which *additional services* included at clause 58 are to be provided to which patients: any *additional services* that the Contractor will not be providing to patients specified in clause 57 need to be deleted from clause 58.

59. [In addition to the *additional services* specified in clauses 55, 56, 57 and 58 the Contractor shall provide *child health surveillance services* to [specify here any patients/categories of patients (other than patients who are recorded as being on the Contractor's list of patients) to whom the Contractor was providing child health surveillance services, either under regulation 28 of the National Health Service (General Medical Services) Regulations 1992 or pursuant to a default contract, on or immediately before the date this contract is to be entered into (see article 24 and 25 of the Transitional Order) (see article 24 and 25 of the Transitional Order)]. The requirement to provide this *additional service* to the patients specified in this clause shall cease on the date on which any *opt out of child health surveillance services* in respect of the Contractor's own registered patients commences pursuant to Part 10 of the Contract]³²

60. [In addition to the *additional services* specified in clauses 55, 56, 57 and 58, the Contractor shall provide *contraceptive services* to [specify here any patients/categories of patients (other than patients who are recorded as being on the Contractor's list of patients) to whom the Contractor was providing contraceptive services, either under regulation 29 of the National Health Service (General Medical Services) Regulations 1992 or pursuant to a default contract, on or immediately before the date this contract is to be entered into (see article 24 and 25 of the Transitional Order)] The requirement to provide this *additional service* to the patients specified in this clause shall cease on the date on which any *opt out of contraceptive services* in respect of the Contractor's own registered patients commences pursuant to Part 10 of the Contract]³³

61. [In addition to the *additional services* specified in clauses 55, 56, 57 and 58, the Contractor shall provide *maternity medical services* to [specify here any

³² This clause only needs to be included if the Contractor must provide such services pursuant to article 24 or 25 of *the Transitional Order*: if neither article applies to the Contractor, this clause can be deleted.

³³ This clause only needs to be included if the Contractor must provide such services pursuant to article 24 or 25 of *the Transitional Order*: if neither article applies to the Contractor, this clause can be deleted.

*patients/categories of patients (other than patients who are recorded as being on the Contractor's list of patients) to whom the Contractor was providing contraceptive services either under regulation 31 of the National Health Service (General Medical Services) Regulations 1992 or pursuant to a default contract, on or immediately before the date the Contract is to be entered into (see article 24 and 25 of the Transitional Order)]. The requirement to provide this additional service to the patients specified in this clause shall cease on the date on which any opt out of maternity medical services in respect of the Contractor's own registered patients commences pursuant to Part 10 of the Contract]*³⁴

62. [Nothing in clauses 59 to 61 shall prevent the Contractor from subsequently terminating its responsibility for patients not registered with the Contractor pursuant to clauses 225 to 229]³⁵.

63. []³⁶

64. []

65. []

66. []

67. []

³⁴ This clause only needs to be included if the Contractor must provide such services pursuant to article 24 or 25 of *the Transitional Order*: if neither article applies to the Contractor, this clause can be deleted.

³⁵ This clause only needs to be included if any of clauses 59 to 61 are included. If not, this clause can be deleted.

³⁶ Clause 54 makes provision in respect of *additional services* funded by the *global sum* in respect of the times during which *additional services* are to be provided to patients. In relation to *additional services* that are not funded by the *global sum* (specified in clause 58), the parties will need to specify here the times during which such services are to be provided: there is further space in the clauses below to include such further detail as is necessary

Cervical screening³⁷

68. The Contractor shall-

- 68.1. provide the services described in clause 69; and
- 68.2. make such records as are referred to in clause 70.

69. The services referred to in clause 68 are-

- 69.1. the provision of any necessary information and advice to assist women identified by the PCT as recommended nationally for a cervical screening test in making an informed decision as to participation in the NHS Cervical Screening Programme;
- 69.2. the performance of cervical screening tests on women who have agreed to participate in that Programme;
- 69.3. arranging for women to be informed of the results of the test;
- 69.4. ensuring that test results are followed up appropriately.

70. The records referred to in clause 68 are an accurate record of the carrying out of a cervical screening test, the result of the test and any clinical follow up requirements.

³⁷ Clauses 68 to 70 are required by *the Regulations* only where the Contract includes the provision of *cervical screening services*. If the Contractor is not providing *cervical screening services*, these clauses should be deleted.

Contraceptive services³⁸

71. The Contractor shall make available the following services to all of its patients who request such services:

71.1. the giving of advice about the full range of contraceptive methods;

71.2. where appropriate, the medical examination of patients seeking such advice;

71.3. the treatment of such patients for contraceptive purposes and the prescribing of contraceptive substances and appliances (excluding the fitting and implanting of intrauterine devices and implants);

71.4. the giving of advice about emergency contraception and where appropriate, the supplying or prescribing of emergency hormonal contraception or, where the Contractor has a conscientious objection to emergency contraception, prompt referral to another provider of primary medical services who does not have such conscientious objections;

71.5. the provision of advice and referral in cases of unplanned or unwanted pregnancy, including advice about the availability of free pregnancy testing in the *practice area* and, where appropriate, where the Contractor has a conscientious objection to the termination of pregnancy, prompt referral to another provider of primary medical services who does not have such conscientious objections;

³⁸ Clause 71 is required by *the Regulations* only where the Contract includes the provision of *contraceptive services*. If the Contractor is not providing *contraceptive services*, this clause should be deleted.

71.6. the giving of initial advice about sexual health promotion and sexually transmitted infections; and

71.7. the referral as necessary for specialist sexual health services, including tests for sexually transmitted infections.

Vaccines and immunisations³⁹

72. The Contractor must comply with sub-clauses 72.1 and 72.3.

72.1. The Contractor must –

72.1.1. offer to provide to patients all vaccines and immunisations (other than childhood immunisations and the combined Haemophilus influenza type B and Meningitis C booster vaccine) of the type and in the circumstances set out in the GMS Statement of Financial Entitlements;

72.1.2. take into account the individual circumstances of the patient, consider whether immunisation ought to be administered by the Contractor or other health professional or a prescription form ought to be provided for the purpose of the patient self-administering immunisation;

72.1.3. provide appropriate information and advice to patients about such vaccines and immunisations;

³⁹ Clauses 72 and 73 are required by *the Regulations* only where the Contract includes the provision of *vaccines and immunisations*. If the Contractor is not providing *vaccines and immunisations*, these clauses should be deleted.

72.1.4. record in the patient's record any refusal of the offer referred to in clause 72.1.1;

72.1.5. where the offer is accepted and immunisation is to be administered by the Contractor or other health professional, include in the patient's record the information specified in sub-clause 72.2; and

72.1.6. where the offer is accepted and the immunisation is not to be administered by the contractor or other health professional, issue a prescription form for the purpose of self-administration by the patient.

72.2. The specified information referred to in sub-clause 72.1.5 is—

72.2.1. the patient's consent to immunisation or the name of the person who gave consent to the immunisation and that person's relationship to the patient;

72.2.2. the batch numbers, expiry date and title of the vaccine;

72.2.3. the date of administration;

72.2.4. in a case where two vaccines are administered by injection in close succession, the route of administration and the injection site of each vaccine;

72.2.5. any contraindications to the vaccine or immunisation; and

72.2.6. any adverse reactions to the vaccine or immunisation.

72.3. The contractor must ensure that all staff involved in the administration of immunisations are trained in the recognition and initial treatment of anaphylaxis.

72.4. In this Clause 72, “patient records” means the record which is kept in accordance with 426 to clause 434.

73. The Contractor shall ensure that all staff involved in administering vaccines are trained in the recognition and initial treatment of anaphylaxis.

Childhood vaccines and immunisations⁴⁰

74. The Contractor shall-

74.1. offer to provide to children all vaccines and immunisations of the type and in the circumstances which are set out in the GMS Statement of Financial Entitlements;

74.2. provide appropriate information and advice to patients and, where appropriate, their parents about such vaccines and immunisations;

74.3. record in the patient’s record kept in accordance with clause 426 to 434 any refusal of the offer referred to in clause 74.1;

⁴⁰ Clauses 74 to 75 are required by *the Regulations* only where the Contract includes the provision of *childhood vaccines and immunisations*. If the Contractor is not providing *childhood vaccines and immunisations*, these clauses should be deleted.

74.4. where the offer is accepted, administer the immunisations, and include in the patient's record kept in accordance with clauses 426 to 434-

74.4.1. the name of the person who gave consent to the immunisation and his relationship to the patient;

74.4.2. the batch numbers, expiry date and title of the vaccine;

74.4.3. the date of administration;

74.4.4. in a case where two vaccines are administered in close succession, the route of administration and the injection site of each vaccine;

74.4.5. any contraindications to the vaccine; and

74.4.6. any adverse reactions to the vaccine.

75. The Contractor shall ensure that all staff involved in administering vaccines are trained in the recognition and initial treatment of anaphylaxis.

Child health surveillance⁴¹

76. The Contractor shall, in respect of any child under the age of five for whom it has responsibility under the Contract-

⁴¹ Clauses 76 to 78 are required by *the Regulations* only where the Contract includes the provision of *child health surveillance services*. If the Contractor is not providing *child health surveillance services*, these clauses should be deleted.

76.1. provide the services described in clause 77, other than any examination so described which the parent refuses to allow the child to undergo, until the date upon which the child attains the age of five years; and

76.2. maintain such records as are specified in clause 78.

77. The services referred to in clause 76.1 are-

77.1. the monitoring-

77.1.1. by the consideration of any information concerning the child received by or on behalf of the Contractor, and

77.1.2. on any occasion when the child is examined or observed by or on behalf of the Contractor (whether pursuant to clause 77.2 or otherwise),

of the health, well-being and physical, mental and social development (all of which characteristics are referred to in clauses 77 to 79 as "development") of the child while under the age of 5 years with a view to detecting any deviations from normal development;

77.2. the examination of the child at a frequency that has been agreed with the PCT in accordance with the nationally agreed evidence based programme set out in the fourth edition of "Health for all Children (David Hall and David Elliman, January 2003, Oxford University Press ISBN 0-19-85188-X).

78. The records referred to in clause 76.2 are an accurate record of-

78.1. the development of the child while under the age of 5 years, compiled as soon as is reasonably practicable following the first examination of that child and, where appropriate, amended following each subsequent examination; and

78.2. the responses (if any) to offers made to the child's *parent* for the child to undergo any examination referred to in clause 77.2.

Maternity medical services 42

79. The Contractor shall-

79.1. provide to female patients who have been diagnosed as pregnant all necessary maternity medical services throughout the antenatal period;

79.2. provide to female patients and their babies all necessary maternity medical services throughout the postnatal period other than neonatal checks;

79.3. provide all necessary maternity medical services to female patients whose pregnancy has terminated as a result of miscarriage or abortion or, where the Contractor has a conscientious objection to the termination of pregnancy, prompt referral to another provider of primary medical services, who does not have such conscientious objections.

80. In clause 79-

80.1. “antenatal period” means the period from the start of the pregnancy to the onset of labour,

80.2. “maternity medical services” means-

80.2.1. in relation to female patients (other than babies) all primary medical services relating to pregnancy, excluding intra partum care, and

80.2.2. in relation to babies, any primary medical services necessary in their first 14 days of life, and

80.3. “postnatal period” means the period starting from the conclusion of delivery of the baby or the patient’s discharge from secondary care services, whichever is the later, and ending on the fourteenth day after the birth.

Minor surgery⁴³

81. The Contractor shall make available to patients where appropriate curettage and cautery and, in relation to warts, verrucae and other skin lesions, cryocautery.

82. The Contractor shall ensure that its record of any treatment provided pursuant to clause 81 includes the consent of the patient to that treatment.

⁴² Clauses 79 to 80 are required by *the Regulations* only where the Contract includes the provision of *maternity medical services*. If the Contractor is not providing *maternity medical services*, these clauses should be deleted.

⁴³ Clauses 81 and 82 are required by *the Regulations* only where the Contract includes the provision of *minor surgery*. If the Contractor is not providing *minor surgery*, these clauses should be deleted.

PART 9

OUT OF HOURS SERVICES⁴⁴

⁴⁴ A contractor is required to provide *out of hours services* under the Contract if it falls within the categories specified in regulations 30 to 31 of *the Regulations*: otherwise it is a matter for negotiation between the parties. This means that the Contractor must provide *out of hours services* under the Contract in the following circumstances:-

1. (regulation 30) if, under the Contract, the Contractor will be providing any services before 1st January 2005 (whether or not services will be provided after that date), the Contract must provide for *out of hours services* to be provided to patients by the Contractor unless:-
 - a) the PCT has accepted in writing, prior to the signing of the Contract, a written request from the Contractor that the Contract should not require the Contractor to make such provision; or
 - b) the Contract is, at the date on which it is signed, with-
 - a medical practitioner who is or was, on 31st March 2004 relieved of responsibility for providing services to his patients under paragraph 18(2) of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992;
 - a partnership in which all of the partners who are *general medical practitioners* are, or were on 31st March 2004 relieved of responsibility for providing services to their patients under that paragraph on that date;
 - a company in which all of the *general medical practitioners* who own shares in that company are, or were on 31st March 2004 relieved of responsibility for providing services to their patients under that paragraph on that date
 - c) the Contractor opts out of the provision of *out of hours services* pursuant to the Contract (which will not affect the need to include the provision of *out of hours services* in the Contract at the point the Contract is entered into); or
 - d) the Contract has been otherwise varied to exclude a requirement to make such provision (this will not be relevant at the point where the Contract is being entered into because there will not be any such variation until there is a contract to vary); AND
2. (regulation 31) if the Contract is with any of the persons specified in a) to c) below, the Contract must require the Contractor to continue providing *out of hours services* to patients of an exempt contractor where the Contractor is-
 - a) an individual medical practitioner who is, or was on 31st March 2004, responsible for providing services during all or part of the out of hours period to the patients of a medical practitioner who meets the requirements set out in paragraph 3 below (“exempt contractor”);
 - b) two or more individuals practising in partnership at least one of whom is, or was on 31st March 2004, a medical practitioner responsible for providing such services; or
 - c) a company in which one or more of the shareholders is, or was, on 31st March 2004, a medical practitioner responsible for providing such servicesand the Contractor must continue to provide such services until it has opted out of the provision of *out of hours services* in accordance with Part 10 of the Contract, or the PCT (or if it is different, the Primary Care Trust with whom the exempt contractor holds its contract) has or have agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients.
3. the requirements referred to in 2.a) are that-

83. [Subject to clause 84, the Contractor shall provide-

83.1. the services which must be provided in *core hours* pursuant to clauses 46 to 52; and

83.2. such additional services (if any) as are included in the Contract pursuant to clause 56

during the *out of hours period*⁴⁵].

84. The Contractor shall only be required to provide the services specified in clause 83 during the *out of hours period* to a patient if, in the reasonable opinion of the Contractor in the light of the patient's medical condition, it would not be reasonable in all the circumstances for the patient to wait for the services required until the next time at which he could obtain such services during *core hours*⁴⁶.

85. The Contractor must, in the provision of out of hours services, meet the quality requirements set out in the document entitled "National Quality

-
- a) the medical practitioner was relieved of responsibility for providing services to his patients under paragraph 18(2) of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992; and
 - b) he-
 - a. has entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above,
 - b. is one of two or more individuals practising in partnership who have entered or intend to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above;
 - c. is the owner of shares in a company which has entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above.

⁴⁵ This clause is mandatory only if *out of hours services* are being provided pursuant to regulation 30 or 31 of *the Regulations*: if *out of hours services* are included in the Contract other than by virtue of regulation 30 or 31, details of what services are to be provided by the Contractor during the *out of hours period* should be included here instead, and the provision can be re-drafted depending on what is agreed between the parties.

Requirements in the Delivery of Out of Hours Services” published on 20th July 2006 (the document is published electronically at <http://www.dh.gov.uk> or a copy may be obtained by writing to Primary Care, Room 4N34E, Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE).⁴⁷

Supply of medicines etc. by contractors providing out of hours services⁴⁸

85A. If the Contract includes the supply of *necessary drugs, medicines and appliances* to patients at the time that the Contractor is providing them with *out of hours services*, the Contractor shall comply with the requirements in clauses 85B to 85E.

85B. The Contractor shall ensure that an *out of hours performer* –

85B.1. only supplies *necessary drugs, medicines and appliances*;

85B.2. supplies the *complete course* of the necessary medicine or drug required to treat the patient; and

85B.3. does not supply –

85B.3.1. drugs, medicines or appliances which he could not lawfully supply,

85B.3.2. appliances which are not listed in Part IX of the *Drug Tariff*,

⁴⁶ This clause is required whenever *out of hours services* will be provided, whether pursuant to regulation 30 or 31 of *the Regulations* or not.

⁴⁷ This clause is required whenever *out of hours services* will be provided, whether pursuant to regulation 30 or 31 of *the Regulations* or not.

⁴⁸ This clause is required whenever *out of hours services* will be provided, whether pursuant to regulation 30 or 31 of *the Regulations* or not.

85B.3.3. *restricted availability appliances*, except where the patient is a person, or it is for a purpose, specified in the *Drug Tariff*, or

85B.3.4. a drug, medicine or other substance listed in Schedule 1 to the National Health Service (General Medical Services Contracts) (Prescription of Drugs etc) Regulations 2004, or a drug, medicine or other substance listed in Schedule 2 to those Regulations other than in the circumstances specified in that Schedule.

85C. The *out of hours performer* shall record on a separate *supply form* for each patient any drugs, medicines or appliances supplied to the patient provided that a single *supply form* may be completed where the Contractor supplies *necessary drugs, medicines or appliances* to two or more persons in a school or other institution in which at least 20 persons normally reside, when the *out of hours performer* may write on the *supply form* the name of the school or institution rather than the name of the individual patient.

85D. The *out of hours performer* shall ask any person who makes a declaration that the patient does not have to pay the charges specified in regulation 4

(1) of *the Charges Regulations* by virtue of either-

85D.1. entitlement to exemption under regulation 7(1) of *the Charges Regulations*; or

85D.2. entitlement to remission of charges under regulation 5 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003,

to produce satisfactory evidence of such entitlement, unless the declaration is in respect of entitlement to exemption by virtue of sub-paragraph (a), (c), (d), (e), (f) or (g) of regulation 7(1) of the *Charges Regulations*, and at the time of the declaration the *out of hours performer* already has such evidence available to him.

85E. If no satisfactory evidence is produced to him as required by clause 85D (and, where it is relevant, none is already available to him as mentioned in that clause), the *out of hours performer* shall endorse the *supply form* to that effect.

85F. Subject to clause 85G, nothing in clauses 85A to 85E shall prevent an *out of hours performer* supplying a *Scheduled drug* or a *restricted availability appliance* in the course of treating a patient under a private arrangement.

85G. The provisions of Part 18 apply in respect of the supply of *necessary drugs, medicines and appliances* under clauses 85A to 85E as they apply in respect of prescriptions for drugs, medicines and appliances.

86. If the Contractor is required to provide *out of hours services* under the Contract pursuant to regulation 31 of *the Regulations* to the patients of an exempt contractor it shall provide such services, and continue to provide such services until-

86.1. it has opted out of the provision of *out of hours services* in accordance with Part 10 of this Contract;

86.2. the PCT and, where applicable, the Primary Care Trust that holds a contract with the contractor for whom *out of hours services* are being provided by the Contractor under the Contract, has or have agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients⁴⁹.

87. [If the Contractor is required to provide *out of hours services* under the Contract, pursuant to article 20 of the *Transitional Order*, to the patients of a party to a *default contract* who is an exempt contractor (within the meaning of that article) it shall provide such services to those patients, and continue to provide such services until-

87.1. the exempt contractor's *default contract* referred to in article 20(3)(a) of the *Transitional Order* has come to an end and not been succeeded by a *general medical services contract* which does not include *out of hours services* pursuant to regulation 30(1)(b) of *the Regulations*;

87.2. the Contractor has opted out of the provision of *out of hours services* in accordance with Part 10 of the Contract; or

87.3. the PCT and, if it is different, the Primary Care Trust that holds a contract with the contractor for whom *out of hours services* are being provided by the Contractor under the Contract, has or have agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients.]⁵⁰

⁴⁹ This clause is only required if the Contractor is providing *out of hours services* pursuant to regulation 31 of *the Regulations*. Otherwise this clause should be deleted.

⁵⁰ Clause 87 only needs to be included if, pursuant to article 20 of the *Transitional Order*, the Contractor will be responsible for providing *out of hours services* to the patients of a party to a *default contract*. If it is not relevant to the Contractor, the clause can be deleted.

PART 10

OPT OUTS OF ADDITIONAL AND OUT OF HOURS SERVICES⁵¹

Opt outs of additional services: general

88. Where the Contractor wishes to *permanently opt out* or *temporarily opt out* of the provision of one or more *additional services* (referred to in clauses 89 to 126 below as "*additional service*"), the Contractor shall give to the PCT in writing a *preliminary opt out notice* which shall state the reasons for wishing to opt out.

89. As soon as is reasonably practicable and in any event within the period of 7 days beginning with the receipt of the *preliminary opt out notice* by the PCT, the PCT shall enter into discussions with the Contractor concerning the support which the PCT may give the Contractor, or other changes which the PCT or the Contractor may make, which would enable the Contractor to continue to provide the *additional service*. The PCT and the Contractor shall use reasonable endeavours to achieve this aim.

90. The discussions referred to in clause 89 shall be completed within the period of 10 days beginning with the date of the receipt of the *preliminary opt out notice* by the PCT or as soon as reasonably practicable thereafter. If,

⁵¹ These provisions are required by *the Regulations* in certain circumstances (see regulation 17 and Schedule 3):-

- if the contract provides for the Contractor to provide an *additional service* that is to be funded through the *global sum*, clauses 88 to 126 are required;
- if the Contract is entered into before 1st October 2004 and it provides for the Contractor to provide *out of hours services* pursuant to regulation 30 or 31 of *the Regulations*, clauses 127 to 150 are required;
- if the Contract is entered into on or after 1st October 2004 and the Contract provides for the Contractor to provide *out of hours services* pursuant to regulation 30 or 31 of *the Regulations*, clauses 127 to 134 are required.

If any of the provisions relating to opt outs of *additional* and *out of hours services* are included, clauses 151 to 153 are required.

following the discussions, the Contractor still wishes to opt out of the provision of the *additional service*, it shall send an *opt out notice* to the PCT.

91. An *opt out notice* shall specify-

91.1. the *additional service* concerned;

91.2. whether the Contractor wishes to *permanently opt out* or *temporarily opt out*;

91.3. the reasons for wishing to opt out;

91.4. the date from which the Contractor would like the opt out to commence, which must in the case of a *temporary opt out* be at least 14 days after the date of service of the *opt out notice*, and in the case of a *permanent opt out* must be the day either 3 or 6 months after the date of service of the *opt out notice*; and

91.5. in the case of a *temporary opt out*, the desired duration of the opt out.

92. Where the Contractor has given two previous *temporary opt out notices* within the period of three years ending with the date of the service of the latest *opt out notice* (whether or not the same *additional service* is concerned), the latest *opt out notice* shall be treated as a *permanent opt out notice* even if the *opt out notice* says that it wishes to *temporarily opt out*.

93. The Contractor may not serve a *temporary opt out notice* prior to 1 April 2004.

Temporary opt outs and permanent opt outs following temporary opt outs

94. Clauses 95 to 108 apply following the giving of a *temporary opt out notice*.

95. As soon as is reasonably practicable and in any event within the period of 7 days beginning with the date of receipt of a *temporary opt out notice* under clause 90, the PCT shall-

95.1. approve the *opt out notice* and specify in accordance with clauses 97 and 98 the date on which the *temporary opt out* is to commence and the date that it is to come to an end (“the end date”); or

95.2. reject the *opt out notice* in accordance with clause 96,

and shall notify the Contractor of its decision as soon as possible, giving reasons for its decision.

96. The PCT may reject the *opt out notice* on the ground that the Contractor-

96.1. is providing *additional services* to *patients* other than its own *registered patients*, or *enhanced services*; or

96.2. has no reasonable need temporarily to *opt out* having regard to its ability to deliver the *additional service*.

97. The date specified by the PCT for the commencement of the *temporary opt out* shall wherever reasonably practicable be the date requested by the Contractor in its *opt out notice*.

98. Before determining the end date, the PCT shall make reasonable efforts to reach agreement as to the end date with the Contractor.

99. Where the PCT approves an *opt out notice*, the Contractor's obligation to provide the *additional service* specified in the notice shall be suspended from the date specified by the PCT in its decision under clause 95 and shall remain suspended until the end date unless-

99.1. the Contractor and the PCT agree an earlier date in writing, in which case the suspension shall come to an end on the earlier date agreed;

99.2. the PCT specifies a later date under clause 99.4 in which case the suspension shall end on the later date specified;

99.3. clause 103 applies, and the Contractor refers the matter to the *NHS dispute resolution procedure* or the court, in which case the suspension shall end-

99.3.1. where the outcome of the decision is to uphold the decision of the PCT, on the day after the date of the decision of *the Secretary of State* or the court,

99.3.2. where the outcome of the dispute is to overturn the decision of the PCT, 28 days after the decision of *the Secretary of State* or the court, or

99.3.3. where the Contractor ceases to pursue the *NHS dispute resolution procedure* or court proceedings, on the day after the date that the Contractor withdraws its claim or the procedure is or proceedings are otherwise terminated by *the Secretary of State* or the court;

99.4. clause 103 applies and-

99.4.1. the PCT refuses the Contractor's request for a *permanent opt out* within the period of 28 days ending with the end date, in which case the suspension shall come to an end 28 days after the end date,

99.4.2. the PCT refuses the Contractor's request for a *permanent opt out* after the end date, in which case the suspension shall come to an end 28 days after the date of service of the notice, or

99.4.3. the PCT notifies the Contractor after the end date that the *relevant Strategic Health Authority* has not approved its proposed decision to refuse the Contractor's request to *permanently opt out* under clause 106 after the end date, in which case the suspension shall come to an end 28 days after the date of service of the notice.

100. Before the end date, the PCT may, in exceptional circumstances and with the agreement of the Contractor, notify the Contractor in writing of a later date on which the *temporary opt out* is to come to an end, being a date no more than six months later than the end date.

101. Where the PCT considers that-

101.1. the Contractor will be unable to satisfactorily provide the *additional service* at the end of the *temporary opt out*; and

101.2. it would not be appropriate to exercise its discretion under clause 99.4 to specify a later date on which the *temporary opt out* is to come to an end or the Contractor does not agree to a later date

the PCT may notify the Contractor in writing at least 28 days before the end date that a *permanent opt out* shall follow a *temporary opt out*.

102. Where the PCT notifies the Contractor under clause 101 that the *permanent opt out* shall follow a *temporary opt out*, the *permanent opt out* shall take effect immediately after the end of the *temporary opt out*.

103. Where the Contractor has *temporarily opted out*, the Contractor may at least three months prior to the end date notify the PCT in writing that it wishes to *permanently opt out* of the *additional service* in question.

104. Where the Contractor has notified the PCT under clause 103 that it wishes to *permanently opt out*, the *temporary opt out* shall be followed by a *permanent opt out* beginning on the day after the end date unless the PCT refuses the Contractor's request to *permanently opt out* by giving a notice in writing to the Contractor to this effect.

105. The PCT may only give a notice under clause 104 with the approval of the *relevant Strategic Health Authority*. Where the PCT seeks the approval of a Strategic Health Authority to a proposed decision to refuse a *permanent opt out* under this clause, it shall notify the Contractor of having done so.

106. If the *relevant Strategic Health Authority* has not reached a decision as to whether or not to approve the PCT's proposed decision to refuse a *permanent opt out* before the end date, the Contractor's obligation to provide the *additional service* shall remain suspended until the date specified in clause 99.4.2 or 99.4.3 (whichever is applicable).

107. Where after the end date the *relevant Strategic Health Authority* notifies the PCT that it does not approve the PCT's proposed decision to refuse a

permanent opt out, the PCT shall notify the Contractor in writing of this fact as soon as is reasonably practicable.

108. A *temporary opt out* or *permanent opt out* commences, and a *temporary opt out* ends at 08.00 on the relevant day unless-

108.1. the day is a Saturday, Sunday, Christmas Day, Good Friday or a *bank holiday*, in which case the opt out shall take effect on the next working day at 08.00; or

108.2. the PCT and the Contractor agree a different day or time.

Permanent opt outs

109. In clauses 110 to 126-

“A Day” is the day specified by the Contractor in its *permanent opt out notice* to the PCT for the commencement of the *permanent opt out*;

“B Day” is the day six months after the date of service of the *permanent opt out notice*; and

“C Day” is the day nine months after the date of service of the *permanent opt out notice*.

110. As soon as is reasonably practicable and in any event within the period of 28 days beginning with the date of receipt of a *permanent opt out notice* under clause 90 (or *temporary opt out notice* which is treated as a *permanent opt out notice* under clause 92), the PCT shall-

110.1. approve the *opt out notice*; or

110.2. reject the *opt out notice* in accordance with clause 111,

and shall notify the Contractor of its decision as soon as possible, including reasons for its decision where its decision is to reject the *opt out notice*.

111. A PCT may reject the *opt out notice* on the ground that the Contractor is providing an *additional service* to patients other than its *registered patients* or *enhanced services*.

112. The Contractor may not withdraw an *opt out notice* once it has been approved by the PCT in accordance with clause 110.1 without the PCT's agreement.

113. If the PCT approves the *opt out notice* under clause 110.1, it shall use its reasonable endeavours to make arrangements for the Contractor's *registered patients* to receive the *additional service* from an alternative provider from A day.

114. The Contractor's duty to provide the *additional service* shall terminate on A Day unless the PCT serves a notice under clause 115 (extending A day to B day or C day).

115. If the PCT is not successful in finding an alternative provider to take on the provision of the *additional service* from A day, then it shall notify the Contractor in writing of this fact no later than one month before A day, and-

115.1. in a case where A Day is three months after service of the *opt out notice*, the Contractor shall continue to provide the *additional service*

until B Day unless at least one month before B Day it receives a notice in writing from the PCT under clause 116 that despite using its reasonable endeavours, it has failed to find an alternative provider to take on the provision of the *additional service* from B Day;

115.2. in a case where A Day is six months after the service of the *opt out notice*, the Contractor shall continue to provide the *additional service* until C Day unless at least one month before C Day it receives a notice from the PCT under clause 120 that it has made an application to the *relevant Strategic Health Authority* under clause 119 seeking its approval of a decision to refuse a *permanent opt out* or to delay the commencement of a *permanent opt out* until after C Day.

116. Where in accordance with clause 115.1 the *permanent opt out* is to commence on B Day and the PCT, despite using its reasonable endeavours, has failed to find an alternative provider to take on the provision of the *additional service* from that day, it shall notify the Contractor in writing of this fact at least one month before B Day, in which case the Contractor shall continue to provide the *additional service* until C Day unless at least one month before C Day it receives a notice from the PCT under clause 119 that it has applied to the *relevant Strategic Health Authority* under clause 118 seeking the approval of the *relevant Strategic Health Authority* to a decision to refuse a *permanent opt out* or to postpone the commencement of a *permanent opt out* until after C Day.

117. As soon as is reasonably practicable and in any event within 7 days of the PCT serving a notice under clause 116, the PCT shall enter into discussions with the Contractor concerning the support that the PCT may give to the Contractor or other changes which the PCT or the Contractor may make in relation to the provision of the *additional service* until C Day.

118. The PCT may, if it considers that there are exceptional circumstances make an application to the *relevant Strategic Health Authority* for approval of a decision to-

118.1. refuse a *permanent opt-out*; or

118.2. postpone the commencement of a *permanent opt-out* until after C Day.

119. As soon as practicable after making an application under clause 118 to the Strategic Health Authority, the PCT shall notify the Contractor in writing that it has made such an application.

120. Where the Strategic Health Authority-

120.1. approves a decision to refuse an opt out pursuant to paragraph 3(12)(a) of Schedule 3 to *the Regulations*; or

120.2. recommends that a *permanent opt out* be refused pursuant to paragraph 3(13)(b)(ii) of Schedule 3 to *the Regulations*,

the PCT shall notify the Contractor in writing that it may not opt out of the *additional service*.

121. Where the PCT notifies the Contractor under clause 120, the Contractor may not serve a *preliminary opt out notice* in respect of that *additional service* for a period of 12 months beginning with the date of service of the PCT's notice under that clause unless there has been a change in the circumstances of the Contractor which affects its ability to deliver services under the Contract.

122. Where the Strategic Health Authority-

122.1. recommends a different date for the commencement of the *permanent opt-out*;

122.2. approves the PCT's application to postpone a *permanent opt out*;
or

122.3. recommends an earlier date to that proposed by the PCT in its application,

the PCT shall in accordance with the approval of the Strategic Health Authority notify the Contractor in writing of its decision and the notice shall specify the date from which the *permanent opt out* shall commence.

123. Where the Strategic Health Authority rejects the PCT's application, the PCT shall notify the Contractor in writing that there shall be a *permanent opt out* and the *permanent opt out* shall commence on C Day or 28 days after the date of service of the PCT's notice, whichever is the later.

124. If the *relevant Strategic Health Authority* has not reached a decision on the PCT's application under clause 118 before C Day, the Contractor's obligation to provide the *additional service* shall continue until a notice is served on it by the PCT under clause 122 or 123.

125. Nothing in clauses 109 to 124 above shall prevent the Contractor and the PCT from agreeing a different date for the termination of the Contractor's duty under the Contract to provide the *additional service* and, accordingly, varying the Contract in accordance with clause 529.

126. The *permanent opt out* takes effect at 08.00 on the relevant day unless-

126.1. the day is a Saturday, Sunday, Christmas Day, Good Friday or a *bank holiday*, in which case the opt out shall take effect on the next working day at 08.00; or

126.2. the PCT and the Contractor agree a different day or time.

Out of hours opt outs where the opt out notice is served after 30th September 2004

127. Clauses 128 to 144 apply where the Contractor wishes to serve or serves an *out of hours opt out notice* after 30th September 2004.

128. Where the Contractor wishes to terminate its obligation to provide *out of hours services* which was included in the Contract pursuant to regulation 30 of *the Regulations*, the Contractor shall notify the relevant PCT in writing to that effect (*an out of hours opt out notice*).

129. An *out of hours opt out notice* shall specify the date from which the Contractor would like the opt out to take effect, which must be either three or six months after the date of service of the *out of hours opt out notice*.

130. As soon as is reasonably practicable and in any event within 28 days of receiving the *out of hours opt out notice*, the PCT shall approve the notice and specify in accordance with clause 131 the date on which the out of hours opt out is to commence (“OOH Day”). The PCT shall notify the Contractor of its decision as soon as possible.

131. The date specified under clause 130 shall be the date specified in the *out of hours opt out notice*.

132. The Contractor may not withdraw an *out of hours opt out notice* once it has been approved by the PCT under clause 130 without the PCT's agreement.
133. Following receipt of the *out of hours opt out notice*, the PCT must use its reasonable endeavours to make arrangements for the Contractor's *registered patients* to receive the *out of hours services* from an alternative provider from OOH Day.
134. Clauses 114 to 126 shall apply to an out of hours opt out as they apply to a *permanent opt out* and as if the reference to "A Day" was a reference to OOH day and the reference in clause 121 to a *preliminary opt out notice* was a reference to an *out of hours opt out notice*.

Out of hours opt out where the opt out notice is served before 1st October 2004

135. Clause 136 to 150 shall apply where the Contractor wishes to serve or serves an *out of hours opt out notice* before 1st October 2004 and in those clauses-
- 135.1. "OOH day" is the day specified by the PCT for the commencement of the out of hours opt out in its decision under clause 138;
- 135.2. "OOHB day" is the day six months after the date of service of the out of hours opt out notice;
- 135.3. "OOHC day" is the day specified by the PCT in its decision under clause 144 or 146 (which must be nine months after the date of service of the *out of hours opt out notice* or before 2nd January 2005);

136. If the Contractor wishes to terminate its obligation to provide *out of hours services*, and that obligation was included in this Contract pursuant to regulation 30 of *the Regulations*, it shall notify the PCT in writing to that effect (*out of hours opt out notice*).
137. An *out of hours opt out notice* shall state the date on which the Contractor would like the opt out to take effect, which must be either three or six months after the date of service of the *out of hours opt out notice*.
138. As soon as is reasonably practicable and in any event within 28 days of receiving the *out of hours opt out notice*, the PCT shall approve the notice and specify in accordance with clause 139 and 140 the date on which the out of hours opt out is to commence (“OOH Day”). The PCT shall notify the Contractor of its decision as soon as possible, including reasons for its decision.
139. Subject to clause 140, OOH day shall be-
- 139.1. the date specified in the *out of hours opt out notice*; or
 - 139.2. any other date before 2nd January 2005.
140. A PCT may not specify under clause 138 a date earlier than the date specified in the *out of hours opt out notice*.
141. The Contractor may not withdraw an *out of hours opt out notice* once it has been approved by the PCT under clause 138 without the PCT’s agreement.

142. Following receipt of the *out of hours opt out notice*, the PCT must use its reasonable endeavours to make arrangements for the Contractor's *registered patients* to receive *out of hours services* from an alternative provider from OOH day.

143. The Contractor's duty to provide *out of hours services* shall terminate on OOH day unless the PCT-

143.1. serves a notice under clause 144 (extending OOH day to OOHB day or OOHC day); or

143.2. makes an application under clause 147 (seeking approval of the *relevant Strategic Health Authority* to a decision to refuse an opt out or to delay the taking effect of an opt out until after OOH day).

144. If the PCT is not successful in finding an alternative provider to take on the provision of the *out of hours services* from OOH Day, then it shall notify the Contractor in writing of this fact no later than one month before OOH Day, and-

144.1. in a case where OOH day is three months after service of the *out of hours opt out notice*, the Contractor shall continue to provide the *out of hours services* until OOHB day unless at least one month before OOHB day it receives a notice in writing from the PCT under clause 146 that despite using its reasonable endeavours, it has failed to find an alternative provider to take on the provision of the *out of hours services* from OOHB day;

144.2. in a case where OOH day is after the day three months after the service of the *out of hours opt out notice*, the Contractor shall continue to provide the *out of hours services* until OOHC day (which shall be

specified by the PCT in accordance with clause 145 and included in its notice to the Contractor under this Clause) unless at least one month before OOHC day it receives a notice from the PCT under clause 148 that it has made an application to the *relevant Strategic Health Authority* under clause 147 seeking its approval to a decision to refuse an opt out or to delay the commencement of the opt out until after OOHC day.

145. OOHC day shall be any day before 2nd January 2005 or the day nine months after the service of the *out of hours opt out notice*.

146. Where in accordance with clause 144.1 the out of hours opt out is to commence on OOHB day and the PCT, despite using its reasonable endeavours has failed to find an alternative provider to take on the provision of *out of hours services* from that day, it shall notify the Contractor in writing of this fact at least one month before OOHB day, in which case the Contractor shall continue to provide *the out of hours services* until OOHC day (which shall be specified by the PCT in accordance with clause 145 and included in its notice to the Contractor under this clause) unless at least one month before OOHC day it receives a notice from the PCT under clause 148 that it has applied to the *relevant Strategic Health Authority* under clause 147 seeking the approval of the *relevant Strategic Health Authority* to a decision to refuse an opt out or to postpone the commencement of an opt out until after OOHC day.

147. The PCT may, if it considers there are exceptional circumstances, make an application to the *relevant Strategic Health Authority* for approval of a decision to-

147.1. refuse an opt out; or

147.2. postpone the commencement of an opt out until after-

147.2.1. OOHC day, or

147.2.2. OOH day where OOH day is 1st January 2005, and 1st January 2005 is nine months or more after the date of the *out of hours opt out notice*.

148. Where OOH day is 1st January 2005, and 1st January 2005 is nine months or more after the date of the *out of hours opt out notice*, an application under clause 147 shall be made at least one month before OOH day.

149. As soon as practicable after making an application under clause 147 to the Strategic Health Authority, the PCT shall notify the Contractor in writing that it has made such an application.

150. Clauses 120 to 126 shall apply to an out of hours opt out as they apply to a *permanent opt out* and as if the reference to "C day" was a reference to OOHC day or OOH day where OOH day is 1st January 2005 and 1st January 2005 is nine months or more after the date of the *out of hours opt out notice*.

Informing patients of opt outs

151. Prior to any opt out taking effect, the PCT and the Contractor shall discuss how to inform the Contractor's patients of the proposed opt out.

152. The Contractor shall, if requested by the PCT, inform its *registered patients* of an opt out and the arrangements made for them to receive the *additional service or out of hours services* by-

152.1. placing a notice in the practice's waiting room; or

152.2. including the information in the *practice leaflet*.

153. In clauses 151 and 152 "opt out" means an out of hours opt out, a *permanent opt out* or a *temporary opt out*.

PART 11⁵²

ENHANCED SERVICES

154. [The parties should insert here the details of the *enhanced services* that the Contractor has agreed to provide under the Contract (if any) including details of to whom each of such services will be provided].

155. []

156. []

157. []

158. []

159. []

160. []

⁵² This Part is not required by *the Regulations* but if the parties agree that the Contractor is going to provide *enhanced services* under the GMS Contract, or any relevant Directions direct the PCT to include particular *enhanced services* if the Contractor so requests, details of such services, together with any relevant specifications, should be incorporated in this Part.

PART 12⁵³

PATIENTS

Persons to whom services are to be provided⁵⁴

161. [Except where specifically stated otherwise in respect of particular services]⁵⁵ The Contractor shall provide services under the Contract to:

161.1. *registered patients,*

161.2. *temporary residents,*

161.3. persons to whom the Contractor is required to provide immediately necessary treatment under clause 47.3 or 50,

161.4. any person for whom the Contractor is responsible under regulation 31 of *the Regulations*⁵⁶ [or article 20 of *the Transitional Order*]⁵⁷;

⁵³ Except where specifically indicated in a footnote, this Part is required by *the Regulations*: see regulation 18, regulation 25 and Part 2 of Schedule 6.

⁵⁴ This provision is required by regulation 18(1)(c) of *the Regulations* which requires the Contract to specify to whom services under the Contract are to be provided.

⁵⁵ The words in square brackets may be required where the Contractor is providing *additional services* not funded by the *global sum*, *enhanced services* or *out of hours services* only to specific categories of patients (and not all of the patients specified in clauses 161.1 to 161.5).

⁵⁶ 1. Regulation 31 of *the Regulations* provides that if the Contract is with any of the persons specified in a) to c) below, the Contract must require the Contractor to continue providing *out of hours services* to patients of an exempt contractor where the Contractor is-

- a) an individual medical practitioner who is, or was on 31st March 2004, responsible for providing services during all or part of the out of hours period to the patients of a medical practitioner who meets the requirements set out in paragraph 2 below ("exempt contractor");
- b) two or more individuals practising in partnership at least one of whom was, or will be, on 31st March 2004, a medical practitioner responsible for providing such services; or

161.5. any other person to whom the Contractor is responsible under arrangements made with another contractor of the kind referred to in clause 407; and

161.6. any other person to whom the Contractor has agreed to provide services under the Contract.

Patient registration area

162. The area in respect of which persons resident in it will, subject to any other terms of the Contract relating to patient registration, be entitled to register with the Contractor, or seek acceptance by the Contractor as a *temporary resident*, is []⁵⁸.

c) a company in which one or more of the shareholders was, or will be, on 31st March 2004, a medical practitioner responsible for providing such services, and the Contractor must continue to provide such services until it has opted out of the provision of *out of hours services* in accordance with Part 10 of the Contract, or the PCT (or if it is different, the Primary Care Trust with whom the exempt contractor holds its contract) has or have agreed in writing that the Contractor need no longer provide some or all of those services to some or all of those patients.

2. The requirements are that-

a) the medical practitioner was relieved of responsibility for providing services to his patients under paragraph 18(2) of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992; and

b) he-

a. has entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above,

b. is one of two or more individuals practising in partnership who have entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above;

c. is the owner of shares in a company which has entered or intends to enter into a contract which does not include *out of hours services* pursuant to paragraph 1(b) above.

⁵⁷ The words indicated in square brackets need only be included if, pursuant to article 20 of *the Transitional Order* and clause 87, the Contractor is required to provide *out of hours services* to the patients of a party to a *default contract* who is an exempt contractor as set out in that article.

⁵⁸ The *practice area* needs to be specified here - this is required by regulation 18(1)(d) of *the Regulations*.

Outer boundary area⁵⁹

162A. The area, other than the area referred to in clause 162, which is to be known as the outer boundary area is []

162B. Where a patient moves into the outer boundary area referred to in clause 162A and wishes to remain on the Contractor's list of patients, the patient may remain on that list if the Contractor so agrees, notwithstanding the patient no longer resides in the area referred to in clause 162.

162C. Where a patient remains on the Contractor's list of patients as a consequence of clause 162B, the outer boundary area is to be treated as part of the practice area for the purposes of the application of any other terms and conditions of this contract in respect of that patient.

List of patients

163. The Contractor's list of patients is [open/closed]⁶⁰.

164. The Contractor's list of patients shall remain closed for a period of []⁶¹ from the date on which the Contract comes into force. The Contractor's list of patients shall remain closed for that whole period, unless the Contractor successfully applies for an extension to the closure period in accordance with clauses 250A to 250K or the Contractor and the PCT

⁵⁹ Clauses 162A, 162B and 162C must be included and clause 182 amended only where the parties agree there is to be an outer boundary area.

⁶⁰ The Contract must specify whether, at the date the Contract comes into force, the Contractor's list of patients will be *open* or *closed*. Please delete as appropriate. This clause is required by regulation 18(1)(e) of *the Regulations*.

⁶¹ A period of at least 3 months and not more than 12 months should be inserted here.

agree that the Contractor should re-open its list of patients in accordance with clause 250L.]⁶²

165. []

166. The PCT shall prepare and keep up to date a list of the patients-

166.1. who have been accepted by the Contractor for inclusion in its list of patients under clauses 171 to 176 and who have not subsequently been removed from that list under clauses 187 to 224; and

166.2. who have been assigned to the Contractor under clauses 254 and 255, or clauses 256 and 257 and whose assignment has not subsequently been rescinded.

167. [The PCT shall also include in the Contractor's list of patients-

167.1. those patients who, on 31st March 2004, were recorded by the PCT pursuant to regulation 19 of the National Health Service (General Medical Services) Regulations 1992 as being on the list of-

167.1.1. the Contractor, if the Contractor is an individual medical practitioner,

167.1.2. any of the two or more medical practitioners practising in partnership who have entered into the contract, if the Contractor is a partnership, or

⁶² This clause should only be included if clause 163 states that the Contractor's list is *closed*.

167.1.3. any of the medical practitioners who are legal and beneficial shareholders in the company which has entered into the contract,

unless the patient lives outside the *practice area*, and that patient was included on that medical practitioner's list other than by virtue of an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998; and

167.2. any patient who, on or before 31st March 2004, had been assigned to the Contractor, or any one of the persons specified in clause 167.1.2 or 167.1.3 or , under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998 but not yet included in the list of the Contractor referred to in clause 167.1.]⁶³

168. [The PCT shall also include in the Contractor's list of patients-

168.1. all the patients who, on the date immediately before the coming into force of the *general medical services contract* were on the Contractor's list of patients for the purposes of a *default contract* with the PCT, unless the patient lives outside the *practice area*, and that patient was included on the Contractor's list other than by virtue of an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998 or under the *default contract*; and

⁶³ Clause 167 should be included if the Contract is entered into with a medical practitioner who, on 31st March 2004 , is providing general medical services under section 29 of *the Act* and on or before 31st March 2004 he enters into a *general medical services contract* whether as an individual medical practitioner or as one of two or more individuals practising in partnership, or he is a legal and beneficial shareholder in a company which enters into a *general medical services contract* on or before 31st March 2004: see article 28 of *the Transitional Order* which contains the requirement. If this clause is not applicable to the Contractor, it should be deleted.

168.2. any patient who had been assigned to the Contractor when he was a party to that *default contract* in accordance with the terms of that contract but not yet included in the list referred to in clause 168.1.]⁶⁴

169. [The PCT shall also include in the Contractor's list of patients all of the patients who, on the date on which temporary arrangements under regulation 25(2) or (6) of the National Health Service (General Medical Services) Regulations 1992 came to an end, were-

169.1. temporarily re-assigned to other medical practitioners under paragraph (14A) of regulation 25; or

169.2. included on the list of the medical practitioner for whom the temporary arrangements were in place

unless the patient lives outside the *practice area* and that patient became registered with either the medical practitioner for whom the temporary arrangements are in place or the medical practitioner or practitioners providing the temporary arrangements otherwise than as a result of an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998.]⁶⁵

170. [The PCT shall also include in the Contractor's list of patients, all of the patients who were, on the date on which contractual arrangements under article 15 of *the Transitional Order* in respect of the Contractor's patients

⁶⁴ This clause should only be included if the Contract with the PCT is being entered into with a Contractor who was a party to a *default contract* with the PCT immediately before the coming into force of the Contract: see article 29 of *the Transitional Order*. If the clause does not apply, it should be deleted.

⁶⁵ This clause is required by article 30(1) of *the Transitional Order* if the Contractor is an individual medical practitioner for whom, immediately before the Contract commences, the PCT had in place temporary arrangements under regulation 25(2) or (6) of the National Health Service (General Medical Services) Regulations 1992: if the Contractor is not such a person, this clause should be deleted.

came to an end, on the list or lists of patients prepared and maintained by the PCT for the purpose of those contractual arrangements, unless the patient lives outside the *practice area* and that patient's inclusion in the list of patients did not result from an assignment under regulation 4 of the National Health Service (Choice of Medical Practitioner) Regulations 1998 or under the contractual arrangements under article 15]⁶⁶.

Application for inclusion in a list of patients

171. The Contractor may, if its list of patients is *open*, accept an application for inclusion in its list of patients made by or on behalf of any person, whether or not resident in its *practice area* or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services

172. The Contractor may, if its list of patients is *closed*, only accept an application for inclusion in its list of patients from a person who is an *immediate family member* of a *registered patient* whether or not resident in its *practice area* or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services.

173. Subject to clause 174, an application for inclusion in the Contractor's list of patients shall be made by delivering to the *practice premises* a *medical card* or an application signed (in either case) by the applicant or a person authorised by the applicant to sign on his behalf.

174. An application may be made-

⁶⁶ Clause 170 is required by article 30(2) of *the Transitional Order* if the Contractor is an individual medical practitioner for whom, immediately before the Contract commences, the PCT had in place contractual arrangements under article 15 of *the Transitional Order*. If the Contractor is not such a person, this clause should be deleted.

174.1. on behalf of any *child*-

174.1.1. by either *parent*, or in the absence of both *parents*, the guardian or other adult who has care of the *child*,

174.1.2. by a person duly authorised by a local authority to whose care the *child* has been committed under the Children Act 1989, or

174.1.3. by a person duly authorised by a voluntary organisation by which the *child* is being accommodated under the provisions of that Act;

174.2. on behalf of any adult who lacks the capacity to make such an application, or to authorise such an application to be made on their behalf, by a relative of that person, the primary carer of that person, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005.

175. Where the Contractor accepts an application for inclusion in its list of patients, the Contractor shall notify the PCT in writing as soon as possible.

176. On receipt of a notice under clause 175, the PCT shall include that person in the Contractor's list of patients from the date on which the notice is received, and shall notify the applicant (or, in the case of a *child* or an adult who lacks capacity, the person making the application on their behalf) in writing of the acceptance.

Temporary residents

177. The Contractor may if its list of patients is *open* accept a person as a *temporary resident* provided it is satisfied that the person is-

177.1. temporarily resident away from his normal place of residence and is not being provided with *essential services* under any other arrangement in the locality where he is temporarily residing; or

177.2. moving from place to place and not for the time being resident in any place.

178. For the purposes of clause 177, a person shall be regarded as temporarily resident in a place if, when he arrives in that place, he intends to stay there for more than 24 hours but not more than three months.

179. Where the Contractor wishes to terminate its responsibility for a person accepted as a *temporary resident* before the end of three months or such shorter period for which it had agreed to accept him as a patient, the Contractor shall notify the patient either orally or in writing and its responsibility for that person shall cease 7 days after the date on which the notification was given.

180. At the end of three months, or on such earlier date as its responsibility for the patient has come to an end, the Contractor shall notify the PCT in writing of any person whom it accepted as a *temporary resident*.

Refusal of applications for inclusion in the list of patients or for acceptance as a *temporary resident*

181. The Contractor shall only refuse an application made under clauses 171 to 180 if it has reasonable grounds for doing so which do not relate to

the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition.

182. The reasonable grounds referred to in clause 181 shall, in the case of applications made under clauses 171 to 176 include the ground that the applicant does not live in the Contractor's *practice area* or that the applicant lives in the outer boundary area referred to in clause 162A.
183. If the Contractor refuses an application made under clauses 171 to 180, it shall, within 14 days of its decision, notify the applicant (or, in the case of a child or an adult who lacks capacity, the person making the application on their behalf) in writing of the refusal and the reason for it.
184. The Contractor shall keep a written record of refusals of applications made under clauses 171 to 176 and of the reasons for them and shall make this record available to the PCT on request.

Patient preference of practitioner

185. Where the Contractor has accepted an application for inclusion in its list of patients, it shall-
 - 185.1. notify the patient (or, in the case of a *child* or an adult who lacks capacity, the person making the application on their behalf) of the patient's right to express a preference to receive services from a particular performer or class of performer either generally or in relation to any particular condition; and
 - 185.2. record in writing any such preference expressed by or on behalf of the patient.

186. The Contractor shall endeavour to comply with any reasonable preference expressed under clause 185 but need not do so if the preferred performer has reasonable grounds for refusing to provide services to the patient, or does not routinely perform the service in question within the *practice*.

Removals from the list at the request of the patient

187. The Contractor shall notify the PCT in writing of any request for removal from its list of patients received from a *registered patient*.

188. Where the PCT receives notification from the Contractor under clause 187, or receives a request from the patient to be removed from the Contractor's list of patients, it shall remove that person from the Contractor's list of patients.

189. A removal under clause 188 shall take effect-

189.1. on the date on which the PCT receives notification of the registration of the person with another provider of *essential services* (or their equivalent); or

189.2. 14 days after the date on which the notification or request made under clause 187 or 188 respectively is received by the PCT,

whichever is the sooner.

190. The PCT shall, as soon as practicable, notify in writing-

190.1. the patient; and

190.2. the Contractor,

that the patient's name will be or has been removed from the Contractor's list of patients on the date referred to in clause 189.

191. In clauses 190, 192, 201.1, 207, 208, 213, 214 and 220 a reference to a request received from, or advice, information or notification required to be given to, a patient shall include a request received from or advice, information or notification required to be given to-

191.1. in the case of a patient who is a *child*, a *parent* or other person referred to in clause 174.1; or

191.2. in the case of an adult patient who lacks the capacity to make the relevant request or receive the relevant advice, information or notification, a relative of that person, the *primary carer* of that person, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005.

Removals from the list at the request of the Contractor

192. Subject to clauses 202 to 208, where the Contractor has reasonable grounds for wishing a patient to be removed from its list of patients which do not relate to the patient's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition, the Contractor shall-

192.1. notify the PCT in writing that it wishes to have the patient removed; and

192.2. subject to clause 193, notify the patient in writing of its specific reasons for requesting removal.

193. Where, in the reasonable opinion of the Contractor, the circumstances of the removal are such that it is not appropriate for a more specific reason to be given, and there has been an irrevocable breakdown in the relationship between the patient and the Contractor, the reason given under clause 192 may consist of a statement that there has been such a breakdown.

194. Except in the circumstances specified in clause 195, the Contractor may only request a removal under clause 192, if, within the period of 12 months prior to the date of its request to the PCT, it has warned the patient that he is at risk of removal and explained to him the reasons for this.

195. The circumstances referred to in clause 194 are that-

195.1. the reason for removal relates to a change of address;

195.2. the Contractor has reasonable grounds for believing that the issue of such a warning would be harmful to the physical or mental health of the patient or would put at risk the safety of one or more of the persons specified in clause 196; or

195.3. it is, in the opinion of the Contractor, not otherwise reasonable or practical for a warning to be given.

196. The persons referred to in clause 195 are-

- 196.1. if the Contractor is an individual medical practitioner, the Contractor;
 - 196.2. if the Contractor is a partnership, a partner in the partnership;
 - 196.3. if the Contractor is a company, a legal and beneficial owner of shares in that company;
 - 196.4. a member of the Contractor's staff;
 - 196.5. a person engaged by the Contractor to perform or assist in the performance of services under the Contract; or
 - 196.6. any other person present on the *practice premises* or in the place where services are being provided to the patient under the Contract.
197. The Contractor shall record in writing the date of any warning given in accordance with clause 194 and the reasons for giving such a warning as explained to the patient, or the reason why no such warning was given.
198. The Contractor shall keep a written record of removals under clause 192 which shall include the reason for removal given to the patient, the circumstances of the removal and in cases where clause 193 applies, the grounds for a more specific reason not being appropriate, and the Contractor shall make this record available to the PCT on request.
199. A removal requested in accordance with clause 192 shall, subject to clause 200, take effect from the date on which the person is registered with another provider of *essential services*, or the eighth day after the Trust receives the notice, whichever is the sooner.

200. Where, on the date on which the removal would take effect under clause 199, the Contractor is treating the patient at intervals of less than seven days, the Contractor shall inform the PCT in writing of that fact and the removal shall take effect on the eighth day after the Trust receives notification from the Contractor that the person no longer needs such treatment, or on the date on which the person is registered with another provider of *essential services*, whichever is the sooner.

201. The PCT shall notify in writing-

201.1. the patient; and

201.2. the Contractor

that the patient's name has been or will be removed from the Contractor's list of patients on the date referred to in clause 199 or 200.

Removals from the list of patients who are violent

202. Where the Contractor wishes a patient to be removed from its list of patients with immediate effect on the grounds that-

202.1. the patient has committed an act of violence against any of the persons specified in clause 203 or behaved in such a way that any such person has feared for his safety; and

202.2. it has reported the incident to the police,

the Contractor shall notify the PCT in accordance with clause 204.

203. The persons referred to in clause 202 are-

- 203.1. if the Contract is with an individual medical practitioner, that individual;
 - 203.2. if the Contract is with a partnership, a partner in that partnership;
 - 203.3. if the Contract is with a company, a legal and beneficial owner of shares in that company;
 - 203.4. a member of the Contractor's staff;
 - 203.5. a person employed or engaged by the Contractor to perform or assist in the performance of services under the Contract; or
 - 203.6. any other person present on the *practice premises* or in the place where services were provided to the patient under the Contract.
204. Notification under clause 202 may be given by any means including telephone or fax but if not given in writing shall subsequently be confirmed in writing within seven days (and for this purpose a faxed notification is not a written one).
205. The PCT shall acknowledge in writing receipt of a request from the Contractor under clause 202.
206. A removal requested in accordance with clause 202 shall take effect at the time the Contractor makes the telephone call to the PCT, or sends or delivers the notification to the PCT.

207. Where, pursuant to clauses 202 to 206, the Contractor has notified the PCT that it wishes to have a patient removed from its list of patients, it shall inform the patient concerned unless-

207.1. it is not reasonably practicable for it to do so; or

207.2. it has reasonable grounds for believing that to do so would be harmful to the physical or mental health of the patient or would put at risk the safety of one or more of the persons specified in clause 203.

208. Where the PCT has removed a patient from the Contractor's list of patients in accordance with clause 206 it shall give written notice of the removal to that patient.

209. Where a patient is removed from the Contractor's list of patients in accordance with clauses 202 to 208, the Contractor shall record in the patient's medical records that the patient has been removed under this paragraph and the circumstances leading to his removal.

Removals from the list of patients registered elsewhere

210. The PCT shall remove a patient from the Contractor's list of patients if he has subsequently been registered with another provider of essential services (or their equivalent) in the area of the PCT or it has received notice from another Primary Care Trust, a *Health Board*, a Local Health Board or a *Health and Social Services Board* that the patient has subsequently been registered with a provider of *essential services* (or their equivalent) outside the area of the PCT.

211. A removal in accordance with clause 210 shall take effect on the date on which notification of acceptance by the new provider was received or

with the consent of the PCT, on such other date as has been agreed between the Contractor and the new provider.

212. The PCT shall notify the Contractor in writing of persons removed from its list of patients under clause 210.

Removals from the list of patients who have moved

213. Subject to clause 214, where the PCT is satisfied that a person on the Contractor's list of patients no longer resides in that Contractor's *practice area*, the PCT shall-

213.1. inform that patient and the Contractor that the Contractor is no longer obliged to visit and treat the patient;

213.2. advise the patient in writing either to obtain the Contractor's agreement to the continued inclusion of the patient on its list of patients or to apply for registration with another provider of *essential services* (or their equivalent); and

213.3. inform the patient that if, after the expiration of 30 days from the date of the advice referred to in clause 213.2, he has not acted in accordance with the advice and informed it accordingly, the PCT will remove him from the Contractor's list of patients.

214. If, at the expiration of the period of 30 days referred to in clause 213.3, the PCT has not been notified of the action taken, it shall remove the patient from the Contractor's list of patients and inform him and the Contractor accordingly.

215. Where the address of a patient who is on the Contractor's list is no longer known to the PCT, the PCT shall-

215.1. give to the Contractor notice in writing that it intends, at the end of the period of six months commencing with the date of the notice, to remove the patient from the Contractor's list of patients; and

215.2. at the end of that period, remove the patient from the Contractor's list of patients unless, within that period, the Contractor satisfies the PCT that it is still responsible for providing *essential services* to that patient.

Removals from the list of patients absent from the United Kingdom etc

216. The PCT shall remove a patient from the Contractor's list of patients where it receives notification that that patient-

216.1. intends to be away from the United Kingdom for a period of at least three months;

216.2. is in Her Majesty's Forces;

216.3. is serving a prison sentence of more than two years or sentences totalling in the aggregate more than that period;

216.4. has been absent from the United Kingdom for a period of more than three months; or

216.5. has died.

217. A removal in accordance with clause 216 shall take effect-

217.1. in the cases referred to in clauses 216.1 to 216.3 from the date of the departure, enlistment or imprisonment or the date on which the PCT first receives notification of the departure, enlistment or imprisonment whichever is the later;

217.2. in the cases referred to in clauses 216.4 and 216.5 from the date on which the PCT first receives notification of the absence or death.

218. The PCT shall notify the Contractor in writing of patients removed from its list of patients under clause 216.

Removals from the list of patients accepted elsewhere as *temporary residents*

219. The PCT shall remove from the Contractor's list of patients a patient who has been accepted as a *temporary resident* by another contractor or other provider of *essential services* (or their equivalent) where it is satisfied, after due inquiry-

219.1. that the patient's stay in the place of temporary residence has exceeded three months; and

219.2. that the patient has not returned to his normal place of residence or any other place within the Contractor's *practice area*.

220. The PCT shall notify the Contractor and, where practicable, the patient, of a removal under clause 219.

221. A notification to the patient under clause 220 shall inform him of-

221.1. his entitlement to make arrangements for the provision to him of *essential services* (or their equivalent), including by the Contractor by whom he has been treated as a *temporary resident*; and

221.2. the name and address of the PCT in whose area he is resident.

Removals from the list of pupils etc of a school

222. Where the Contractor provides *essential services* under the Contract to persons on the grounds that they are pupils at or staff or residents of a school, the PCT shall remove from the Contractor's list of patients any such persons who do not appear on particulars of persons who are pupils at or staff or residents of that school provided by that school.

223. Where the PCT has made a request to a school to provide the particulars mentioned in clause 222 and has not received them, it shall consult the Contractor as to whether it should remove from its list of patients any persons appearing on that list as pupils at, or staff or residents of, that school.

224. The PCT shall notify the Contractor in writing of patients removed from its list of patients under clause 222.

Termination of responsibility for patients not registered with the Contractor

225. Where the Contractor-

225.1. has received an application for the provision of medical services other than *essential services*-

- 225.1.1. from a person who is not included in its list of patients,
 - 225.1.2. from a person whom it has not accepted as a *temporary resident*, or
 - 225.1.3. on behalf of a person mentioned in clause 225.1.1 or 225.1.2, from one of the persons specified in clause 174; and
- 225.2. has accepted that person as a patient for the provision of the service in question

its responsibility for that patient shall be terminated in the circumstances referred to in clause 226.

226. The circumstances referred to in clause 225 are-

- 226.1. the patient informs the Contractor that he no longer wishes it to be responsible for provision of the service in question;
- 226.2. in cases where the Contractor has reasonable grounds for terminating its responsibility which do not relate to the person's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition, the Contractor informs the patient that it no longer wishes to be responsible for providing him with the service in question; or
- 226.3. it comes to the notice of the Contractor that the patient-
 - 226.3.1. no longer resides in the area for which the Contractor has agreed to provide the service in question; or

- 226.3.2. is no longer included in the list of patients of another contractor to whose *registered patients* the Contractor has agreed to provide that service.
227. If the Contractor wishes to terminate its responsibility for a patient under clause 226.2, it shall notify the patient of the termination and the reason for it.
228. The Contractor shall keep a written record of terminations under clause 225 to 227 and of the reasons for them and shall make this record available to the PCT on request.
229. A termination under clause 226.2 shall take effect-
- 229.1. from the date on which the notice is given where the grounds for termination are those specified in clause 202; or
- 229.2. in all other cases, 14 days from the date on which the notice is given.

Application for closure of list of patients

230. Where the Contractor wishes to close its list of patients, the Contractor must send a written application (“the Application”) to close its list to the PCT and the Application must include the following details –
- 230.1. the options which the Contractor has considered, rejected or implemented in an attempt to relieve the difficulties which the Contractor has encountered in respect of its open list and, if any of the options were implemented, the level of success in reducing or extinguishing such difficulties;

- 230.2. any discussions between the Contractor and its patients and a summary of those discussions including whether in the opinion of those patients the list of patients should or should not be closed;
- 230.3. any discussions between the Contractor and other contractors in the practice area and a summary of the opinion of the other contractors as to whether the list of patients should or should not be closed;
- 230.4. the period of time during which the Contractor wishes its list of patients to be closed and that period must not be less than 3 months and not more than 12 months;
- 230.5. any reasonable support from the PCT which the Contractor considers would enable its list of patients to remain open or would enable the period of proposed closure to be minimised;
- 230.6. any plans the Contractor may have to alleviate the difficulties mentioned in the Application during the period the list of patients may be closed in order for that list to reopen at the end of the proposed closure period without the existence of those difficulties;
and
- 230.7. any other information which the Contractor considers ought to be drawn to the attention of the PCT.
231. The PCT must—
- 231.1. acknowledge receipt of the Application within a period of 7 days starting on the date the Application was received by the PCT;
and

- 231.2. consider the Application and may request such other information from the Contractor which it requires to enable it to consider the Application.
232. The PCT must enter into discussions with the Contractor concerning –
- 232.1. the support which the PCT may give the Contractor; or
- 232.2. changes which the PCT or Contractor may make,
- to enable the Contractor to keep its list of patients open.
233. The PCT and Contractor must, throughout the discussions referred to in clause 232 use its reasonable endeavours to achieve the aim of keeping the Contractor's list of patients open.
234. The PCT or the Contractor may, at any stage during the discussions, invite the Local Medical Committee for its area (if any) to attend any meetings arranged between the PCT and Contractor to discuss the Application.
235. The PCT may consult such persons as it appears to the PCT may be affected by the closure of the Contractor's list of patients, and if it does so, the PCT must provide the Contractor with a summary of the views expressed by those consulted in respect of the Application.
236. The PCT must enable the Contractor to consider and comment on all the information before the PCT makes a decision in respect of the Application.

237. A Contractor may withdraw its Application at any time before the PCT makes a decision in respect of that Application.

238. Within a period of 21 days starting on the date of receipt of the Application (or within such longer period as the parties may agree), the PCT must make a decision—

238.1. to approve the Application and determine the date the closure is to take effect and the date the list of patients is to reopen; or

238.2. to reject the Application.

239. The PCT must notify the Contractor of its decision to approve the Application in accordance with clauses 241 to 243, or in the case where the Application is rejected, in accordance with clauses 247 to 249.

240. A Contractor must not submit more than one application to close its list of patients in any period of 12 months starting on the date of which the PCT makes its decision on the Application unless—

240.1. clauses 247 to 249 apply; or

240.2. there has been a change in the circumstances of the Contractor which affects its ability to deliver services under the Contract.”.

Approval of an application to close a list of patients

241. Where the PCT approves an application to close a list of patients, it must—

241.1. notify the Contractor of its decision in writing as soon as possible and the notification (“the closure notice”) must include the details referred to in clause 242; and

241.2. at the same time as it notified the Contractor, send a copy of the closure notice to the Local Medical Committee for its area (if any) and to any person it consulted in accordance with clause 235.

242. The closure notice must include –

242.1. the period of time for which the Contractor’s list of patients will be closed which must be –

242.1.1. the period specified in the application to close the list of patients; or

242.1.2. in the case where the PCT and Contractor have agreed in writing a different period, that different period,

and in either case, the period must be not less than 3 months and not more than 12 months;

242.2. the date from which the closure of the list of patients is to take effect; and

242.3. the date from which the list of patients is to re-open.

243. Subject to clause 250L, a Contractor must close its list of patients with effect from the date the closure of the list of patients is to take effect and the list of patients must remain closed for the duration of the closure period as specified in the closure notice.

244. []

245. []

246. []

Rejection of an application to close a list of patients

247. Where the PCT rejects an application to close a list of patients it must –

247.1. notify the Contractor of its decision in writing as soon as possible and the notification must include the reasons for the rejection of the application; and

247.2. at the same time as it notified the Contractor, send a copy of the notification to the Local Medical Committee for its area (if any) and to any person it consulted in accordance with clause 235.

248. Subject to clause 249, if a PCT makes a decision to reject a Contractor’s application to close a list of patients, the Contractor must not make any further application until –

248.1. the end of the period of 3 months, starting on the date of the decision of the PCT to reject; or

248.2. the end of the period of 3 months, starting on the date of the final determination in respect of a dispute arising from the decision to

reject the application made pursuant to NHS dispute resolution procedure (or any court proceedings),

whichever is the later.

249. A Contractor may make a further application to close its list of patients where there has been a change in the circumstances of the Contractor which affects its ability to deliver services under the contract.

Application for an extension of a closure period

250. []

250A. The Contractor may apply to extend a closure period by sending a written application to extend the closure period no later than 8 weeks before the date that period is due to expire.

250B. The application to extend the closure period must include –

250B.1. details of the options the Contractor has considered, rejected or implemented in an attempt to relieve the difficulties which have been encountered during the closure period or which may be encountered when the closure period expires;

250B.2. the period of time during which the Contractor wishes its list of patients to remain closed, which extended period of desired closure must not be more than 12 months;

250B.3. details of any reasonable support from the PCT which the Contractor considers would enable its list of patients to re-open or would enable the proposed extension of the closure period to be minimised;

250B.4. details of any plans the Contractor may have to alleviate the difficulties mentioned in the application to extend the closure period in order for the list of patients to re-open at the end of the proposed extension of the closure period without the existence of those difficulties; and

250B.5. any other information which the Contractor considers ought to be drawn to the attention of the PCT.

250C. The PCT must acknowledge receipt of the application for an extension to the closure period within a period of 7 days starting on the date the application was received by the PCT.

250D. The PCT must consider the application for an extension to the closure period and may request such other information from the Contractor which it requires to enable it to consider that application.

250E. The PCT may enter into discussions with the Contractor concerning—

250E.1. the support which the PCT may give the Contractor; or

250E.2. changes which the PCT or Contractor may make,

to enable to Contractor to re-open its list of patients.

250F. Within a period of 14 days starting on the date of receipt of the application to extend the closure period (or within such longer period as the parties may agree), the PCT must make a decision.

250G. The PCT must notify the Contractor of its decision to approve or reject the application to extend the closure period as soon as possible after making its decision.

250H. Where the PCT approves the application to extend the closure period, it must –

250H.1. notify the Contractor of its decision in writing and the notification (“the extended closure notice”) shall include the details referred to in clause 250I; and

250H.2. at the same time as it notifies the Contractor, send a copy of the extended closure notice to the Local Medical Committee for its area (if any) and to any person it consulted in accordance with clause 235.

250I. The extended closure notice must include –

250I.1. the period of time for which the Contractor’s list of patients will remain closed which must be –

250I.1.1. the period specified in the application to extend the closure period; or

250I.1.2. in the case where the PCT and Contractor have agreed in writing a different period to the period specified in the application to extend the closure period, the period which is agreed,

and in either case, the period (“the extended closure period”), must be not less than 3 months and not more than 12 months;

250I.2. the date from which the extended closure period is to take effect; and

250I.3. the date on which the list of patients is to re-open.

250J. Where the PCT rejects an application to extend the closure period it must –

250J.1. notify the Contractor of its decision in writing and the notification must include the reasons for the rejection of the application; and

250J.2. at the same time as it notifies the Contractor, send a copy of the notification to the Local Medical Committee for its area (if any).

250K. Where an application for an extension of the closure period is made in accordance with clauses 250A and 250B, the list of patients will remain closed pending –

250K.1. the determination by the PCT of the application for an extension of the closure period; or

250K.2. the Contractor ceasing to pursue any dispute arising from the application for an extension of the closure period pursuant to the NHS dispute resolution procedure (or any court proceedings),

whichever is the later.

Re-opening of lists of patients

250L. The Contractor may re-open its list of patients before the expiry of the closure period if the PCT and Contractor agree that the Contractor should re-open its list of patients.

251. []

252. []

252A. []

252B. []

253. []

Assignment of patients to lists: open lists

254. The PCT may, subject to clause 258, assign a new patient to the Contractor whose list of patients is *open*.

255. In this clause, and in clauses 256 to 257 and clauses 259 to 268, a “new” patient means a person who-

255.1. is resident (whether or not temporarily) within the area of the PCT;

255.2. has been refused inclusion in a list of patients of, or has not been accepted as a *temporary resident* by a contractor whose premises are within such an area; and

255.3. wishes to be included in the list of patients of the Contractor whose *practice premises* are within that area.

Assignment of patients to lists: closed lists

256. The PCT may not assign a new patient to the Contractor where it has *closed* its list of patients except in the circumstances specified in clause 257.

257. The PCT may, subject to clause 258, assign a new patient to the Contractor when it has *closed* its list of patients if the Contractor's *practice premises* are within the PCT's area, and-

257.1. most or all of the providers of *essential services* (or their equivalent) whose *practice premises* are within the PCT's area have *closed* their lists of patients;

257.2. the *assessment panel* has determined under paragraph 35(7) of Schedule 6 to *the Regulations* that patients may be assigned to the Contractor, and that determination has not been overturned either by a determination of *the Secretary of State* under paragraph 36(13) of Schedule 6 to *the Regulations* or (where applicable) by a court; and

257.3. the PCT has entered into discussions with the Contractor in question regarding the assignment of a patient if such discussions are required under clause 265.

Factors relevant to assignments

258. In making an assignment to the Contractor under clauses 254 to 257, the PCT shall have regard to-

258.1. the wishes and circumstances of the patient to be assigned;

258.2. the distance between the patient's place of residence and the Contractor's *practice premises*;

258.3. whether, during the six months ending on the date on which the application for assignment is received by the PCT, the patient's name has been removed from the list of patients of any contractor in the area of the PCT under clauses 192 to 201 or the equivalent provision in relation to a *section 28C provider* in the area of the PCT;

258.4. whether the patient's name has been removed from the list of patients of any contractor in the area of the PCT under clauses 202 to 209 or the equivalent provision in relation to a *section 28C provider* in the area of the PCT and, if so, whether the Contractor has appropriate facilities to deal with such a patient;

258.5. such other matters as the PCT considers to be relevant.

Assignments to closed lists: determination of the *assessment panel*

259. Clause 260 to 262 apply where most or all of the providers of *essential services* (or their equivalent) whose *practice premises* are within the area of the PCT have *closed* their lists of patients and the PCT proposes to assign patients to contractors who have *closed* their lists (including the Contractor).

260. If the PCT wishes to assign new patients to the contractors specified in clause 259, it must prepare a proposal to be considered by the *assessment panel*, and the proposal must include details of those contractors to which the PCT wishes to assign new patients.

261. The PCT must ensure that the *assessment panel* is appointed to consider and determine its proposal made under clause 260, and the composition of the *assessment panel* shall be as described in clause 261A.

261A. The members of the *assessment panel* must be –

261A.1. the Chief Executive of the PCT of which the *assessment panel* is a committee or sub-committee;

261A.2. a person representative of patients in an area other than that of the PCT which is a party to the Contract; and

261A.3. a person representative of a Local Medical Committee which does not represent practitioners in the area of the PCT which is a party to the Contract.

262. The PCT shall notify in writing-

262.1. the *relevant Strategic Health Authority*;

262.2. contractors or *section 28C providers* whose *practice premises* are within the PCT's area which-

262.2.1. have *closed* their list of patients, and

262.2.2. may, in the opinion of the PCT, be affected by the determination of the *assessment panel*; and

262.3. the *Local Medical Committee* (if any) for the area of the PCT,

that it has referred the matter to the *assessment panel*.

Assignments to closed lists: NHS dispute resolution procedure relating to determinations of the *assessment panel*

263. Where the *assessment panel* determines in accordance with paragraph 35(5) to (9) of Schedule 6 to *the Regulations* that the PCT may assign new patients to contractors which have *closed* their lists of patients, and the Contractor is specified in that determination, the Contractor may refer the matter to *the Secretary of State* to review the determination of the *assessment panel* pursuant to paragraph 36(2) to (17) of Schedule 6 to *the Regulations*.

264. Where, pursuant to clause 263, the Contractor wishes to refer the matter to *the Secretary of State* either by itself, or jointly with other contractors specified in the determination of the *assessment panel*, it must, either by itself or together with the other contractors, within the period of 7 days beginning with the date of the determination of the *assessment panel*, send to *the Secretary of State* a written request for dispute resolution which shall include or be accompanied by-

264.1. the names and addresses of the parties to the dispute;

264.2. a copy of the Contract (or contracts); and

264.3. a brief statement describing the nature and circumstances of the dispute.

265. Where a matter is referred to the Secretary of State in accordance with paragraph 36 of Schedule 6 to *the Regulations*, it shall be reviewed in accordance with the procedure specified in that paragraph.

Assignments to *closed* lists: assignments of patients by the PCT

266. Before the PCT may assign a new patient to the Contractor where it has *closed* its list, it shall, subject to clause 268, enter into discussions with the Contractor regarding additional support that the PCT can offer the Contractor, and the PCT shall use its best endeavours to provide appropriate support.

267. In the discussions referred to in clause 266, both parties shall use reasonable endeavours to reach agreement.

268. The requirement in clause 266 to enter into discussions applies-

268.1. to the first assignment of a patient to the Contractor; and

268.2. to any subsequent assignment to that Contractor to the extent that it is reasonable and appropriate having regard to the numbers of patients who have been or may be assigned to it and the period of time since the last discussions under clause 266 took place.

PART 13

PRESCRIBING AND DISPENSING⁶⁷

269. The Contractor shall comply with any directions given by *the Secretary of State* for the purposes of section 28U of *the Act* as to the drugs, medicines or other substances which may or may not be ordered for patients in the provision of medical services under the Contract⁶⁸.

Prescribing

270. The Contractor shall ensure that—

270.1. any *prescription form* or *repeatable prescription* for drugs, medicines or appliances issued or created by a *prescriber*;

270.2. any home oxygen order form issued by a health care professional, and

270.3. any *listed medicines voucher* issued by a *prescriber* or any other person acting under the Contract,

complies as appropriate with the requirements in clauses 271 to 277, clauses 277A to 277C and clauses 286 to 302.

271. Subject to clause 271B and 271C and to clauses 290 to 298, a *prescriber* shall order any drugs, medicines or appliances which are needed for the treatment of any patient who is receiving treatment under the Contract by—

⁶⁷ This Part is required by *the Regulations* (see Part 3 of Schedule 6) and where indicated in the footnotes by *the Act*.

⁶⁸ This clause is required by section 28U(1) of *the Act*.

271.1. issuing to that patient a *non-electronic prescription form* or *non-electronic repeatable prescription* completed in accordance with clause 273; or

271.2. where clause 277A applies, creating and transmitting an *electronic prescription*.

271A. A *non-electronic prescription form*, *non-electronic repeatable prescription* or *electronic prescription* shall not be used in any circumstances other than those described in clause 271.

271B. A *health care professional* shall order any *home oxygen services* which are needed for the treatment of any patient who is receiving treatment under the Contract by issuing a *home oxygen order form*.

271C. During an outbreak of an illness for which a *listed medicine* may be used for treatment or for prophylaxis, if—

271C.1. the *Secretary of State* or the PCT has made arrangements for the distribution of a *listed medicine* in the area of the PCT free of charge; and

271C.2. that *listed medicine* is needed for treatment or prophylaxis of any patient who is receiving treatment under the Contract,

a *prescriber* may, or if the patient has not attained the age of 13 years must, order that *listed medicine* by using a *listed medicines voucher*, which the *prescriber* must sign.

271D. During an outbreak of an illness for which a *listed medicine* may be used for treatment or for prophylaxis, if—

271D.1 the *Secretary of State* or the PCT has made arrangements for the distribution of a *listed medicine* in the area of the PCT free of charge;

271D.2 those arrangements contain criteria set out in a protocol which enable persons who are not *prescribers* to identify the symptoms of, and whether there is a need for treatment or prophylaxis of, that disease;

271D.3 a person acting on behalf of the Contractor, who is not a *prescriber* but who is authorised to order *listed medicines* by the PCT, has applied the criteria referred to in clause 271D.2 to any patient who is receiving treatment under the Contract; and

271D.4 having applied the criteria, the person acting on behalf of the Contractor has concluded that the *listed medicine* is needed for treatment or prophylaxis of that patient,

the person acting on behalf of the Contractor must order that *listed medicine* by using a *listed medicines voucher*, which the person ordering the *listed medicine* must sign.

272. A *prescriber* may order drugs, medicines or appliances on a *repeatable prescription* only where the drugs, medicines or appliances are to be provided more than once.

273. In issuing any *non-electronic prescription form* or *non-electronic repeatable prescription* the *prescriber* shall sign the *prescription form* or *repeatable prescription* in ink with his initials and surname, or forenames, and surname in his own handwriting and not by means of a stamp, and shall so sign only after particulars of the order have been inserted in the *prescription form* or *repeatable prescription*.

273A. A *prescription form* or *repeatable prescription* shall not refer to any previous *prescription form* or *repeatable prescription*.

273B. A separate *prescription form* or *repeatable prescription* shall be used for each patient, except where a bulk prescription is issued for a school or institution under clauses 300 to 303.

273C. A *home oxygen order form* shall be signed by a *health care professional*.

274. Where a *prescriber* orders the drug buprenorphine or diazepam or a drug specified in Schedule 2 to the Misuse of Drugs Regulations 2001 (controlled drugs to which regulations 14, 15, 16, 18, 19, 20, 21, 23, 26 and 27 of those Regulations apply) for supply by instalments for treating addiction to any drug specified in that Schedule, he shall-

274.1. use only the *non-electronic prescription form* provided specially for the purposes of supply by instalments;

274.2. specify the number of instalments to be dispensed and the interval between each instalment; and

274.3. order only such quantity of the drug as will provide treatment for a period not exceeding 14 days.

275. The *non-electronic prescription form* provided specially for the purpose of supply by instalments shall not be used for any purpose other than ordering drugs in accordance with clause 274.

276. In a case of urgency a *prescriber* may request a *chemist* to dispense a drug or medicine before a *prescription form* or *repeatable prescription* is issued or created, but only if:

276.1. that drug or medicine is not a *Scheduled drug*;

276.2. that drug is not a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedules 4 or 5 to the Misuse of Drugs Regulations 2001; and

276.3. he undertakes to—

276.3.1. furnish the *chemist*, within 72 hours, with a *non-electronic prescription form* or *non-electronic repeatable prescription* completed in accordance with clause 273, or

276.3.2. transmit to the *ETP service* within 72 hours an *electronic prescription*.

277. In a case of urgency a *prescriber* may request a *chemist* to dispense an appliance before a *prescription form* or *repeatable prescription* is issued or created, but only if-

277.1. that appliance does not contain a *Scheduled drug* or a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 5 to the Misuse of Drugs Regulations 2001;

277.2. in the case of a *restricted availability appliance*, the patient is a person, or it is for a purpose, specified in the *Drug Tariff*; and

277.3. he undertakes to—

277.3.1. furnish the *chemist*, within 72 hours, with a *prescription form* or *repeatable prescription* completed in accordance with clause 273, or

277.3.2. transmit to the *ETP service* within 72 hours an *electronic prescription*.

Electronic prescriptions

277A. A *prescriber* may only order drugs, medicines or appliances by means of an electronic prescription if –

277A.1. the Contract is with a Primary Care Trust which is specified in directions issued by the *Secretary of State* under section 17 of *the Act* as being a Primary Care Trust which can authorise its Contractors to use the *ETP service*;

277A.2. the patient to whom the prescription relates has –

277A.2.1. nominated one or more *dispensers* in his *NHS Care Record*;

277A.2.2 confirmed that he intends to use that *dispenser* (or one of them) for the purposes of obtaining the drugs, medicines or appliances ordered on the *electronic prescription* in question; and

277A.2.3. consents to the use of an *electronic prescription* on the particular occasion; and

277A.3. the prescription is not –

277A.3.1 for a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001;

277A.3.2. for supply by instalments under clause 274; or

277A.3.3 a bulk prescription issued for a school or institution under clauses 300 to 303.

277AA. A *health care professional* may not order *home oxygen services* by means of an *electronic prescription*.

277B. In relation to a patient who is a *child* or an adult who lacks the capacity to nominate a *dispenser*, clause 277A.2 shall apply as if the reference to the patient to whom the prescription relates included a reference to –

277B.1. in the case of a child, that patient's *parent* or other person referred to in clause 174.1; or

277B.2. in the case of an adult, that patient's relative, *primary carer*, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005.

277C. A *prescriber* who orders drugs, medicines or appliances by means of an *electronic prescription* shall –

277C.1. in the case of an *electronic repeatable prescription*, issue the patient with a form provided by the Primary Care Trust for the purpose of recording details of that *electronic repeatable prescription* and linked to that *electronic repeatable prescription* by a number contained on the form; and

277C.2. in the case of an *electronic prescription form*, issue the patient, if he so requests, with a written record of the prescription which has been created.

Nomination of dispensing contractors for the purpose of electronic prescriptions

277D. If the Contractor operates the *ETP service* for its patients, it shall, if requested to do so by a patient, enter in that patient's *NHS Care Record*—

277D.1. where he does not have a *nominated dispenser*, the *dispenser* chosen by that patient; and

277D.2. where he does have a *nominated dispenser*—

277D.2.1. a replacement *dispenser*; or

277D.2.2. a further *dispenser*,

chosen by that patient.

277E. Clause 277D.2.2 shall not apply if the number of *nominated dispensers* would thereby exceed the maximum number permitted by the *ETP Service*.

277F. Clause 174.1 shall apply in relation to requests under clause 277D as it applies to applications for inclusion in a list of patients.

277G. The Contractor—

277G.1. shall not seek to persuade a patient to nominate a *dispenser* recommended by the *prescriber* or the Contractor; and

277G.2. shall, if asked by the patient to recommend a *chemist* whom he might nominate as his *dispenser*, provide the patient with the list of

all the *chemists* in the area who provide an *ETP service* as given to the Contractor by the PCT.

Repeatable prescribing services

278. The Contractor may only provide *repeatable prescribing services* to any person on its list of patients if it-

278.1. satisfies the conditions in clause 279; and

278.2. has notified the PCT of its intention to provide repeatable prescribing in accordance with clauses 280 and 281.

279. The conditions referred to in clause 278.1 are-

279.1. []

279.2. the Contractor has access to computer systems and software which enable it to issue *non-electronic repeatable prescriptions* and *batch issues*; and

279.3. the *practice premises* at which the *repeatable prescribing services* are to be provided are located in an area of the PCT in which there is also located the premises of at least one *chemist* who has undertaken to provide, or has entered into an arrangement to provide, *repeat dispensing services*.

280. The notification referred to in clause 278.2 is a notification, in writing, by the Contractor to the PCT that it-

280.1. wishes to provide *repeatable prescribing services*; and

280.2. intends to begin to provide those services from a specified date;
and

280.3. satisfies the conditions in clause 279.

281. The date specified by the Contractor pursuant to clause 280.2 must be at least ten days after the date on which the notification specified in clause 279.2 is given.

282. Nothing in clauses 278 to 289 requires the Contractor or *prescriber* to provide *repeatable prescribing services* to any person.

283. A *prescriber* may only provide *repeatable prescribing services* to a person on a particular occasion if-

283.1. that person has agreed to receive such services on that occasion;
and

283.2. the *prescriber* considers that it is clinically appropriate to provide such services to that person on that occasion.

284. The Contractor may not provide *repeatable prescribing services* to any patient of its to whom-

284.1. it is authorised or required by the PCT to provide *dispensing services* under clauses 306 to 315 and clauses 322 to 326; or

284.2. any of the persons specified in clause 285 is authorised or required by the PCT under regulation 60 of the *Pharmaceutical Regulations* to provide pharmaceutical services.

285. The persons referred to in clause 284 are-
- 285.1. if the Contract is with an individual medical practitioner, that medical practitioner;
 - 285.2. if the Contract is with a partnership, any medical practitioner who is a partner;
 - 285.3. if the Contract is with a company, any medical practitioner who is a legal and beneficial shareholder in that company; or
 - 285.4. any medical practitioner employed by the Contractor.
286. A *prescriber* who issues a *non-electronic repeatable prescription* must at the same time issue the appropriate number of *batch issues*.
287. Where a *prescriber* wishes to make any change to the type, quantity, strength or dosage of drugs, medicines or appliances ordered on a person's *repeatable* prescription he must –
- 287.1. in the case of a *non-electronic repeatable prescription* –
 - 287.1.1. notify the person; and
 - 287.1.2. make reasonable efforts to notify the *chemist* providing *repeat dispensing services* to that person, that the original *repeatable prescription* should no longer be used to obtain or provide *repeat dispensing services* and make arrangements for a replacement *repeatable prescription* to be issued to that person; or
 - 287.2. in the case of an *electronic repeatable prescription* –
 - 287.2.1. arrange with the *ETP service* for the cancellation of the original *repeatable prescription* in the person's *NHS Care Record*, and

287.2.2. create a replacement *electronic repeatable prescription* relating to that person and notify him that he has done so.

288. A *prescriber* who has created an *electronic repeatable prescription* for a person must as soon as practicable arrange with the *ETP service* for its cancellation in that person's *NHS Care Record* if, before the expiry of that prescription—

288.1. he considers that it is no longer appropriate or safe for that person to receive the drugs, medicines or appliances ordered on his *electronic repeatable prescription* or no longer appropriate or safe for him to continue to receive *repeatable prescribing services*;

288.2. he has issued the person with a *non-electronic repeatable prescription* in place of the *electronic repeatable prescription*; or

288.3. it comes to his notice that that person has been removed from the list of patients of the Contractor on whose behalf the prescription was issued.

289. Where a *prescriber* has cancelled a person's *electronic repeatable prescription* in accordance with clause 288 he must, as soon as is practicable, notify that person.

289A A *prescriber* who has issued a *non-electronic repeatable prescription* in respect of a person must, as soon as practicable, make reasonable efforts to notify the *chemist* that that *repeatable prescription* should no longer be used to provide *repeat dispensing services* to that person, if, before the expiry of that *repeatable prescription*—

289A.1. he considers that it is no longer appropriate or safe for that person to receive the drugs, medicines or appliances ordered on his *repeatable prescription* or no longer appropriate or safe for him to continue to receive *repeatable prescribing services*;

289A.2. he issues or creates a further *repeatable prescription* in respect of the person to replace the original *repeatable prescription* other than in the circumstances referred to in clause 287.1 (for example, because the person wishes to obtain the drugs, medicines or appliances from a different *chemist*); or

289A.3. it comes to his notice that that person has been removed from the list of patients of the Contractor on whose behalf the prescription was issued.

289B. Where the circumstances in clauses 289A.1 to 289A.3 apply, the *prescriber* must as soon as practicable notify the person on whose behalf the *non-electronic repeatable prescription* was issued that that *repeatable prescription* should no longer be used to obtain *repeat dispensing services*.

Restrictions on prescribing by medical practitioners

290. In the course of treating a patient to whom he is providing treatment under the Contract, a medical practitioner shall not order on a *listed medicines voucher*, a *prescription form* or *repeatable prescription* a drug, medicine or other substance specified in any directions given by the *Secretary of State* under section 28U of *the Act* as being drugs, medicines or other substances which may not be ordered for patients in the provision of medical services under the Contract but may, subject to clause 483, prescribe such a drug, medicine or other substance for that patient in the course of that treatment under a private arrangement.

291. In the course of treating a patient to whom he is providing treatment under the Contract, a medical practitioner shall not order on a *listed medicines voucher*, a *prescription form* or *repeatable prescription* a drug,

medicines or other substance specified in any directions given by *the Secretary of State* under section 28U of *the Act* as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes unless-

- 291.1. that patient is a person of the specified description;
- 291.2. that drug, medicine or other substance is prescribed for that patient only for the specified purpose; and
- 291.3. if the order is on a *prescription form*, the practitioner includes—
 - 291.3.1 the reference “SLS”, or
 - 291.3.2 if the order is under arrangements made by the *Secretary of State* or the PCT for the distribution of a *listed medicine* free of charge, the reference “ACP”,

but may, subject to clause 483, prescribe such a drug, medicine or other substance for that patient in the course of that treatment under a private arrangement.

292. In the course of treating a patient to whom he is providing treatment under the Contract, a medical practitioner shall not order on a *prescription form* or *repeatable prescription* a *restricted availability appliance* unless-

- 292.1. the patient is a person, or it is for a purpose, specified in the *Drug Tariff*; and

292.2. the practitioner includes on the *prescription form* the reference "SLS",

but may, subject to clause 483, prescribe such an appliance for that patient in the course of that treatment under a private arrangement.

293. In the course of treating a patient to whom he is providing treatment under the Contract, a medical practitioner shall not order on a *repeatable prescription* a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001, but may, subject to clause 483, prescribe such a drug for that patient in the course of that treatment under a private arrangement.

Restrictions on prescribing by *supplementary prescribers*

294. Where the Contractor employs or engages a *supplementary prescriber* and that person's functions include prescribing, the Contractor shall have arrangements in place to secure that a *supplementary prescriber* will –

294.1. issue or create a prescription for a *prescription only medicine*;

294.2. administer a *prescription only medicine* for parenteral administration; or

294.3. give directions for the administration of a *prescription only medicine* for parenteral administration,

as a *supplementary prescriber* only under the conditions set out in clause 295.

295. The conditions referred to in clause 294 are that -

295.1. the person satisfies the applicable conditions set out in article 3B(3) of *the POM Order* (prescribing and administration by *supplementary prescribers*), unless those conditions do not apply by virtue of any of the exemptions set out in the subsequent provisions of that Order;

295.2. []

295.3. the drug, medicine or other substance is not specified in any directions given by *the Secretary of State* under section 28U of *the Act* as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under the Contract;

295.4. the drug, medicine or other substance is not specified in any directions given by *the Secretary of State* under section 28U of *the Act* as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes unless -

295.4.1. the patient is a person of the specified description,

295.4.2. the medicine is prescribed for that patient only for the specified purposes, and

295.4.3. if the *supplementary prescriber* is issuing or creating a prescription on a *prescription form*, the *prescriber* includes on the form the reference "SLS" or, in the case of a *listed medicine* ordered

under arrangements made by the *Secretary of State* or the PCT for the medicine's distribution free of charge, the reference "ACP".

296. Where the functions of a *supplementary prescriber* include prescribing, the Contractor shall have arrangements in place to secure that that person will only issue or create a prescription for -

296.1.1. an appliance; or

296.1.2. a medicine which is not a *prescription only medicine*,

as a *supplementary prescriber* under the conditions set out in clause 297.

297. The conditions referred to in clause 296 are that -

297.1. the *supplementary prescriber* acts in accordance with a clinical management plan which is in effect at the time he acts and which contains the following particulars -

297.1.1. the name of the patient to whom the plan relates,

297.1.2. the illness or conditions which may be treated by the *supplementary prescriber*,

297.1.3. the date on which the plan is to take effect, and when it is to be reviewed by the medical practitioner or dentist who is a party to the plan,

297.1.4. reference to the class or description of medicines or types of appliances which may be prescribed or administered under the plan,

297.1.5. any restrictions or limitations as to the strength or dose of any medicine which may be prescribed or administered under the plan, and any period of administration or use of any medicine or appliance which may be prescribed or administered under the plan,

297.1.6. relevant warnings about known sensitivities of the patient to, or known difficulties of the patient with, particular medicines or appliances,

297.1.7. the arrangements for notification of -

297.1.7.1. suspected or known adverse reactions to any medicine which may be prescribed or administered under the plan, and suspected or known adverse reactions to any other medicine taken at the same time as any medicine prescribed or administered under the plan,

297.1.7.2. incidents occurring with the appliance which might lead, might have led or has led to the death or serious deterioration of state of health of the patient, and

297.1.7.3. the circumstances in which the *supplementary prescriber* should refer to, or seek the advice of, the medical practitioner or dentist who is a party to the plan;

297.2. he has access to the health records of the patient to whom the plan relates which are used by any medical practitioner or dentist who is a party to the plan;

297.3. []

297.4. if it is a prescription for a drug, medicine or other substance, that drug, medicine or other substance is not specified in any directions given by *the Secretary of State* under section 28U of *the Act* as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under the Contract;

297.5. if it is a prescription for a drug, medicine or other substance, that drug, medicine or other substance is not specified in any directions given by *the Secretary of State* under section 28U of *the Act* as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes unless -

297.5.1. the patient is a person of the specified description,

297.5.2. the medicine is prescribed for that patient only for the specified purposes, and

297.5.3. when issuing or creating the prescription, he includes on the *prescription form* the reference "SLS";

297.6. []

297.7. if it is a prescription for an appliance, the appliance is listed in Part IX of the *Drug Tariff*; and

297.8. if it is a prescription for a *restricted availability appliance* -

297.8.1. the patient is a person of a description mentioned in the entry in Part IX of the *Drug Tariff* in respect of that appliance,

297.8.2. the appliance is prescribed only for the purposes specified in respect of that person in that entry, and

297.8.3. when issuing or creating the prescription, he includes on the *prescription form* the reference "SLS".

298. In clause 297.1, "clinical management plan" means a written plan (which may be amended from time to time) relating to the treatment of an individual patient agreed by –

298.1. the patient to whom the plan relates;

298.2. the medical practitioner or dentist who is a party to the plan;
and

298.3. any *supplementary prescriber* who is to prescribe, give directions for administration or administer under the plan.

299. []

Bulk prescribing

300. Where the Contractor is responsible under the Contract for the treatment of 10 or more persons in a school or other institution in which at least 20 persons normally reside, and a *prescriber* orders, for any two or more of those persons for whose treatment the Contractor is responsible, drugs, medicines or appliances to which this clause to clause 303 apply, the *prescriber* may use a single *non-electronic prescription form* for the purpose.

301. Where a *prescriber* uses a single *non-electronic prescription form* for the purpose mentioned in clause 300, he shall (instead of entering on the form the names of the persons for whom the drugs, medicines or appliances are ordered) enter on the form-

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

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

302. Clauses 300 and 301 apply to any drug, medicine or appliance which can be supplied as part of pharmaceutical services or local pharmaceutical services and which-

302.1. in the case of a drug or medicine, is not a product of a description or class which is for the time being specified in an order made under section 58(1) of the Medicines Act 1968; or

302.2. in the case of an appliance, does not contain such a product.

303. For the purposes of clauses 300 to 302, if the Contractor has contracted to provide *contraceptive services*, drugs include contraceptive substances and appliances include contraceptive appliances.

Excessive prescribing

304. The Contractor shall not prescribe drugs, medicines or appliances whose cost or quantity, in relation to any patient, is, by reason of the character of the drug, medicine or appliance in question, in excess of that which was reasonably necessary for the proper treatment of that *patient*. In considering whether the Contractor has breached its obligations under this clause, the PCT shall seek the views of the *Local Medical Committee* (if any) for its area.

Provision of *dispensing services*

305. Without prejudice to any separate right one or more medical practitioners may have under regulation 60 of the *Pharmaceutical Regulations*, the Contractor may provide *dispensing services* to its *registered patients* under the Contract only if it is authorised or required to do so by the PCT in accordance with clauses 306 to 315 and clauses 322 to 323.

306. The PCT may authorise or require the Contractor to provide *dispensing services* to a *registered patient* only if that *patient* –

306.1. satisfies one of the conditions in clause 307; and

306.2. has requested the Contractor in writing to provide him with *dispensing services*.

307. The conditions referred to in clause 306.1 are that the patient –

307.1. satisfies the PCT that he would have serious difficulty in obtaining any necessary drugs, medicines or appliances from a pharmacy by reason of distance or inadequacy of means of communication;

307.2. is resident in a controlled locality at a distance of more than 1.6 kilometres from any pharmacy other than a distance selling pharmacy, and all the conditions in clause 308 are satisfied in his case;

307.3. is resident in a controlled locality and any pharmacy within a distance of 1.6 kilometres from where the patient lives-

307.3.1. has been determined to be in a reserved location, and that determination has not been altered on appeal or by way of a further determination, or

307.3.2. is a distance selling chemist,

and all of the conditions in clause 308 are satisfied in his case; or

307.4. is one to whom clause 307.1 or 307.2 applies and at the time of the request the patient is living as a member of the household, other than as a *temporary resident*, of another person in respect of whom the Contractor has residual premises approval.

308. The conditions referred to in clause 307.2 and 307.3 are that –

308.1. the Contractor has been granted consent to dispense under clauses 316 to 321 in respect of –

- 308.1.1. the area in which the patient resides, and
 - 308.1.2. the contract under which the patient receives primary medical services;
 - 308.2. there is in effect premises approval in relation to the premises from which the Contractor will dispense to the patient; and
 - 308.3. any conditions imposed in connection with that grant under regulation 20(2) or 38(14)(b) of the *Pharmaceutical Regulations* as they apply pursuant to clause 320 are such as to permit *dispensing services* to be provided under clauses 305 to 315 by the Contractor to the patient.
309. If the Contractor has been requested to provide *dispensing services* by a patient who satisfies one of the conditions in clause 307, and the Contractor-
- 309.1. applies to the PCT for the right to provide *dispensing services* to that patient, and sends with its application the patient's request to the Contractor, the PCT shall grant its application; or
 - 309.2. does not so apply within the period of 30 days beginning with the date on which the patient made that request, the PCT may, subject to clause 311, require the Contractor to provide *dispensing services* to that patient, at listed premises in the case of a patient falling within clause 307.2 or 307.3, or *practice premises* in the case of a patient falling within clause 307.1, and shall give the Contractor notice in writing to that effect.

310. An application granted by the PCT under clause 309.1 shall, with effect from the date of the patient's request to the Contractor, enable the Contractor to provide *dispensing services* to that patient at listed premises in the case of a patient falling within clause 307.2 or 307.3, or *practice premises* in the case of a patient falling within clause 307.1, so long as the Contract remains in effect.
311. The PCT shall not, under clause 309.2, require the Contractor to provide *dispensing services* to a patient at listed premises or *practice premises* if the Contractor satisfies the PCT that –
- 311.1. it does not normally provide *dispensing services* under the Contract; or
- 311.2. in the case of a patient to whom clause 307.2, 307.3 or 307.4 applies, the patient would not have serious difficulty by reason of distance or inadequacy of means of communication in obtaining drugs, medicines or appliances from a pharmacy.
312. The PCT shall give the Contractor reasonable notice –
- 312.1. that it requires it to provide *dispensing services* to a *registered patient* in accordance with the Contract; or
- 312.2. that, subject to clause 313, where a patient no longer satisfies the requirements of clause 307, the Contractor shall discontinue the provision of *dispensing services* to that patient.
313. A notice under clause 312.2 –

313.1. shall be subject to any postponement or termination of arrangements to provide *dispensing services* under clauses 305 to 315 in accordance with conditions imposed under regulation 20(2) or 38(14)(b) of the *Pharmaceutical Regulations* as they apply pursuant to clause 320; and

313.2. shall not be given—

313.2.1. pending the outcome of the resolution of any dispute concerning the decision by the PCT to postpone the making or termination of arrangements to provide *dispensing services* under clauses 305 to 315 in accordance with conditions referred to in clause 313.1; or

313.2.2. during the period for bringing an appeal, or pending the determination of any appeal, referred to in regulation 31(9) of the *Pharmaceutical Regulations* (determination of whether an area is a controlled locality).

314. If the Contractor has been granted the right under clauses 305 to 313 to provide *dispensing services* to some or all of its *registered patients*, it may provide any necessary *dispensing services* to a person whom the Contractor has accepted as a *temporary resident*.

315. In clauses 305 to 338, “controlled locality”, “distance selling chemist”, “pharmacy”, “premises approval”, “reserved location” and “residual premises approval” have the same meanings as in the *Pharmaceutical Regulations*, and “listed premises” means the premises specified in relation to the Contractor in the dispensing contractors list maintained by the PCT in accordance with clause 337.

Consent to dispense and premises approval

316. If the Contractor wishes to be granted the right under clauses 305 to 315 to secure the provision of *dispensing services* to some or all of its *registered patients*, it may apply to the PCT in writing for –

316.1. consent to dispense, specifying –

316.1.1. the area; and

316.1.2. the contract,

in relation to which it wishes the consent to dispense to be granted; and

316.2. premises approval, specifying-

316.2.1. the premises for which it wishes to be granted premises approval and whether those premises are listed premises in relation to a different area, and

316.2.2. whether the application arises because there has been a practice amalgamation and, if so, the names of the contractors participating in the amalgamation.

317. An application under clause 316 shall be determined in accordance with clauses 321AA to 321AP and regulations 18, 20(2), 33, 34 and 36 to 38 of the *Pharmaceutical Regulations* (as modified in accordance with clause 320), as though it were an application for outline consent or premises approval under regulation 61 of those Regulations.

317A. The PCT may refuse an application in respect of some of the premises for which approval is sought (notwithstanding that it would, if determining the application for those premises in isolation, grant it) where

the number of applications for premises approval are such, or the circumstances in which they are made are such, that to grant all or some of them would prejudice the proper provision of primary medical services, *dispensing services, local pharmaceutical services* or pharmaceutical services in any locality.

318. []

319. []

320. Regulations 18, 20(2), 33, 34, 36 and 38 of the *Pharmaceutical Regulations* shall apply as if –

320.1. in regulations 18(1), 34(1) and 38(2)(e), for the references to “outline consent” there were substituted references to “consent to dispense”;

320.2. in regulations 18(2), for the reference to provisions being “subject to regulations 25, 26 and 65(4)” there were substituted a reference to the provisions being, “subject to clause 321DD;

320.3. in regulations 18(2)(b) and (c), 33(2)(j) and 34(1)(a), for the references to “regulation 61” there were substituted references to clauses 316 to 321;

320.4. in regulations 33(2) and 36(1) and (9), the references to provisions being “subject to regulations 25 and 26” were omitted;

320.5. for regulation 33(3) there were substituted-

“(3) Where the Primary Care Trust has sent a copy of an application under paragraph (2)(f) to another Primary Care Trust

or Local Health Board it shall also, as soon as practicable, send a copy to—

- (a) the Local Pharmaceutical Committee for the locality of that other Primary Care Trust or Local Health Board (if any);
- (b) the Local Medical Committee for the locality of that other Primary Care Trust or Local Health Board (if any);
- (c) any person whose name is included in the pharmaceutical list of that other Primary Care Trust or Local Health Board, and whose interests might, in the opinion of the Primary Care Trust, be significantly affected if the application were granted;
- (d) any LPS chemist in the locality of that other Primary Care Trust or Local Health Board whose interests might, in the opinion of the Primary Care Trust, be significantly affected if the application were granted;
- (e) any person (except that other Primary Care Trust or Local Health Board) who is a provider of primary medical services or whose name is included in the dispensing contractor list, or dispensing doctor list maintained in accordance with regulation 68 of the *Pharmaceutical Regulations*, of that other Primary Care Trust or Local Health Board who might, in the opinion of the Primary Care Trust, be significantly affected if the application were granted;
- (f) any Community Health Council serving the area of that other Primary Care Trust or Local Health Board;
- (ff) any relevant local involvement network; and
- (g) any other patient, consumer or community group in the area of that other Primary Care Trust or Local Health Board that the Primary Care Trust considers has an interest in the provision of dispensing services in the neighbourhood.

(3A) In this regulation –

(a) “relevant local authority” means a local authority whose area falls, wholly or partly, with the area of the Primary Care Trust;

(b) “relevant local involvement network” means a person who in pursuance of arrangements made by a relevant local authority under section 221(1) of the Local Government and Public Involvement in Health Act 2007⁶⁹ is to carry on activities specified in section 221(2) of that Act.”;

320.6. in regulation 38(2)(c), for the references to “regulation 60” there were substituted a reference to clauses 305 to 315;

320.7. in regulation 38(2)(e)(i), for the reference to “regulation 62(8)” there were substituted a reference to clause 321AH;

320.8. in regulation 38(2)(e)(ii), for “paragraph (13)(a) of that regulation” there were substituted a reference to clause 321AM.1; and

320.9. in regulation 38(2)(e)(iii), for “paragraph (13)(b) of that regulation” there were substituted a reference to clause 321AM.2.

321. Any reference in clauses 321AA to 321AP, clauses 321CA to 321CD or clauses 321DA to 321DK to regulations 18, 20(2), 33, 34 and 36 to 38 shall apply as modified by clause 320.

Taking effect of consent to dispense and premises approval

321AA When granting consent to dispense, the PCT shall determine in accordance with clause 321AB when the consent to dispense is to take effect.

321AB The consent to dispense shall take effect –

⁶⁹ 2007 c. 28.

321AB.1 in relation to premises to which clause 321AC applies, on the date on which consent to dispense is finally granted; and

321AB.2 in relation to premises to which clause 321AD applies, in accordance with clauses 321AK to 321AM.

321AC This clause applies to premises for which consent to dispense is sought and-

321AC.1 which were, on the date of receipt of the application by the PCT-

321AC.1.1 *practice premises, or*

321AC.1.2 in a reserved location; or

321AC.2 in relation to which, on the day before the date on which the application for consent to dispense is granted, there are no outstanding applications.

321AD This clause applies where, on the day before the date on which the application for outline consent is granted, there are outstanding applications.

321AE For the purposes of clauses 321AC, 321AD, 321AF, 321AI and 321AJ and clauses 321CA to 321CD and clauses 321DA to 321DK, an “outstanding application” means an application by a pharmacist under regulation 5 or 40 of the *Pharmaceutical Regulations* which—

321AE.1 is in relation to premises which are within 1.6 kilometres of the premises for which premises approval has been sought; and

321AE.2 which—

321AE.2.1 has been made, but not determined (including on appeal), or

321AE.2.2 has been granted but the provision of pharmaceutical services from those premises has not commenced.

321AF Where clause 321AB.2 applies, the PCT shall, in giving notification of the determination of the application for consent to dispense, give details of—

321AF.1 the outstanding applications; and

321AF.2 the earliest date on which an application can be made under clause 321AK to the PCT for a determination that the consent to dispense should come into effect (“provisional date”).

321AG The provisional date is the day after the end of a period of one year beginning with the date of-

321AG.1 the determination of the application for consent to dispense; or

321AG.2 where that determination is the subject of an appeal, the determination of that appeal.

321AH The PCT may, at any time before the provisional date, for good cause determine that the provisional date shall be extended for a period not exceeding three months beginning with the date specified in clause 321AG.1 or 321AG.2 and any reference in clauses 321AA to 321AP or in clauses 321CA to 321CD to the provisional date shall include a reference to the provisional date as extended under this clause.

321AI The PCT shall—

321AI.1 ensure that any notifications it is required to give in relation to any outstanding applications are also given to the Contractor;

321AI.2 notify the Contractor if any outstanding application is withdrawn; and

321AI.3 where it extends the provisional date under clause 321AH, notify the Contractor of the new provisional date.

321AJ The consent to dispense shall lapse if, before the provisional date, pharmaceutical services are provided from premises which were the subject of an outstanding application which has been granted.

321AK On, or as soon as reasonably practicable after, the provisional date, the PCT shall notify the Contractor and—

321AK.1 the Contractor may within three months of the provisional date require the PCT in writing to determine whether the consent to dispense should come into effect; and

321AK.2 the PCT shall determine any such request as soon as practicable and in accordance with clauses 321AL and 321AM.

321AL Where, on the date of the determination under clause 321AK, the premises are *practice premises*, the PCT shall determine that the consent to dispense and premises approval in respect of those premises shall come into effect on that date.

321AM Where, on the date of the determination under clause 321AK, the premises are not *practice premises* –

321AM.1 the application for consent to dispense shall be refused as regards premises approval for those premises; or

321AM.2 where none of the premises for which premises approval has been granted are *practice premises*, the consent to dispense shall lapse.

321AN The PCT shall notify its determination under clause 321AK to the Contractor and those persons to whom notice of the application under clauses 316 to 321 was required to be given under regulation 33(2) and (3) of the *Pharmaceutical Regulations*.

321AO Where the PCT has determined that –

321AO.1 the provisional date shall be extended under clause 321AH;

321AO.2 the application for consent to dispense shall be refused under clause 321AM.1; or

321AO.3 consent to dispense shall lapse under clause 321AM.2,

the Contractor may appeal to the *Secretary of State* against any such determination by giving notice of appeal in accordance with regulation 38(5) of the *Pharmaceutical Regulations*, and such appeal shall be determined in accordance with regulation 38 of the *Pharmaceutical Regulations*.

321AP Premises approval shall take effect when any related consent to dispense takes effect.

Lapse of consent to dispense and premises approval

321BA A consent to dispense shall cease to have effect –

321BA.1 where no arrangement under clauses 305 to 315 has been made pursuant to it within 12 months from its taking effect;

321BA.2 where more than 12 months have elapsed since the last provision of drugs and appliances under an arrangement made pursuant to clauses 305 to 315;

321BA.3 in accordance with clauses 321AJ or 321AM;

321BA.4 where there is a practice amalgamation and following the amalgamation there are no *practice premises* which have premises approval; or

321BA.5 where the contract has terminated⁽⁷⁰⁾.

321BB Premises approval shall cease to have effect in relation to –

⁽⁷⁰⁾ Paragraph 48 of Schedule 5 to the National Health Service (Personal Medical Services Agreements) Regulations 2004 (S.I. 2004/627 as amended by S.I. 2004/906 and 2694 and S.I. 2005/28 and 893) makes provision in relation to consent to dispense and premises approval where a contractor moves from a general medical services contract to a personal medical services agreement.

321BB.1 listed premises which have permanently ceased to be *practice premises*;

321BB.2 listed premises which have not been used for dispensing by the Contractor for six months or such longer period as the PCT may for good cause allow;

321BB.3 listed premises which were granted premises approval under clause 321EC, where no practice amalgamation takes place within the period specified in clause 321EG.

321BC Premises approval shall cease to have effect where the related consent to dispense ceases to have effect.

Premises approval: change of premises before consent to dispense takes effect

321CA Where –

321CA.1 consent to dispense has been granted but has not yet taken effect under clauses 321AA to 321AP; and

321CA.2 before the provisional date, the Contractor intends to change the premises from which he wishes to dispense,

the Contractor may apply to the PCT in writing for the PCT to determine whether premises approval should be given in relation to the

new premises, and the PCT shall make the determination in accordance with clause 321CB.

321CB If the PCT is satisfied that the change of premises is a minor relocation it may grant premises approval for those premises, but if it is not so satisfied it shall refuse the application for the premises approval in relation to the new premises.

321CC The PCT shall notify those persons to whom notice of the application under clauses 316 to 321 was required to be given and applicants in relation to the outstanding applications, of its determination under clause 321CB.

321CD The Contractor may appeal to the *Secretary of State* against the determination by the PCT under clause 321CB, and such appeal shall be determined in accordance with regulation 38 of the *Pharmaceutical Regulations*.

Premises approval: additional and new premises after consent to dispense has taken effect

321DA. Where the Contractor has been granted consent to dispense which has taken effect wishes to be granted premises approval in relation to premises in the area of the PCT in addition to those in respect of which premises approval has been given (“additional premises”) it may apply to the PCT and—

321DA.1 the application shall be determined by the PCT, and

321DA.2 clauses 321DA to 321DK and clauses 316 to 321 and regulations 18, 20(2), 34, 36(1) and (3) to (9), 37 and 38 of the

Pharmaceutical Regulations shall apply to such an application as they apply to an application for consent to dispense under clauses 316 to 321.

321DB Where the Contractor wishes to be granted premises approval in relation to premises (“new premises”) in the area of the PCT where it wishes to dispense instead of listed premises it may apply to the PCT and the application shall be determined by the PCT in accordance with clause 321DD.

321DC Where the Contractor-

321DC.1 has been granted consent to dispense which has taken effect wishes to be granted premises approval in relation to premises outside the area of the PCT in addition to those in respect of which premises approval has been given (“additional premises”); or

321DC.2 wishes to be granted premises approval in relation to premises (“new premises”) outside the area of the PCT where it wishes to dispense instead of listed premises-

it may apply to the Primary Care Trust in whose area those additional or new premises are situated and any such application will be determined in accordance with paragraph 48D of Schedule 6 to *the Regulations*.

321DD The PCT shall—

321DD.1 grant the application made in accordance with clause 321DB where –

321DD.1.1 the new premises are less than 500 metres by the most practicable route on foot from the listed premises which they are to replace, or

321DD.1.2 the PCT is otherwise satisfied that granting the application would not result in a significant change in the arrangements for the provision of pharmaceutical services or *dispensing services* in any part of a controlled locality,

provided that no further applications shall be granted under this clause for a period of 12 months beginning with the date on which the Contractor commenced providing services from the new premises unless the PCT shall for good cause allow; and

321DD.2 in any other case determine the application in accordance with clause 321DA as if the references to additional premises were to new premises.

321DE The PCT shall notify its determination under clause 321DD.1 to the persons to whom the notice is required to be given under regulation 33(2) and (3) of the *Pharmaceutical Regulations* and to any Primary Care Trust which holds a dispensing contractor list on which the Contractor is included.

321DF The Contractor may appeal to the *Secretary of State* in respect of a determination by the PCT and any such appeal shall be determined in accordance with regulation 38 of the *Pharmaceutical Regulations*.

321DG Subject to clause 321DH, premises approval granted in relation to new or additional premises, shall take effect from the date of notification of the grant and for this purpose the date of the notification of a grant of any application shall be –

321DG.1 where no appeal is made by the Contractor under clause 321DF, or by any person entitled to make an appeal in accordance with paragraph 48D(6) of Schedule 6 to *the Regulations*, against the decision of the PCT, the date after the expiry of the period of 30 days beginning with the date on which notice of that decision is given under clause 321DE; or

321DG.2 where such an appeal is made, the date on which the *Secretary of State* gives notice of his decision under regulation 38 of the *Pharmaceutical Regulations*.

321DH Where –

321DH.1 the Contractor is granted premises approval in relation to additional premises; and

321DH.2 there was, at the date of that grant, an outstanding application, as defined in clause 321AE, in relation to the premises for which the approval is granted,

the premises approval shall provisionally take effect on the date which is the day after the end of a period of one year, or such longer period (not exceeding three months) as the Primary Care Trust in whose area

the additional premises are situated may for good cause allow before the expiration of that year, from the final resolution of any outstanding application.

321DI The PCT may grant the Contractor temporary premises approval where the Contractor has consent to dispense and premises approval in relation to additional or new premises where the PCT considers it desirable to do so to secure the adequate provision of *dispensing services* in the area served by the premises, and it may renew any such temporary approval granted, to secure such adequate provision, and where it does so it shall –

321DI.1 notify those persons to whom notice of the application under clauses 316 to 321 was required to be given under regulation 33(2) and (3) of the *Pharmaceutical Regulations* and applicants in relation to outstanding applications;

321DI.2 state the period during which the temporary premises approval is to apply; and

321DI.3 include those premises in the dispensing contractors list in relation to the Contractor.

321DJ The PCT may grant temporary premises approval under clause 321DI for a period not exceeding 12 months, and it may renew such approval for a further period not exceeding three months.

321DK Temporary premises approval may also be granted by any Primary Care Trust in whose area the additional premises are situated in

accordance with the provisions of paragraphs 48D(9) and (10) of Schedule 6 to the Regulations.

Premises approval: practice amalgamations

321EA “A practice amalgamation” occurs where the Contractor and one or more providers of primary medical services merge as a result of which two or more patient lists are combined and this Contract is varied.

321EB Where the Contractor enters into a practice amalgamation and all the *practice premises* of the new *practice* are premises in respect of which premises approval was in effect immediately prior to the practice amalgamation, then consent to dispense and premises approval shall continue to have effect.

321EC Where the Contractor enters into or proposes to enter into a practice amalgamation and none or not all of the *practice premises* of the Contractor are, or will be, premises in respect of which premises approval was in effect immediately prior to the practice amalgamation, the Contractor, if it has been granted consent to dispense and premises approval which is in effect either immediately before the practice amalgamation or the date of any application under this clause 321EC, may make an application for premises approval, and it shall be determined as provided in clauses 321DA to 321DK as if it were an application from a contractor with premises approval to have the right to dispense from –

321EC.1 additional premises where the premises approval is required for additional premises as defined in clause 321DA; or

321EC.2 new premises where the premises approval is required for new premises as defined in clause 321DB,

and the PCT may grant temporary premises approval under clause 321DI.

321ED The Contractor may make an application mentioned in clause 321EC before or after the practice amalgamation takes place, and where the practice amalgamation takes effect before the application has been finally determined –

321ED.1 any premises approval in effect at the date of the practice amalgamation shall have effect from the date of the amalgamation as if it were a temporary approval under clause 321DI for a period stated by the PCT not exceeding one year; and

321ED.2 the Contractor shall have temporary premises approval from the date of the practice amalgamation to dispense from any premises mentioned in the application for a period stated by the PCT not exceeding one year.

321EE When the practice amalgamation takes effect the Contractor shall notify all Primary Care Trusts in whose area the amalgamated practice is situated that the practice amalgamation has taken place.

321EF Subject to clause 321EG, where an application made under clause 321EC was granted before the practice amalgamation takes place, premises approval shall take effect from the date of the practice amalgamation.

321EG Where the Contractor makes an application under clause 321EC before the practice amalgamation takes place and the practice amalgamation has not taken place before the end of a period of one year beginning with the date that premises approval was granted under clause 321EC, that grant shall lapse.

321EH Where an application under clause 321EC for premises approval is refused either for all or any of the premises specified in the application, whether before or after the practice amalgamation takes place, the Contractor, if it had premises approval prior to making the application, shall have residual premises approval.

321EI For the purposes of clauses 321EA to 321EJ “residual premises approval” means approval to dispense –

321EI.1 from premises in respect of which the Contractor had premises approval at the time of the application in relation to the practice amalgamation; and

321EI.2 to –

321EI.2.1 a patient for whom the Contractor is authorised to provide *dispensing services* on the date the application was refused, but excluding any such patient who ceases to be a patient mentioned in clause 307.2 or 307.3; or

321EI.2.2 a patient who is not mentioned in clause 321EI.2.1 but who is mentioned in clause 307.1 or 307.4 and for whom the Contractor is authorised to provide *dispensing services* on the date the application was refused.

321EJ For the purposes of clause 321EI, clause 307.2 or 307.3 shall be read as if the words “and all of the conditions in clause 308 are satisfied in his case” were omitted.

Contractors who previously provided *dispensing services* under *section 28C arrangements*

322. Clause 323 applies where the Contractor was, immediately before the commencement of the Contract, providing primary medical services in the area of the PCT in accordance with *section 28C arrangements* and –

322.1. the Contractor was, immediately before the commencement of the Contract, providing *dispensing services* to some or all of its patients in accordance with the *section 28C arrangements*; and

322.2. the Contractor has notified the PCT before entering into the contract that it intends to provide *dispensing services* under it .

323. In a case to which this clause applies the Contractor shall be regarded as –

323.1. being authorised or required under clauses 305 to 315 to provide *dispensing services* under the contract to any patient –

323.1.1. to whom, immediately before commencement of the contract, it provided *dispensing services* under *section 28C arrangements*, and

323.1.2. who wishes the Contractor to continue to provide him with such services;

323.2. having been granted consent to dispense in relation to the contract under clauses 316 to 321 in relation to the area for which it had such consent under the *section 28C arrangements*; and ;

323.3. having been granted premises approval in relation to the contract under clauses 316 to 321 for those premises from which it had, immediately before the commencement of the contract, authority to provide *dispensing services* in accordance with the *section 28C arrangements*.

324. []

325. []

326. [].

Terms relating to the provision of *dispensing services*

327. Where the Contractor which has been granted the right to provide *dispensing services* under clauses 305 to 315 or clauses 322 to 326, it shall ensure that *dispensing services* are provided in accordance with clauses 328 to 336.

328. Subject to clauses 329 and 330, the Contractor providing *dispensing services* shall –

328.1. record an order for the provision of any drugs, medicines or appliances which are needed for the treatment of the patient on –

328.1.1. a *non-electronic prescription form* completed in accordance with clause 273, or

328.1.2. if the Contractor is the patient's *nominated dispenser* (or one of them), an *electronic prescription form*

328.2. provide those drugs, medicines or appliances in a suitable container;

- 328.3. provide for the patient a drug or medicine specified in any directions given by *the Secretary of State* under section 28U of *the Act* as being a drug or medicine which can only be ordered for specified patients and specified purposes only if –
- 328.3.1. that patient is a person of the specified description, and
- 328.3.2. the drug or medicine is supplied for that patient only for the specified purpose; and
- 328.4. provide for the *patient* a *restricted availability appliance* only if the patient is a person, or it is for a purpose, specified in the *Drug Tariff*.
329. Clause 328 does not apply to drugs, medicines or appliances ordered on a *prescription form* by an *independent nurse prescriber* or a *pharmacist independent prescriber*.
330. If the Contractor is providing *dispensing services*, where a patient-
- 330.1. presents to it an order on a *non-electronic prescription form* for drugs, medicines or appliances signed by an *independent nurse prescriber* or a *pharmacist independent prescriber*, or an order for a *restricted availability appliance* signed by and endorsed with the reference "SLS" by an *independent nurse prescriber* or a *pharmacist independent prescriber*; or
- 330.2. in a case where the Contractor is the patient's *nominated dispenser* (or one of them) informs it that an *independent nurse prescriber* or a *pharmacist independent prescriber* has ordered drugs, medicines or appliances for him by means of an *electronic prescription form*,

the Contractor may, provided, in a case to which clause 330.2 above applies, he has received the *electronic prescription form* from the *ETP service*, provide to the patient such of the drugs, medicines or appliances so ordered as it supplies in the normal course of its practice.

331. Drugs, medicines or appliances provided under clause 330 shall be provided in a suitable container.
332. If the Contractor is providing *dispensing services*, it shall not provide for a patient a drug or medicine specified in any directions given by *the Secretary of State* under section 28U of *the Act* as being drugs or medicines which may not be ordered for patients in the provision of medical services under the Contract, except that, where it has ordered a drug or medicine which has an appropriate non-proprietary name either by the name or by its formula, it may provide a drug or medicine which has the same specification notwithstanding that it is a drug or medicine specified in such directions (but, in the case of a drug or medicine which combines more than one drug, only if the combination has an appropriate non-proprietary name).
333. Subject to clause 335, nothing in clauses 327 to 332, 334 and 336 shall prevent a medical practitioner providing a *Scheduled drug* or a *restricted availability appliance* in the course of treating a patient under a private arrangement.
334. If the Contractor is providing *dispensing services*, it shall comply with paragraph 5 of Schedule 2 to the *Pharmaceutical Regulations*, as if modified as follows -

334.1. for “paragraph 3, or in the circumstances set out in paragraph 4” there were substituted “paragraph 50(2) or (4) of Schedule 6 to *the Regulations*”; and

334.2. for “the dispensing doctor”, in each place where it occurs, there were substituted “the Contractor providing dispensing services.

334A If the Contractor is providing *dispensing services* it shall comply with paragraphs 7(1), (3) and (4) of Schedule 2 (terms of service of dispensing doctors) to the *Pharmaceutical Regulations*, with all references to “a dispensing doctor” or “the dispensing doctor” being read as references to the Contractor.

335. The provisions of Part 18 apply in respect of the provision of any drugs, medicines or appliances by the Contractor if it is providing *dispensing services* as they apply in respect of prescriptions for drugs, medicines or appliances.

336. If the Contractor is entitled to provide *dispensing services*, it may, with the consent of the patient, order a drug, medicine or appliance for a patient on a *prescription form* or a *repeatable prescription*, rather than providing it itself.

Dispensing contractor list

337. If the Contractor is authorised or required by the PCT under clauses 305 to 315 or clauses 322 to 323 to provide *dispensing services* to its patients and is actually doing so, the PCT shall -

337.1. include the Contractor’s name; and

- 337.2. include the address of the *practice premises* from which it is authorised or required to dispense;
- 337.3. include the premises in relation to which the Contractor has premises approval;
- 337.4. state in relation to each premises included –
- 337.4.1. if premises approval is deemed, temporary or residual, that this is the case, and
- 337.4.2. the date on which premises approval took effect or where it has not taken effect, the date that it was finally granted;
- 337.5. state the area in relation to which there is consent to dispense and premises approval; and
- 337.6. include and identify separately, any premises in relation to which the Contractor has undetermined applications for premises approval,
- on a list of such contractors (to be called the dispensing contractors list) which the PCT shall prepare, maintain and publish.
338. The PCT shall remove the name of the Contractor from the list referred to in clause 337 where the Contractor's consent to dispense ceases to have effect in accordance with clause 321BA, or if the Contractor ceases to provide *dispensing services* to its patients for any other reason.

Provision of drugs, medicines and appliances for immediate treatment or personal administration

339. The Contractor –

339.1. shall provide to a patient any drug, medicine or appliance, not being a *Scheduled drug*, where such provision is needed for the immediate treatment of that patient before a provision can otherwise be obtained; and

339.2. may provide to a patient any drug, medicine or appliance, not being a *Scheduled drug*, which he personally administers or applies to that patient,

but shall, in either case, provide a *restricted availability appliance* only if it is for a person or a purpose specified in the *Drug Tariff*. Nothing in this clause authorises a person to supply any drug or medicine to a patient otherwise than in accordance with Part 3 of the Medicines Act 1968, or any regulations or orders made under that Act.

PART 14⁷¹

PERSONS WHO PERFORM SERVICES

Qualifications of performers

340. Subject to clause 341, no medical practitioner shall perform medical services under the Contract unless he is-

340.1. included in a *medical performers list* for a Primary Care Trust in England;

340.2. not suspended from that list or from the *Medical Register*; and

340.3. not subject to interim suspension under section 41A of the Medical Act 1983.

341. Clause 340.1 shall not apply in the case of -

341.1. a medical practitioner employed by an NHS trust, an NHS foundation trust, (in Scotland) a *Health Board*, or (in Northern Ireland) a *Health and Social Services Trust*, who is providing services other than primary medical services at the *practice premises*;

341.2. a person who is provisionally registered under section 15, 15A or 21 of the Medical Act 1983 acting in the course of his employment in a resident medical capacity in an approved medical practice;

⁷¹ Except where footnotes indicate otherwise, this Part is required by *the Regulations* (see Part 4 of Schedule 6).

341.3. a *GP Registrar* who has applied to a Primary Care Trust to have his name included in its *medical performers list* until the first of the following events arises-

341.3.1. the Primary Care Trust notifies him of its decision on that application; or

341.3.2. the end of a period of two months, starting with the date on which his vocational training scheme began,

and in this sub-clause, “vocational training scheme” shall have the meaning given in regulation 21(2) of the National Health Service (Performers Lists) Regulations 2004; or

341.4. a medical practitioner, who-

341.4.1. is not a *GP Registrar*;

341.4.2. is undertaking a programme of post-registration supervised clinical practice supervised by the Postgraduate Medical Education and Training Board (“a post-registration programme”);

341.4.3. has notified the PCT that he will be undertaking part or all of a post-registration programme in its area at least 24 hours before commencing any part of that programme taking place in the PCT’s area; and

341.4.4. has, with that notification, provided the PCT with evidence sufficient for it to satisfy itself that he is undergoing a post-registration programme,

but only in so far as any medical services that the medical practitioner performs constitute part of a post-registration programme.

342. No *health care professional* other than one to whom clauses 340 and 341 apply shall perform clinical services under the Contract unless he is registered with his relevant professional body and his registration is not currently suspended.

343. Where the registration of a *health care professional* or, in the case of a medical practitioner, his inclusion in a *primary care list* is subject to conditions, the Contractor shall ensure compliance with those conditions insofar as they are relevant to the Contract.

344. No *health care professional* shall perform any clinical services unless he has such clinical experience and training as are necessary to enable him properly to perform such services.

Conditions for employment and engagement

345. Subject to clauses 346 and 347, the Contractor shall not employ or engage a medical practitioner (other than one falling within clause 341) unless-

345.1. that practitioner has provided it with the name and address of the Primary Care Trust on whose *medical performers list* he appears;
and

345.2. the Contractor has checked that he meets the requirements in clause 340.

346. Where the employment or engagement of a medical practitioner is urgently needed and it is not possible to check the matters referred to in clause 340 in accordance with clause 345.1 before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.

347. Where the prospective employee is a *GP Registrar*, the requirements set out in clause 345 shall apply with the modifications that-

347.1. the name and address provided under 345.1 may be the name and address of the Primary Care Trust on whose list he has applied for inclusion; and

347.2. confirmation that his name appears on that list shall not be required until the end of the first two months of his training period.

348. The Contractor shall not employ or engage-

348.1. a *health care professional* other than one to whom clauses 340 and 341 apply unless the Contractor has checked that he meets the requirements in clause 342; or

348.2. a *health care professional* to perform clinical services unless he has taken reasonable steps to satisfy himself that he meets the requirements in clause 344.

349. Where the employment or engagement of a *health care professional* is urgently needed and it is not possible to check the matters referred to in clause 342 in accordance with clause 348 before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.

350. When considering a *health care professional's* experience and training pursuant to clause 348.2, the Contractor shall have regard to any post-graduate or post-registration qualification held by the *health care professional*, and any relevant training undertaken by him and any relevant clinical experience gained by him.
351. The Contractor shall not employ or engage a *health care professional* to perform medical services under the Contract, other than a medical practitioner falling within clause 341.4 unless-
- 351.1. that person has provided two clinical references, relating to two recent posts (which may include any current post) as a *health care professional* which lasted for three months without a significant break, or where this is not possible, a full explanation and alternative referees; and
- 351.2. the Contractor has checked and is satisfied with the references.
352. Where the employment or engagement of a *health care professional* is urgently needed and it is not possible to obtain and check the references in accordance with clause 351.2 before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 14 days whilst his references are checked and considered, and for an additional single period of a further 7 days if the Contractor believes the person supplying those references is ill, on holiday or otherwise temporarily unavailable.
353. Where the Contractor employs or engages the same person on more than one occasion within a period of three months, he may rely on the

references provided on the first occasion, provided that those references are not more than twelve months old.

354. Before employing or engaging any person to assist it in the provision of services under the Contract, the Contractor shall take reasonable care to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which he is to be employed or engaged.

355. When considering the competence and suitability of any person for the purpose of clause 354, the Contractor shall have regard, in particular, to-

355.1. that person's academic and vocational qualifications;

355.2. his education and training; and

355.3. his previous employment or work experience.

Training

356. The Contractor shall ensure that for any *health care professional* who is-

356.1. performing clinical services under the Contract; or

356.2. employed or engaged to assist in the performance of such services

there are in place arrangements for the purpose of maintaining and updating his skills and knowledge in relation to the services which he is performing or assisting in performing.

357. The Contractor shall afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

Terms and conditions

358. The Contractor shall only offer employment to a general medical practitioner on terms and conditions which are no less favourable than those contained in the "Model terms and conditions of service for a salaried general practitioner employed by a GMS practice" published by the British Medical Association and the NHS Confederation as item 1.2 of the supplementary documents to the new GMS contract 2003 (this document is available on the Department of Health's website at www.doh.gov.uk/gmscontract/supportingdocs.htm, or a copy may be obtained by writing to the NHS Confederation, 1 Warwick Row, London SW1E 5ER).

Arrangements for *GP Registrars*

359. The Contractor shall only employ a *GP Registrar* subject to the conditions in clause 360.

360. The conditions referred to in clause 359 are that the Contractor shall not, by reason only of having employed or engaged a *GP Registrar*, reduce the total number of hours for which other medical practitioners perform primary medical services under the contract or for which other staff assist them in the performance of those services.

361. Where the Contractor employs a *GP Registrar*, the Contractor shall-

361.1. offer him terms of employment in accordance with the rates and subject to the conditions contained in any directions given by *the Secretary of State* to Strategic Health Authorities under section 17 of *the Act* concerning the grants, fees, travelling and other allowances payable to *GP Registrars*; and

361.2. take into account any guidance issued by *the Secretary of State* in relation to the GP Registrar scheme.

Independent nurse prescribers, pharmacist independent prescribers and supplementary prescribers

362. Where-

362.1. the Contractor employs or engages a person who is an *independent nurse prescriber*, a *pharmacist independent prescriber* or a *supplementary prescriber* whose functions will include prescribing;

362.2. a party to the Contract is an *independent nurse prescriber*, a *pharmacist independent prescriber* or a *supplementary prescriber* whose functions will include prescribing; or

362.3. the functions of a nurse who is an *independent nurse prescriber*, a *pharmacist independent prescriber* or a *supplementary prescriber* whom the Contractor already employs or has already engaged are extended to include prescribing,

it shall notify the PCT within the period of seven days beginning with the date on which the Contractor employed or engaged the person, the party became a party to the Contract (unless, immediately before becoming such

a party, he fell under clause 362.1) or the person's functions were extended, as the case may be.

363. Where-

363.1. the Contractor ceases to employ or engage a person who is an *independent nurse prescriber*, a *pharmacist independent prescriber* or a *supplementary prescriber* whose functions included prescribing in its practice;

363.2. the party to the Contract who is an *independent nurse prescriber*, a *pharmacist independent prescriber* or a *supplementary prescriber* whose functions include prescribing, ceases to be a party to the Contract;

363.3. the functions of a person who is an *independent nurse prescriber*, a *pharmacist independent prescriber* or a *supplementary prescriber* whom the Contractor employs or engages in its practice are changed so that they no longer include prescribing in its practice; or

363.4. the Contractor becomes aware that a person who is an *independent nurse prescriber*, a *pharmacist independent prescriber* or a *supplementary prescriber* whom it employs or engages has been removed or suspended from the *relevant register*,

it shall notify the PCT by the end of the second working day after the day when the event occurred.

364. The Contractor shall provide the following information when it notifies the PCT in accordance with clause 362-

364.1. the person's full name;

364.2. his professional qualifications;

364.3. his identifying number which appears in the relevant register;

364.4. the date on which his entry in the relevant register was annotated to the effect that he was qualified to order drugs, medicines and appliances for patients;

364.5. the date on which-

364.5.1. he was employed or engaged, if applicable,

364.5.2. he became a party to the Contract, if applicable, or

364.5.3. one of his functions became to prescribe in its *practice*.

365. The Contractor shall provide the following information when it notifies the PCT in accordance with clause 363-

365.1. the person's full name;

365.2. his professional qualifications;

365.3. his identifying number which appears in the *relevant register*;

365.4. the date-

365.4.1. he ceased to be employed or engaged in its practice,

365.4.2. he ceased to be a party to the Contract,

365.4.3. his functions changed so as no longer to include prescribing, or

365.4.4. on which he was removed or suspended from the *relevant register*.

Signing of documents

366. In addition to any other requirements relating to such documents whether in this Contract or otherwise, the Contractor shall ensure-

366.1. that the documents specified in clause 367 include-

366.1.1. the clinical profession of that *health care professional* who signed the document; and

366.1.2. the name of the Contractor on whose behalf it is signed, and

366.2. that the documents specified in clause 367A include the clinical profession of the *health care professional* who signed the document.

367. The documents referred to in clause 366.1 are-

367.1. certificates issued in accordance with clause 471 unless regulations relating to a particular certificate provide otherwise; and

367.2. any other clinical documents, apart from –

367.2.1. *home oxygen order forms*, and

367.2.2. those documents specified in clause 367A.

367A The documents referred to in clause 366.2 are *batch issues, prescription forms and repeatable prescriptions*.

Appraisal and assessment

368. The Contractor shall ensure that any medical practitioner performing services under the Contract-

368.1. participates in the appraisal system provided by the PCT, unless he participates in an appropriate appraisal system provided by another *health service body* or is an *armed forces GP*; and

368.2. co-operates with an assessment by the *NPSA* when requested to do so by the PCT.

369. The PCT shall provide an appraisal system for the purposes of clause 368.1 after consultation with the *Local Medical Committee* (if any) for the area of the PCT and such other persons as appear to it to be appropriate.

Sub-contracting of clinical matters

370. Subject to clause 371, the Contractor shall not sub-contract any of its rights or duties under the Contract in relation to clinical matters unless-

370.1. in all cases, including those which fall within clauses 379 to 393 it has taken reasonable steps to satisfy itself that it is reasonable in all the circumstances and that person is qualified and competent to provide the service; and

370.2. except in cases which fall within clauses 379 to 393, it has notified the PCT in writing of its intention to sub-contract as soon as reasonably practicable before the date on which the proposed sub-contract is intended to come into force.

371. Clause 370.2 shall not apply to a contract for services with a *health care professional* for the provision by that professional personally of clinical services.

372. The notification referred to in clause 370.2 shall include-

372.1. the name and address of the proposed sub-contractor;

372.2. the duration of the proposed sub-contract;

372.3. the services to be covered; and

372.4. the address of any premises to be used for the provision of services.

373. Following receipt of a notice in accordance with clause 370.2, the PCT may request such further information relating to the proposed sub-contract as appears to it to be reasonable and the Contractor shall supply such information promptly.

374. The Contractor shall not proceed with the sub-contract or, if it has already taken effect, shall take steps to terminate it, where, within 28 days of the notice referred to in clause 370.2, the PCT has served a notice of objection to the sub-contract on the grounds that-

374.1. the sub-contract would-

374.1.1. put at serious risk the safety of the Contractor's *patients*,
or

374.1.2. put the PCT at risk of material financial loss; or

374.2. the sub-contractor would be unable to meet the Contractor's obligations under the contract.

375. Where the PCT objects to a proposed sub-contract in accordance with clause 374, it shall include with the notice of objection a statement in writing of the reasons for its objection.

376. Clauses 370, 372 to 375 shall also apply in relation to any renewal or material variation of a sub-contract in relation to clinical matters.

377. Where the PCT does not object to a proposed sub-contract under clause 374, the parties to the Contract shall be deemed to have agreed to a variation of the contract which has the effect of adding to the list of *practice premises* any premises whose address was notified to it under clause 372.4 and clause 529 shall not apply.

378. A contract with a sub-contractor must prohibit the sub-contractor from sub-contracting the clinical services it has agreed with the Contractor to provide.

378A. The Contractor shall not sub-contract any of its rights or duties under the Contract in relation to the provision of *essential services* to a company or firm that is-

378A.1 owned wholly or partly by the Contractor, or by any former or current employee of, or partner or shareholder in, the Contractor;

378A.2 formed by or on behalf of the Contractor, or from which it derives or may derive a pecuniary benefit; or

378A.3 formed by or on behalf of a former or current employee of, or partner or shareholder in, the Contractor, or from which such a person derives or may derive a pecuniary benefit,

where that company or firm is or was formed wholly or partly for the purpose of avoiding the restrictions on the sale of the goodwill of a medical practice in section 54 of *the Act* or any Regulations made wholly or partly under that section.

Sub-contracting of out of hours services⁷²

379. The Contractor shall not, otherwise than in accordance with the written approval of the PCT, sub-contract all or part of its duty to provide *out of hours services* to any person other than those listed in clause 380 other than on a short-term occasional basis.

380. The persons referred to in clause 379 are-

380.1. a person who holds a *general medical services contract* or a *default contract* with a Primary Care Trust which includes *out of hours services*;

⁷² Clauses 379 to 393 only need to be included in the Contract if the Contractor is providing *out of hours services* under the Contract. Articles 21 and 22 of *the Transitional Order* are also relevant to these clauses.

- 380.2. a person who is a party to contractual arrangements made under article 15 of *the Transitional Order*;
- 380.3. a *section 28C provider* who is required to provide the equivalent of *essential services* to his patients during all or part of the *out of hours period*;
- 380.4. a *health care professional*, not falling within clause 380.1 to 380.3, who is to provide the *out of hours services* personally under a contract for services; or
- 380.5. a group of medical practitioners, whether in partnership or not, who provide *out of hours services* for each other under informal rota arrangements.
381. An application for approval under clause 379 shall be made by the Contractor in writing to the PCT and shall state-
- 381.1. the name and address of the proposed sub-contractor;
- 381.2. the address of any premises to be used for the provision of services;
- 381.3. the duration of the proposed sub-contract;
- 381.4. the services to be covered by the arrangement; and
- 381.5. how it is proposed that the sub-contractor will meet the Contractor's obligations under the Contract in respect of the services covered by the arrangement.

382. Within 7 days of receipt of an application under clause 381, the PCT may request such further information relating to the proposed arrangements as seem to it to be reasonable.

383. Within 28 days of receipt of an application which meets the requirements of clause 381 or the further information requested under clause 382 (whichever is the later), the PCT shall-

383.1. approve the application;

383.2. approve the application with conditions; or

383.3. refuse the application.

384. The PCT shall not refuse the application if it is satisfied that the proposed arrangement will, in respect of the services to be covered, enable the Contractor to meet satisfactorily its obligations under the Contract and will not-

384.1. put at serious risk the safety of the Contractor's patients; or

384.2. put the PCT at risk of material financial loss.

385. The PCT shall inform the Contractor by notice in writing of its decision on the application and, where it refuses an application, it shall include in the notice a statement of the reasons for its refusal.

386. Where the PCT approves an application pursuant to clause 383 the parties to the Contract shall be deemed to have agreed a variation of the contract which has the effect of adding to the list of *practice premises*, for the purposes of the provision of services in accordance with that

application, any premises whose address was notified to it under clause 381.2 and clause 529 shall not apply.

387. Clauses 379 to 386 shall also apply in relation to any renewal or material variation of a sub-contract in relation to *out of hours services*.

388. A contract with a sub-contractor must prohibit the sub-contractor from sub-contracting the *out of hours services* it has agreed with the Contractor to provide.

389. Without prejudice to any other remedies which it may have under the Contract, where the PCT has approved an application made under clause 381 it shall, subject to clauses 392 and 393, be entitled to serve notice on the Contractor withdrawing or varying that approval from a date specified in the notice if it is no longer satisfied that the proposed arrangement will enable the Contractor to meet satisfactorily its obligations under the Contract.

390. The date specified pursuant to clause 389 shall be such as appears reasonable in all the circumstances to the PCT.

391. The notice referred to in clause 389 shall take effect on whichever is the later of-

391.1. the date specified in the notice; or

391.2. the date on which any dispute relating to the notice is finally determined.

392. Without prejudice to any other remedies which it may have under the Contract, where the PCT has approved an application made under clause

379 it shall be entitled to serve notice on the Contractor withdrawing or varying that approval with immediate effect if-

392.1. it is no longer satisfied that the proposed arrangement will enable the Contractor to meet satisfactorily its obligations under the Contract; and

392.2. it is satisfied that immediate withdrawal or variation is necessary to protect the safety of the Contractor's patients.

393. A notice served under clause 392 shall take effect on the date on which it is received by the Contractor.

Temporary arrangements for transfer of obligations and liabilities in relation to certain *out of hours services*⁷³

394. Where the Contractor is required to provide *out of hours services* under the Contract pursuant to regulation 30 or 31 of *the Regulations*, it may, with the approval of the PCT, make an arrangement with one of the persons specified in clause 397, as if regulations 1 to 11 of the *Out of Hours Regulations* (subject to the modifications in clause 398) were still in force.

395. Any arrangement made pursuant to clause 394 shall cease to have effect on 1st January 2005.

396. An arrangement made in accordance with clause 394 shall, for so long as it continues, or is not suspended under clause 424, relieve the Contractor of-

⁷³ Clauses 394 to 425 only need to be included in the Contract if the Contractor is providing *out of hours services* under the Contract pursuant to Regulations 30 or 31 of *the Regulations*: see Schedule 7 to *the Regulations*. Articles 21 and 22 of *the Transitional Order* are also relevant to these clauses.

- 396.1. its obligations to provide *out of hours services* pursuant to the Contract; and
- 396.2. all liabilities under the Contract in respect of those services.
397. The persons referred to in clause 394 are-
- 397.1. an *accredited service provider*; or
- 397.2. a person who holds a *general medical services contract* or a *default contract* with a Primary Care Trust which includes the provision of *out of hours services*, or a person who is a party to contractual arrangements made under article 15 of *the Transitional Order*.
398. The modifications referred to in clause 394 are-
- 398.1. as if *out of hours period* had the meaning given in regulation 2 of the regulations;
- 398.2. as if the requirements relating to an assessing authority in regulation 4(5) to (8) did not apply in cases where, in the opinion of the accrediting authority, it was appropriate and safe to dispense with them;
- 398.3. as if the reference to a medical practitioner in regulation 11(2)(c) was a reference to the Contractor;
- 398.4. as if the reference to section 44 in regulation 11(2)(d) was to section 45A of *the Act*; and

398.5. as if the reference to a medical list or supplementary list in paragraph 7 of the Schedule was to a *medical performers list* and the words “or he is named in an agreement under section 2 of the 1997 Act as a performer of personal medical services” were omitted.

399. The Contractor may make more than one *out of hours arrangement* and may do so (for example) with different *transferee doctors* or *accredited service providers* and in respect of different patients, different times and different parts of its *practice area*.

400. The Contractor may retain responsibility for, or make separate *out of hours arrangements* in respect of, the provision to any patients of *maternity medical services* during the *out of hours period* which the Contractor is required to provide pursuant to regulation 30 or 31 and any separate *out of hours arrangements* it makes may encompass all or any part of the *maternity medical services* it provides.

401. Nothing in clauses 394 to 400 shall prevent the Contractor from retaining or resuming its obligations in relation to named patients.

Application for approval of an *out of hours arrangement*

402. An application to the PCT for approval of an *out of hours arrangement* shall be made in writing and shall state-

402.1. the name and address of the *accredited service provider* or the proposed *transferee doctor*;

402.2. the periods during which the Contractor’s obligations under the Contract are to be transferred;

- 402.3. how the *accredited service provider* or proposed *transferee doctor* intends to meet the Contractor's obligations during the periods specified in clause 402.2;
- 402.4. the arrangements for the transfer of the Contractor's obligations under the Contract to and from the *accredited service provider* or *transferee doctor* at the beginning and end of the period specified under clause 402.2;
- 402.5. whether the proposed arrangement includes the Contractor's obligations in respect of *maternity medical services*; and
- 402.6. how long the proposed arrangements are intended to last and the circumstances in which the Contractor's obligations under the Contract during the periods specified in clause 402.2 would revert to it.
403. The PCT shall determine the application before the end of the period of 28 days beginning with the day on which the PCT received it.
404. The PCT shall grant approval to a proposed *out of hours arrangement* if it is satisfied-
- 404.1. having regard to the overall provision of primary medical services provided in the *out of hours period* in its area, that the arrangement is reasonable and will contribute to the efficient provision of such services in the area;
- 404.2. having regard, in particular, to the interests of the Contractor's patients, that the arrangement is reasonable;

- 404.3. having regard, in particular, to all reasonably foreseeable circumstances that the arrangement is practicable and will work satisfactorily;
- 404.4. that any arrangement with a person referred to in clause 397.2 will be of an equivalent standard to an arrangement with a person referred to in clause 397.1;
- 404.5. that in the case of an arrangement with a person referred to in clause 397.1, the practice premises are within the geographical area in respect of which approval is given under regulation 5 of the *Out of Hours Regulations*;
- 404.6. that it will be clear to the Contractor's patients how to seek primary medical services during the *out of hours period*;
- 404.7. where *maternity medical services* are to be provided under the *out of hours arrangement*, that they will be performed by a medical practitioner who has such medical experience and training as are necessary to enable him properly to perform such services; and
- 404.8. that if the arrangement comes to an end, the Contractor has in place proper arrangements for the immediate resumption of its responsibilities,

and shall not refuse to grant approval without first consulting the *Local Medical Committee* (if any) for its area.

405. The PCT shall give notice to the Contractor of its determination and, where it refuses an application, it shall send to the Contractor a statement in writing of the reasons for its determination.

406. If the Contractor wishes to refer the matter in accordance with the *NHS dispute resolution procedure*, it must do so before the end of the period of 30 days beginning with the day on which the PCT's notification under clause 405 was sent.

Effect of approval of an arrangement where the Contractor is the *transferee doctor*

407. If the Contractor acts as a *transferee doctor*, in accordance with an *out of hours arrangement* approved by the PCT in relation to another contractor (including a contractor who is a party to a *default contract*), the PCT and the Contractor shall be deemed to have agreed a variation of the Contract which has the effect of including in it, from the date on which the *out of hours arrangement* commences, and for so long as that arrangement is not suspended or terminated, the services covered by that arrangement, and clause 529 shall not apply.

Review of approval

408. Where it appears to the PCT that it may no longer be satisfied of any of the matters referred to in clauses 404.1 to 404.8, it may give notice to the Contractor that it proposes to review its approval of the *out of hours arrangement*.

409. On any review under clause 408, the PCT shall allow the Contractor a period of 30 days, beginning with the day on which the PCT sent the notice, within which to make representations in writing to the PCT.

410. After considering representations made in accordance with clause 409, the PCT may determine to-

- 410.1. continue its approval,
 - 410.2. withdraw its approval following a period of notice; or
 - 410.3. if it appears to the PCT that it is necessary in the interests of the Contractor's patients, withdraw its approval immediately.
411. Except in the case of an immediate withdrawal of approval, the PCT shall not withdraw its approval without first consulting the *Local Medical Committee* (if any) for its area.
412. The PCT shall give notice to the Contractor of its determination under clause 410.
413. Where the PCT withdraws its approval, whether immediately or on notice, its shall include with the notice a statement in writing of the reasons for its determination.
414. If the Contractor wishes to refer the matter in accordance with the *NHS dispute resolution procedure*, it must do so before the end of 30 days beginning with the day on which the PCT's notification under clause 412 was sent.
415. Where the PCT determines to withdraw its approval following a period of notice, the withdrawal shall take effect at the end of the period of two months beginning with-
- 415.1. the date on which the notice referred to in clause 412 was sent,
 - or,

415.2. where there has been a dispute which has been referred under the *NHS dispute resolution procedure* and the dispute is determined in favour of withdrawal, the date on which the Contractor receives notice of the determination.

416. Where the PCT determines to withdraw its approval immediately, the withdrawal shall take effect on the day on which the notice referred to in clause 412 is received by the Contractor.

Suspension of approval

417. Where the PCT suspends its approval of an *accredited service provider* under regulation 9 of the *Out of Hours Regulations*, or receives notice suspension of such approval under regulation 11 of those Regulations, it shall forthwith suspend its approval of any *out of hours arrangement* made by the Contractor with that *accredited service provider*.

418. A suspension of approval under clause 417 shall take effect on the day on which the Contractor receives notice of suspension of approval of the *accredited service provider* under regulation 11 of the *Out of Hours Regulations*.

Immediate withdrawal of approval other than following review

419. The PCT shall withdraw its approval of an *out of hours arrangement* immediately-

419.1. in the case of an arrangement with a person referred to in clause 397.1, if it withdraws its approval of the *accredited service provider* under regulation 8 of the *Out of Hours Regulations* or receives notice of

withdrawal of such approval under regulation 11 of those Regulations;

419.2. in the case of an arrangement with a person referred to in clause 397.2, if the person with whom it is made ceases to hold a *general medical services contract* or a *default contract* with the Primary Care Trust which includes the provision of *out of hours services*, or ceases to be a party to contractual arrangements made under article 15 of *the Transitional Order*; or

419.3. where, without any review having taken place under clauses 408 to 416, it appears to the PCT that it is necessary in the interests of the Contractor's patients to withdraw its approval immediately.

420. The PCT shall give notice to the Contractor of a withdrawal of approval under clause 419.2 or 419.3 and shall include with the notice a statement in writing of the reasons for its determination.

421. An immediate withdrawal of approval under clause 419 shall take effect-

421.1. in the case of a withdrawal under clause 419.1, on the day on which the Contractor receives notice of withdrawal of approval of the *accredited service provider* under regulation 11 of the *Out of Hours Regulations*; or

421.2. in the case of a withdrawal under clauses 419.2 or 419.3, on the day on which the notice referred to in clause 420 is received by the Contractor.

422. The PCT shall notify the *Local Medical Committee* (if any) for its area of a withdrawal of approval under clause 419.3.

423. If the Contractor wishes to refer a withdrawal of approval under clause 419.3 in accordance with the *NHS dispute resolution procedure*, it must do so before the end of the period of 30 days beginning with the day on which the PCT's notification under clause 420 was sent.

Suspension or termination of an *out of hours arrangement*

424. The Contractor shall suspend an arrangement with an *accredited service provider* under clause 394 on receipt of the notice of suspension of approval of that provider under regulation 11 of the *Out of Hours Regulations*.

425. The Contractor shall terminate an *out of hours arrangement* made under clause 394 with effect from the date of the taking effect of the withdrawal of the PCT's approval of that arrangement under clauses 408 to 416 or clauses 419 to 423.

PART 15

RECORDS, INFORMATION, NOTIFICATION AND RIGHTS OF ENTRY⁷⁴

Patient records

426. In this part, “computerised records” means records created by way of entries on a computer.

427. The Contractor shall keep adequate records of its attendance on and treatment of its patients and shall do so-

427.1. on forms supplied to it for the purpose by the PCT; or

427.2. with the written consent of the PCT, by way of computerised records,

or in a combination of those two ways.

428. The Contractor shall include in the records referred to in clause 427 clinical reports sent in accordance with clause 39 or from any other *health care professional* who has provided clinical services to a person on its list of patients.

429. The consent of the PCT required by clause 427.2 shall not be withheld or, once given, withdrawn provided the PCT is satisfied, and continues to be satisfied, that-

⁷⁴ Except where it is expressly indicated in a footnote that a particular clause is only required in certain types of GMS Contract, this section is required by *the Regulations*: see Part 5 of Schedule 6.

429.1. the computer system upon which the Contractor proposes to keep the records has been accredited by *the Secretary of State* or another person on his behalf in accordance with General Practice Systems of Choice Level 2⁷⁵.

429.2. the security measures, audit and system management functions incorporated into the computer system as accredited in accordance with clause 429.1 have been enabled; and

429.3. the Contractor is aware of, and has signed an undertaking that it will have regard to the guidelines contained in "Good Practice Guidelines for General Practice Electronic Patient Records (version 4)" published on 21st March 2011 (this document is available on the Department of Health's website http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_125310 or a copy may be obtained by writing to the Department of Health, PCIT Branch, Room 1N06, Quarry House, Quarry Hill, Leeds LS2 7UE).

430. Where a patient's records are computerised records, the Contractor shall, as soon as possible following a request from the PCT, allow the PCT to access the information recorded on the computer system on which those records are held by means of the audit function referred to in clause 429.2 to the extent necessary for the PCT to check that the audit function is enabled and functioning correctly.

431. The Contractor shall send the complete records relating to a patient to the PCT-

⁷⁵ Information on specification can be found on <http://www.connectingforhealth.nhs.uk/systemsandservices/gpsupport/gpsoc>.

431.1. where a person on its list dies, before the end of the period of 14 days beginning with the date on which it was informed by the PCT of the death, or (in any other case) before the end of the period of one month beginning with the date on which it learned of the death; or

431.2. in any other case where the person is no longer registered with the Contractor, as soon as possible at the request of the PCT,

[and the Contractor's obligations pursuant to this clause, and clause 432 below shall survive the termination or expiry of the Contract]⁷⁶.

432. To the extent that a patient's records are computerised records, the Contractor complies with clause 431 if it sends to the PCT a copy of those records-

432.1. in written form; or

432.2. with the written consent of the PCT in any other form.

433. The consent of the PCT to the transmission of information other than in written form for the purposes of clause 432.2 shall not be withheld or withdrawn provided it is satisfied, and continues to be satisfied, with the following matters-

433.1. the Contractor's proposals as to how the record will be transmitted;

⁷⁶ The words in square brackets are not mandatory but they are recommended to ensure that an obligation to provide patient records to the PCT continues to apply even where the Contract has ended.

433.2. the Contractor's proposals as to the format of the transmitted record;

433.3. how the Contractor will ensure that the record received by the PCT is identical to that transmitted; and

433.4. how a written copy of the record can be produced by the PCT.

434. Where the Contractor's patient records are computerised records, the Contractor shall not disable, or attempt to disable, either the security measures or the audit and system management functions referred to in clause 429.2.

Access to records for the purpose of the Quality Information Preparation Scheme

435. [].

436. []

Confidentiality of personal data

437. The Contractor shall nominate a person with responsibility for practices and procedures relating to the confidentiality of personal data held by it.

Practice leaflet

438. The Contractor shall-

438.1. compile a *practice leaflet* which shall include the information specified in Schedule 3;

438.2. review its *practice leaflet* at least once in every period of 12 months and make any amendments necessary to maintain its accuracy; and

438.3. make available a copy of the leaflet, and any subsequent updates, to its patients and prospective patients.

438A. Where the Contractor has a website, the Contractor shall publish on that website details of the practice area specified in Clause 162, including the area known as the outer boundary area specified in Clause 162A, by reference to a sketch diagram, plan or postcode.

Provision of information

439. Subject to clause 440, the Contractor shall, at the request of the PCT, produce to the PCT or to a person authorised in writing by the PCT or allow it, or a person authorised in writing by it, to access, on request-

439.1. any information which is reasonably required by the PCT for the purposes of or in connection with the Contract; and

439.2. any other information which is reasonably required in connection with the PCT's functions.

440. The Contractor shall not be required to comply with any request made in accordance with clause 439 unless it has been made by the PCT in accordance with directions relating to the provision of information by contractors given to the PCT under section 17 of *the Act*.

440A. The Contractor shall produce the information requested, or, as the case may be, allow access to it-

440A.1. by such date as has been agreed as reasonable between the Contractor and the PCT; or

440A.2. in the absence of such agreement, within 28 days of the request being made.

Requests for information from PCT Patients' Forums

441. []

442. []

442.1. []

442.2. []

443. []

443.1. []

443.2. []

444. []

444.1. []

444.2. []

445. []

445.1. []

445.2. []

Inquiries about prescriptions and referrals

446. The Contractor shall, subject to clauses 447 and 448, sufficiently answer any inquiries whether oral or in writing from the PCT concerning-

446.1. any *prescription form* or *repeatable prescription* issued or created by a *prescriber*;

446.2. the considerations by reference to which *prescribers* issue such forms;

446.3. the referral by or on behalf of the Contractor of any patient to any other services provided under *the Act*; or

446.4. the considerations by which the Contractor makes such referrals or provides for them to be made on its behalf.

447. An inquiry referred to in clause 446 may only be made for the purpose either of obtaining information to assist the PCT to discharge its functions or of assisting the Contractor in the discharge of its obligations under the Contract.

448. The Contractor shall not be obliged to answer any inquiry referred to in clause 446 unless it is made-

448.1. in the case of clause 446.1 or 446.2 by an appropriately qualified *health care professional*; or

448.2. in the case of clause 446.3 or 446.4, by an appropriately qualified medical practitioner,

appointed in either case by the PCT to assist it in the exercise of its functions under clause 446 and 447 who produces, on request, written evidence that that person is authorised by the PCT to make such an inquiry on its behalf.

Provision of information to a *medical officer* etc.

449. The Contractor shall, if it is satisfied that the patient consents-

449.1. supply in writing to any person specified in clause 449.3, within such reasonable period as that person may specify, such clinical information as any of the persons mentioned in sub-clause 449.3.1 to 449.3.4 considers relevant about a patient to whom the contractor or a person acting on behalf of the contractor has issued or has refused to issue a medical certificate; and

449.2. answer any inquiries by any person mentioned in clause 449.3 about—

449.2.1. a prescription form or medical certificate issued or created by, or on behalf of, the contractor, or

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

449.3. For the purposes of sub-clause 449.1 and 449.2, the persons are –

449.3.1. a *medical officer*,

449.3.2. a *nursing officer*,

449.3.3. an *occupational therapist*,

449.3.4. a *physiotherapist*, or

449.3.5. an officer of the Department for Work and Pensions who is acting on behalf of, and at the direction of, any person specified in sub-clause 449.3.1 to 449.3.4.

450. For the purpose of being satisfied that a patient consents, the Contractor may rely on an assurance in writing from any person mentioned in clause 449.3 that the consent of the patient has been obtained, unless the Contractor has reason to believe that the patient does not consent.

Annual return and review

451. The Contractor shall submit an annual return relating to the Contract to the PCT which shall require the same categories of information from all persons who hold contracts with the PCT.

451A. Subject to article 53 of *the Transitional Order*, one such return may be requested by the PCT at any time during each financial year in relation to such period (not including any period covered by a previous annual return)

as may be specified in the request: in this clause, "financial year" means the twelve months ending with 31st March.

451B. The Contractor shall submit the completed return to the PCT-

451B.1. by such date as has been agreed as reasonable between the Contractor and the PCT; or

451B.2. in the absence of such agreement, within 28 days of the request being made.

452. Following receipt of the return referred to in clause 451, the PCT shall arrange with the Contractor an annual review of its performance in relation to the Contract.

453. Either the Contractor or the PCT may, if it wishes to do so, invite the *Local Medical Committee* for the area of the PCT to participate in the annual review.

454. The PCT shall prepare a draft record of the review referred to in clause 452 for comment by the Contractor and, having regard to such comments, shall produce a final written record of the review. A copy of the final record shall be sent to the Contractor.

Notifications to the PCT

455. In addition to any requirements of notification elsewhere in the Contract, the Contractor shall notify the PCT in writing, as soon as reasonably practicable, of-

- 455.1. any serious incident that, in the reasonable opinion of the Contractor, affects or is likely to affect the Contractor's performance of its obligations under the Contract;
 - 455.2. any circumstances which give rise to the PCT's right to terminate the contract under clauses 552 and 559;
 - 455.3. any appointments system which it proposes to operate and the proposed discontinuance of any such system;
 - 455.4. any change of which it is aware in the address of a registered patient; and
 - 455.5. the death of any patient of which it is aware.
456. The Contractor shall, unless it is impracticable for it to do so, notify the PCT in writing within 28 days of any occurrence requiring a change in the information about it published by the PCT in accordance with regulations made under section 16CC(3) of *the Act*.
457. The Contractor shall notify the PCT in writing of any person other than a *registered patient* or a person whom it has accepted as a *temporary resident* to whom it has provided the *essential services* described in clauses 47.3 or 50 within the period of 28 days beginning on the day that the services were provided.

Notice provision specific to a Contractor that is a company limited by shares⁷⁷

458. The Contractor shall give notice in writing to the PCT forthwith when-
- 458.1. any share in the Contractor is transmitted or transferred (whether legally or beneficially) to another person on a date after the Contract has been entered into;
 - 458.1A. a new director or secretary is appointed;
 - 458.2. it passes a resolution or a court of competent jurisdiction makes an order that the Contractor be wound up;
 - 458.3. circumstances arise which might entitle a creditor or a court to appoint a receiver, administrator or administrative receiver for the Contractor;
 - 458.4. circumstances arise which would enable the court to make a winding up order in respect of the Contractor; or
 - 458.5. the Contractor is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.
459. A notice under clause 458.1 shall confirm that the new shareholder, or, as the case may be, the personal representative of a deceased shareholder-
- 459.1. is a medical practitioner, or that he satisfies the conditions specified in section 28S(2)(b)(i) to (iv) of *the Act*; and
 - 459.2. meets the further conditions imposed on shareholders by virtue of regulations 4 and 5 of *the Regulations*.

⁷⁷ Clauses 458, 459, and 459A only need to be included in the Contract if the Contractor is a company limited by shares. If the Contractor is not a company limited by shares, these

459A. A notice under clause 458.1A shall confirm that the new director or, as the case may be, secretary meets the conditions imposed on directors and secretaries by virtue of regulation 5 of *the Regulations*.

Notice provision specific to a Contractor that is a partnership⁷⁸

460. The Contractor shall give notice in writing to the PCT forthwith when-

460.1. a partner leaves or informs his partners that he intends to leave the partnership, and the date upon which he left or will leave the partnership; and

460.2. a new partner joins the partnership.

461. A notice under clause 460.2 shall-

461.1. state the date that the new partner joined the partnership;

461.2. confirm that the new partner is a medical practitioner, or that he satisfies the condition specified in section 28S(2)(b)(i) to (iv) of *the Act*;

461.3. confirm that the new partner meets the conditions imposed by regulations 4 and 5; and

461.4. state whether the new partner is a general or limited partner.

Notification of deaths

clauses can be deleted.

⁷⁸ Clauses 460 and 461 only need to be included in the Contract if the Contractor is a partnership. If the Contractor is not a partnership, these clauses can be deleted.

462. The Contractor shall report in writing to the PCT the death on its *practice premises* of any patient no later than the end of the first working day after the date on which the death occurred.

463. The report shall include-

463.1. the patient's full name;

463.2. the patient's National Health Service number where known;

463.3. the date and place of death;

463.4. a brief description of the circumstances, as known, surrounding the death;

463.5. the name of any doctor or other person treating the patient whilst on the *practice premises*; and

463.6. the name, where known, of any other person who was present at the time of the death.

464. The Contractor shall send a copy of the report referred to in clause 462 to any other PCT in whose area the deceased was resident at the time of his death.

Notifications to patients following a variation of the Contract

465. Where the Contract is varied in accordance with Part 25 of this Contract and, as a result of that variation-

465.1. there is to be a change in the range of services provided to the Contractor's patients; or

465.2. patients who are on the Contractor's list of patients are to be removed from that list,

the PCT shall notify those patients in writing of the variation and its effect and inform them of the steps they can take to obtain elsewhere the services in question or, as the case may be, register elsewhere for the provision of *essential services* (or their equivalent).

Entry and inspection by the PCT

466. Subject to the conditions in clause 467, the Contractor shall allow persons authorised in writing by the PCT to enter and inspect the *practice premises* at any reasonable time.

467. The conditions referred to in clause 466 are that-

467.1. reasonable notice of the intended entry has been given;

467.2. written evidence of the authority of the person seeking entry is produced to the Contractor on request; and

467.3. entry is not made to any premises or part of the premises used as residential accommodation without the consent of the resident.

468. Either the Contractor or the PCT may, if it wishes to do so, invite the *Local Medical Committee* for the area of the PCT to be present at an inspection of the *practice premises* which takes place under clause 466.

Entry and inspection by members of PCT Patients' Forums

469. []

Entry and Inspection by the Care Quality Commission

470. The Contractor shall allow persons authorised by the Care Quality Commission to enter and inspect the premises in accordance with section 66 of the Health and Social Care (Community Health and Standards) Act 2003 as modified by section 3 to the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009⁷⁹ and section 62 of the Health and Social Care Act 2008.

Entry and viewing by local involvement network representatives

470A The Contractor must comply with regulation 3 of the Local Involvement Networks (Duty of Service-Providers to Allow Entry) Regulations 2008⁸⁰ in so far as it applies to the Contractor.

⁷⁹ S.I. 2009/462

⁸⁰ S.I. 2008/915

PART 16

CERTIFICATES⁸¹

471. The Contractor shall issue free of charge to a patient or his personal representative any medical certificate of a description prescribed in column 1 of the table below which is reasonably required under or for the purposes of the enactments specified in relation to the certificate in column 2 of the table below, except where, for the condition to which the certificate relates, the patient-

471.1. is being attended by a medical practitioner who is not-

471.1.1. employed or engaged by the Contractor,

471.1.2. if this Contract is with a partnership, one of the partners,
or

471.1.3. if this Contract is with a company limited by shares, one of the persons legally or beneficially owning shares in the company; or

471.2. is not being treated by or under the supervision of a *health care professional*.

472. The exception in sub-clause 471.1 shall not apply where the certificate is issued in accordance with regulation 2(1) of the Social Security (Medical Evidence) Regulations 1976 (which provides for the issue of a certificate as evidence of incapacity for work or limited capability for work) or

⁸¹ This Part is required by *the Regulations* (see regulation 21 and Schedule 4).

regulation 2(1) of the Statutory Sick Pay (Medical Evidence) Regulations 1985 (which provides for the issue of medical information relating to incapacity for work).

LIST OF PRESCRIBED MEDICAL CERTIFICATES

<i>Description of medical certificate</i>	<i>Enactment under or for the purpose of which certificate required</i>
1. To support a claim or to obtain payment either personally or by proxy; to prove inability to work or incapacity for self-support for the purposes of an award by the Secretary of State; or to enable proxy to draw pensions etc.	Naval and Marine Pay and Pensions Act 1865 Air Force (Constitution) Act 1917 Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 Personal Injuries (Emergency Provisions) Act 1939 Pensions (Mercantile Marine) Act 1942 Polish Resettlement Act 1947 Social Security Administration Act 1992 Social Security Contributions and Benefits Act 1992 Social Security Act 1998
2. To establish pregnancy for the purpose of obtaining welfare foods	Section 13 of the Social Security Act 1988 (schemes for distribution etc of welfare foods)
3. To secure registration of still-birth	Section 11 of the Births and Deaths Registration Act 1953 (special provision as to registration of still-birth)
4. To enable payment to be made to an institution or other person in case of mental disorder of persons entitled to payment from public funds.	Section 142 of the Mental Health Act 1983 (pay, pensions etc of mentally disordered persons)
5. To establish unfitness for jury service	Juries Act 1974

Standard General Medical Services Contract

6. To support late application for reinstatement in civil employment or notification of non-availability to take up employment owing to sickness. Reserve Forces (Safeguarding of Employment) Act 1985.

7. To enable a person to be registered as an absent voter on grounds of physical incapacity Representation of the People Act 1983

8. To support applications for certificates conferring exemption from charges in respect of drugs, medicines and appliances. National Health Service Act 1977

9. To support a claim by or on behalf of a severely mentally impaired person for exemption from liability to pay the Council Tax or eligibility for a discount in respect of the amount of Council Tax payable. Local Government Finance Act 1992.

PART 17⁸²

PAYMENT UNDER THE CONTRACT

473. The PCT and the Contractor shall make any payments under the Contract promptly and in accordance with both the terms of the Contract (including, for the avoidance of doubt, any payment due pursuant to clause 474), and any other conditions relating to the payment contained in directions given by *the Secretary of State* under section 28T of *the Act* subject to any right the PCT may have to set off against any amount payable to the Contractor under the Contract any amount-

473.1. that is owed by the Contractor to the PCT under the Contract; or

473.2. that the PCT may withhold from the Contractor in accordance with the terms of the Contract or any other applicable provisions contained in directions given by *the Secretary of State* under section 28T of *the Act* (GMS contracts: payments).

474. [Subject to clause 475]⁸³ The PCT shall make payments to the Contractor in such amount and in such manner as specified in any directions for the time being in force under section 17 or 28T of *the Act*. Where, pursuant to directions made under section 17 or 28T of *the Act*, the PCT is required to make a payment to the Contractor under the Contract but subject to conditions, those conditions are to be a term of the Contract.

475. [Payments to be made to the Contractor (and any relevant conditions to be met by the Contractor in relation to such payments) in respect of services where payments, or the amount of any such payments, are not

⁸² Part 16 is required by regulations 22 and 23 of *the Regulations* and section 28T(2) of *the Act*.

⁸³ The words in square brackets only need to be included if clause 475 is to be included.

specified in directions pursuant to clause 474, are set out in Schedule 7 to this Contract.]⁸⁴

[Payment provisions specific to a Contractor entering into the Contract following a *default contract* with the PCT

476. As a condition of entering into the Contract, the Contractor has surrendered all rights to further payments under the *default contract* to which the Contractor and the PCT were parties prior to entering into the Contract, and the Contractor acknowledges that any such rights were extinguished when the Contractor entered into the Contract.

477. For the purposes of payment under the Contract, the Contract shall be treated as if it commenced on 1st April 2004.

478. Any payment that has been made under the *default contract* to which the Contractor and the PCT were parties prior to entering into the Contract, that could have been made if the Contractor had entered into the Contract on or before 31st March 2004-

478.1. as a payment on account under the Contract, shall be treated as a payment on account under the Contract (and for these purposes any payment of one twelfth of a final *global sum* equivalent under that *default contract* shall be treated as a payment on account in respect of a payable *global sum* monthly payment);

⁸⁴ Clause 475 needs to be included if, pursuant to the Contract (Parts 8, 9 or 11), the Contractor is providing:-

- *additional services* that are not funded by the *global sum* or *out of hours services*; and/or
- *enhanced services*

and in either case, the payments to be made in respect of such services, and the conditions upon which payment is to be made, are not specified in Directions made under section 17 or 28T of *the Act*.

It will also need to be included if there are any other payments to be made, where the detail of such payments is not specified in directions, for example payments in respect of premises.

478.2. as a payment under the Contract, shall be treated as a payment under the Contract,

and accordingly any condition that attaches, or is to be attached, to such a payment when made under the Contract, by virtue of the *GMS Statement of Financial Entitlements* or any other relevant Directions given by the *Secretary of State*, is attached to that payment.

479. Any other payment that has been made under the *default contract* to which the Contractor and the PCT were parties prior to entering into the Contract, shall be set off, equitably, against any payment for equivalent services provided under the Contract.]⁸⁵

[Payment provisions specific to a Contractor entering into the Contract where the PCT has previously made payments to the Contractor under article 41(1) of *the Transitional Order*

480. As a condition of entering into the Contract, the Contractor has surrendered all rights to further payments from the PCT under article 41(1) of *the Transitional Order*, and the Contractor acknowledges that any such rights were extinguished when the Contractor entered into the Contract.

481. For the purposes of payment under the Contract, the Contract shall be treated as if it commenced on 1st April 2004.

482. Any payment that has been made under article 41(1) of *the Transitional Order* that could have been made-

482.1. as a payment on account under the Contract, shall be treated as a payment on account under the Contract (and for these purposes any payment of one twelfth of a final *global sum* equivalent under article 41(1) shall be treated as a payment on account in respect of a payable *global sum* monthly payment);

482.2. as a payment under the Contract, shall be treated as a payment under the Contract,

and accordingly any condition that attaches, or is to be attached, to such a payment when made under the Contract, by virtue of the *GMS Statement of Financial Entitlements*, the National Health Service (General Medical Services - Premises Costs) (England) Directions 2004, or any other relevant Directions given by *the Secretary of State*, is attached to that payment.]⁸⁶

⁸⁵ Clauses 476 to 479 are required by article 40 of *the Transitional Order* only where the Contractor has been a party to a *default contract* with the PCT and the Contract takes effect immediately after the *default contract* ceases to have effect.

⁸⁶ Clauses 480 to 482 are required by article 41(2) of *the Transitional Order* only where payments have been made to the Contractor by the PCT pursuant to article 41(1) of *the Transitional Order* prior to the Contract being entered into.

PART 18⁸⁷

FEES AND CHARGES

483. The Contractor shall not, either itself or through any other person, demand or accept from any patient of its a fee or other remuneration for its own or another's benefit-

483.1. for the provision of any treatment whether under the Contract or otherwise, or

483.2. for any prescription or repeat prescription for any drug, medicine or appliance,

except in the circumstances set out in clause 484.

484. The Contractor may demand or accept a fee or other remuneration—

484.1. from any statutory body for services rendered for the purposes of that body's statutory functions;

484.2. from any body, employer or school for a routine medical examination of persons for whose welfare the body, employer or school is responsible, or an examination of such persons for the purpose of advising the body, employer or school of any administrative action they might take;

⁸⁷ This Part is required by *the Regulations* (see regulation 24 and Schedule 5).

484.3. for treatment which is not primary medical services or otherwise required to be provided under the Contract and which is given-

484.3.1. pursuant to the provisions of section 65 of *the Act*, or

484.3.2. in a registered nursing home which is not providing services under that Act,

if, in either case, the person administering the treatment is serving on the staff of a hospital providing services under *the Act* as a specialist providing treatment of the kind the patient requires and if, within 7 days of giving the treatment, the Contractor or the person providing the treatment supplies the PCT, on a form provided by it for the purpose, with such information about the treatment as it may require;

484.4. under section 158 of the Road Traffic Act 1988;

484.5. when it treats a patient under clause 485, in which case it shall be entitled to demand and accept a reasonable fee from the patient (recoverable in certain circumstances under clause 486) for any treatment given, if it gives the patient a receipt;

484.6. for attending and examining (but not otherwise treating) a patient-

484.6.1. at his request at a police station in connection with possible criminal proceedings against him,

- 484.6.2. at the request of a commercial, educational or not-for-profit organisation for the purpose of creating a medical report or certificate, or
- 484.6.3. for the purpose of creating a medical report required in connection with an actual or potential claim for compensation by the patient;
- 484.7. for treatment consisting of an immunisation for which no remuneration is payable by the PCT and which is requested in connection with travel abroad;
- 484.8. for prescribing or providing drugs, medicines or appliances (including a collection of such drugs, medicines or appliances in the form of a travel kit) which a patient requires to have in his possession solely in anticipation of the onset of an ailment or occurrence of an injury while he is outside the United Kingdom but for which he is not requiring treatment when the medicine is prescribed;
- 484.9. for a medical examination to enable a decision to be made whether or not it is inadvisable on medical grounds for a person to wear a seat belt, or for the purpose of creating a report relating to a road traffic accident or criminal assault, or that offers an opinion as to whether a patient is fit to travel;
- 484.10. for testing the sight of a person to whom none of paragraphs (a), (b) or (c) of section 38(1) of *the Act* applies (including by reason of regulations under section 38(6) of that Act);

484.11. where the Contractor is authorised or required by a Primary Care Trust under regulation 60 of the *Pharmaceutical Regulations* or clauses 306 to 315 and clauses 322 to 326 to provide drugs, medicines or appliances to a patient and provides for that patient, otherwise than by way of pharmaceutical services or dispensing services, any Scheduled drug;

484.12. for prescribing or providing drugs for malaria chemoprophylaxis.

485. Where a person applies to the Contractor for the provision of *essential services* and claims to be on the Contractor's list of patients, but fails to produce his *medical card* on request and the Contractor has reasonable doubts about that person's claim, the Contractor shall give any necessary treatment and shall be entitled to demand and accept a reasonable fee in accordance with clause 484.5, subject to the provision for repayment contained in clause 486.

486. Where a person from whom the Contractor received a fee under clause 484.5 applies to the PCT for a refund within 14 days of payment of the fee (or such longer period not exceeding a month as the PCT may allow if it is satisfied that the failure to apply within 14 days was reasonable) and the PCT is satisfied that the person was on the Contractor's list of patients when the treatment was given, the PCT may recover the amount of the fee from the Contractor, by deduction from its remuneration or otherwise, and shall pay that amount to the person who paid the fee.

487. Part 18 shall survive the expiry or termination of the Contract to the extent that it prohibits the Contractor from, either itself or through any other person, demanding or accepting from any patient of it's a fee or other remuneration for its own or another's benefit-

487.1. for the provision of any treatment, whether under the Contract or otherwise, that was provided during the existence of the Contract;
or

487.2. for any prescription or repeat prescription for any drug, medicine or appliance, that was provided during the existence of the Contract⁸⁸.

⁸⁸ This clause is not mandatory but it is recommended.

PART 19⁸⁹

CLINICAL GOVERNANCE

488. The Contractor shall have an effective *system of clinical governance* which shall include appropriate standard operating procedures in relation to the management and use of controlled drugs. The Contractor shall nominate a person who will have responsibility for ensuring the effective operation of the *system of clinical governance*. The person nominated shall be a person who performs or manages services under the Contract.

488A. The Contractor shall co-operate with the PCT in the discharge of any obligation of the PCT or its accountable officer under the Controlled Drugs (Supervision of Management and Use) Regulations 2006.

⁸⁹ This Part is required by *the Regulations* (see paragraph 121 of Schedule 6).

PART 20⁹⁰

INSURANCE

489. The Contractor shall at all times hold adequate insurance against liability arising from negligent performance of clinical services under the Contract.

490. The Contractor shall not sub-contract its obligations to provide clinical services under the Contract unless it is satisfied that the sub-contractor holds adequate insurance against liability arising from negligent performance of such services.

491. For the purposes of clauses 489 to 491.2-

491.1. "insurance" means a contract of insurance or other arrangement made for the purpose of indemnifying the Contractor; and

491.2. the Contractor shall be regarded as holding insurance if it is held by a person employed or engaged by it in connection with clinical services which that person provides under the contract or, as the case may be, sub-contract.

492. The Contractor shall at all times hold adequate public liability insurance in relation to liabilities to third parties arising under or in connection with the Contract which are not covered by the insurance referred to in clause 489.

⁹⁰ This Part is required by *the Regulations* (see paragraph 122 and 123 of Schedule 6).

PART 21⁹¹

GIFTS

493. The Contractor shall keep a register of gifts which-

493.1. are given to any of the persons specified in clause 494 by, or on behalf of, a patient, a relative of a patient or any person who provides or wishes to provide services to the Contractor or its patients in connection with the Contract; and

493.2. have, in its reasonable opinion, a value of more than £100.00.

494. The persons referred to in clause 493 are-

494.1. the Contractor;

494.2. if the Contractor is a partnership, any partner;

494.3. if the Contractor is a company, any person legally and beneficially holding a share in the company, or a director or secretary of the company;

494.4. any person employed by the Contractor for the purposes of the Contract;

494.5. any *general medical practitioner* engaged by the Contractor for the purposes of the Contract;

⁹¹ This Part is mandatory: see paragraph 124 of Schedule 6 to *the Regulations*.

494.6. any spouse or civil partner of the Contractor (if the Contractor is an individual medical practitioner) or of a person specified in clauses 494.2 to 494.5; or

494.7. any person (whether or not of the opposite sex) whose relationship with the Contractor (where the Contractor is an individual medical practitioner) or with a person specified in clauses 494.2 to 494.5 has the characteristics of the relationship between husband and wife.

495. Clause 493 does not apply where-

495.1. there are reasonable grounds for believing that the gift is unconnected with services provided or to be provided by the Contractor;

495.2. the Contractor is not aware of the gift; or

495.3. the Contractor is not aware that the donor wishes to provide services to the Contractor.

496. The Contractor shall take reasonable steps to ensure that it is informed of gifts which fall within clause 493 and which are given to the persons specified in clauses 494.2 to 494.7;

497. The register referred to in clause 493 shall include the following information-

497.1. the name of the donor;

- 497.2. in a case where the donor is a patient, the patient's National Health Service number or, if the number is not known, his address;
 - 497.3. in any other case, the address of the donor;
 - 497.4. the nature of the gift;
 - 497.5. the estimated value of the gift; and
 - 497.6. the name of the person or persons who received the gift.
498. The Contractor shall make the register available to the PCT on request.

PART 22⁹²

COMPLIANCE WITH LEGISLATION AND GUIDANCE

499. The Contractor shall comply with all relevant legislation and have regard to all relevant guidance issued by the PCT, the *relevant Strategic Health Authority* or *the Secretary of State*.

⁹² This Part is required by *the Regulations* (see paragraph 124 of Schedule 6).

PART 23⁹³

COMPLAINTS

Complaints procedure

500. The Contractor shall establish and operate a complaints procedure to deal with any complaints in relation to any matter reasonably connected with the provision of services under the Contract.

501. The complaints procedure referred to above shall, in respect of complaints made on or after 1st April 2009, comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009⁹⁴.

502. As regards any complaints received prior to 1st April 2009, the Contractor shall continue to deal with such complaints in accordance with the complaints procedure it was required to establish and operate prior to 1st April 2009.

503. []

Making of complaints

504. []

504.1. []

504.1.1. []

⁹³ This Part is required by *the Regulations*: see Part 6 of Schedule 6.

504.1.2. []

504.1.3. []

504.2. []

505. []

Period for making complaints

506. []

506.1. []

506.2. []

507. []

507.1. []

507.2. []

[]

Further requirements for complaints procedure

508. []

508.1. []

⁹⁴ S.I. 2009/ 309.

- 508.2. []
- 509. []
- 509.1. []
- 509.2. []
- 509.3. []
- 510. []
- 511. []
- 512. []

Co-operation with investigations

513. The Contractor shall co-operate with-

513.1. any investigation of a complaint in relation to any matter reasonably connected with the provision of services under the Contract undertaken by the PCT and the Health Service Commissioner; and

513.2. any investigation of a complaint by an NHS body or local authority which relates to a patient or former patient of the Contractor.

514. In the previous clause-

514.1. "NHS body" means a Primary Care Trust, (in England and Wales and Scotland) an NHS trust, an NHS foundation trust, a Strategic Health Authority, a Local Health Board, a *Health Board*, a *Health and Social Services Board* or a *Health and Social Services Trust*;

514.2. "local authority" means any of the bodies listed in section 1 of the Local Authority Social Services Act 1970, the Council of the Isles of Scilly or a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, and

514.3. "Health Service Commissioner" means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the Health Service Commissioners Act 1993⁹⁵.

515. In co-operating with any investigation, the Contractor shall, by way of example,-

515.1. answer questions reasonably put to the Contractor by the PCT;

515.2. provide any information relating to the complaint reasonably required by the PCT; and

515.3. attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given) if the Contractor's presence at the meeting is reasonably required by the PCT.

516. []

517. Part 23 of this Contract shall survive the expiry or termination of the Contract insofar as it relates to any complaint or investigation reasonably connected with the provision of services under the contract before it terminated⁹⁶.

⁹⁵ 1993 c.46.

⁹⁶ This clause is not mandatory but it is recommended to ensure that the Contractor is still under an obligation to comply with the investigation of a complaint or with any relevant investigation where the Contract has terminated or expired.

PART 24⁹⁷

DISPUTE RESOLUTION

Local resolution of contract disputes

518. Subject to clause 520, in the case of any dispute arising out of or in connection with the Contract, the Contractor and the PCT must make every reasonable effort to communicate and cooperate with each other with a view to resolving the dispute, before referring the dispute for determination in accordance with the *NHS dispute resolution procedure* (or, where applicable, before commencing court proceedings).

519. Either the Contractor or the PCT may, if it wishes to do so, invite the *Local Medical Committee* for the area of the PCT to participate in discussions which take place pursuant to clause 518,

520. In the case of a dispute which falls to be dealt with under the procedure specified in paragraph 36 of Schedule 6 to *the Regulations*, clause 518 does not apply where it is not practicable for the parties to attempt local resolution before the expiry of the 7-day period specified in paragraph 36(4) of Schedule 6 to *the Regulations*.

Dispute resolution: non-NHS Contracts⁹⁸

521. Any dispute arising out of or in connection with the Contract, except matters dealt with under the complaints procedure set out in clauses 500

⁹⁷ Except where specifically indicated in the footnotes, this Part is required by *the Regulations* (see Part 7 of Schedule 6).

⁹⁸ These clauses are mandatory terms only if the contract is not an *NHS contract*. Otherwise, the clauses should be deleted from the Contract.

to 516 of this Contract, may be referred for consideration and determination to *the Secretary of State*, if:

521.1. the PCT so wishes and the Contractor has agreed in writing; or

521.2. the Contractor so wishes (even if the PCT does not agree).

522. In the case of a dispute referred to the Secretary of State under clause 521, the procedure to be followed is the *NHS dispute resolution procedure*, and the parties agree to be bound by a determination made by the *adjudicator*.

NHS dispute resolution procedure

523. Subject to clause 524, the *NHS dispute resolution procedure* applies in the case of any dispute arising out of or in connection with the Contract which is referred to *the Secretary of State* in accordance with [section 4(3) of the 1990 Act / clause 521 above]⁹⁹, and the PCT and the Contractor shall participate in the *NHS dispute resolution procedure* as set out in paragraphs 101 and 102 of Schedule 6 to *the Regulations*.

524. The *NHS dispute resolution procedure* does not apply where the Contractor refers a matter for determination in accordance with clause 263, and in such a case the procedure specified in paragraph 36 of Schedule 6 to *the Regulations* shall apply instead.

525. Any party wishing to refer a dispute shall send to *the Secretary of State* a written request for dispute resolution which shall include or be accompanied by-

525.1. the names and addresses of the parties to the dispute;

525.2. a copy of the Contract; and

525.3. a brief statement describing the nature and circumstances of the dispute.

526. Any party wishing to refer a dispute as mentioned in clause 523 must send the request under clause 525 within a period of three years beginning with the date on which the matter giving rise to the dispute happened or should reasonably have come to the attention of the party wishing to refer the dispute.

527. In clauses 518 to 526 “any dispute arising out of or in connection with the contract” includes any dispute arising out of or in connection with the termination of the contract.

528. Part 24 shall survive the expiry or termination of the Contract.

⁹⁹ If the contract is an NHS contract, the parties must select the phrase “section 4(3) of the 1990 Act”. If the contract is not an NHS contract, the parties must select the phrase “clause 521 above”.

PART 25¹⁰⁰

VARIATION AND TERMINATION OF THE CONTRACT

Variation of the Contract: general

529. Subject to Part 10 of the Contract (opts outs of *additional* and *out of hours services*), clauses 86, 87, 377, 386 and 407, and this Part (variation and termination of the Contract), no amendment or variation shall have effect unless it is in writing and signed by or on behalf of the PCT and the Contractor.

530. In addition to the specific provision made in clauses 537, 542 and 577, the PCT may vary the Contract without the Contractor's consent so as to comply with *the Act*, any regulations made pursuant to that Act, or any direction given by *the Secretary of State* pursuant to that Act where it-

530.1. is reasonably satisfied that it is necessary to vary the Contract in order so to comply; and

530.2. notifies the Contractor in writing of the wording of the proposed variation and the date upon which that variation is to take effect.

531. Where it is reasonably practicable to do so, the date that the proposed variation is to take effect shall be not less than 14 days after the date on which the notice under clause 530.2 is served on the Contractor.

Variation provisions specific to a contract with an individual medical practitioner¹⁰¹

¹⁰⁰ Except where it is indicated in a footnote that a particular provision is only required in

532. Where the Contractor is an individual medical practitioner and proposes to practise in partnership with one or more persons during the existence of the Contract, the Contractor shall notify the PCT in writing of-

532.1. the name of the person or persons with whom it proposes to practise in partnership;

532.2. the date on which the Contractor wishes to change its status from that of an individual medical practitioner to that of a partnership, which shall be not less than 28 days after the date upon which it has served the notice on the PCT pursuant to this clause.

533. A notice under clause 532 shall, in respect of the person or each of the persons with whom the Contractor is proposing to practise in partnership, and also in respect of the Contractor as regards the matters specified in clause 533.3-

533.1. confirm that he is either a medical practitioner or a person who satisfies the conditions specified in section 28S(2)(b)(i) to (iv) of *the Act*,

533.2. confirm that he is a person who satisfies the conditions imposed by regulations 4 and 5 of *the Regulations*; and

533.3. state whether or not it is to be a *limited partnership*, and if so, who is to be a limited partner and who a general partner,

certain types of contract, this Part is required by *the Regulations*: see Part 8 of Schedule 6.

¹⁰¹ If the Contractor is not an individual medical practitioner, then this clause does not need to be included.

and the notice shall be signed by the Contractor, and by the person or each of the persons with whom it is proposing to practice in partnership.

534. The Contractor shall ensure that any person who will practise in partnership with it is bound by the Contract, whether by virtue of a partnership deed or otherwise.

535. If the PCT is satisfied as to the accuracy of the matters specified in the notice referred to in clause 532, the PCT shall give notice in writing to the Contractor confirming that the Contract shall continue with the partnership entered into by the Contractor and its partners, from a date that the PCT specifies in that notice.

536. The date specified by the PCT pursuant to clause 535 shall be the date requested in the notice served by the Contractor pursuant to clause 532, or, where that date is not reasonably practicable, the date closest to the requested date as is reasonably practicable.

537. Where the Contractor has given notice to the PCT pursuant to clause 532, the PCT may vary the Contract but only to the extent that it is satisfied is necessary to reflect the change in status of the Contractor from an individual medical practitioner to a partnership. If the PCT does propose so to vary the Contract, it shall include in the notice served on the Contractor pursuant to clause 535 the wording of the proposed variation and the date upon which that variation is to take effect.

Variation provisions specific to a contract with a Partnership¹⁰²

538. Subject to clause 540, where the Contractor consists of two or more individuals practising in partnership, in the event that the partnership is

¹⁰² If the Contractor is not a partnership, then this clause does not need to be included.

terminated or dissolved, the Contract shall only continue with one of the former partners if that partner is-

538.1. nominated in accordance with clause 539; and

538.2. a medical practitioner who meets the condition in regulation 4(2)(a) of *the Regulations*,

and provided that the other requirements in clause 539 are met.

539. The Contractor shall notify the PCT in writing at least 28 days in advance of the date on which the Contractor proposes to change its status from that of a partnership to that of an individual medical practitioner. The notice shall:

539.1. specify the date on which the Contractor proposes to change its status from that of a partnership to that of an individual medical practitioner;

539.2. specify the name of the medical practitioner with whom the Contract will continue, which must be one of the partners; and

539.3. be signed by all the persons who are practising in partnership.

540. If the partnership is terminated or dissolved because, in a partnership consisting of two individuals practising in partnership, one of the partners has died, the remaining individual shall notify the PCT in writing as soon as is reasonably practicable of the death of his partner and clause 540A or 540B shall apply.

540A. If the remaining individual is a general medical practitioner, the Contract shall continue with that individual.

540B. If clause 540A does not apply, the PCT may, if it thinks fit, serve notice in writing on the remaining individual confirming that the PCT will allow the Contract to continue with that individual, for a period specified by the PCT of up to six months (the "interim period") provided that he consents to the PCT employing or supplying a general medical practitioner to him for the interim period to assist in the provision of clinical services under the Contract.

540C. Before deciding whether to serve a notice pursuant to clause 540B, the PCT shall, whenever it is reasonably practicable to do so, consult the Local Medical Committee (if any) for its area.

540D. If, during the interim period, the Contractor withdraws his consent to the PCT employing or supplying a general medical practitioner, the PCT shall serve notice in writing on the Contractor terminating the Contract forthwith.

540E. If, at the end of the interim period, the Contractor has not entered into partnership with a general medical practitioner who is not a limited partner, the PCT shall serve notice on the contractor terminating the Contract forthwith.

541. When the PCT receives a notice pursuant to clause 539 or 540, it shall acknowledge in writing receipt of the notice, and in relation to a notice served pursuant to clause 539, the PCT shall do so as soon as reasonably practicable, and in any event before the date specified pursuant to clause 539.1.

542. Where the Contractor gives notice to the PCT pursuant to clause 539 or 540, the PCT may vary the Contract but only to the extent that it is satisfied is necessary to reflect the change in status of the Contractor from a partnership to an individual medical practitioner. If the PCT varies the Contract, it shall notify the Contractor in writing of the wording of the proposed variation and the date upon which that variation is to take effect.

542A. In clauses 540A, B, D and E, “general medical practitioner” has the same meaning as in regulation 4(1) of *the Regulations*.

Termination by agreement

543. The PCT and the Contractor may agree in writing to terminate the Contract, and if the parties so agree, they shall agree the date upon which that termination will take effect and any further terms upon which the Contract should be terminated.

Termination on the death of an individual medical practitioner¹⁰³

543A. Where the Contractor dies, the Contract shall terminate at the end of the period of seven days after the date of his death unless, before the end of that period –

543A.1. the PCT has agreed in writing with the Contractor’s personal representatives that the Contract should continue for a further period, not exceeding 28 days after the end of the period of seven days; and

543A.2. the Contractor's personal representatives have consented in writing to the PCT employing or supplying one or more general medical practitioners to assist in the provision of clinical services under the Contract throughout the period for which it continues.

543B. In clause 543A.2, "general medical practitioner" has the same meaning as in regulation 4(1) of *the Regulations*.

543C. Clause 543A does not affect any other rights to terminate the Contract which the Primary Care Trust may have under clauses 558 to 573.

Termination by the Contractor

544. The Contractor may terminate the Contract by serving notice in writing on the PCT at any time.

545. [Where the Contractor serves notice pursuant to clause 544, the Contract shall terminate six months after the date on which the notice is served ("the termination date"), save that if the termination date is not the last calendar day of a month, the Contract shall instead terminate on the last calendar day of the month in which the termination date falls.]¹⁰⁴

546. [Where the Contractor serves notice pursuant to clause 544, the Contract shall terminate three months after the date on which the notice is served ("the termination date"), save that if the termination date is not the

¹⁰³ If the Contractor is not an individual medical practitioner, then this clause does not need to be included.

¹⁰⁴ This clause should be included where the Contractor is a partnership or a limited company. Where the Contractor is an individual medical practitioner, this clause should be deleted.

last calendar day of a month, the Contract shall instead terminate on the last calendar day of the month in which the termination date falls.]¹⁰⁵

547. The Contractor may give notice in writing (“late payment notice”) to the PCT if the PCT has failed to make any payments due to the Contractor in accordance with Part 17 of this Contract. The Contractor shall specify in the late payment notice the payments that the PCT has failed to make in accordance with Part 17 of the Contract.

548. The Contractor may, at least 28 days after having served a late payment notice, terminate the contract by a further written notice if the PCT has still failed to make payments due to the Contractor, and that were specified in the late payment notice served on the PCT pursuant to clause 547.

549. If, following receipt of a late payment notice, the PCT refers the matter to the *NHS dispute resolution procedure* within 28 days of the date upon which it is served with the late payment notice, and it notifies the Contractor in writing that it has done so within that period of time, the Contractor may not terminate the Contract pursuant to clause 548 until-

549.1. there has been a determination of the dispute pursuant to paragraph 101 of Schedule 6 to *the Regulations*; or

549.2. the PCT ceases to pursue the *NHS dispute resolution procedure*,

whichever is the sooner.

¹⁰⁵ This clause should be included where the Contractor is an individual medical practitioner. Where the Contractor is a partnership or a limited company, this clause should be deleted.

550. Clauses 544 to 549 are without prejudice to any other rights to terminate the Contract that the Contractor may have.

Termination by the PCT: general

551. The PCT may only terminate the Contract in accordance with the provisions of Part 25 of this Contract.

Termination by the PCT for breach of conditions in regulation 4 of *the Regulations*

552. Subject to clauses 552A and 557A the PCT shall serve notice in writing on the Contractor terminating the Contract forthwith if the Contractor is an individual medical practitioner, and the medical practitioner no longer satisfies the condition specified in regulation 4(1) of *the Regulations*.

552A. Where the failure of an individual medical practitioner to continue to satisfy the condition specified in regulation 4(1) of *the Regulations* is the result of a suspension specified in clause 554B, clause 552 shall not apply unless—

552A.1. the Contractor is unable to satisfy the PCT that it has in place adequate arrangements for the provision of clinical services under the Contract for so long as the suspension continues; or

552A.2. the PCT is satisfied that the circumstances of the suspension are such that if the Contract is not terminated forthwith—

552A.2.1. the safety of the Contractor's patients is at serious risk; or

552A.2.2. the PCT is at risk of material financial loss.

553. Subject to clause 557A, and except in a case to which clause 540 applies, where the Contractor is-

553.1. two or more persons practising in partnership, and the condition specified in regulation 4(2)(a) of *the Regulations* is no longer satisfied; or

553.2. a company limited by shares, and the condition specified in regulation 4(3)(a) of *the Regulations* is no longer satisfied

clause 554 shall apply.

554. Where clause 553.1 or 553.2 applies, the PCT shall-

554.1. serve notice in writing on the Contractor terminating the Contract forthwith; or

554.2. serve notice in writing on the Contractor confirming that the PCT will allow the Contract to continue, for a period specified by the PCT in accordance with clause 554A (the "interim period"), during which time the PCT shall, with the consent of the Contractor, employ or supply one or more *general medical practitioners* to the Contractor for the interim period to assist the Contractor in the provision of clinical services under the Contract.

554A. The period specified by the PCT under clause 554.2 shall not exceed –

554A.1. six months; or

554A.2. in a case where the failure of the Contractor to continue to satisfy the condition in regulation 4(2)(a) or, as the case may be, 4(3)(a) of *the Regulations*, is the result of a suspension referred to in clause 554B, the period for which that suspension continues.

554B. The suspensions referred to in clauses 552A and 554A.2 are suspension –

554B.1. by a Fitness to Practise Panel under –

554B.1.1. section 35D of the Medical Act 1983 in a health case, other than an indefinite suspension under section 35D(6) of that Act;
or

554B.1.2. section 38(1) of that Act; or

554B.2. by a Fitness to Practise Panel or an Interim Orders Panel under section 41A of that Act.

554C. In clause 554B.1.1 , “health case” has the meaning given in section 35E(4) of the Medical Act 1983.

555. Before deciding which of the options in clause 554 to pursue, the PCT shall, whenever it is reasonably practicable to do so, consult the *Local Medical Committee* (if any) for its area.

556. If the Contractor does not, pursuant to clause 554.2, consent to the PCT employing or supplying a *general medical practitioner* during the interim period, the PCT shall serve notice in writing on the Contractor terminating the Contract forthwith.

557. If, at the end of the interim period, the Contractor still falls within clause 553.1 or 553.2, the PCT shall serve notice in writing on the Contractor terminating the Contract forthwith.

557A. Clauses 552 to 554 shall not apply to the contractor where regulation 19 of the National Health Service (Primary Medical Services) (Miscellaneous Amendments) Regulations 2004 applies.

557B. In clauses 554 and 556, “general medical practitioner” has the same meaning as in regulation 4(1) of *the Regulations*.

Termination by the PCT for provision of untrue etc information

558. The PCT may serve notice in writing on the Contractor terminating the contract forthwith, or from such date as may be specified in the notice if, after this Contract was entered into, it has come to the attention of the PCT that written information provided to the PCT by the Contractor –

558.1. before the Contract was entered into; or

558.2. pursuant to clauses 459, 459A or 461,

in relation to the conditions set out in regulation 4 and 5 of *the Regulations* (and compliance with those conditions) was, when given, untrue or inaccurate in a material respect.

Other grounds for termination by the PCT

559. The PCT may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if-

559.1. in the case of a contract with a medical practitioner, that medical practitioner;

559.2. in the case of a contract with two or more individuals practising in partnership, any individual or the partnership; and

559.3. in the case of a contract with a company limited by shares, the company, any person legally and beneficially owning a share in the company, or any director or secretary of the company,

falls within clause 560 during the existence of the Contract or, if later, on or after the date on which a notice in respect of his compliance with the conditions in regulation 5 of *the Regulations* was given under clauses 459, 459A or 461.

560. A person falls within this clause if-

560.1. it does not satisfy the conditions prescribed in section 28S(2)(b) or (3)(b) of *the Act*;

560.2. he or it is the subject of a *national disqualification*;

560.3. subject to clause 561, he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any *licensing body* anywhere in the world;

560.4. subject to clause 562, he has been dismissed (otherwise than by reason of redundancy) from any employment by a *health service body* unless before the PCT has served a notice terminating the Contract pursuant to this clause, he is employed by the *health service body* that dismissed him or by another *health service body*;

560.5. he or it is removed from, or refused admission to, a *primary care list* by reason of inefficiency, fraud or unsuitability (within the meaning of section 49F(2), (3) and (4) of *the Act* respectively) unless his or its name has subsequently been included in such a list;

560.6. he has been convicted in the United Kingdom of murder or an offence referred to in Schedule 1 to the Children and Young Persons Act 1933 or Schedule 1 to the Criminal Procedure (Scotland) Act 1995;

560.7. he has been convicted in the United Kingdom of a criminal offence other than murder, and has been sentenced to a term of imprisonment of over six months;

560.8. subject to clause 564, he has been convicted elsewhere of an offence which would, if committed in England and Wales -

560.8.1. constitute murder, or

560.8.2. constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;

560.9. he or it has-

560.9.1. been adjudged bankrupt or had sequestration of his estate awarded unless (in either case) he has been discharged or the bankruptcy order has been annulled;

560.9.2. been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 or Schedule 2A to the Insolvency

(Northern Ireland) Order 1989, unless that order has ceased to have effect or has been annulled;

560.9.3. made a composition or arrangement with, or granted a trust deed for, his or its creditors unless he or it has been discharged in respect of it;

560.9.4. been wound up under Part IV of the Insolvency Act 1986;

560.9.5. had an administrator, administrative receiver or receiver appointed in respect of it; or

560.9.6. had an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986.

560.10. that person is a partnership and-

560.10.1. a dissolution of the partnership is ordered by any competent court, tribunal or arbitrator, or

560.10.2. an event happens that makes it unlawful for the business of the partnership to continue, or for members of the partnership to carry on in partnership together;

560.11. he has been-

560.11.1. removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible

or to which he was privy, or which he by his conduct contributed to or facilitated; or

560.11.2. removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session), from being concerned in the management or control of any body;

560.12. he is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986;

560.13. he has refused to comply with a request by the PCT for him to be medically examined on the grounds that it is concerned that he is incapable of adequately providing services under the contract and, in a case where the contract is with two or more individuals practising in partnership or with a company, the PCT is not satisfied that the Contractor is taking adequate steps to deal with the matter.

561. The PCT shall not terminate the Contract pursuant to clause 560.3 where the PCT is satisfied that the disqualification or suspension imposed by a *licensing body* outside the United Kingdom does not make the person unsuitable to be a contractor, a partner, a person legally and beneficially holding a share in the company, or a director or secretary of the company, as the case may be.

562. The PCT shall not terminate the Contract pursuant to clause 560.4 until a period of at least three months has elapsed since the date of the dismissal of the person concerned; or if, during that period of time, the

person concerned brings proceedings in any competent tribunal or court in respect of his dismissal, until proceedings before that tribunal or court are concluded. The PCT may only terminate the Contract in the latter situation if there is no finding of unfair dismissal at the end of those proceedings.

563. [Where the PCT has entered into the Contract-

563.1. following a *default contract* with the Contractor; or

563.2. pursuant to an entitlement on the part of the Contractor under Part 2 of *the Transitional Order*, after 31st March 2004 other than following a *default contract*,

clause 559 shall apply as if it enabled the PCT to serve notice of termination on the Contractor on the grounds of a person falling within clause 560.4 at any time after 31st March 2004.]¹⁰⁶

564. The PCT shall not terminate the Contract pursuant to clause 560.8 where the PCT is satisfied that the conviction does not make the person unsuitable to be a contractor, a partner, a person legally and beneficially holding a share in the company, or a director or secretary of the company, as the case may be.

Termination by the PCT for a serious breach

565. The PCT may serve notice in writing on the Contractor terminating the Contract forthwith or with effect from such date as may be specified in the notice if-

¹⁰⁶ This clause only needs to be included if the Contractor falls within 563.1 or 563.2. If not, this clause can be deleted.

565.1. the Contractor has breached the Contract and the PCT considers that as a result of that breach, the safety of the Contractor's patients is at serious risk if the Contract is not terminated; or

565.2. the Contractor's financial situation is such that the PCT considers that the PCT is at risk of material financial loss.

Termination by the PCT for unlawful sub-contracting

565A. If the Contractor breaches the condition specified in clause 378A and it comes to the attention of the PCT that the Contractor has done so, the PCT shall serve a notice in writing on the Contractor-

565A.1 terminating the Contract forthwith; or

565A.2 instructing the Contractor to terminate the sub-contracting arrangements that give rise to the breach forthwith.

565B. If the Contractor fails to comply with any instruction given to it under clause 565A.2, the PCT shall serve a notice in writing on the Contractor terminating the Contract forthwith.

Termination by the PCT: remedial notices and breach notices

566. Where the Contractor has breached the Contract other than as specified in clauses 552 to 565B and the breach is capable of remedy, the PCT shall, before taking any action it is otherwise entitled to take by virtue of the Contract, serve a notice on the Contractor requiring it to remedy the breach ("remedial notice").

567. A remedial notice shall specify-
- 567.1. details of the breach;
 - 567.2. the steps the Contractor must take to the satisfaction of the PCT in order to remedy the breach; and
 - 567.3. the period during which the steps must be taken (“the notice period”).
568. The notice period shall, unless the PCT is satisfied that a shorter period is necessary to protect the safety of the Contractor’s patients or protect itself from material financial loss, be no less than 28 days from the date that notice is given.
569. Where the PCT is satisfied that the Contractor has not taken the required steps to remedy the breach by the end of the notice period, the PCT may terminate the Contract with effect from such date as the PCT may specify in a further notice to the Contractor.
570. Where the Contractor has breached the Contract other than as specified in clauses 552 to 565B and the breach is not capable of remedy, the PCT may serve notice on the Contractor requiring it not to repeat the breach (“breach notice”).
571. If, following a breach notice or a remedial notice, the Contractor-
- 571.1. repeats the breach that was the subject of the breach notice or the remedial notice; or

571.2. otherwise breaches the Contract resulting in either a remedial notice or a further breach notice,

the PCT may serve notice on the Contractor terminating the Contract with effect from such date as may be specified in that notice.

572. The PCT shall not exercise its right to terminate the Contract under the previous clause unless it is satisfied that the cumulative effect of the breaches is such that it would be prejudicial to the efficiency of the services to be provided under the Contract to allow the Contract to continue.

573. If the Contractor is in breach of any obligation and a breach notice or a remedial notice in respect of that default has been given to the Contractor, the PCT may withhold or deduct monies which would otherwise be payable under the Contract in respect of that obligation which is the subject of the default.

Termination by the PCT: additional provisions specific to Contracts with companies limited by shares¹⁰⁷

574. If the PCT becomes aware that the Contractor is carrying on any business which the PCT considers to be detrimental to the Contractor's performance of its obligations under the Contract-

574.1. the PCT shall be entitled to give notice to the Contractor requiring that it ceases carrying on that business before the end of a period of not less than 28 days beginning on the day on which the notice is given ("the notice period"); and

¹⁰⁷ If the Contractor is not a company limited by shares, this clause should be deleted.

574.2. if the Contractor has not satisfied the PCT that it has ceased carrying on that business by the end of the notice period, the PCT may, by a further written notice, terminate the Contract forthwith or from such date as may be specified in the notice.

Termination by the PCT: additional provisions specific to Contracts with two or more individuals practising in partnership¹⁰⁸

575. Where the Contractor is two or more persons practising in partnership, the PCT shall be entitled to terminate the Contract by notice in writing on such date as may be specified in that notice where one or more partners have left the practice during the existence of the Contract if in its reasonable opinion, the PCT considers that the change in membership of the partnership is likely to have a serious adverse impact on the ability of the Contractor or the PCT to perform its obligations under the Contract.

576. A notice given to the Contractor pursuant to clause 575 shall specify-

576.1. the date upon which the Contract is to be terminated; and

576.2. the PCT's reasons for considering that the change in the membership of the partnership is likely to have a serious adverse impact on the ability of the Contractor or the PCT to perform its obligations under the Contract.

Contract sanctions

577. In clauses 578 to 586, 592 and 593, "contract sanction" means-

¹⁰⁸ If the Contractor is not two or more individuals practising in partnership, this clause should be deleted.

577.1. termination of specified reciprocal obligations under the Contract;

577.2. suspension of specified reciprocal obligations under the Contract for a period of up to six months; or

577.3. withholding or deducting monies otherwise payable under the Contract.

578. Where the PCT is entitled to terminate the Contract pursuant to clauses 558, 559, 565, 569 and 571, it may instead impose any of the contract sanctions if the PCT is reasonably satisfied that the contract sanction to be imposed is appropriate and proportionate to the circumstances giving rise to the PCT's entitlement to terminate the Contract.

579. The PCT shall not, under clause 578, be entitled to impose any contract sanction that has the effect of terminating or suspending any obligation to provide, or any obligation that relates to, *essential services*.

580. If the PCT decides to impose a contract sanction, it must notify the Contractor of the contract sanction that it proposes to impose, the date upon which that sanction will be imposed and provide in that notice an explanation of the effect of the imposition of that sanction.

581. Subject to clauses 583 to 586, the PCT shall not impose the contract sanction until at least 28 days after it has served notice on the Contractor pursuant to clause 580 unless the PCT is satisfied that it is necessary to do so in order to protect the safety of the Contractor's patients, or protect itself from material financial loss.

582. Where the PCT imposes a contract sanction, the PCT shall be entitled to charge the Contractor the reasonable costs of additional administration that the PCT has incurred in order to impose, or as a result of imposing, the contract sanction.

Contract sanctions and the *NHS dispute resolution procedure*

583. If there is a dispute between the PCT and the Contractor in relation to a contract sanction that the PCT is proposing to impose, the PCT shall not, subject to clause 586, impose the proposed contract sanction except in the circumstances specified in clause 584.1 or 584.2.

584. If the Contractor refers the dispute relating to the contract sanction to the *NHS dispute resolution procedure* within 28 days beginning on the date on which the PCT served notice on the Contractor in accordance with clause 580 (or such longer period as may be agreed in writing with the PCT), and notifies the PCT in writing that it has done so, the PCT shall not impose the contract sanction unless-

584.1. there has been a determination of the dispute pursuant to paragraph 101 of Schedule 6 to *the Regulations* and that determination permits the PCT to impose the contract sanction; or

584.2. the Contractor ceases to pursue the *NHS dispute resolution procedure*,

whichever is the sooner.

585. If the Contractor does not invoke the *NHS dispute resolution procedure* within the time specified in clause 584, the PCT shall be entitled to impose the contract sanction forthwith.

586. If the PCT is satisfied that it is necessary to impose the contract sanction before *the NHS dispute resolution procedure* is concluded in order to protect the safety of the Contractor's patients or protect itself from material financial loss, the PCT shall be entitled to impose the contract sanction forthwith, pending the outcome of that procedure.

Termination and the *NHS dispute resolution procedure*

587. Where the PCT is entitled to serve written notice on the Contractor terminating the contract pursuant to clauses 558, 559, 565, 569, 571 or 575, the PCT shall, in the notice served on the Contractor pursuant to those clauses, specify a date on which the Contract terminates that is not less than 28 days after the date on which the PCT has served that notice on the Contractor unless clause 588 applies.

588. This clause applies if the PCT is satisfied that a period less than 28 days is necessary in order to protect the safety of the Contractor's patients or protect itself from material financial loss.

589. In a case falling within clause 587 where the exception in clause 588 does not apply, where the Contractor invokes the *NHS dispute resolution procedure* before the end of the period of notice referred to in clause 587, and it notifies the PCT in writing that it has done so, the Contract shall not terminate at the end of the notice period but instead shall only terminate in the circumstances specified in clause 590.

590. The Contract shall only terminate pursuant to this clause if and when there has been a determination of the dispute pursuant to paragraph 101 of Schedule 6 to *the Regulations* and that determination permits the PCT to

terminate the Contract or the Contractor ceases to pursue the *NHS dispute resolution procedure*, whichever is the sooner.

591. If the PCT is satisfied that it is necessary to terminate the Contract before the *NHS dispute resolution procedure* is concluded in order to protect the safety of the Contractor's patients or protect itself from material financial loss, clauses 589 and 590 shall not apply and the PCT shall be entitled to confirm by written notice to be served on the Contractor, that the Contract will nevertheless terminate at the end of the period of the notice it served pursuant to clauses 558, 559, 565, 569 or 571.

Consultation with the *Local Medical Committee*

592. Whenever the PCT is considering –

592.1. terminating the Contract pursuant to clauses 558, 559, 565, 569, 571, 574 or 575,

592.2. which of the alternative notices in writing available under the provisions of clause 565A it will serve, or

592.3. imposing a contract sanction,

it shall, whenever it is reasonably practicable to do so, consult the *Local Medical Committee* (if any) for its area before it terminates the Contract or imposes a contract sanction.

593. Whether or not the *Local Medical Committee* has been consulted pursuant to clause 592, whenever the PCT imposes a contract sanction on the Contractor or terminates the Contract pursuant to this Part, it shall, as soon as reasonably practicable, notify the *Local Medical Committee* in

writing of the contract sanction imposed or of the termination of the Contract (as the case may be). The obligation to notify the *Local Medical Committee* of the matters set out in this clause shall survive the termination of the Contract.

Consequences of termination¹⁰⁹

594. The termination of the Contract, for whatever reason, is without prejudice to the accrued rights of either party under the Contract.

595. On the termination of the Contract for any reason, the Contractor shall-

595.1. subject to the requirements of this clause, cease performing any work or carrying out any obligations under the Contract;

595.2. co-operate with the PCT to enable any outstanding matters under the Contract to be dealt with or concluded in a satisfactory manner;

595.3. co-operate with the PCT to enable the Contractor's patients to be transferred to one or more other contractors or providers of *essential services* (or their equivalent), which shall include-

595.3.1. providing reasonable information about individual patients, and

595.3.2. delivering patient records

¹⁰⁹ The parties are required to make suitable provision for arrangements on the termination of the Contract, including the consequences (whether financially or otherwise) of the Contract ending, subject to any specific requirements of *the Regulations*: see paragraph 116 of Schedule

to such other appropriate person or persons as the PCT specifies.

595.4. deliver up to the PCT all property belonging to the PCT including all documents, forms, computer hardware and software, drugs, appliances or medical equipment which may be in the Contractor's possession or control;

596. Subject to clauses 597 to 599, the PCT's obligation to make payments to the Contractor in accordance with the Contract shall cease on the date of termination of the Contract.

597. On termination of the Contract or termination of any obligations under the Contract for any reason, the PCT shall perform a reconciliation of the payments made by the PCT to the Contractor and the value of the work undertaken by the Contractor under the Contract. The PCT shall serve the Contractor with written details of the reconciliation as soon as reasonably practicable, and in any event no later than 28 days after the termination of the Contract.

598. If the Contractor disputes the accuracy of the reconciliation, the Contractor may refer the dispute to the *NHS dispute resolution procedure* in accordance with the terms of the Contract within 28 days beginning on the date on which the PCT served the Contractor with written details of the reconciliation. The parties shall be bound by the determination of the dispute.

599. Each party shall pay the other any monies due within three months of the date on which the PCT served the Contractor with written details of

6 to the Regulations. Subject to this requirement, the parties could draft their own provisions dealing with the consequences of termination.

the reconciliation, or the conclusion of the *NHS dispute resolution procedure*, as the case may be.

600. The obligations contained in clauses 594 to 599 shall continue to apply notwithstanding the termination of the Contract.

PART 26

NON-SURVIVAL OF TERMS¹¹⁰

601. Unless expressly provided, no term of this Contract shall survive expiry or termination of this Contract. Express provision is made in relation to-

- 601.1. clauses 431 and 432 (patient records);
- 601.2. Part 18 (fees and charges), to the extent specified in clause 487;
- 601.3. Part 23 (complaints);
- 601.4. Part 24 (dispute resolution procedures);
- 601.5. clause 589 (notifications to the *Local Medical Committee*);
- 601.6. clauses 594 to 599 (consequences of termination); and
- 601.7. clauses 604 and 605 (governing law and jurisdiction).

ENTIRE AGREEMENT¹¹¹

602. Subject to Part 10 (opts outs of *additional* and *out of hours services*), clauses 377, 386, and 407 and any variations made in accordance with Part 25, this Contract constitutes the entire agreement between the parties with respect to its subject matter.

¹¹⁰ This clause is not required by *the Regulations*, but is recommended.

¹¹¹ This clause is not required by *the Regulations*, but is recommended.

603. The Contract supersedes any prior agreements, negotiations, promises, conditions or representations, whether written or oral, and the parties confirm that they did not enter into the Contract on the basis of any representations that are not expressly incorporated into the Contract. However, nothing in this Contract purports to exclude liability on the part of either party for fraudulent misrepresentation.

GOVERNING LAW AND JURISDICTION¹¹²

604. This Contract shall be governed by and construed in accordance with English law.

605. Without prejudice to the dispute resolution procedures contained in this Contract, in relation to any legal action or proceedings to enforce this Contract or arising out of or in connection with this Contract, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

606. Clauses 604 and 605 shall continue to apply notwithstanding the termination of the Contract.

WAIVER, DELAY OR FAILURE TO EXERCISE RIGHTS¹¹³

607. The failure or delay by either party to enforce any one or more of the terms or conditions of this Contract shall not operate as a waiver of them, or of the right at any time subsequently to enforce all terms and conditions of this Contract.

¹¹² This clause is not required by *the Regulations*, but is recommended.

¹¹³ This clause is not required by *the Regulations*, but is recommended.

FORCE MAJEURE¹¹⁴

608. Neither party shall be responsible to the other for any failure or delay in performance of its obligations and duties under this Contract which is caused by circumstances or events beyond the reasonable control of a party. However, the affected party must promptly on the occurrence of such circumstances or events:

608.1. inform the other party in writing of such circumstances or events and of what obligation or duty they have delayed or prevented being performed; and

608.2. take all action within its power to comply with the terms of this Contract as fully and promptly as possible.

609. Unless the affected party takes such steps, clause 608 shall not have the effect of absolving it from its obligations under this Contract. For the avoidance of doubt, any actions or omissions of either party's personnel or any failures of either party's systems, procedures, premises or equipment shall not be deemed to be circumstances or events beyond the reasonable control of the relevant party for the purposes of this clause, unless the cause of failure was beyond reasonable control.

610. If the affected party is delayed or prevented from performing its obligations and duties under the Contract for a continuous period of 3 months, then either party may terminate this Contract by notice in writing within such period as is reasonable in the circumstances (which shall be no shorter than 28 days).

¹¹⁴ This clause is not required by the Regulations, but is recommended.

611. The termination shall not take effect at the end of the notice period if the affected party is able to resume performance of its obligations and duties under the Contract within the period of notice specified in accordance with clause 610 above, or if the other party otherwise consents.

SEVERANCE¹¹⁵

612. Subject to clauses 613 and 614, if any term of this Contract, other than a *mandatory term*, is held to be invalid, illegal or unenforceable by any court, tribunal or other competent authority, such term shall, to the extent required, be deemed to be deleted from this Contract and shall not affect the validity, lawfulness or enforceability of any other terms of the Contract.

613. If, in the reasonable opinion of either party, the effect of such a deletion is to undermine the purpose of the Contract or materially prejudice the position of either party, the parties shall negotiate in good faith in order to agree a suitable alternative term to replace the deleted term or a suitable amendment to the Contract.

614. If the parties are unable to reach agreement as to the suitable alternative term or amendment within a reasonable period of commencement of the negotiations, then the parties may refer the dispute for determination in accordance with the *NHS dispute resolution procedure* set out in clauses 521 to 528 .

SERVICE OF NOTICE¹¹⁶

¹¹⁵ This clause is not required by *the Regulations*, but is recommended.

¹¹⁶ This clause is not required by *the Regulations*, but is recommended.

615. Save as otherwise specified in this Contract or where the context otherwise requires, any notice or other information required or authorised by this Contract to be given by either party to the other party must be in writing and may be served:

615.1. personally;

615.2. by post, or in the case of any notice served pursuant to Part 25, registered or recorded delivery post;

615.3. by telex, or facsimile transmission (the latter confirmed by telex or post);

615.4. unless the context otherwise requires and except in clause 529, electronic mail; or

615.5. by any other means which the PCT specifies by notice to the Contractor.

616. Any notice or other information shall be sent to the address specified in the Contract or such other address as the PCT or the Contractor has notified to the other.

617. Any notice or other information shall be deemed to have been served or given:

617.1. if it was served personally, at the time of service;

617.2. if it was served by post, two *working days* after it was posted;
and

617.3. if it was served by telex, electronic mail or facsimile transmission, if sent during *normal hours* then at the time of transmission and if sent outside *normal hours* then on the following *working day*.

618. Where notice or other information is not given or sent in accordance with clauses 615 to 617, such notice or other information is invalid unless the person receiving it elects, in writing, to treat it as valid.

PART 27¹¹⁷

PATIENT CHOICE SCHEME

Variation of contractual terms in respect of entering into arrangements under the Patient Choice Scheme

619. This Part applies where the Contractor and PCT enter into arrangements under the Patient Choice Scheme and ceases to apply immediately after the date of the termination of the arrangements under the Patient Choice Scheme save to the extent necessary in respect of enforcing any obligation, condition, payment, right and liability arising from those terms prior to the date of termination.

620. The terms of the Contract –

620.1. which have the same effect as the provisions specified in clause 621 are varied in accordance with clause 622; and

¹¹⁷ This Part is only required where the parties agree to enter into a Patient Choice Scheme arrangement in accordance with the Primary Medical Services (Patient Choice Scheme) Directions signed on 28th March 2012. This Part is to have no effect after 31st March 2013 in accordance with those Directions and regulation 26A of the National Health Service (General Medical Services Contracts) Regulations 2004.

620.2. specified in clauses 622 and 624 are temporarily included in this Contract,

but only to the extent that those terms relate to the provision of primary medical services to patients who wish to receive such services under arrangements made in accordance with the Patient Choice Scheme, with effect from the start of the day on which such arrangements are commenced and for the period ending at the end of the day which is the date of the termination of those arrangements, which must be no later than 31st March 2013.

621. The terms of the contract specified are –

621.1. clause 30 (attendance at *practice premises*);

621.2. clause 31.1 (attendance outside *practice premises*);

621.3. clauses 46 to 52 (*essential services*);

621.4. [Where Part 8 is included in the Contract, any of the *additional services* which the Contractor is required to provide under that Part must be specified in this sub-clause];

621.5. [Where the contractor provides *out of hours services* in accordance with the terms of the contract specified in Part 9, those terms in Part 9 which are included must be specified in this sub-clause];

621.6. clause 182 (refusal of application for inclusion in the list of patients).

622. The Contractor and the PCT are temporarily released from all obligations, payments, rights and liabilities relating to the clauses (and to only those clauses), contained in clause 621 –

622.1. including any right to enforce those terms only in respect of the provision of primary medical services to patients who wish to receive such services under arrangements made in accordance with the Patient Choice Scheme; and

622.2. only where, in the opinion of the Contractor, it is not clinically appropriate or practical to provide the services or access to such services in accordance with those terms or comply with those terms under arrangements made under the Patient Choice Scheme.

623. The Contractor must notify a person in writing where the Contractor is minded to accept a person onto its list of patients in accordance with the Patient Choice Scheme that the Contractor is under no obligation to provide –

623.1. essential services, in a case where at the time treatment is required, it is not clinically appropriate or practical to provide primary medical services given the particular circumstances of the patient;

623.2. out of hours services, in a case where at the time treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient; and

623.3. *additional services* to the patient if it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient.

624. Where primary medical services are provided to a patient under arrangements made in accordance with the Patient Choice Scheme but that patient is not on the Contractor's list of patients, the PCT must make a payment in accordance with Part 17 of this Contract and Section 17B of the GMS Statement of Financial Entitlements.

SCHEDULE 1¹¹⁸ (INDIVIDUAL)

Part 1

The PCT whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is a medical practitioner whose name, address, telephone number, fax number (if any) and email address (if any)¹¹⁹ is:

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

¹¹⁸ Please use this form of Schedule if the Contractor is an individual medical practitioner.

¹¹⁹ Please provide the address to which official correspondence and notices should be sent..

SCHEDULE 1¹²⁰ (PARTNERSHIP)

Part 1

The PCT whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is a [limited]¹²¹ partnership under the name of []
carrying on business at [address of place of business]

The telephone number, fax number (if any) and email address (if any) of the Contractor are as follows:-

[insert details here]

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

The names of the partners at the date of signature of this Contract are:

¹²⁰ Please use this form of Schedule if the Contractor is a general or *limited partnership*.

Standard General Medical Services Contract

	GENERAL / LIMITED ¹²²
	GENERAL / LIMITED

The Contract is made with the partnership as it is from time to time constituted and shall continue to subsist notwithstanding:

- (1) the retirement, death or expulsion of any one or more partners; and/or
- (2) the addition of any one or more partners.¹²³

The Contractor shall ensure that any person who becomes a member of the partnership after the Contract has come into force is bound automatically by the Contract whether by virtue of a partnership deed or otherwise.

¹²¹ Please delete if this is not applicable. Regulation 11(b)(i) of *the Regulations* requires that the Contract specify in the case of a partnership whether or not it is a *limited partnership*.

¹²² Please delete whichever is not applicable. Regulation 11(b)(ii) requires that the Contract specify in the case of a partnership the names of the partners and, in the case of a *limited partnership*, their status as a general or limited partner.

¹²³ This provision is required by Regulation 13 of *the Regulations*.

SCHEDULE 1¹²⁴ (COMPANY)

Part 1

The PCT whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is a company limited by shares whose name and registered office is:

The address to which official correspondence and notices may be sent is, and the contact telephone number, fax number (if any) and email address (if any) is:

¹²⁴ Please use this form of Schedule if the Contractor is a company limited by shares.

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If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

SCHEDULE 2

SIGNATURES OF THE PARTIES TO THE AGREEMENT

Signed by

For and on behalf of the PCT

Signed by

In the presence of

[The Contract must be signed by a person with power to bind the Contractor. If the Contractor is a partnership, it is recommended that all of the partners comprising the partnership at the date the Contract is signed (whether those partners are general partners or limited partners) sign the Contract]

SCHEDULE 3

INFORMATION TO BE INCLUDED IN PRACTICE LEAFLETS

A practice leaflet shall include—

1. The name of the Contractor.
2. In the case of a Contract with a partnership—
 - (a) whether or not it is a *limited partnership*; and
 - (b) the names of all the partners and, in the case of a *limited partnership*, their status as a general or limited partner.
3. In the case of a Contract with a company—
 - (a) the names of the directors, the company secretary and the shareholders of that company; and
 - (b) the address of the company's registered office.
4. The full name of each person performing services under the Contract.
5. In the case of each *health care professional* performing services under the Contract his professional qualifications.
6. Whether the Contractor undertakes the teaching or training of *health care professionals* or persons intending to become *health care professionals*.
7. The contractor's *practice area*, including the area known as the outer boundary area, by reference to a sketch diagram, plan or postcode.
8. The address of each of the *practice premises*.
9. The Contractor's telephone and fax numbers and the address of its website (if any).
10. Whether the *practice premises* have suitable access for all disabled patients and, if not, the alternative arrangements for providing services to such patients.
11. How to register as a patient.
12. The right of patients to express a preference of practitioner in accordance with clause 185 and the means of expressing such a preference.

13. The services available under the Contract.
14. The opening hours of the *practice premises* and the method of obtaining access to services throughout the *core hours*.
15. The criteria for home visits and the method of obtaining such a visit.
16. The consultations available to patients under clauses 35 and 36, and 37 and 38.
17. The arrangements for services in the *out of hours period* and how the patient may contact such services.
18. If the services in paragraph 17 are not provided by the Contractor, the fact that the PCT referred to in paragraph 28 is responsible for commissioning the services.
19. The name and address of any local *walk-in centre* .
20. The telephone number of NHS Direct and details of NHS Direct online.
21. The method by which patients are to obtain repeat prescriptions.
22. If the Contractor offers repeatable prescribing services, the arrangements for providing such services.
23. If the Contractor is a dispensing contractor the arrangements for dispensing prescriptions.
24. How patients may make a complaint or comment on the provision of service.
25. The rights and responsibilities of the patient, including keeping appointments.
26. The action that may be taken where a patient is violent or abusive to the Contractor, its staff or other persons present on the *practice premises* or in the place where treatment is provided under the Contract or other persons specified in clause 203.
27. Details of who has access to patient information (including information from which the identity of the individual can be ascertained) and the patient's rights in relation to disclosure of such information.
28. The name, address and telephone number of the PCT and from whom details of primary medical services in the area may be obtained.

SCHEDULE 4
REPEAT DISPENSING FORMS

SCHEDULE 5

[

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SCHEDULE 6

PLAN FOR IMPROVEMENT OF PREMISES

SCHEDULE 7
PAYMENT SCHEDULE