



**Template sub-contract for the provision of clinical services for use with the NHS Standard Contract 2019/20 (Shorter Form)**

**Template sub-contract for use with the NHS Standard Contract 2019/20 (Shorter Form)**

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NHS England

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This template sub-contract should be read in conjunction with the guidance on the NHS standard sub-contract for the provision of clinical services 2019/20 (full length and shorter form versions), which is available on the [NHS Standard Contract 2019/20 web page](https://www.england.nhs.uk/nhs-standard-contract/19-20/).

*Guidance: This template sub-contract is a template only and should be populated by the Head Provider following receipt of appropriate legal a*

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**PART B: SUB-CONTRACT CONDITIONS**

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**General Conditions**

*Note: the Service Conditions and General Conditions are those of the NHS Standard Contract 2019/20 (Shorter Form), as published by NHS England (https://www.england.nhs.uk/nhs-standard-contract/). They are not replicated in this template Sub-Contract but it is recommended that the parties print out or retain a copy of these for reference since they form part of this Sub-Contract.*

**SUB-CONTRACT PARTICULARS and SCHEDULES**

This Sub-Contract records the agreement between the Head Provider and the Sub-Contractor and comprises:

1. the **Sub-Contract Particulars** **and Schedules**

2. the **Sub-Contract Conditions**

3. the **General Conditions** and **Service Conditions**

as further defined or applied by this Sub-Contract.

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

| SIGNED by | ……………………………………………………….  Signature |
| --- | --- |
| Chris Howland-Harris  for and on behalf of  Avon Healthcare Services Ltd | ……………………………………………………….  Title  ……………………………………………………….  Date |

| SIGNED by | ……………………………………………………….  Signature |
| --- | --- |
| [*insert authorised signatory’s name*]  for and on behalf of  [*insert Sub-Contractor's name*] | ……………………………………………………….  Title  ……………………………………………………….  Date |

**PART A: SUB-CONTRACT PARTICULARS AND SCHEDULES**

**CONTRACT SUMMARY**

|  |  |
| --- | --- |
| Sub-Contract Reference | 19/21 MAS |
| Head Provider | Avon Healthcare Services Ltd |
| Sub-Contractor |  |
| Effective Date | 01 April 2019 |
| Expected Service Commencement Date | 01 April 2019 |
| Longstop Date | 01April 2019 |
| Service Commencement Date | 01 April 2019 |
| Sub-Contract Term | 2 years commencing on the effective date |
| Expiry Date | 31st March 2021 |
| Option to extend Sub-Contract Term? | NO |
| Notice Period (for termination under GC17.2)  Where notice given by the Head Provider:  Where notice given by the Sub-Contractor: | 3 months    6 months |
| Details of Head Contract | Commissioner(s): Somerset CCG  Date: 01/04/2019  Contract Term: Two Years  Services: Minor Ailments |

**SUB-CONTRACT SERVICES**

| **Service Categories** | **Indicate all that apply** |
| --- | --- |
| Continuing Healthcare Services (CHC) | NO |
| Community Services (CS) | YES |
| Diagnostic, Screening and/or Pathology Services (D) | NO |
| End of Life Care Services (ELC) | NO |
| Mental Health and Learning Disability Services (MH) | NO |
| Patient Transport Services (PT) | NO |
| Essential Services? (NHS Trusts only) | N/A |

**GOVERNANCE AND REGULATORY**

| Sub-Contractor’s Nominated Individual | [ ]  Email: [ ]  Tel: [ ] |
| --- | --- |
| Sub-Contractor’s Information Governance Lead | [ ]  Email: [ ]  Tel: [ ] |
| Sub-Contractor’s Data Protection Officer(if required by Data Protection Legislation) | [ ]  Email: [ ]  Tel: [ ] |
| Sub-Contractor’s Caldicott Guardian | [ ]  Email: [ ]  Tel: [ ] |
| Sub-Contractor’s Senior Information Risk Owner | [ ]  Email: [ ]  Tel: [ ] |
| Sub-Contractor’s Accountable Emergency Officer | [ ]  Email: [ ]  Tel: [ ] |
| Sub-Contractor’s Safeguarding Lead | [ ]  Email: [ ]  Tel: [ ] |
| Sub-Contractor’s Child Sexual Abuse and Exploitation Lead | [ ]  Email: [ ]  Tel: [ ] |
| Sub-Contractor’s Mental Capacity and Deprivation of Liberty Lead | [ ]  Email: [ ]  Tel: [ ] |
| Sub-Contractor’s Freedom To Speak Up Guardian(s) | [ ]  Email: [ ]  Tel: [ ] |

**CONTRACT MANAGEMENT**

| Addresses for service of Notices | Head Provider: **AVON HEALTHCARE SERVICES LTD**  Address: 14A High Street, Bristol, BS16 5HP  Email: [judith@avonhealthcareservices.co.uk](mailto:judith@avonhealthcareservices.co.uk)  Sub-Contractor: [ ]  Address: [ ]  Email: [ ] |
| --- | --- |
| Head Provider Representative(s) | Avon Healthcare services Ltd  Address: 14A High Street, Bristol, BS16 5HP  Email: judith@avonhealthcareservices.co.uk  Tel: 07720 573468 |
| Sub-Contractor Representative | [ ]  Address: [ ]  Email: [ ]  Tel: [ ] |

*Guidance: Each of the following Schedules must be completed in full (unless stated “Not Used”). When completing the Schedules the Head Provider should ensure that they fully reflect the Head Contract to the extent relevant to the Sub-Contract Services. Schedules in the Head Contract which are not used in this Sub-Contract have been deleted save where their deletion would affect the numbering of this Part A.*

# SCHEDULE 1 – SERVICE COMMENCEMENT AND CONTRACT TERM

**A. Conditions Precedent**

The Sub-Contractor must provide the Head Provider with the following documents before the Expected Service Commencement Date, each in a form satisfactory to the Head Provider:

| 1. Evidence of appropriate Indemnity Arrangements 2. Evidence of CQC registration (where required) 3. Evidence of Monitor’s Licence (where required) 4. [Insert any additional requirements] |
| --- |

1. Put in place appropriate Counter Fraud and Security Management Arrangements in accordance with Service Condition 24.

2. The Sub-Contractor must complete and publish an annual information governance assessment in accordance with, and comply with the mandatory requirements of, the NHS Data Security and Protection Toolkit, as applicable to the Services and the Provider’s organisation type

3. Ensure staff providing services requiring formal accreditation have met the specific requirements as set out in the relevant service specification, prior to delivery of that service.

4. Be able to demonstrate, upon request, compliance with all policies referred to within this Contract or compliance with equivalent own company policies addressing corresponding clinical or organisational risk

5. In accordance with General Condition 4.5 the Sub contractor must notify the Co-ordinating Commissioner of any material change to any Conditions Precedent document it has delivered under General Condition 4.1 within 5 Operational Days of becoming aware of that change.

1. **Extension of Contract Term**

**NOT USED**

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# SCHEDULE 2 – THE SERVICES

**A. Sub-Contract Service Specifications**

|  |  |
| --- | --- |
| **Specification No** | **Specification Title for SCCG Commissioned Services** |
| 11X-46-V4 | Minor Ailments Scheme |
| 11X-49 | The Supply of Inhaler Spacer Devices |

**Specifications:**

|  |  |  |
| --- | --- | --- |
|  | For implementation from 1 September 2019 |  |

**Attachments:**

|  |  |  |
| --- | --- | --- |
|  |  |  |

**B. Indicative Activity Plan**

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

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

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

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

|  |  |  |
| --- | --- | --- |
| **Policy** | **Date** | **Weblink / Document** |
| Serious Incidents Requiring Investigation (SIRI) Policy | Reviewed May 2016 | <https://www.somersetccg.nhs.uk/about-us/how-we-do-things/general-practice-significant-event-sea-and-serious-incident-support-professional-page/> |
| SCCG Caldicott Policy | February 2016 |  |
| Somerset Overarching Information Sharing Protocol | January 2018 | [www.somerset.gov.uk/EasySiteWeb/GatewayLink.aspx?alId=135065](http://www.somerset.gov.uk/EasySiteWeb/GatewayLink.aspx?alId=135065) |
| Avon and Somerset Health Resilience Forum – Terms of Reference/ Memorandum of Understanding | September 2013 |  |
| Evidence Based Interventions Panel (EBIP) (previously known as Individual Funding Requests (IFR)) | Current | <http://www.somersetccg.nhs.uk/about-us/how-we-do-things/individual-funding-requests/> |
| South West Child Protection Procedures – Somerset – web link | Current | https://www.proceduresonline.com/swcpp/somerset/contents.html |
| Somerset safeguarding Children Board protocols | Current | <https://sscb.safeguardingsomerset.org.uk/working-with-children/local-protocols-guidance/> |
| How to raise concerns: Early help and safeguarding process | Current | <http://professionalchoices.org.uk/eha/> |
| South West Safeguarding Adults Multi Agency Policy | Current | <https://ssab.safeguardingsomerset.org.uk/information/policies-and-procedures/> |
| Somerset Safeguarding Adults Board: Think it, Report it | Current | <https://ssab.safeguardingsomerset.org.uk/protecting-adults/> |
| SCCG Complaints and PALS Policy | July 2016 | <https://www.somersetccg.nhs.uk/EasySiteWeb/GatewayLink.aspx?alId=6179> |
| Freedom to speak up in Primary Care | 11 November 2016 |  |

**J. Transfer of and Discharge from Care Protocols**

| **The Transfer of and Discharge from care should be managed in accordance with the Patient Group Direction for each condition as detailed in Appendices A through to C of Schedule 2 Part A The Services, and as per the service specification for the supply of inhaler spacers.** |
| --- |

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

| **All Sub Contractors must follow the relevant local and national safeguarding procedures in the course of providing the Minor Ailments Scheme. Documents sent separately** |
| --- |

# SCHEDULE 3 – PAYMENT

1. **Local Prices**

| **Payment Terms**  The tariff for each service can be found in the service specifications. Payment will be based on reported activity.  The Terms and Conditions set out in SC 36.20 to 36.39 are acknowledged. Whilst not intentionally deviating from those Conditions, it is agreed by all parties that in adopting a pragmatic approach, the current payment system meets the required payment and reconciliation processes set out in SC 36.20 to 36.39  In the event of dispute between the parties, or the current payment system becomes unavailable, the parties will revert back to the original Terms and Conditions as set out in SC 36.20 to 36.39.  For the avoidance of doubt, the current payment system continues to apply unless agreed otherwise and subject to the event of a dispute. |
| --- |
| The Head Provider will ensure that processes are in place to enable payment to accredited pharmacies.  The Head Provider will invoice Somerset CCG by the 15th of each month (or next working day if a week-end or public holiday) for reimbursement of professional fees and medicines costs incurred during the preceding month.  Invoices will be submitted to the Commissioner and the non-patient identifiable backing data will be emailed to: [somccg.esreports@nhs.net](mailto:somccg.esreports@nhs.net)  Incorrectly completed or incomplete invoices will be returned to the Sub Contractor and will not be processed for payment until completed correctly with all the required information.  Payment to Sub-Contractors will be made by Avon Healthcare Services by BACS within 30 days of receipt of a verified activity report.  The Sub-Contractor will be reimbursed for the medicines supplied under the service specification and relevant PGDs.  The professional fee payable for each supply patient treatment episode will be £10.00.  The Sub-Contractor will be paid according to the following principle:   |  |  |  |  |  | | --- | --- | --- | --- | --- | | **Professional fee** | **+** | **Drug Tariff defined cost(s)** | **=** | **Total payment per supply made** |   Reimbursement will be at the Drug Tariff price for medicine relevant at the time of the supply. If the product is not listed in the Drug Tariff the product will be reimbursed at the manufacturer’s trade price as detailed in the relevant Chemist & Druggist.  One professional fee will be paid for each patient treated per defined condition treated (see Schedule 2 Part A The Services). If more than one medicine is supplied to the same patient during the same consultation for the same condition only one professional fee will be paid.  Where the relevant PGDs allow the supply of more than one medicine to a patient for the treatment of each defined condition, the Sub-Contractor will be reimbursed for all the products supplied to patient.  The Sub-Contractor will be reimbursed for cost of the medicine supplied to each patient at the price detailed in the Drug Tariff in effect during the month the medicine was supplied. The reimbursement of the medicine cost will be in addition to any professional fee paid.  The Sub-Contractor will only be reimbursed for the cost of the medicine supplied in accordance with the relevant PGDs. The Sub-Contractor will not be reimbursed for any supply of an over the counter versions or pack sizes of the medicines not authorised under the relevant PGDs.  The Sub-Contractor will also be reimbursed for the Supply of Inhaler Spacer Devices under the service specification (see Schedule 2 Part A The Services). Payment to the pharmacy will be £10.00 for completing the review where a spacer is prescribed, plus the cost of the spacer.  The pricing structure will be subject to an annual review. | |

# SCHEDULE 4 – QUALITY REQUIREMENTS

*Guidance: these are the standards required of the Head Provider, and should be included or amended according to their relevance to the Sub-Contract Service requirements and service categories. Where an Operational Standard or National Quality Requirement does not apply directly to the Sub-Contract, but a related or amended quality indicator is agreed, that should be entered as a Local Quality Requirement in Schedule 4C.*

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

| **Ref** | **Operational Standards/National Quality Requirements** | **Threshold** | **Guidance on definition** | **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% | See Diagnostics Definitions and Diagnostics FAQs at: <https://www.england.nhs.uk/statistics/statistical-work-areas/diagnostics-waiting-times-and-activity/monthly-diagnostics-waiting-times-and-activity/> | 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  D |
|  | 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 | See CQC guidance on Regulation 20 at:  <https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-20-duty-candour> | 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 |

The Sub-Contractor must report its performance against each applicable Operational Standard and National Quality Requirement through its Service Quality Performance Report, in accordance with Schedule 6A.

SCHEDULE 4 – QUALITY REQUIREMENTS

**C. Local Quality Requirements**

| **Quality Requirement** | **Threshold** | **Method of Measurement** | **Consequence of breach** | **Timing of application of consequence** | **Applicable Service Specification** |
| --- | --- | --- | --- | --- | --- |
| Full implementation of Patient Safety Alerts including MHRA and SAB broadcasts within specified timescales. | 100% | Via the Contract Assurance Framework and ad-hoc meetings | An action plan will be developed and monitored in response to breaches. This will be monitored and escalated through a Contract Review Meeting. | Monthly | All where relevant |
| The Sub contractor will have robust processes for reviewing, assessing, implementing as appropriate and monitoring NICE technology appraisals and guidance. | Compliance with NICE technology appraisals within 3 months and others as agreed with the Commissioner. Where NICE technology appraisals have a significant financial implication, this will be discussed/agreed with the Hear Provider. Sub- Contractors will only implement Interventional Procedures following consultation with the Head Provider and following the prescribed Clinical Governance. | Via the Contract Assurance Framework and ad-hoc meetings | An action plan will be developed and monitored in response to breaches. This will be monitored and escalated through a Contract Review Meeting. | Monthly | All where relevant |
| The Sub contractor will comply with the Serious Incidents Requiring Investigation (SIRI) reporting requirements, policies and procedures as set out in Schedule 2 G. Where a provider identifies a possible SIRI from another health care provider they will collaborate to determine if it is a SIRI and who will report it and at the same time will inform the commissioner. | 100% compliance with reporting SIRI within required timescales to STEIS as set out in Schedule 2G of this contract for all incidents which are solely within the control of the Provider | Via the Contract Assurance Framework and ad-hoc meetings | An action plan will be developed and monitored in response to breaches. This will be monitored and escalated through a Contract Review Meeting. | Quarterly | All where relevant |
| The Sub contractor is to comply with the Safeguarding standards for safeguarding children as set out in Schedule 2 Part K. | Compliance with required training levels | Via the Contract Assurance Framework and ad-hoc meetings | An action plan will be developed and monitored in response to breaches. This will be monitored and escalated through a Contract Review Meeting. | Monthly | All where relevant |
| Implementing lessons from National reviews of Patient Safety | All staff have an awareness as appropriate. | (1) Demonstrate implementation of Duty of Candour for SIRIs and incidents  (2)Promote an open culture where staff are supported to raise their concerns. | An action plan will be developed and monitored in response to breaches. This will be monitored and escalated through a Contract Review Meeting. | Monthly | All where relevant |
| Sub Contractor to carry out other Surveys as agreed with the Co-ordinating Commissioner from time to time; and provide a written report to the Co-ordinating Commissioner on the results of each | 100% | Via the Contract Assurance Framework and ad-hoc meetings | An action plan will be developed and monitored in response to breaches. This will be monitored and escalated through a Contract Review Meeting | Ad hoc | All where relevant |
| Safe Staffing | Ensuring staffing is at an appropriate number and mix of healthcare professionals | Via The Contract Assurance Framework and ad-hoc meetings. | An action plan will be developed and monitored in response to breaches> this will be reviewed and escalated through a contract review meeting. | Quarterly | All where relevant |
| Sub Contractor to ensure that employees comply with the conditions of the NHS Standard Short contract form | 100% | Via The Contract Assurance Framework and ad-hoc meetings. | An action plan will be developed and monitored in response to breaches> this will be reviewed and escalated through a contract review meeting. | Quarterly | All where relevant |

# SCHEDULE 6 – CONTRACT MANAGEMENT, REPORTING AND INFORMATION REQUIREMENTS

1. **Reporting Requirements**

|  | **Reporting Period** | **Format of Report** | **Timing and Method for delivery of Report** | **Application** | **Relevance to Services Provided by GPs** |
| --- | --- | --- | --- | --- | --- |
| **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 | **All** | Data gathered automatically – no additional returns required |
| **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 | As set out in relevant guidance | By no later than the First Reconciliation Date for the month to which it relates, consistent with data submitted to SUS, where applicable | **All** | Reporting requirements are defined in the individual service specifications |
| 1. Service Quality Performance Report, detailing performance against Operational Standards, National Quality Requirements, Local Quality Requirements, Never Events and the duty of candour | Monthly | As set out in relevant guidance | Within 15 Operational Days of the end of the month to which it relates. | **All** | Reporting requirements are defined in the individual service specifications |
| 1. Complaints monitoring report, setting out numbers of complaints received and including analysis of key themes in content of complaints | Quarterly | As set out in relevant guidance | As set out in relevant guidance | **All** | Information to be available upon request |
| 1. Summary report of all incidents requiring reporting | Monthly | As set out in relevant guidance | On request | **All** | Information to be available upon request |
| **Local Requirements Reported Locally** |  |  |  |  |  |
| 1. Monitoring Returns and additional templates relevant to individual services as appropriate | Monthly | Completion and submission of template and additional template document provided by the Commissioner | Within 10 operational days of receipt of template | **All** | Applies to all enhanced services – no new reporting requirement |
| 1. Co-operates with the Commissioner’s Contractual Assurance Framework, where agreed and in place. | As defined – not more than annually | Completion and submission of template document provided by the Commissioner | Within 4 weeks of receipt of template | **All** | Applies to all enhanced services – no new reporting requirement |
| 1. **Safeguarding Annual Reports (‘Children’ and ‘Adults at Risk’)**   Sub contracrs will ensure appropriate systems are in place to measure achievement against their statutory duties and national guidance as described within Schedule 2K.  An annual reporting template will be provided by Somerset CCG and shared with Providers. | To be advised | To be advised | To be advised | **All** | All |

**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** |
| All such incidents must be reported on the incident reporting form on PharmOutcomes and in accordance with “Process for Reporting and Learning from Serious Incidents Requiring Investigation” (SIRI) appended to schedule 2, Part G other local Agreements, Policies and Procedures. |

# SCHEDULE 7 – PENSIONS

**Not Applicable**

# SCHEDULE 8 – TUPE

NOT APPLICABLE

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.*

**PART B: SUB-CONTRACT CONDITIONS**

1. **Operation of this Sub-Contract**
   1. The Head Provider has entered into the Head Contract with the Commissioner, and under this Sub-Contract agrees with the Sub-Contractor that the Sub-Contractor will perform certain of the services under the Head Contract on the Head Provider's behalf. The rights and obligations of the Head Provider and the Sub-Contractor are set out in the Sub-Contract Particulars and Schedules and in the Service Conditions and General Conditions as amended or added to by these Sub-Contract Conditions.
2. **Interpretation**
   1. The Service Conditions and General Conditions in the Head Contract are incorporated into and form part of this Sub-Contract, as modified by this Sub-Contract. Any reference to any Schedule or the Particulars in the Service Conditions or General Conditions will, for the purposes of this Sub-Contract, be interpreted as referring to the corresponding element of the Sub-Contract Particulars and Schedules.
   2. Except as provided expressly in these Sub-Contract Conditions, terms as defined in the Head Contract will have the same meaning when used in this Sub-Contract.
   3. Definitions:

**General Conditions** and **Service Conditions**: the General Conditions and Service Conditions published by NHS England for the NHS Standard Contract 2019/20 (Shorter Form)

**Head Contract**: the contract between the Commissioner and the Head Provider in the form of the NHS Standard Contract 2019/20 (Shorter Form)

**Sub-Contract Services**: the services specified in Schedule 2A

* 1. Except as provided expressly in this Sub-Contract, the rules of interpretation in the Head Contract will apply to this Sub-Contract.
  2. For the purposes of this Sub-Contract, and unless the context otherwise requires, the following references in the Service Conditions and General Conditions will be interpreted as follows:

| **Term:** | **meaning for this Sub-Contract:** |
| --- | --- |
| "Commissioner", "Relevant Commissioner", "Responsible Commissioner" or "Co-ordinating Commissioner" | Head Provider |
| "this agreement", "this Contract" or "Contract" | (this) Sub-Contract |
| "Parties" | the Head Provider and Sub-Contractor |
| "Provider" | Sub-Contractor |
| "Services" | Sub-Contract Services |
| "Sub-Contract", "Sub-Contractor", etc. | sub-contract, sub-contractor, etc. |

* 1. The Schedules, as well as the Service Conditions and General Conditions (as amended) form part of this Sub-Contract and will have effect as if set out in full in the body of this Sub-Contract. Any reference to this Sub-Contract includes the Schedules.
  2. If there is any conflict or inconsistency between the sections of this Sub-Contract, the following order of priority applies:
     1. the Sub-Contract Conditions
     2. the Sub-Contract Particulars and Schedules
     3. the Service Conditions and General Conditions.
  3. The following definitions will apply in addition to, or instead of, the definitions in the Head Contract:

|  |  |
| --- | --- |
| **Authorised Person** | the Head Provider is added to the list of Authorised Persons |
| **CQUIN** | any references to CQUIN in any applicable definitions are deleted. |
| **Referrer** | the Head Provider is added to the entities listed in this definition. |

1. **Commencement and duration**
   1. This Sub-Contract comes into force on the Effective Date and will continue in force until the Expiry Date unless:
      1. it is terminated earlier in accordance with GC17; or;
      2. the Head Contract is terminated for any reason, in which case this Sub-Contract will (unless the Parties agree otherwise in writing) terminate immediately and automatically, without further action being necessary by the Parties, and subject to all the rights of the Parties accrued up to the date of termination; or
      3. the Commissioner, in accordance with the Head Contract, requires the removal of the Sub-Contractor, or the termination of this Sub-Contract or any Sub-Contract Service.
   2. Delivery of the Sub-Contract Services will begin on the Service Commencement Date (unless the Head Provider notifies a different date to accord with service delivery under the Head Contract, or the Parties agree otherwise).
2. **Co-operation**
   1. The Sub-Contractor will co-operate with the Head Provider and (where requested) directly with the Commissioner in order to ensure effective delivery of the Sub-Contract Services. Where the Sub-Contractor informs the Head Provider of issues which require action under the Head Contract or under any related sub-contract, the Head Provider will endeavour to resolve those issues with the Commissioner or with the relevant sub-contractor.
   2. The Sub-Contractor must deliver the Sub-Contract Services and perform its obligations under this Sub-Contract in such a manner as to ensure the Head Provider is able to comply with its obligations under the Head Contract insofar as those obligations relate to, depend on or may be affected by the Sub-Contract Services, including compliance by the Sub-Contractor with any positive or negative obligation.
3. **Payment**
   1. In consideration of the Sub-Contractor's provision of the Sub-Contract Services, the Head Provider will pay to the Sub-Contractor the Price as set out in Schedule 3.
   2. Unless stated otherwise in Schedule 3, the Sub-Contractor must invoice the Head Provider, within 10 days of the end of each month, the Price in respect of the Sub-Contract Services provided in the preceding month together. Each invoice must contain and be accompanied by such information and be addressed to such individual as the Head Provider may inform the Sub-Contractor from time to time.
   3. The Head Provider must pay each undisputed invoice received in accordance with clause 5.2 within 30 days of receipt. Payment is exclusive of any applicable VAT for which the Head Provider will be additionally liable to pay the Sub-Contractor upon receipt of a valid tax invoice at the prevailing rate in force from time to time.
   4. If a Party contests in good faith any part of any payment calculated in accordance with this Sub-Contract the contesting Party must promptly notify the other Party, and any uncontested amount must be paid in accordance with this Sub-Contract. If the matter has not been resolved within 20 Operational Days of such notification, the contesting Party must refer the matter to Dispute Resolution.
4. **Alterations to Service Conditions and General Conditions for the purposes of this Sub-Contract**
   1. The following provisions are deleted:

**Service Conditions (SC):** SC6.3, 29.1, 36.1 to 36.26, 36.28 and 38;

**General Conditions (GC):** GC1.1, 1.2, 3, 9.9, 10.1, 13.2, 13.4, 17.4 and 21.9

and any cross-references to those provisions are also deleted.

* 1. In the following provisions, references to the "Commissioner", “Commissioners” or “Co-ordinating Commissioner” (as applicable):
     1. will continue to refer to the Commissioner:

**Service Conditions (SC):** SC5.1, 23.2, 24.3, 28.5, 30.3, and (where the term "Commissioner" is used in relation to its being the Responsible Commissioner) SC36.31.3 and 36.31.6;

**General Conditions (GC):** GC21.13

**Definitions:** "Best Practice", "Local Counter Fraud Specialist" and "Service User"

* + 1. will refer to the Commissioner and the Provider:

**General Conditions (GC):** 21.18, 22.4, 23.3

and any reference in those provisions to a request or notice being given by a Commissioner will be deemed to apply where such a request or notice is given directly or is passed on to the Sub-Contractor by the Head Provider.

* 1. The following provisions will be amended (or will apply) as set out or described below:

**Service Conditions:**

|  |  |
| --- | --- |
| SC33.5 (Incidents Requiring Reporting) | The right to use information provided by the Sub-Contractor in any report made in connection with Serious Incidents is available to the Commissioner as well as to the Head Provider. |
| SC36.27 (Prices) | The last sentence of this Condition is deleted, and replaced with: "The Sub-Contractor's liability under this SC36.27 will not exceed the Head Provider's liability under the equivalent provisions of the Head Contract, or (if less) that proportion of the Head Provider's liability that was caused by the Sub-Contractor's breach of the Operational Standards, National Quality Requirements or Local Quality Requirements". |

**General Conditions:**

|  |  |
| --- | --- |
| GC13.4 (Variations) | Notwithstanding the deletion of GC13.4, the Parties acknowledge that the Head Provider must comply with National Variations and that the Head Contract (and consequently this Sub-Contract) may be terminated for non-acceptance of a National Variation, and accordingly the Parties will co-operate to agree to vary this Sub-Contract to the extent necessary to enable the Head Provider to comply with National Variations. |
| GC14.2 (Dispute Resolution) | The words "jointly by NHS Improvement and NHS England (where the Provider is an NHS Trust), or" are deleted. |
| GC16 (Suspension) | The Head Provider may also suspend the Sub-Contract Services where those services are suspended by the Commissioner under the Head Contract. |
| GC17.4.1 (Termination) | The notice period is extended from 20 Operational Days to 40 Operational Days where the Head Provider's failure to pay is due to the failure of the Commissioner to pay under the Head Contract. |
| GC20.3 (Confidential Information) | A new GC20.3.6 is added as follows: "20.3.6 or (where the disclosing Party is the Head Provider) to the extent that the Head Provider is required to disclose such information under the Head Contract". |
| GC21.19 to 21.22 (Patient Confidentiality, Data Protection, Freedom of Information and Transparency) | These Conditions will only apply if either the Head Provider or the Sub-Contractor is a public body. |
| GC22.2 (Intellectual Property) | The licence of Sub-Contractor Deliverables granted by the Sub-Contractor under GC22.2 will apply in favour of the Commissioners for the purposes set out in GC22.2, and in favour of the Head Provider for the purposes of receiving the Sub-Contract Services and performing its obligations under the Head Contract.  GC22.3.2 will not apply to this Sub-Contract, notwithstanding that the Sub-Contractor may apply to NHS England's NHS Identity team for permission to use the NHS Identity where it does not otherwise have permission to use the NHS Identity. |
| GC29 (Third Party Rights) | The following text will be added after GC29.1.6: "and for the avoidance of doubt the Commissioner may enforce any provision of this Sub-Contract to the extent that it is expressed as applying in favour of the Commissioner". |

* 1. The following time periods are amended as set out below in order to allow for related actions under the Head Contract:

| **Provision** | **timescale in the Service Conditions or General Conditions** | **amended timescale for this Sub-Contract** |
| --- | --- | --- |
| SC30.2 | 5 Operational Days (for notification of the activation of the Sub-Contractor's Incident Response Plan, etc.) | 4 Operational Days |
| SC36.29 | 20 Operational Days (for the Head Provider to reimburse statutory benefits) | 24 Operational Days |
| GC11.4 and 11.5 | 5 Operational Days (for Sub-Contractor to provide information about Indemnity Arrangements) and 10 Operational Days (to provide evidence of post-termination cover) | 4 Operational Days and 8 Operational Days respectively |
| GC 15.6 | 10 Operational Days (for notification to appoint an Auditor) | 8 Operational Days |
| GC17.5.4 | 20 Operational Days (for Sub-Contractor to remedy breach) | 16 Operational Days |
| GC21.17.3 and 21.17.4 | 2 Operational Days (for Sub-Contractor to provide a copy of or transfer an FOIA request) | 1 Operational Day in each case |
| GC21.17.6 | 5 Operational Days (for Sub-Contractor to provide relevant information) | 4 Operational Days |

**SERVICE CONDITIONS**

[*refer to the NHS Standard Contract 2019/20 (Shorter Form) Service Conditions*]

**GENERAL CONDITIONS**

[*refer to the NHS Standard Contract 2019/20 (Shorter Form) General Conditions*]

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