



**NHS Standard Contract 2017/18 and 2018/19**

**Particulars (Shorter Form)**

**Contract title/ref: 01X-MECS-1819-01**

**NHS Standard Contract**

**2017/18 and 2018/19**

**Particulars (Shorter Form)**

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Prepared by: NHS Standard Contract Team

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| **Contract Reference** | **01X-MECS-1819-01** |
| --- | --- |

| **DATE OF CONTRACT** | **1st November 2018** |
| --- | --- |
| **SERVICE COMMENCEMENT DATE** | **1st November 2018** |
| **CONTRACT TERM** | **1 year commencing**  **1st November 2018**  **(or as extended in accordance with Schedule 1C)** |
| **COMMISSIONERS** | **NHS St Helens CCG (01X)** |
| **CO-ORDINATING Commissioner** | **NHS St Helens CCG (01X)** |
| **PROVIDER** | **TO BE COMPLETED**  **Principal and/or registered office address:**  **[Company number: [ ]** |

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**CONTRACT**

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

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

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

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

| **SIGNED by** | ……………………………………………………….  Signature |
| --- | --- |
| **Nicola Cartwright for**  **and on behalf of**  **NHS St Helens CCG** | Assistant Director Medicines Management……………………………………………………….  Title  …1/11/18…………………………………………………….  Date |

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

| **SIGNED by** | ……………………………………………………….  Signature |
| --- | --- |
| **[INSERT AUTHORISED**  **SIGNATORY’S**  **NAME] for**  **and on behalf of**  **[INSERT PROVIDER NAME]** | ……………………………………………………….  Title  ……………………………………………………….  Date |

|  |  |
| --- | --- |
| **SERVICE COMMENCEMENT AND CONTRACT TERM** |  |
| **Effective Date** | **1st November 2018** |
| **Expected Service Commencement Date** | **1st November 2018** |
| **Longstop Date** | **Not applicable** |
| **Service Commencement Date** | **1st November 2018** |
| **Contract Term** | **1 year commencing**  **1st November 2018**  **(or as extended in accordance with Schedule 1C)** |
| **Option to extend Contract Term** | **YES** |
| **Notice Period (for termination under GC17.2)** | **1 month** |
| **SERVICES** |  |
| **Service Categories** | **Indicate all that apply** |
| **Continuing Healthcare Services (CHC)** |  |
| **Community Services (CS)** | **YES** |
| **Diagnostic, Screening and/or Pathology Services (D)** |  |
| **End of Life Care Services (ELC)** |  |
| **Mental Health and Learning Disability Services (MH)** |  |
| **Patient Transport Services (PT)** |  |
| **Service Requirements** |  |
| **Essential Services (NHS Trusts only)** | **NO** |
| **PAYMENT** |  |
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| **Local Prices Apply to some or all Services** | **YES** |
| **Expected Annual Contract Value Agreed** | **NO** |
| **GOVERNANCE AND REGULATORY** |  |
| **Provider’s Nominated Individual** | **[ ]**  **Email: [ ]**  **Tel: [ ]** |
| **Provider’s Information Governance Lead** | **[ ]**  **Email: [ ]**  **Tel: [ ]** |
| **Provider’s Caldicott Guardian** | **[ ]**  **Email: [ ]**  **Tel: [ ]** |
| **Provider’s Senior Information Risk Owner** | **[ ]**  **Email: [ ]**  **Tel: [ ]** |
| **Provider’s Accountable Emergency Officer** | **[ ]**  **Email: [ ]**  **Tel: [ ]** |
| **Provider’s Safeguarding Lead** | **[ ]**  **Email: [ ]**  **Tel: [ ]** |
| **Provider’s Child Sexual Abuse and Exploitation Lead** | **[ ]**  **Email: [ ]**  **Tel: [ ]** |
| **Provider’s Mental Capacity and Deprivation of Liberty Lead** | **[ ]**  **Email: [ ]**  **Tel: [ ]** |
| **Provider’s Freedom To Speak Up Guardian** | **[ ]**  **Email: [ ]**  **Tel: [ ]** |
| **CONTRACT MANAGEMENT** |  |
| **Addresses for service of Notices** | **Co-ordinating Commissioner:**  **NHS St Helens CCG**  **Address:**  **2nd Floor, Gamble Building**  **Victoria Square**  **St Helens**  **WA10 1DY**  **Provider: TO BE COMPLETED**  **Address:**  **TO BE COMPLETED**  **Email: TO BE COMPLETED** |
| **Commissioner Representative(s)** | **Nicola Cartwright**  **Address:**  **NHS St Helens CCG**  **2nd Floor, Gamble Building**  **Victoria Square St Helens**  **WA10 1DY**  **Email: Nicola.Cartwright@sthelensccg.nhs.uk Tel: 01744 457294** |
| **Provider Representative** | **Provider: TO BE COMPLETED**  **Address:**  **TO BE COMPLETED**  **Email: TO BE COMPLETED** |

# SCHEDULE 1 – SERVICE COMMENCEMENT

**AND CONTRACT TERM**

1. **Conditions Precedent**

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

| 1. Evidence of appropriate Indemnity Arrangements |
| --- |

1. **Extension of Contract Term**

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

1. As advertised to all prospective providers during the competitive tendering exercise leading to the award of this Contract, the Commissioners may opt to extend the Contract Term by 1 year.
2. If the Commissioners wish to exercise the option to extend the Contract Term, the Co-ordinating Commissioner must give written notice to that effect to the Provider no later than 6 months before the original Expiry Date.
3. The option to extend the Contract Term may be exercised:
   1. only once, and only on or before the date referred to in paragraph 2 above;
   2. only by all Commissioners; and
   3. only in respect of all Services
4. If the Co-ordinating Commissioner gives notice to extend the Contract Term in accordance with paragraph 2 above, the Contract Term will be extended by the period specified in that notice and the Expiry Date will be deemed to be the date of expiry of that period.

# SCHEDULE 2 – THE SERVICES

1. **Service Specifications**

**Service Specification – NHS Community Pharmacy Dispensing Service for the Community Optometry Minor Eye Conditions Service**

**1. Service description**

The pharmacy will dispense medication directly to a patient who presents with a signed order on the agreed form written by a registered optometrist.

**2. Aims and intended service outcomes**

* 1. To improve access and choice for people with minor eye conditions who are seeking advice and treatment via the community optometry minor eye conditions service by:
* Supplying appropriate medicines at NHS expense.
  1. To improve health-inequalities for low income families equal access to medicines for self-care of minor eye conditions.

**3. Service outline**

This section refers to the pharmacist. Support staff trained to relevant the GPhC standards may participate in the dispensing process.

**3.1** The pharmacist will dispense the medication(s) requested by the registered optometrist, undertaking the standard clinical and accuracy checks.

**3.2** The pharmacist must maintain a record of the supply in the pharmacies patients’ medical record and label any medication supplied in line with legal requirements.

**3.3** The signed order should be kept for two years after supply.

**3.4** For any POM products dispensed the pharmacist must make a record of the supply in the prescription-only register.

**3.5** Patients exempted from prescription charges should be asked to complete the declaration on the consultation record form.

**3.6** Patients who pay for their prescriptions should be charge the standard prescription charge.

**3.7** When a patient pays for their prescriptions the pharmacy must provide any requested GSL or P product to the patient as a retail sale if this would be cheaper for the patient. The pharmacist should be satisfied that the product is being used for a licensed over the counter condition. Where the pharmacist cannot confirm the condition being treated or if the condition is outside of the over counter licence this should be provided via the signed order and the relevant prescription charges paid.

**3.8** The pharmacy must have a system to check the person’s eligibility for NHS prescription charge exemption and will collect NHS charges where appropriate. Where a patient does not have proof of exemption on them the pharmacist must use their professional discretion in deciding whether to provide the medication free of charge.

**3.9** The pharmacist must counsel the patient on how to use their medication in the same way they would do for patient presenting with a prescription.

**3.10** The pharmacy contractor must have a standard operating procedure in place for this service.

**3.11** For pharmacies participating in an NHS funded minor ailments scheme patients presenting with a signed order must not be converted to the minor ailments scheme.

**3.12** Only medication listed in annex 1 and presented on a template signed order (annex 4) can be provided on this scheme. Annex 1 may be subject to variation by the commissioner from time to time to allow for changes in the formulary.

**3.13** The ophthalmic practitioner will comply with all current legislation and relevant professional guidance in directing the supply of medication from the community pharmacy following the consultation with the patient.

**4. Training and Premises Requirements**

**4.1** The pharmacy contractor has a duty to ensure that pharmacists and staff involved in the provision of the service have relevant knowledge and are appropriately trained in the operation of the service.

**4.2** The pharmacy contractor has a duty to ensure that pharmacists and staff involved in the provision of the service are aware of and operate within local protocols.

**4.3** Though not mandatory it is recommended that any pharmacist providing this service completes the CPPE Pharmaceutical Care of the Eye package.

**4.4** A pharmacy must be fully compliant with their Essential Services before being commissioned to provide the service. If the pharmacy becomes non-compliant with their Essential Services the scheme may be withdrawn.

**4.5** A pharmacy must be fully compliant with any local services/schemes which are supported by their Local Pharmaceutical Committee to provide the service.

**5. Service availability**

|  |
| --- |
| **5.1** The service will be available to all patients presenting with a valid signed order throughout the pharmacy’s opening hours. |

**6. Quality Standards**

**6.1** The pharmacy is making full use of the promotional material for the service, made available by the commissioner.

**6.2** The pharmacy participates in any commissioner organised audit or post payment verification of service provision.

**6.3** The pharmacy should co-operate with any commissioner-led assessment of patient experience.

**6.4** The pharmacist ensures that clinical advice given is in line with national/local guidelines.

**6.5** The pharmacist ensures that any patient incidents that occur are reported to the NPSA via the NRLS on-line reporting system.

**6.6** The pharmacist ensures that the pharmacy has a complaints procedure in place that meets the NHS pharmaceutical contractual standards.

**7. Claiming payment**

**7.1** The commissioner will provide access to a web-based system for the recording of relevant service information for the purposes of audit and the claiming of payment.

**7.2** Product costs are automatically priced using the electronic Dictionary of Medicines and Devices (DM&D) at the time of dispensing.

**Minor eye conditions service formulary (Annex 1)**

*Only products listed below maybe supplied under this scheme. The item may be written on the signed order by its generic or a branded name.*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Medication | Brand | Form | Strength | Quantity |
| Chloramphenicol |  | Eye drops | 0.5% | 10ml |
| Chloramphenicol |  | Eye ointment | 1% | 4g |
| Fusidic acid \*only for consideration when chloramphenicol is contraindicated or in other extenuating circumstances |  | Eye drops | 1% | 5g |
| Hypromellose |  | Eye drops | 0.3% | 10ml |
| Carbomer 980 |  | Eye gel | 0.2% | 10g |
| Antazoline and Xylometazoline | Otrivine-antistin® | Eye drops | 0.5%/0.05% | 10ml |
| Sodium Cromoglycate |  | Eye drops | 2% | 10ml/13.5ml |
| Sodium Hyaluronate | Artelac® Rebalance |  | 0.15% | 10ml |
| Carmellose sodium | Celluvisc® | Preservative free, single use | 1.0% | 30 x 0.4ml |
| Soft paraffin ointment | VitA-POS ® | Eye ointment |  | 5g |
| Soft paraffin ointment | Lacrilube ® | Eye ointment |  | 3.5g |
| Soft paraffin ointment | Xailin night® | Eye ointment  Preservative free |  | 5g |

**Legalities (Annex 2)**

Under the Human Medicines Regulations 2012, medicines which are classified as pharmacy (P) medicines may be sold or supplied only through registered pharmacies by or under the supervision of a pharmacist (regulation 220).    Prescription Only Medicines (POM) are subject to an additional requirement: they may only be sold or supplied through pharmacies in accordance with a prescription given by an appropriate practitioner (regulation 214).   General Sale List (GSL) medicines may be sold more widely through other retail outlets (regulation 221).

Exemptions from the general rules are permitted for optometrists:

1. **Registered optometrists**

**Provided it is in the course of their professional practice**, registered optometrists may sell or supply the following medicinal products to a patient:

* all medicinal products on a General Sale List (GSL) (Note: Under medicines legislation products which are for use as eye drops or eye ointments are excluded from the GSL category)
* all P medicines .

Provided it is in the course of their professional practice and in an emergency, registered optometrists may sell or supply POMs which are not for parenteral administration and which:

1. are eye drops and contain not more than 0.5 per cent chloramphenicol or
2. are eye ointments and contain not more than 1 per cent chloramphenicol
3. contain the following substances
   * Cyclopentolate hydrochloride
   * Fusidic Acid
   * Tropicamide

The POMs to which this exemption applies may also be sold or supplied by a person lawfully conducting a retail pharmacy business on the presentation of an order signed by a registered ophthalmic optician.

Additional supply optometrists   
In addition to being able to access the medicines listed in paragraphs 3 and 4 above, those optometrists who have undergone additional training and are accredited by the General Optical Council ('additional supply optometrists') will be able to sell, supply or write an order for an extended range of medicines.

**Provided it is in the course of their professional practice and in an emergency,** additional supply optometrists can sell or supply prescription only medicines containing the following substances:

Acetylcysteine  
Atropine sulphate  
Azelastine hydrochloride  
Dicofenac sodium  
Emedastine  
Homotropine hydrobromide  
Ketotifen  
Levocabastine  
Lodoxamide  
Nedocromil sodium  
Olopatadine  
Pilocarpine hydrochloride  
Pilocarpine nitrate  
Polymyxin B/bacitracin  
Polymyxin B/trimethoprim  
Sodium cromoglycate

The POMs to which this exemption applies may also be sold or supplied by a person lawfully conducting a retail pharmacy business on the presentation of an order signed by an additional supply optometrist.

An order made under the Opticians Act 1989 provides that where it appears to a registered optometrist that a person consulting him/her is suffering from an injury or disease of the eye, the optometrist shall refer that person to a registered medical practitioner, except in specified circumstances including an emergency or where otherwise it is impractical or inexpedient to do so or there is no justification for such a referral.

There is no legal definition of what is 'an emergency' for the purposes of the Medicines Act exemptions or the specific criteria governing referral under the Opticians Act. It is therefore for the optometrist to make a professional judgement as to whether there is in fact an emergency and what measures need to be taken in the best interests of the patient, bearing in mind the Opticians Act, the GOC rules and medicines legislation.

**Wholesale supplies to registered optometrists**

All POMs and P medicines to which Medicines Act exemptions apply may be sold to a registered optometrist by way of wholesale dealing.  
Also, a registered optometrist may obtain the following medicinal products by way of wholesale dealing:

* P medicines for administration in the course of his business
* POM medicines for administration (as opposed to sale or supply) containing the following substances:
* Amethocaine hydrochloride
* Lignocaine hydrochloride
* Oxybuprocaine hydrochloride
* Proxymetacaine hydrochloride

An additional supply optometrist will also be able to obtain thymoxamine hydrochloride via wholesale dealing should a commercial preparation become available.

For the purposes of paragraphs three and seven above, eye drops and eye ointments containing the following substances are classed as P medicines: Antazoline (up to 1%)  
Azelastine hydrochloride (up to 0.1% for the treatment of the signs and symptoms of allergic conjunctivitis  
Dibromopropamidine isethionate  
Fluorescein sodium  
Levocabastine (up to 0.05% for the symptomatic treatment of seasonal allergic conjunctivitis  
Lodoxamide (up to 0.1% for ocular signs and symptoms of allergic conjunctivitis  
Phenylephrine hydrochloride  
Propamidine isethionate  
Rose Bengal  
Sodium cromoglicate (Only for the treatment of acute seasonal allergic conjunctivitis or perennial allergic conjunctivitis and subject to a maximum strength of 2% for eye drops or 4% for eye ointment. Products containing this substance are also subject to restrictions on maximum quantity which may be sold or supplied as a P medicine. These are not more than 10ml for eye drops and 5g for eye ointment.)  
Various tear supplements and ocular lubricants  
Xylometazoline hydrochloride

It should be noted that this list only contains substances most commonly used by optometrists

The pharmacy team can confirm an optometrist’s registration by checking the General Optical Council [www.optical.org](http://www.optical.org).

**Key counselling points for eye preparations (Annex 3)**

All patients receiving medication through this scheme should be counselled on how to use their eye preparation. Below are the key counselling points:

**Eye drops**

* Wash hands thoroughly
* Tilt head backward
* Gently grasp lower outer eyelid just below the lashes and pull the eyelid away from the eye
* Place the dropper directly over the eye (without touching the eye) by looking directly at it
* Just before squeezing the bottle gently to apply a drop, look upwards
* After applying a single drop, look downwards for several seconds
* Release the eyelid slowly
* Keep eye closed for one to two minutes
* With a finger, gently press over the opening of the tear duct in the inner corner of the eye
* Blot excess liquid from around the eye
* Repeat in the other eye if necessary

**Eye Ointment**

* Wash hands thoroughly
* Tilt head backward
* Gently grasp lower outer eyelid just below the lashes and pull the eyelid away from the eye
* Place the ointment directly over the eye (without touching the eye) by looking directly at it
* Gently squeeze the ointment and with a sweeping motion, insert 1 to 2 cm of ointment inside the lower lid
* Release the eyelid slowly
* Keep eye closed for one to two minutes
* Blot excess ointment from around the eye
* Repeat in the other eye if necessary

**Copy of the signed order template (Annex 4)**

Embedded below:



1. **Indicative Activity Plan**

| **Not Applicable** |
| --- |

1. **Essential Services (NHS Trusts only)**

| **Not Applicable** |
| --- |

1. **Other Local Agreements, Policies and Procedures**

| **Not Applicable** |
| --- |

1. **Transfer of and Discharge from Care Policies**

| **Not Applicable** |
| --- |

1. **Safeguarding Policies and Mental Capacity Act Policies**

| **Safeguarding policies to be submitted by the provider** |
| --- |

# SCHEDULE 3 – PAYMENT

1. **Local Prices**

| NHS St Helens Clinical Commissioning Group will pay participating pharmacy contractors as follows:  A professional service fee of £2 (including VAT) will be paid for each item to an individual patient, under the terms of this service. The agreed reimbursement price (including VAT), as set out in DM&D, for the product or products supplied will also be paid.  The pharmacy will enter the service delivery information onto the approved web-based reporting system and invoices will be generated automatically. Claims should be entered onto the system within 24 hours of them taking place. Late claims more than three months in arrears will not be considered for payment.  Payments will be submitted by the web based system and processed by SBS.  **Claiming payment**  The commissioner will provide access to a web-based system for the recording of relevant service information for the purposes of audit and the claiming of payment.  Product costs are automatically priced using the electronic Dictionary of Medicines and Devices (DM&D) at the time of dispensing**.** |
| --- |

1. **Local Variations**

| **Not Applicable** |
| --- |

1. **Local Modifications**

| **Not Applicable** |
| --- |

1. **Expected Annual Contract Values**

| **Not Applicable** |
| --- |

# SCHEDULE 4 – QUALITY REQUIREMENTS

1. **Operational Standards and National Quality Requirements**

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

In respect of the Operational Standard shown in ***bold italics*** the provisions of SC36.27A apply.

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

**SCHEDULE 4 – QUALITY REQUIREMENTS**

1. **Local Quality Requirements**

**The provider must ensure that the following quality standards are upheld:**

* The pharmacy is making full use of the promotional material for the service, made available by the commissioner.
* The pharmacy participates in any commissioner organised audit or post payment verification of service provision.
* The pharmacy should co-operate with any commissioner-led assessment of patient experience.
* The pharmacist ensures that clinical advice given is in line with national/local guidelines.
* The pharmacist ensures that any patient incidents that occur are reported to the NPSA via the NRLS on-line reporting system.
* The pharmacist ensures that the pharmacy has a complaints procedure in place that meets the NHS pharmaceutical contractual standards

**SCHEDULE 4 – QUALITY REQUIREMENTS**

1. **Commissioning for Quality and Innovation (CQUIN)**

**CQUIN Table 1: CQUIN Indicators**

| **Not Applicable** |
| --- |

# SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

1. **Reporting Requirements**

|  | **Reporting Period** | **Format of Report** | **Timing and Method for delivery of Report** |
| --- | --- | --- | --- |
| **National Requirements Reported Centrally** |  |  |  |
| 1. As specified in the list of omnibus, secure electronic file transfer data collections and BAAS schedule of approved collections published on the NHS Digital website to be found at   <http://content.digital.nhs.uk/article/5073/Central-Register-of-Collections>  where mandated for and as applicable to the Provider and the Services | As set out in relevant Guidance | As set out in relevant Guidance | As set out in relevant Guidance |
| **National Requirements Reported Locally** |  |  |  |
| 1. Activity and Finance Report *(note that, if appropriately designed, this report may also serve as the reconciliation account to be sent by the Provider under SC36.22)* | Monthly | From PharmOutcomes | Monthly via email |
| 1. Service Quality Performance Report, detailing performance against Operational Standards, National Quality Requirements, Local Quality Requirements, Never Events and the duty of candour | As above in 1 |  |  |
| 1. CQUIN Performance Report and details of progress towards satisfying any Quality Incentive Scheme Indicators, including details of all Quality Incentive Scheme Indicators satisfied or not satisfied | N/A |  |  |
| 1. Complaints monitoring report, setting out numbers of complaints received and including analysis of key themes in content of complaints | As they arise | written | Within 10 working days of the complaint |
| 1. Summary report of all incidents requiring reporting | As they arise | written | Within 10 working days of the incident |
| **Local Requirements Reported Locally** |  |  |  |
| **Not Applicable** |  |  |  |

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

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

1. **Incidents Requiring Reporting Procedure**

|  |
| --- |
| **Procedure(s) for reporting, investigating, and implementing and sharing Lessons Learned from: (1) Serious Incidents (2) Notifiable Safety Incidents (3) Other Patient Safety Incidents** |
| **Serious incidents policies to be submitted by the provider to the CCG** |

# SCHEDULE 7 – PENSIONS

**Not Applicable**

# SCHEDULE 8 – TUPE\*

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

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

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

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

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