

Dated 1<sup>st</sup> October 2014 2014

Item 10b

(1) **NHS VALE OF YORK CLINICAL COMMISSIONING GROUP**

- and -

(2) **NORTH YORKSHIRE AND HUMBER COMMISSIONING SUPPORT UNIT**

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**SERVICE LEVEL AGREEMENT FOR  
COMMISSIONING SUPPORT SERVICES**

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**CONTENTS**

- 1. DEFINITIONS AND INTERPRETATION.....3
- 2. TERM.....6
- 3. PRINCIPLES .....7
- 4. CCG RESPONSIBILITIES .....7
- 5. PROVISION OF THE SERVICES .....8
- 6. CHANGE MANAGEMENT .....9
- 7. CHARGES AND PAYMENT.....9
- 8. SERVICE AND AGREEMENT MONITORING.....10
- 9. PERFORMANCE MANAGEMENT, MONITORING & ESCALATION PROCEDURE .....11
- 11 INDEMNITY .....14
- 12 EMPLOYEES .....14
- 13. TERMINATION.....15
- 14. OBLIGATIONS ON TERMINATION OR EXPIRY .....15
- 15. SURVIVAL.....16
- 16. CONFIDENTIALITY.....16
- 17. INTELLECTUAL PROPERTY .....18
- 18. ASSIGNMENT AND SUB-CONTRACTING.....19
- 19. FORCE MAJEURE .....19
- 20. COSTS .....20
- 21. PROHIBITED ACTS .....20
- 22. DISPUTE RESOLUTION.....20
- 23. FURTHER ASSURANCE .....21
- 24. VARIATION AND WAIVER .....21
- 25. NOTICE .....21
- 26. ENTIRE AGREEMENT.....22
- 27. RIGHTS OF THIRD PARTIES .....23
- 28. COUNTERPARTS.....23
- 29. GOVERNING LAW AND JURISDICTION.....23
- SCHEDULE 1- THE SERVICES .....24**
- SCHEDULE 2 - THE CHARGES .....25**
- SCHEDULE 3 - SERVICE LEVELS .....26**
- SCHEDULE 4 - SUBCONTRACTORS .....28**
- SCHEDULE 5 - APPOINTMENTS .....29**

**THIS AGREEMENT** is made the **1<sup>st</sup> October 2014**

**BETWEEN:**

- (1) **NHS Vale of York Clinical Commissioning Group CLINICAL COMMISSIONING GROUP** (a clinical commissioning group established and authorised by the NHS Commissioning Board) (the “**CCG**”); and
- (2) **NORTH YORKSHIRE & HUMBER COMMISSIONING SUPPORT UNIT** (a body which is hosted as at the effective date within the NHS Commissioning Board) (the “**CSU**”),

**BACKGROUND**

- (C) The CSU is engaged in the business of providing services in relation to Clinical Commissioning support, and has reasonable skill, knowledge, qualifications and experience in that field.
- (D) The CCG wishes to engage the CSU to provide the Services detailed in Schedule 1, subject to and in accordance with, the terms and conditions of this Agreement
- (E) The CSU has agreed to accept such engagement and shall provide the Services to the CCG, subject to and in accordance with, the terms and conditions of this Agreement

**NOW IT IS HEREBY AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this agreement, the following capitalised words and expressions shall have the following meanings:

“**Actual Performance**” means the Service Level actually achieved, over a given period, for a Service provided by the Service Provider when measured in accordance with Schedule x;

“**Agreement Review**” means a review of this Agreement which will be conducted in accordance with Clause 3.1 at the intervals specified in that Clause;

<b>"Background IPR"</b>	any Intellectual Property Rights, which do not arise or are developed by a party, or by a contractor on a party's behalf, in the course of or in connection with the provision of the Services;
<b>"Business Day"</b>	a day (other than a Saturday, Sunday or public holiday) when banks in the City of London are open for business;
<b>"Change of Law"</b>	means the coming into effect after the date of this Agreement of: (a) Legislation, other than any Legislation which on the date of this Contract has been published: i. in a draft Bill as part of a Government Departmental Consultation Paper; (b) any mandatory Guidance, or

(c) any applicable judgment of a relevant court of law which changes a binding precedent.

(d) any Direction made or given by the Secretary of State or the NHS Commissioning Board in exercise of their statutory functions.

"Legislation"

means any Act of Parliament or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable community right within the meaning of Section 2 of the European Communities Act 1972, in each case in the United Kingdom.

<b>"Charges"</b>	the charges specified in Schedule 2 (Charges);
<b>"Commencement Date"</b>	01 October 2014
<b>"Commissioning Function"</b>	the commissioning function which is the responsibility of the CCG;
<b>"Confidential Information"</b>	Is defined as the business or affairs of the other party, including but not limited to information relating to a party's operations, processes, plans, know-how, software, commissioning opportunities and contracts
<b>"CSU's Personnel"</b>	employees, consultants, interim staff, agents and subcontractors which the CSU engages in relation to the Services;
<b>"CSU Relationship Manager"</b>	Shall be the Services Manager appointed by the CSU in accordance with Clause 8. For the purpose of this agreement the CSU Service Manager will also be referred to as the CSU Relationship Manager. The first such appointments to these roles being set out in Schedule 5;
<b>"CCG Performance Manager"</b>	Shall be the Services Manager appointed by the CCG in accordance with Clause 8. For the purpose of this agreement the CCG Service Manager will also be referred to as the CCG Performance Manager. The first such appointments to these roles being set out in Schedule 5;
<b>"EIR "</b>	Environmental Information Regulations 2004;
<b>"FOIA"</b>	the Freedom of Information Act 2000;
<b>"Force Majeure Event"</b>	has the meaning given in Clause 20.1;

<b>"Intellectual Property Rights"</b>	all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world and <b>Intellectual Property Right</b> means any one of the Intellectual Property Rights;
<b>Joint Contracting Board</b>	the escalation point for Senior Managers from both the CSU & CCG to discuss Service Level failures and Service Credits
<b>"NHSCB"</b>	the NHS Commissioning Board also known as "NHS England";
<b>"NHS Contract"</b>	has the meaning assigned to it in section 9 of the National Health Service Act 2006;
<b>"NHS Requirements"</b>	in relation to the Services, any requests, letters, circulars, or guidance issued by the NHSCB or the Department of Health and/or any similar official requests, guidance or requirement from time to time in force;
<b>"Services"</b>	the services set out in the Schedule 1 (Services) and <b>Service</b> means any one of the Services;
<b>"Service Credits"</b>	means a defined financial deduction to be credited by the CSU to the CCG in recognition of failure to meet the agreed Service Levels in accordance with the provisions of Clause 10 and calculated in accordance with Schedule 3;
<b>"Service(s) Rectification Plan"</b>	A plan of action to be implemented by the CSU, in response to the failure of services provided to the CCG, as set out in Schedule 3 of this means the agreed levels to which the CSU's performance in providing the Service must adhere as set out in Schedule 1
<b>"Service Levels"</b>	Agreed levels and standards of service provision
<b>"Service Failures"</b>	An instance whereby the measurable service levels for fall below the acceptable standards

within the stated Service Specifications as set out in Section 5 of Schedule 3.

**"Service Rebate"** Any sum due to be credited to the CCG in respect of a service which has not been delivered and agreed in accordance with Clause 10

**"Service Termination Date"** in relation to any Service, the service termination date set out in Schedule 1 (Services) or such other date as the parties may agree in writing;

the term of this Agreement as set out in Clause 2;

**"Term"**

- 1.1 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 The schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement and any reference to this agreement includes the schedules.
- 1.4 Unless the context requires otherwise, words in the singular shall include the plural and vice versa.
- 1.5 Unless the context requires otherwise, a reference to one gender shall include a reference to the other genders.
- 1.6 A reference to a statute, statutory provision or any subordinate legislation made under a statute is to such statute, provision or subordinate legislation as amended or re-enacted from time to time and, in the case of a statute, includes any subordinate legislation made under that statute from time to time.
- 1.7 A reference to **writing** or **written** includes faxes or formal letters sent via email as an attachment, but not the body of an email itself
- 1.8 Where the words **include(s)**, **including** or **in particular** are used in this agreement, they are deemed to have the words "without limitation" following them.
- 1.9 This agreement shall be interpreted as a whole but if there is any conflict or inconsistency between the provisions of the Clauses and the Schedules the Clauses shall prevail to the extent of any conflict or inconsistency over the Schedules.
- 1.10 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule.
2. **TERM**
- 2.1 The SLA has a term of 18 months from 1st Oct 14 to 31st March 2016.

- 2.1 Either party may terminate this Agreement, or Service or Service Line within this Agreement, by giving at least 6 months' notice in writing to the other party, except in circumstances where a different notice period is agreed by both parties.
- 2.2 This agreement shall terminate automatically on the last Service Termination Date, unless terminated earlier under the terms of Clause 13.
3. **PRINCIPLES**
- 3.1 The Parties agree to aspire towards meeting the following (non-legally binding) principles when carrying out their obligations under this agreement:
- 3.1.1 collaborate and co-operate in the delivery of the Services to ensure that the commissioning ambitions and intentions of the CCG are met;
  - 3.1.2 be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this agreement;
  - 3.1.3 be open. Communicate openly about major concerns, issues or opportunities relating to the agreement;
  - 3.1.4 learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
  - 3.1.5 adopt a positive outlook. Behave in a positive, proactive manner;
  - 3.1.6 adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation;
  - 3.1.7 act in a timely manner. Recognise the time-critical nature of the project and respond accordingly to requests for support;
  - 3.1.8 manage stakeholders effectively;
  - 3.1.9 act in good faith to support achievement of the key objectives and compliance with these principles; and
  - 3.1.10 provide coherent, timely and efficient decision-making.
4. **CCG RESPONSIBILITIES**
- 4.1 The CCG shall:
- 4.2 co-operate with the CSU in all matters relating to the Services;
  - 4.3 provide such access to the CCG's premises and data, and such office accommodation and other facilities as may reasonably be requested by the CSU and agreed in writing in advance, for the purposes of the Services;
  - 4.4 provide such information as the CSU may reasonably request, in a timely manner in order to carry out the Services and ensure that it is accurate in all material respects;
  - 4.5 inform the CSU of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the CCG's premises to which the CSU requires access; and
  - 4.6 provide customer feedback to the CSU as part of the formal key performance arrangements.

- 4.7 If and to the extent only that the CSU is unable to perform any Services in accordance with this agreement as a direct result of any failure by the CCG to perform any of the CCG responsibilities specified in Clause 6.1 (unless and to the extent caused or contributed to by the CSU) then provided that the CSU has taken all reasonable steps to mitigate the consequences of the failure by the CCG to perform any such responsibility, the CSU shall be entitled:
- 4.7.1 to a reasonable extension of time to perform the relevant Services (but not to any extension to the Term); and
  - 4.7.2 to relief from liability in respect of its failure to properly perform said Services in accordance with this agreement.
- 4.8 The CSU shall continue to use all reasonable endeavours to continue to perform its obligations under this agreement insofar as is possible notwithstanding any failure of the CCG to perform responsibilities.

## 5. PROVISION OF THE SERVICES

- 5.1 In providing the Services, the CSU shall at all times:
- 5.1.1 Provide services in line with the agreed specifications, as set out in schedule 1 of this agreement
  - 5.1.2 provide services to the standards detailed in the agreed specifications, as set out in schedule 1, and the overall service levels set out in schedule 3
  - 5.1.3 use reasonable skill and care in providing the Services;
  - 5.1.4 provide the Services in accordance with NHS Requirements applicable to the CCG or which may affect the Services and the provision of them by the CSU;
  - 5.1.5 allocate sufficient resources to provide the Services in accordance with the terms of this Agreement including providing sufficiently trained, qualified and experienced staff appropriate to the provision of the Services, in order to provide the CCG with a resilient service where practically possible;
  - 5.1.6 provide such reasonable co-operation and information in relation to the Services to the CCG as it may reasonably require;
  - 5.1.7 provide the Services in a manner which is not likely to be injurious to health or cause damage to property;
  - 5.1.8 observe, and ensure that the CSU's Personnel observe, all health and safety rules and regulations and any other reasonable security requirements that apply at any of the CCG premises, or any other premises, where Services may be provided from;
  - 5.1.9 notify the CCG as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Services;
  - 5.1.10 before the date on which the Services are to commence, obtain, and at all times maintain, all necessary licences and consents for the provision of the Services;
  - 5.1.11 not breach or infringe any third party rights (including but not limited to Intellectual Property Rights) in delivering the Services; and



- 5.1.12 perform the Services in compliance with all applicable legislation and standards and other similar instruments and all applicable provisions of this agreement.

## 6. CHANGE MANAGEMENT

- 6.1 If a party wishes to make a material change to any of the Services (i.e. any change to the agreed service specification or quantum of activity, but excluding and changes associated with regulatory and legislative change) and or the terms of this agreement during the Term then it shall submit details of the requested change in writing to the other party's Services Manager ("the receiving party").
- 6.2 Following the submission or receipt of a change request, which request shall include a specification for any proposed additional service or reduction of service, the CSU shall, within a reasonable time, provide a written estimate to the CCG of:
  - 6.2.1 the time required to implement the change;
  - 6.2.2 any proposed variations to the Charges arising from the requested change; and
  - 6.2.3 any other impact of the requested change on the Services or the terms of this agreement.
- 6.3 The requested change and the CSU's estimate shall be considered at the next meeting of the Services Managers. The parties shall consider the request in good faith but neither the CSU or the CCG shall be under any obligation to accept any requested change to the Services. The CSU will use reasonable endeavours to accommodate the request and review the request in line with the principles of clause 4.
- 6.4 The receiving party shall give their formal response to the other within seven (7) days of the relevant Services Managers meeting. If the parties are unable to agree on the appropriate variation to the Charges within 14 days of agreeing the requested change, the proposed change shall be abandoned or the matter shall be referred to the Chief Officer of the CCG and Managing Director of the CSU who shall attempt in good faith to resolve the issue. The CSU shall continue to deliver the Services and meet its obligations under this agreement on the current basis until any change proposed under this Clause 6 has been agreed in writing.
- 6.5 For the avoidance of doubt, this clause 6 shall include additions to, deletions from or modifications' to the services to be provided under this Agreement.

## 7. PRICING, CHARGES, AND PAYMENT

- 7.1 In consideration of the CSU providing the Services to the CCG, the CCG shall pay the charges to the CSU as set out in schedule 2.
- 7.2 For the avoidance of doubt, the charges set out in schedule 2 are the agreed annualised price of the CSU delivering services to the CCG.
- 7.3 The CSU is committed to reviewing prices, in collaboration with the CCG, in order to deliver savings in line with the national direction of travel, to be effective from 1st April 15 onwards
- 7.4 The CSU shall invoice the CCG for the Charges at the start of each month for the Services to be provided to the CCG in that month.
- 7.5 The CCG shall pay invoices in full in cleared funds to the bank account nominated in writing by the CSU, by no later than the 15<sup>th</sup> of the month (in respect of the Charges for that month),

subject only to such invoices having been issued to the CCG not less than 14 days prior to that monthly date, and otherwise within 15 days of receipt of such invoice. Any adjustments required to be made to reflect actual service levels delivered by the CSU for the relevant month shall be shown as a deduction from the payment due from the CCG on the next monthly invoice from the CSU (or if this is not possible the CCG may invoice the CSU for reimbursement of the relevant amount and payment shall be due from the CSU within 15 days of receipt).

- 7.6 If the CCG disputes any invoice or other request for payment, the CCG shall immediately notify the CSU in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The CSU shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the parties have not resolved the dispute within 30 days of the CCG giving notice to the CSU, the dispute shall be resolved in accordance with Clause 19. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in Clause 7.5. For the avoidance of doubt, the CSU's obligations to provide the Services shall not be affected by any payment dispute, including its obligations to provide the Services to which the payment dispute relates.
- 7.7 The CCG shall be entitled to require the CSU to provide all such evidence as may be reasonably necessary to verify the Charges and any other matters set out in an invoice.
- 7.8 Each party may, without prejudice to any other rights or remedies it may have, set off any amounts owed to it by the other party against any amounts payable by it to the other party.
- 7.9 All payments payable to the CSU or the CCG under this agreement shall become due immediately on its termination or expiry. This Clause 7.9 is without prejudice to any right to claim for interest under the law or under this agreement.

## **8. SERVICE AND AGREEMENT MONITORING**

- 8.1 The CSU will provide the CCG with the services of a nominated Services Manager (the CSU Relationship Manager). The CSU Relationship Manager will provide the CCG with a single point of contact and will be responsible for the overall management of the relationship with the CSU. The CSU Relationship Manager will be authorised and empowered, as a senior management representative of the CSU, to make decisions about key client service delivery. The CSU Relationship Manager will be responsible for ensuring there is regular, timely and relevant contact with the CCG and this will include arranging meetings as referred to in Clause 8.2.
- 8.2 The CCG and the CSU shall arrange formal meetings between a CCG's Services Manager and the CSU Relationship Manager at regular monthly intervals (unless otherwise agreed between the parties) in order to discuss the provision of the Services in accordance with the Service Levels, where relevant, based upon Performance Reports generated in accordance with Clause 9 and Schedule 3. At such meetings the CCG Service Manager and the CSU Relationship Manager may consider, discuss and propose changes to this Agreement (to the extent not raised elsewhere) subject, however, that the process in Clause 6 shall apply in respect of any such proposal.
- 8.3 A Joint Contract Board meeting of the CSU & CCG Senior Management team will take place at quarterly intervals to discuss a range of strategic and performance matters in relation to the CSU. This will include discussion around any serious breaches of service levels, and where agreed apply the agreed Service Credit rebates as set out in Sections 7 and 8 of Schedule 3.
- 8.4 Notwithstanding the provisions of sub-Clause 8.2, in the event that changes to this agreement are required due to circumstances including, but not limited to, legislative or regulatory change, either Party shall have the right to call for an immediate review of this agreement to discuss the necessary changes and action to be taken. Any changes agreed upon during such review shall not be effective unless evidenced in writing and signed by the duly authorised representatives of the Parties.

## 9. PERFORMANCE MANAGEMENT, MONITORING & ESCALATION PROCEDURE

- 9.1 All performance data collected by the Performance Representative(s) pursuant to this Clause 9 and to Schedule 1 to reflect performance against Key Performance Indicators ("KPIs") shall be presented in monthly Performance Reports by the CSU.
- 9.2 Performance Reports shall be submitted, within the time period specified in Schedule 3, to the CCG's Performance Manager and the CSU's Relationship Manager for consideration and agreement upon appropriate action to be taken (where relevant) during meetings to be held in accordance with sub-Clause 8.2.
- 9.3 The CSU shall use reasonable endeavours to provide the Services to meet or exceed the required Service Levels as stated within the services specifications (Schedule 1) and the general service standards set out in Schedule 3. On a monthly basis the CCG Performance Manager and the CSU Relationship Manager will review all Key Performance Indicators ("KPIs"), and discuss general levels of service provision. On a bi-monthly basis the CCG will score their level of Customer Satisfaction for each service.
- 9.4 Where performance of the Services and/or any other obligations under this Agreement either:
- (i) falls below the service requirements or key indicators set out in Schedule 1 of this Agreement, or falls below standards that could be reasonably expected from a Party to this Agreement, or
  - (ii) issues identified in 8.3 are not addressed to the satisfaction of the CCG,
- then this shall, in the first instance, be raised at the formal monthly meeting between the CSU Relationship Manager and the CCG Performance Manager, where agreement to categorise and escalate Service Failures to the Joint Contracting Board for review and action will be taken.
- 9.5 Any Critical and Major Service Failure, as set out in schedule 3 and agreed between the CSU Relationship Manager and CCG Performance Manager, will trigger the development of a Service Rectification Plan and will be escalated to the Joint Contracting Board.
- 9.6 The Service(s) Rectification Plan shall:
- a) provide a statement of the reasons for the Actual Performance;
  - b) identify the remedial action needed to rectify the circumstances so the Service Levels set out in Schedule 1 are adhered to;
  - c) set out the CSU's key proposals for carrying out the remedial actions, a programme for undertaking such actions and the dates by which this programme will be completed, such dates being reasonable in relation to the importance or urgency of the particular Service(s) subject to the Service(s) Rectification Plan to the proper discharge of the CCG's own functions;
  - d) identify any actions or consents required from the CCG and/or any other body to facilitate the Service Provider's programme of remedial actions;
  - e) specify proposed criteria for the purpose of auditing completion of the remedial actions and resolution of the Service(s) failure;
  - f) achieve a permanent resolution to such Actual Performance and prevent its re-occurrence;
- 9.7 If the CSU prepares a Rectification Action Plan in accordance with Clause 9.4.3 it shall carry out that rectification in order to remedy the default within such reasonable time period identified in the Rectification Action Plan (or such extended time period as may be agreed between the parties). During the rectification period the CCG shall not be able to terminate

this Agreement pursuant to clause 13.2, and if at the end of the rectification period the default has been remedied then no further action may be taken in respect of that default..

- 9.8 Following receipt of a Service(s) Rectification Plan, the CCG may, acting reasonably and within 10 Business Days:
- (a) agree it; or
  - (b) reject it and require the CSU to submit a revised Service(s) Rectification Plan within 10 Business days of such rejection.
- 9.8.1 if the CSU fails to submit a revised Service(s) Rectification Plan in accordance with sub-Clause 9.4.2(b) or the revised Service(s) Rectification Plan is, in the CCG's reasonable opinion, unacceptable, the matter shall be resolved in accordance with Clause 22 (Dispute Resolution Procedure).
- 9.8.2 the CSU shall implement all the remedial actions set out in a Service(s) Rectification Plan by the date specified in the Service(s) Rectification Plan and at the Service Provider's own cost.
- 9.8.3 the CCGs Performance Representative shall be authorised to act on behalf of the CCG for the purposes of measuring progress against a Service(s) Rectification Plan, completion of the audit and closure of the Service(s) Rectification Plan following completion.
- 9.9 Service(s) Rectification Plan shall remain open until the remedial actions to be carried out under it by the CSU have been audited by both the CSU & CCG through the Joint Contracting Board, where both parties have confirmed that all such remedial actions have been completed in accordance with the agreed Service(s) Rectification Plan and to the CCGs relevant audit standards, whereupon the Service(s) Rectification Plan shall be closed.
- 9.10 Where the remedial actions required under a Service(s) Rectification Plan are carried out and completed but do not succeed in rectifying the circumstances which have resulted in the Actual Performance being below the agreed Service Level or in achieving a permanent resolution of such Actual Performance being below the agreed Service Level and preventing its re-occurrence, then the CCG may, acting reasonably and at its sole discretion:
- a) agree an extension to the time for carrying out and completing the Service(s) Rectification Plan; or
  - b) agree a revised Service(s) Rectification Plan; and
  - c) receive a Service Credit in line with clause 10
- 9.11 Where relevant, the CCG shall endeavour to procure any actions or consents identified in a Service(s) Rectification Plan as required from the CSU or any other body. Where the CCG is unable to procure such compliance, it may:
- a) agree that the CSU is no longer required to complete the remedial actions identified in the Service(s) Rectification Plan for which such actions or consents are needed and close the relevant Service(s) Rectification Plan; or
  - b) agree with the CSU a revised date for completion of the Service(s) Rectification Plan
- 9.12 Where the Parties agree that the CSU is no longer required to complete the remedial actions identified in the Service(s) Rectification Plan and it is thereby not possible for the CSU to meet the Service Levels set out in Schedule 3, the Parties will execute a Contract Variation to formalise a change to the Service from that point onwards in accordance with the provisions of Clause 6 (Change Management) and 25 (Variation and Waiver).

- 9.13 A report on progress against each open Service(s) Rectification Plan shall be provided and considered either:
- a) at the monthly (or as otherwise agreed) meetings between the CSU Relationship Manager and CCG Representative to record any corrective action plan and any consequence exercised and actions completed or any matters that shall be escalated to the Joint Contracting Board meeting.
  - b) Where instances of poor performance are not satisfactorily addressed through formal meetings between CSU Relationship Manager and CCG Representative, then this will be escalated to the formal Joint Contracting Board Meeting, where the following course of action will be agreed;
    - a. agree an extension to the time for carrying out and completing the Service(s) Improvement Plan; or
    - b. agree a revised Service(s) Rectification Plan; or
    - c. issue a Service Credit in line with the stated rebates in Schedule 3

## 10 SERVICE CREDITS AND REBATES

- 10.1. Service Credits may be awarded to the CCG in instances where service rectification plans relating to 'critical' or 'major' service failures (as set out in schedule 3), are not closed to the satisfaction of the CCG within the agreed timescales as per section 9.
- 10.2. In such instances, service credits will be discussed and agreed by the Joint Contracting Board prior to their application.
- 10.3. Service credits may take the form of a rebate against the Price for the specific service element in question (in accordance with Schedule 2), for the given performance period, or alternatively may take the form of additional service provision from the CSU to an equivalent value at no extra cost.
- 10.4. The CSU is a 'not for profit' organisation, and is mandated by NHS England to make a 5% surplus across all services which must be re-invested in year for the benefit of CCGs. Service credits may therefore be issued up to a maximum value of 5% of the total price for a given service element in a single performance period, as per the following framework:
- Service credits relating to service failures agreed as 'critical' (as set out in schedule 3), shall attract a rebate of up to 5% of the price relating to the specific service element in question; and
  - Service credits relating to service failures agreed as 'major' (as set out in schedule 3), shall attract a rebate of up to 2.5% of the price relating to the specific service element in question;
  - Service credits will not be applied to service failures agreed 'minor' (as set out in schedule 3),
- 10.5. Service rebates may be awarded to the CCG in instances where services have not been physically delivered by the CSU (for example through a vacant post), or the agreed outputs have not been delivered via an alternative arrangement.
- 10.6. In such instances, service rebates will be discussed and agreed by the Joint Contracting Board prior to their application.
- 10.7. Service rebates may take the form of a rebate against the full price for the specific service element in question (in accordance with Schedule 2) since the date that the service element was not delivered in full, or alternatively may take the form of additional service provision from the CSU to an equivalent value at no extra cost.

## **11 INDEMNITY**

- 11.1 The CSU shall indemnify and hold harmless the CCG, its subcontractors, agents and employees from and against any and all claims, costs and liabilities howsoever arising and of whatsoever nature and whether in contract or in tort, arising out of or in respect of any infringement or alleged infringement of the Intellectual Property Rights or other rights of third parties arising out of or in connection with the supply or use of the Services under this Agreement if and to the extent that such losses, costs, damages and expenses are caused or contributed to by the negligent acts or omissions of the CSU or any persons for which the CSU is otherwise legally liable.
- 11.2 The CCG shall indemnify and hold harmless the CSU, its subcontractors, agents and employees from and against any and all claims, costs and liabilities howsoever arising and of whatsoever nature and whether in contract or in tort, arising out of or in respect of any infringement or alleged infringement of the Intellectual Property Rights or other rights of third parties arising out of or in connection with the supply or use of the Services under this Agreement if and to the extent that such losses, costs, damages and expenses are caused or contributed to by the negligent acts or omissions of the CCG or any persons for which the client is otherwise legally liable.
- 11.3 The CSU shall maintain membership of the Risk Pooling Scheme for Trusts operated by the NHS Litigation Authority including membership of the Professional Indemnity part of the scheme. To the extent that it is a peril covered by such membership the CSU shall indemnify and hold harmless the CCG from and against any all claims and liabilities howsoever arising and of whatsoever nature and whether in contract or in tort. In the event that the CSU is no longer eligible for such scheme membership, the CSU shall take out and maintain a commercially available policy of insurance providing an equivalent level of cover on terms which are commercially acceptable to the CSU. In the event that the CCG require additional levels of cover or indemnity against additional risks, the CSU shall at its discretion put in place such policy of insurance as may be available and the CCG shall reimburse the CSU in respect of the premium for such insurance (or such proper proportion of the premium where two or more CCGs require equivalent additional indemnities).
- 11.4 For the purpose of this Clause 11 the term Professional Indemnity shall have the meaning given to it by Schedule 5 of the NHS Litigation Authority Liabilities to Third Parties Scheme.
- 11.5 Except as set out in this agreement, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this agreement. In particular but without prejudice to the generality of the foregoing the CSU shall not be liable to the CCG for any liability for loss of goodwill, business, revenue or profits, anticipated savings or wasted expenditure (whether reasonably foreseeable or not) or indirect or consequential loss.

## **12 EMPLOYEES**

- 12.1.0 The parties acknowledge and agree that where all or part of the Services cease to be provided by the CSU for any reason, there may be a relevant transfer of some or all of the CSU staff to the CCG and/or a new service provider for the purposes of TUPE. If there is such a transfer, the employment of the CSU staff shall transfer to the CCG and/or the new service provider in accordance with TUPE.
- 12.2 Save where the parties reasonably believe that there will be no relevant transfer for the purposes of TUPE, the parties shall co-operate in agreeing a list of affected staff prior to the transfer date, and shall co-operate in seeking to ensure the orderly transfer of the affected staff to the CCG and/or the new service provider.

### 13. **TERMINATION**

- 13.1 In accordance with the timescales set out in Clause 2 (Term), either party may terminate the provision of any or all of the Services by giving no less than six months' written notice, except in circumstances where a different notice period is agreed by both parties.
- 13.2 A party shall be entitled to terminate this agreement, or the provision of any or all of services within it, with immediate effect by giving written notice to the other party if:
- 13.2.1 the other party fails to pay any undisputed amount due under this agreement on the due date for payment and remains in default not less than 30 days following the date of written notice served on the Chief Finance Officer or Managing Director of the other party specifying details of non payment; or
  - 13.2.2 the other party commits a material breach of its obligations under this agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 days after receipt of notice in writing requiring it to do so and specifying the said breach; or
  - 13.2.3 the other party commits a series of breaches of its obligations under this Agreement which taken together amount to a material breach which is incapable of remedy or which, in the case of a series of breaches capable of remedy, are not entirely remedied within thirty (30) days after receipt of notice in writing requiring it to do so and specifying the said breaches; or
  - 13.2.4 any Force Majeure Event prevents the other party from performing its obligations under this agreement for a continuous period of ninety (90) days provided that where applicable the agreement may only be terminated in respect of the Services affected by the Force Majeure Event.
- 13.3 The provisions of Clause 13.2 are subject to the relief measures in Clause 20.
- 13.4 Termination or expiry of this agreement shall not prejudice any of the parties' rights and remedies which have accrued as at termination or expiry.
- 13.5 The CCG may only terminate a specific affected Service in accordance with Clause 13.2 if the CSU default relied upon by the CCG in exercising its termination rights under Clause 13.2 is a CSU Partial Default. For these purposes a CSU Partial Default means a breach by the CSU of its obligations under this Agreement which materially and adversely affects the performance only of that Service.

### 14. **OBLIGATIONS ON TERMINATION OR EXPIRY**

- 14.1 This Clause 14 shall apply on termination or expiry of this agreement (howsoever arising) and on the termination or expiry of any individual Service(s) (howsoever arising). References in this Clause to the Services shall where applicable be read as a reference to the relevant individual Service(s) which are being terminated.
- 14.2 The CSU shall provide such assistance as the CCG may reasonably require to effect a full and orderly transfer of the Services to the CCG or to a third party nominated by the CCG. The CSU shall furnish the CCG or the third party with all reasonable information or documents reasonably required to perform the Services (including staffing details). All such assistance shall be provided within a reasonable time.
- 14.3 The CCG shall be responsible for all reasonable costs incurred by the CSU in discharging its obligations under Clause 14.2, except where the agreement has been terminated by reason of the CSU's breach in which case the CSU shall be responsible for such costs.
- 14.4 Upon termination or expiry each party shall promptly:

- 14.4.1 return to the other party all equipment, materials and property belonging to the other party in connection with the supply of the Services under this agreement;
- 14.4.2 return to the other party all documents and materials (and any copies) containing the other party's Confidential Information;
- 14.4.3 erase all the other party's Confidential Information from its computer systems (to the extent possible); and
- 14.4.4 on request, certify in writing to the other party that it has complied with the requirements of this Clause.

**15. SURVIVAL**

On termination of this agreement (however arising) the following Clauses shall survive and continue in full force and effect:

Clause 14, Clause 16 and Clause 18.

**16. CONFIDENTIALITY, KNOWLEDGE SHARING, AND INFORMATION GOVERNANCE**

16.1 Each Party undertakes that, except as provided by sub-Clause 14 or as authorised in writing by the other Party, it shall, at all times during the continuance of this Agreement and for 12 months after its termination:

- 16.1.1 keep confidential all Confidential Information;
- 16.1.2 not disclose any Confidential Information to any other person;
- 16.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to the terms and conditions of this Agreement;
- 16.1.4 not make any copies of, record in any way or part with possession of any Confidential Information, except as required to deliver services in accordance with this agreement; and
- 16.1.5 ensure that none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 16.1.1 to 16.1.4 above.

16.2 Either Party may:

- 16.2.1 disclose any Confidential Information to:
  - 16.2.1.1 any sub-contractor or supplier of that Party;
  - 16.2.1.2 any governmental or other authority or regulatory body;
  - 16.2.1.3 NHS authorities including but not limited to the NHS National Commissioning Board and its Local Area Team representatives, or;
  - 16.2.1.4 any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;
  - 16.2.1.5 such professional advisors as the CSU or CCG consider necessary to instruct for the proper conduct of their affairs
  - 16.2.1.6 to comply with the law:

to such extent only as is necessary for the purposes contemplated by this Agreement, or as required by law, and in each case subject to that Party first informing the person,



party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body as is mentioned in sub-Clause 16.2 above or any employee or officer of any such body) obtaining and submitting to the other Party a written undertaking from the person in question, as nearly as practicable in the terms of this Clause 16, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and

- 16.3 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of this Agreement, or at any time after that date becomes, public knowledge through no fault of that Party, provided that in doing so that Party does not disclose any part of that Confidential Information which is not public knowledge.
- 16.4 The obligations contained within Clauses 16.1 and 16.2 shall not apply to any Confidential Information which:-
- 16.4.1 is in or comes into the public domain other than by breach of this Agreement;
  - 16.4.2 the receiving party can demonstrate by its records that the Confidential Information was in its possession before it received it from the disclosing party;
  - 16.4.3 the receiving party can prove that it was obtained or was able to obtain from a source other than the disclosing party without breaching any obligation of confidence.
- 16.5 Notwithstanding the provisions in clause 16, the CCG agrees that the CSU may, from time to time, share such information, knowledge, and approaches developed through its work with the CCG that will be helpful and deemed to add value to other CCGs who are members of the North Yorkshire and Humber Collaborative, as per the agreement already in place between the CCGs. Such information will only be shared in the spirit of disseminating knowledge and best practice in order to make the best use of limited resources.
- 16.6 The provisions of this Clause 16 shall continue in force in accordance with their terms, notwithstanding the Termination of this Agreement for any reason.
- 16.7 The Parties acknowledge their respective duties and obligations under the Data Protection Act (1998) and the Freedom of Information Act (2000) and shall give all reasonable assistance to each other where appropriate or necessary to comply with such duties.
- 16.8 To the extent that the CSU is acting as a data processor on behalf of the CCG, the CSU shall, in particular, but without limitation:
- 16.8.1 only process such personal data as is necessary to perform its obligations under this Agreement, and only in accordance with any instruction given by the by the CCG under this Agreement;
  - 16.8.2 put in place appropriate technical and organisational measures against any unauthorised or unlawful processing of such personal data, and against the accidental loss or destruction of or damage to such personal data;
  - 16.8.3 take reasonable steps to ensure the reliability of staff who have access to such personal data.
- 16.9 The CSU and the CCG shall ensure that personal data is safeguarded at all times and in accordance with the Law, which shall include without limitation, obligations to:-
- 16.9.1 the CSUs information governance lead [Information Governance, Security and Compliance Manager] will be in a position to liaise with the CCG's Executive Team who will take the lead for information governance;

16.9.2 (where transferred electronically) only transfer data (i) where this is essential having regard to the purpose for which the transfer is conducted; and (ii) that it is encrypted to the higher of the international data encryption standards for healthcare and the National Standards (includes but not limited to data transferred over wireless networks, held on laptops, CDs, memory sticks and tapes);

16.9.3 have agreed protocols for sharing personal data with other NHS organisations and, where appropriate, non-NHS organisations.

## 17. **MANAGING CONFLICTS OF INTEREST**

17.1 The CSU recognises that there may be occasions when two or more organisations may wish to receive services from CSU notwithstanding an actual or apparent conflict of interests.

17.2 In such cases the CSU will exercise considerable caution when providing services where there are competing interests for different Clients, and at all times will act in accordance with the CSU's stated Conflicts of Interest Policy (available upon request).

17.3 In all cases the CSU will obtain Clients confirmation in writing that they are content for the CSU to provide such services, and to follow the principles and 'Safeguards' highlighted below:

17.3.1 Reasonableness: When acting for Clients in the circumstances described above, the CSU understands that it must also be satisfied that it is "reasonable" for the organisation or its staff to do so

17.3.2 Confidential Information: When acting for two or more Clients on the same or related matters, the CSU will consider what arrangements need to be put in place beyond and in addition to those described in this policy to ensure the confidentiality and security of each Client's information. Where the CSU undertakes instruction to support two or more Clients it will ensure that different individual members of staff are acting for the separate Clients if deemed appropriate to do so. The CSU has put in place measures to protect files and Client information by way of passwords and limiting access to named individuals

17.3.3 Before undertaking potentially conflicting work, the CSU will ensure that it informs each Client on the implications of the organisation continuing to act for all of them. This is to ensure that the CSU is satisfied that Clients' understand the issues and that their consent is independently and freely given.

17.4 There may also be circumstances in which the CSU is instructed by the CCG in relation to a contracting opportunity in which the CSU also contemplates submission of a tender or bid for that contracting opportunity. In these circumstances, the CSU and CCG will use their best endeavours to agree a Memorandum of Understanding in order to appropriately manage the conflict of interest that arises. It is anticipated that the Memorandum of Understanding will contain provisions similar but not limited to those measures specified in this Clause 17.

## 18. **INTELLECTUAL PROPERTY**

18.1 Save as set out in this Clause 188:

18.1.1 All Background IPR are and shall remain the exclusive property of the party owning them (or, where applicable, the third party from whom its right to use the Background IPR has derived).

18.1.2 the CSU shall retain all its right, title or interest in or to all future Intellectual Property Rights it may develop in the delivery of the Services and all

materials embodying these rights. The CCG shall not acquire any right, title or interest in or to the Intellectual Property Rights of the CSU or its licensors; and

- 18.1.3 the CSU shall not acquire any right, title or interest in or to the future Intellectual Property Rights developed by the CCG or its licensors, including (but not limited to) any documentation, processes and procedures, know-how, data and databases.
- 18.2 The CSU hereby grants to the CCG, or shall procure the direct grant to the CCG of, a royalty-free, non-exclusive, non-transferable licence to use the Intellectual Property Rights of the CSU insofar as they are reasonably required in order to access the Services during the Term. The licence granted under this Clause is granted solely to the extent necessary for receiving and reviewing the Services in accordance with this agreement. The CCG shall not use the licensed materials for any other purpose.
- 18.3 The CCG hereby grants to the CSU a royalty-free, non-exclusive, non-transferable licence during the Term to use the CCGs Intellectual Property Rights including, without limitation: software; documentation, processes and procedures; and data and any database, including the right to grant sub-licences to its Sub-Contractors, provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the CSU in a form reasonably acceptable to the CCG. The licence granted under this Clause is granted solely to the extent necessary for performing the Services in accordance with this agreement. The CSU shall not use the licensed materials for any other purpose.
- 18.4 In the event of the termination or expiry of this agreement, the licences referred to in Clause 18.2 and 18.3 shall terminate automatically and the CSU shall deliver to the CCG all material licensed to the Supplier pursuant to Clause 18.3 in its possession or control.
- 18.5 In respect of any CSU Intellectual Property Rights which are contained in software the CSU shall place the source code of such software in escrow with the National Computing Centre, Manchester, or equivalent escrow agent on the terms of its standard tripartite agreement or on such other terms as the Parties may from time to time agree.

## 19. **ASSIGNMENT AND SUB-CONTRACTING**

- 19.1 Subject to Clause 19.2, neither party may assign or transfer or sub-contract any of its rights, benefits or obligations under this agreement without the prior written consent of the other party.
- 19.2 The CCG hereby consents to the CSU subcontracting the Services or elements of Services to the subcontractors, in each case as specified in Schedule 4. Where and to the extent further subcontractors and/or changes in scope of Service provision by subcontractors is approved, the table in Schedule 4 shall be amended accordingly.
- 19.3 Notwithstanding any subcontracting permitted under this Clause 19, the CSU shall remain responsible and liable for the performance and default of its subcontractors in performing the Services.

## 20. **FORCE MAJEURE**

- 20.1 A party, provided that it has complied with the provisions of Clause 20.2, shall not be in breach of this agreement, nor liable for any failure or delay in performance of any obligations under this agreement (and, subject to Clause 13.2.4, the time for performance of the obligations shall be extended accordingly) arising from or attributable to any of the following:
  - 20.1.1 flood, earthquake, storm or other natural disaster;
  - 20.1.2 war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
  - 20.1.3 terrorist attack, civil war, civil commotion or riots, sabotage;

- 20.1.4 nuclear, chemical or biological contamination or sonic boom;
  - 20.1.5 fire, explosion or accidental damage;
  - 20.1.6 loss at sea;
  - 20.1.7 extreme adverse weather conditions;
  - 20.1.8 interruption or failure of utility services, including but not limited to electric power, gas or water.
- 20.2 Any party that is subject to a Force Majeure Event shall not be in breach of this agreement provided that:
- 20.2.1 it promptly notifies the other parties in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;
  - 20.2.2 it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event to carry out its obligations under this agreement in any way that is reasonably practicable and to resume the performance of its obligations as reasonably possible.

## 21. COSTS

Except as otherwise provided in this agreement, each party shall pay its own costs in connection with the negotiation, preparation, execution and performance of this agreement, and all documents ancillary to it.

## 22. PROHIBITED ACTS

22.1 Neither party shall do any of the following ("**Prohibited Acts**"):

- 22.1.1 offer, give, or agree to give the other party (or any of its or their officers, employees or agents) any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining of performance of this agreement or any other contract, or for showing or not showing favour or disfavour to any person in relation to this agreement; and
- 22.1.2 in connection with this agreement, pay or agree to pay any commission, other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the other party, or
- 22.1.3 do or fail to do any act which would amount to an offence in accordance with the Bribery Act 2010.

## 23. DISPUTE RESOLUTION

- 23.1 Where a dispute arises between the Parties out of or in connection with this Agreement (a Dispute) the Parties shall first attempt to settle it by negotiation between the Services Managers.
- 23.2 Where the Services Managers fail to resolve the Dispute within 5 working days of the Dispute arising, the Services Managers shall escalate the Dispute to a senior person within their respective organisations.
- 23.3 Within 5 days of receipt the senior person of each organisation shall meet the other party's identified senior person to seek to resolve the Dispute.

- 23.4 Where the senior person in each Party is unable to resolve the Dispute the Authorised Officer of the CCG and the Managing Director of the CSU shall meet within 5 working days to resolve the Dispute.
- 23.5 Where the Parties fail to resolve the Dispute within 5 working days following the meeting in Clause 23.4 (or such later date that the parties agree) either party may refer the matter to mediation in accordance with the later provisions of this Clause, provided that where this Agreement is an NHS Contract the parties shall refer the matter to the NHSCB for arbitration under the NHS procedures then applicable and operated by the NHSCB.
- 23.6 Mediation shall be a mediation conducted using a sole mediator in accordance with an agreement in the form of the Model Mediation Agreement of The Centre for Effective Dispute Resolution ("**CEDR**") incorporating CEDR's then current Model Mediation Procedure.
- 23.7 The mediator shall be agreed between the parties, or in default of agreement within 10 working days of referral to mediation, as appointed by CEDR.
- 23.8 Each party shall bear its own costs of mediation, and the parties shall share equally the charges and expenses of CEDR and the mediator.
- 23.9 If and to the extent that the parties do not resolve any Dispute within 30 days of the referral to mediation, then either party shall be at liberty to pursue any other remedies that may be available to it.

24. **FURTHER ASSURANCE**

Each party shall (at its own expense) promptly execute and deliver all such documents, and do all such things, or procure the execution of documents and doing of such things as are required to give full effect to this agreement and the transactions contemplated by it.

25. **VARIATION AND WAIVER**

- 25.1 Any variation of this agreement must be in writing and signed by or on behalf of the parties.
- 25.2 Any waiver of any right under this agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 25.3 No failure to exercise or delay in exercising any right or remedy provided under this agreement or by law constitutes a waiver of such right or remedy nor shall it prevent or restrict any future exercise or enforcement of such right or remedy.
- 25.4 No single or partial exercise of any right or remedy under this agreement shall prevent or restrict the further exercise of any such right or remedy or other rights or remedies.

26. **NOTICE**

26.1 A notice given under this agreement:

- 26.1.1 shall be in writing in the English language;
- 26.1.2 shall be signed by or on behalf of the party giving it;
- 26.1.3 shall be sent for the attention of the person, and to the address or fax number, given in this Clause 26 (or such other address, fax number or person as the relevant party may notify to the other parties in accordance with the provisions of this Clause 26); and
- 26.1.4 shall be:
  - delivered personally; or
  - (a) sent by an attachment to an email; or

- (b) sent by commercial courier; or
- (c) sent by pre-paid first-class post or recorded delivery.

26.2 The addresses for service of notice are:

26.2.1 **Vale of York Clinical Commissioning Group CCG**

West Offices

Station Rise

York

YO1 6GA

For the attention of Tracey Preece

**CSU**

Health House

Grange Park Lane

Willerby

Hull

HU10 6DT:

For the attention of: Janice Sunderland

26.3 A notice is deemed to have been received:

- 26.3.1 if delivered personally, at the time of delivery; or
- 26.3.2 in the case of fax, at the time of transmission; or
- 26.3.3 in the case of email, at the time a 'read receipt' is received from the recipient; or
- 26.3.4 if sent by commercial courier, at the time of signature of the courier's delivery receipt; or
- 26.3.5 in the case of pre-paid first class post or recorded delivery, 9.00 am on the second Business Day after posting.

26.4 For the purposes of this Clause:

- 26.4.1 all times are to be read as local time in the place of deemed receipt; and
- 26.4.2 if deemed receipt under this Clause is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on any Business Day), the notice shall be deemed to have been received at the opening of business on the next Business Day in the place of receipt.

27. **TO PROVE DELIVERY, IT IS SUFFICIENT TO PROVE THAT THE NOTICE WAS TRANSMITTED BY FAX TO THE FAX NUMBER OF THE PARTY OR, IN THE CASE OF POST, THAT THE ENVELOPE CONTAINING THE NOTICE WAS PROPERLY ADDRESSED, PRE-PAID AND POSTED.ENTIRE AGREEMENT**

This agreement, constitutes the whole agreement and understanding of the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this agreement. Each party acknowledges that, in entering into this agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this agreement, provided always that nothing in this Clause shall limit or exclude any liability for fraud.

28. **RIGHTS OF THIRD PARTIES**

No term of this agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this agreement.

29. **COUNTERPARTS**

This agreement may be executed in any number of counterparts, each of which when executed and delivered constitutes an original of this agreement but all the counterparts shall together constitute the same agreement.

30. **GOVERNING LAW AND JURISDICTION**

30.1 Subject to Clause 30.1.2, subject also to Clause 23:

30.1.1 this agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

30.1.2 the parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

## **SCHEDULE 1**

### **The Services**

**The full CSU service schedule, including a breakdown of Service Lines, can be found in the supporting folder, along with copies of the CSU service specifications.**



## **SCHEDULE 2**

### **The Charges**

## **SCHEDULE 3**

### **Service Levels**

#### **11. Performance Monitoring**

The CSU will provide a specification detailing how performance will be monitored and measured. This will include if a standard system is to be used, including details of that system and specifying what data will be collected and how that data relates to the measurement of performance.

#### **12. Performance Report**

The CSU will provide a specification / template for the Performance Report which will be used for recording performance.

#### **13. Submission of Performance Reports**

The CSU will provide a timetable for the collection of performance data, the compilation of performance reports, and the submission of the Performance Reports to the Performance Representatives.

#### **14. Generic Service Standards**

The CSU has developed a set of generic service standards that will support the delivery of the entire portfolio of services:

- Professional competence. The CSU will undertake only those professional services that the CCG can reasonably expect to be completed with professional competence.
- Due professional care. The CSU will exercise due professional care in the performance of professional services.
- Planning and supervision. The CSU will adequately plan and supervise the performance of professional services.
- Sufficient relevant data. The CSU will obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.
- Relationship Management. The CSU will provide the services of a nominated Relationship Manager who will assume senior management responsibility for developing and managing the relationship between the CSU and the CCG.
- Risk Management. The CSU will be proactive in the identification and mitigation of risks that arise from the delivery of its services, and the provision of subsequent advice to CCGs around the management of such risks

Integrated services. The CSU will provide integrated, and joined up services to CCGs. For example, supporting FOI and MP responses across all of its services to supported CCG governance in a joined up fashion

- Continuity. The CSU will provide continuity and resilience in the provision of services to CCGs wherever possible. This includes business continuity and disaster recovery arrangements, and resilience to cover staff where agreed within the service specification.

## 15. Definition of Service Failures

Any Service Failures will be discussed, agreed, and categorised into three distinct categories during regular performance meetings between the CSU Relationship Manager and CCG Performance Manager, as per the guidelines set out below:

Category of Service Failure	Definition
<p><b>Critical</b></p>	<p>A service failure which has a critical impact upon the ability of the CCG to deliver its strategic objectives within the performance monitoring time period. In the case of clinical CSU services, this may result in the service being deemed unsafe, or have an adverse impact upon patients.</p> <p>For example, this may be triggered by an unforeseen issue or break in CSU service provision, repeat poor performance against KPIs (i.e. those rated red), or repeat poor performance of customer satisfaction scores (i.e. those rated 2 or below)</p>
<p><b>Major</b></p>	<p>A service failure which has a significant impact on the customer's ability to conduct its core business - leading to major dissatisfaction with the service within the performance monitoring period.</p> <p>For example, this may be triggered by intermittent or short term interruptions to CSU services, one off poor performance against KPIs (i.e. those rated red), or one off poor performance of customer satisfaction scores (i.e. those rated 2 or below)</p>
<p><b>Minor</b></p>	<p>A service failure that has a limited impact on the customer, generally leading to minor dissatisfaction.</p> <p>For example, this may be triggered by a lack of responsiveness, mediocre performance against KPIs (i.e. those rated amber), or mediocre performance in customer satisfaction scores (i.e. those rated 3)</p>

**SCHEDULE 4**

Subcontractors

<b>Subcontractor Name</b>	<b>Specified Service or part of Service</b>

## **SCHEDULE 5**

### Appointments

#### **Service Managers**

CCG: Tracey Preece

CSU: Janice Sunderland

#### **Performance Representatives**

CCG: Tracey Preece

CSU: Janice Sunderland

**SIGNATURE PAGE**

CCG Representative – Tracey Preece, Chief Finance Officer

Date

CSU Representative – Catherine Dymond, Commercial Director

A handwritten signature in black ink that reads "Catherine Dymond". The signature is written in a cursive style with a light grey rectangular highlight behind it.

Date : 23rd September 2014