

PART 11

PERSONS WHO PERFORM SERVICES

Qualifications of performers

213. Subject to clause 214, no medical practitioner shall perform medical services under the Contract for which a Board is responsible unless he is-

213.1. included in a *primary medical services performers list* maintained by that Board in whose area the services are to be performed;

213.2. not suspended from that list or from the *Medical Register*; and

213.3. not subject to interim suspension under section 41A of the Medical Act 1983.

214. Clause 213.1 shall not apply in the case of –

214.1. a medical practitioner employed by a *Health and Social Services Trust*, an NHS trust, an NHS foundation trust, or (in Scotland) a *Health Board*, who is providing services other than primary medical services at the *practice premises*;

214.2. a person who is provisionally registered under section 15, 15A or 21 of the Medical Act 1983 acting in the course of his employment in a resident medical capacity in an approved medical practice; or

214.3. a *GP Registrar* during the first two months of his training period.

215. No *health care professional* other than one to whom clauses 213 and 214 apply shall perform clinical services under the Contract unless he is registered with his relevant professional body and his registration is not

currently suspended.

216. Where the registration of a *health care professional* or, in the case of a medical practitioner, his inclusion in a *primary medical services performers list*, is subject to conditions, the Contractor shall ensure compliance with those conditions insofar as they are relevant to the Contract.
217. No *health care professional* shall perform any clinical services unless he has such clinical experience and training as are necessary to enable him properly to perform such services.

Conditions for employment and engagement

218. Subject to clauses 219 and 220, the Contractor shall not employ or engage a medical practitioner (other than one falling within clause 214.2) unless-
- 218.1. that practitioner has provided it with the name and address of the *Health and Social Services Board* in whose area the service or services are to be performed on whose *primary medical services performers list* he appears; and
- 218.2. the Contractor has checked that he meets the requirements in clause 213.
219. Where the employment or engagement of a medical practitioner is urgently needed and it is not possible to check the matters referred to in clause 213 in accordance with clause 218.1 before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.
220. Where the prospective employee is a *GP Registrar*, the requirements set out in clause 218 shall apply with the modifications that-
- 220.1. the name and address provided under 218.1 may be the name and address of the *Health and Social Services Board* in whose area the service or services are to be performed and on whose list he has applied for inclusion; and
- 220.2. confirmation that his name appears on that list shall not be required until the end of the first two months of his training period.

221. The Contractor shall not employ or engage-
- 221.1. a *health care professional* other than one to whom clauses 213 and 214 apply unless the Contractor has checked that he meets the requirements in clause 215; or
- 221.2. a *health care professional* to perform clinical services unless he has taken reasonable steps to satisfy himself that he meets the requirements in clause 217.
222. Where the employment or engagement of a *health care professional* is urgently needed and it is not possible to check the matters referred to in clause 215 in accordance with clause 221 before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.
223. When considering a *health care professional's* experience and training pursuant to clause 221.2, the Contractor shall have regard to any post-graduate or post-registration qualification held by the *health care professional*, and any relevant training undertaken by him and any relevant clinical experience gained by him.
224. The Contractor shall not employ or engage a *health care professional* to perform medical services under the Contract unless-
- 224.1. that person has provided two clinical references, relating to two recent posts (which may include any current post) as a *health care professional* which lasted for three months without a significant break, or where this is not possible, a full explanation and alternative referees; and
- 224.2. the Contractor has checked and is satisfied with the references.
225. Where the employment or engagement of a *health care professional* is urgently needed and it is not possible to obtain and check the references in accordance with clause 224.2 before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to 14 days whilst his references are checked and considered, and for an additional single period of a further 7 days if the Contractor believes the person supplying those references is ill, on holiday or otherwise temporarily unavailable.
226. Where the Contractor employs or engages the same person on more than one occasion within a period of three months, he may rely on the references provided on the first occasion, provided that those references are not more than twelve months old.

227. Before employing or engaging any person to assist it in the provision of services under the Contract, the Contractor shall take reasonable care to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which he is to be employed or engaged.

228. When considering the competence and suitability of any person for the purpose of clause 227, the Contractor shall have regard, in particular, to-

228.1. that person's academic and vocational qualifications;

228.2. his education and training; and

228.3. his previous employment or work experience.

Training

229. The Contractor shall ensure that for any *health care professional* who is-

229.1. performing clinical services under the Contract; or

229.2. employed or engaged to assist in the performance of such services

there are in place arrangements for the purpose of maintaining and updating his skills and knowledge in relation to the services which he is performing or assisting in performing.

230. The Contractor shall afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

Terms and conditions

231. The Contractor shall only offer employment to a general medical practitioner on terms and conditions which are no less favourable than those contained in the "Model terms and conditions of service for a salaried general practitioner employed by a GMS practice" published by the British Medical Association and the NHS Confederation as item 1.2 of the supplementary documents to the new GMS contract 2003 (this document is

available on the Department of Health's website at www.doh.gov.uk/gmscontract/supportingdocs.htm, or a copy may be obtained by writing to the NHS Confederation, 1 Warwick Row, London SW1E 5ER).

Arrangements for *GP Registrars*

232. The Contractor shall only employ a *GP Registrar* for the purpose of being trained by a *GP Trainer* with the agreement of *the Department* and subject to the conditions in clause 233.

233. The conditions referred to in clause 232 are that the Contractor shall not, by reason only of having employed or engaged a *GP Registrar*, reduce the total number of hours for which other medical practitioners perform primary medical services under the contract or for which other staff assist them in the performance of those services.

234. Where the Contractor employs a *GP Registrar*, the Contractor shall-

234.1. offer him terms of employment in accordance with the rates and subject to the conditions contained in any directions given by *the Department* concerning the grants, fees, travelling and other allowances payable to *GP Registrars*; and

234.2. take into account any guidance issued by *the Department* in relation to the *GP Registrar* scheme.

Independent nurse prescribers and supplementary prescribers

235. Where-

235.1. the Contractor employs or engages a person who is an *independent nurse prescriber* or a *supplementary prescriber* whose functions will include prescribing; or

235.2. the functions of a nurse who is an *independent nurse prescriber* a *supplementary prescriber* whom the Contractor already employs or has already engaged are extended to include prescribing,

it shall notify the Board within the period of 7 days beginning with the date on which the Contractor employed or engaged the person, or the person's functions were extended, as the case may be.

236. Where-

236.1. the Contractor ceases to employ or engage a person who is an *independent nurse prescriber* or a *supplementary prescriber* whose functions included prescribing in its practice;

236.2. the functions of a person who is an *independent nurse prescriber* or a *supplementary prescriber* whom the Contractor employs or engages in its practice are changed so that they no longer include prescribing in its practice; or

236.3. the Contractor becomes aware that a person who is an *independent nurse prescriber* or a *supplementary prescriber* whom it employs or engages has been removed or suspended from the *relevant register*,

it shall notify the Board by the end of the second working day after the day when the event occurred.

237. The Contractor shall provide the following information when it notifies the Board in accordance with clause 235-

237.1. the person's full name;

237.2. his professional qualifications;

237.3. his identifying number which appears in the relevant register;

237.4. the date on which his entry in the relevant register was annotated to the effect that he was qualified to order drugs, medicines and appliances for patients;

237.5. the date on which-

237.5.1. he was employed or engaged, if applicable, or

237.5.2. one of his functions became to prescribe in its *practice*.

238. The Contractor shall provide the following information when it notifies the Board in accordance with clause

236-

238.1. the person's full name;

238.2. his professional qualifications;

238.3. his identifying number which appears in the *relevant register*;

238.4. the date-

238.4.1. he ceased to be employed or engaged in its practice,

238.4.2. his functions changed so as no longer to include prescribing, or

238.4.3. on which he was removed or suspended from the *relevant register*.

Signing of documents

239. In addition to any other requirements relating to such documents whether in this Contract or otherwise, the Contractor shall ensure that the documents specified in clause 240 include –

239.1. the clinical profession of that *health care professional* who signed the document; and

239.2. the name of the Contractor on whose behalf it is signed.

240. The documents referred to in clause 239 are-

240.1. certificates issued in accordance with clause 319 unless regulations relating to a particular certificate provide otherwise;

240.2. *prescription forms*; and

240.3. any other clinical documents.

Appraisal and assessment

241. The Contractor shall ensure that any medical practitioner performing services under the Contract-

241.1. participates in the appraisal system provided by the Board, unless he participates in an appropriate appraisal system provided by another *health service body* or is an *armed forces GP*; and

241.2. co-operates with an assessment by or on behalf of the Board of the services performed by that practitioner under the Contract

242. RESERVED

Sub-contracting of clinical matters

243. Subject to clauses 244 and 245, the Contractor shall not sub-contract any of its rights or duties under the Contract.

244. Clause 243 shall not apply to a contract for services with a *health care professional* for the provision by that professional personally of clinical services.

245. The Contractor shall be entitled to sub-contract its right or duties under the Contract if-

245.1. on 31st March 2004, in relation to equivalent services it was providing under Article 56 of *the Order*, the Contractor had sub-contracted rights or duties in relation to those services; and

245.2. that sub-contract is still in force on 1st April 2004,

save that the Contractor shall only be entitled to continue sub-contracting those services under the Contract until the date that sub-contract is to terminate, which shall be the date specified in the term of that sub-contract that governs its

duration as it appeared in that sub-contract on 31st March 2004.

Temporary arrangements for transfer of obligations and liabilities in relation to certain *out of hours services*

Clauses 246 to 277 - RESERVED

246.

PART 12

RECORDS, INFORMATION, NOTIFICATION AND RIGHTS OF ENTRY

Patient records

278. In this part, “computerised records” means records created by way of entries on a computer.
279. The Contractor shall keep adequate records of its attendance on and treatment of its patients and shall do so-
- 279.1. on forms supplied to it for the purpose by the Board; or
- 279.2. with the written consent of the Board, by way of computerised records,
- or in a combination of those two ways.
280. The Contractor shall include in the records referred to in clause 279 clinical reports sent in accordance with clause 39 or from any other *health care professional* who has provided clinical services to a person on its list of patients.
281. The consent of the Board required by clause 279.2 shall not be withheld or, once given, withdrawn provided the Board is satisfied, and continues to be satisfied, that-
- 281.1. the computer system upon which the Contractor proposes to keep the records has been accredited by *the Department* or another person on his behalf in accordance with “General Medical Practice Computer Systems - Requirements for Accreditation – RFA99” version 1.0, 1.1 or 1.2 (DTS/Nurse Prescribing) (RFA99 is published by the NHS Information Authority - copies are available on the NHS Information Authority’s website at www.nhsia.nhs.uk/sat/specification/pages, or may also be obtained by writing to the NHS Information Authority, Systems Accreditation and testing team, Aqueous 2, Aston Cross, Rocky Lane, Birmingham B6 5RQ);

281.2. the security measures, audit and system management functions incorporated into the computer system as accredited in accordance with clause 281.1 have been enabled; and

281.3. the Contractor is aware of, and has signed an undertaking that it will have regard to the guidelines issued by *the Department* and notified in writing to the Board, any document amending any of these guidelines and any guidelines issued by the Board concerning good practice in the keeping of electronic patient records.

282. Where a patient's records are computerised records, the Contractor shall, as soon as possible following a request from the Board, allow the Board to access the information recorded on the computer system on which those records are held by means of the audit function referred to in clause 281.2 to the extent necessary for the Board to check that the audit function is enabled and functioning correctly.

283. The Contractor shall send the complete records relating to a patient to the Board-

283.1. where a person on its list dies, before the end of the period of 14 days beginning with the date on which it was informed by the Board of the death, or (in any other case) before the end of the period of one month beginning with the date on which it learned of the death; or

283.2. in any other case where the person is no longer registered with the Contractor, as soon as possible at the request of the Board,

and the Contractor's obligations pursuant to this clause, and clause 284 below shall survive the termination or expiry of the Contract.

284. To the extent that a patient's records are computerised records, the Contractor complies with clause 283 if it sends to the Board a copy of those records-

284.1. in written form; or

284.2. with the written consent of the Board in any other form.

285. The consent of the Board to the transmission of information other than in written form for the purposes of clause 284.2 shall not be withheld or withdrawn provided it is satisfied, and continues to be satisfied, with the following matters-

- 285.1. the Contractor's proposals as to how the record will be transmitted;
- 285.2. the Contractor's proposals as to the format of the transmitted record;
- 285.3. how the Contractor will ensure that the record received by the Board is identical to that transmitted;
and
- 285.4. how a written copy of the record can be produced by the Board.

286. Where the Contractor's patient records are computerised records, the Contractor shall not disable, or attempt to disable, either the security measures or the audit and system management functions referred to in clause 281.2.

Confidentiality of personal data

287. The Contractor shall nominate a person with responsibility for practices and procedures relating to the confidentiality of personal data held by it.

Practice leaflet

288. The Contractor shall-

- 288.1. compile a *practice leaflet* which shall include the information specified in Schedule 4;
- 288.2. review its *practice leaflet* at least once in every period of 12 months and make any amendments necessary to maintain its accuracy; and
- 288.3. make available a copy of the leaflet, and any subsequent updates, to its patients and prospective patients.

Provision of information

289. Subject to clause 290, the Contractor shall, at the request of the Board, produce to the Board or to a person authorised in writing by the Board or allow it, or a person authorised in writing by it, to access, on request-

289.1. any information which is reasonably required by the Board for the purposes of or in connection with the Contract; and

289.2. any other information which is reasonably required in connection with the Board's functions.

290. The Contractor shall not be required to comply with any request made in accordance with clause 289 unless it has been made by the Board in accordance with directions relating to the provision of information by contractors given to it by *the Department* under Article 106 of *the Order*.

Requests for information from PCT Patients' Forums

Clauses 291 to 295 - RESERVED

290.1.

Inquiries about prescriptions and referrals

296. The Contractor shall, subject to clauses 297 and 298, sufficiently answer any inquiries whether oral or in writing from the Board concerning-

296.1. any *prescription form* issued by a *prescriber*;

296.2. the considerations by reference to which *prescribers* issue such forms;

296.3. the referral by or on behalf of the Contractor of any patient to any other services provided under *the Order*; or

296.4. the considerations by which the Contractor makes such referrals or provides for them to be made on its behalf.

297. An inquiry referred to in clause 296 may only be made for the purpose either of obtaining information to assist the Board to discharge its functions or of assisting the Contractor in the discharge of its obligations under the Contract.

298. The Contractor shall not be obliged to answer any inquiry referred to in clause 296 unless it is made-

298.1. in the case of clause 296.1 or 296.2 by an appropriately qualified *health care professional*; or

298.2. in the case of clause 296.3 or 296.4, by an appropriately qualified medical practitioner,

appointed in either case by the Board to assist it in the exercise of its functions under clause 296 and 297 who produces, on request, written evidence that that person is authorised by the Board to make such an inquiry on its behalf.

Reports to a *medical officer*

299. The Contractor shall, if it is satisfied that the patient consents-

299.1. supply in writing to a *medical officer* within such reasonable period as that officer, or an officer of the Department for Social Development on his behalf and at his direction, may specify, such clinical information as the medical officer considers relevant about a patient to whom the Contractor or a person acting on the Contractor's behalf has issued or has refused to issue a medical certificate; and

299.2. answer any inquiries by a *medical officer*, or by an officer of the Department for Social Development on his behalf and at his direction, about a *prescription form* or medical certificate issued by the Contractor or on its behalf or about any statement which the Contractor or a person acting on the Contractor's behalf has made in a report.

300. For the purpose of satisfying itself that the patient has consented as required by clause 299, the Contractor may (unless it has reason to believe the patient does not consent) rely on an assurance in writing from the medical officer, or any officer of the Department for Social Development, that he holds the patient's written consent.

Annual return and review

301. Clauses 302 to 305 shall only apply to the Contractor if the Contract subsists after 30th June 2004.
302. The Contractor shall submit an annual return within the timescale required by the Board relating to the Contract to the Board which shall require the same categories of information from all persons who hold contracts with the Board.
303. Following receipt of the return referred to in clause 301, the Board shall arrange with the Contractor an annual review of its performance in relation to the Contract.
304. Either the Contractor or the Board may, if it wishes to do so, invite the *Local Medical Committee* for the area of the Board to participate in the annual review.
305. The Board shall prepare a draft record of the review referred to in clause 301 for comment by the Contractor and, having regard to such comments, shall produce a final written record of the review. A copy of the final record shall be sent to the Contractor.

Notifications to the Board

306. In addition to any requirements of notification elsewhere in the Contract, the Contractor shall notify the Board in writing, as soon as reasonably practicable, of-
- 306.1. any serious incident that, in the reasonable opinion of the Contractor, affects or is likely to affect the Contractor's performance of its obligations under the Contract;
- 306.2. any circumstances which give rise to the Board's right to terminate the contract under clauses 387 and 388;
- 306.3. any appointments system which it proposes to operate and the proposed discontinuance of any such system;

306.4. any change of which it is aware in the address of a registered patient; and

306.5. the death of any patient of which it is aware.

307. The Contractor shall, unless it is impracticable for it to do so, notify the Board in writing within 28 days of any occurrence requiring a change in the information about it published by the Board in accordance with regulations made under Article 56(3) of *the Order*.

308. The Contractor shall notify the Board in writing of any person other than a *registered patient* or a person whom it has accepted as a *temporary resident* to whom it has provided the *essential services* described in clauses 46.3 or 49 within the period of 28 days beginning on the day that the services were provided.

Notice provision specific to a Contractor that is a partnership

309. The Contractor shall give notice in writing to the Board forthwith when-

309.1. a partner leaves or informs his partners that he intends to leave the partnership, and the date upon which he left or will leave the partnership; and

309.2. a new partner joins the partnership.

310. A notice under clause 309.2 shall-

310.1. state the date that the new partner joined the partnership;

310.2. confirm that the new partner is a *general medical practitioner*;

310.3. confirm that the new partner meets the conditions imposed by regulations 4 and 5 of *the Regulations*; and

310.4. state whether the new partner is a general or limited partner.

Notification of deaths

311. The Contractor shall report in writing to the Board the death on its *practice premises* of any patient no later than the end of the first working day after the date on which the death occurred.
312. The report shall include-
- 312.1. the patient's full name;
 - 312.2. the patient's Central Health Index number or Health and Care number where known;
 - 312.3. the date and place of death;
 - 312.4. a brief description of the circumstances, as known, surrounding the death;
 - 312.5. the name of any doctor or other person treating the patient whilst on the *practice premises*; and
 - 312.6. the name, where known, of any other person who was present at the time of the death.
313. The Contractor shall send a copy of the report referred to in clause 311 to any other Board in whose area the deceased was resident at the time of his death.

Entry and inspection by the Board

314. Subject to the conditions in clause 315, the Contractor shall allow persons authorised in writing by the Board to enter and inspect the *practice premises* at any reasonable time.
315. The conditions referred to in clause 314 are that-
- 315.1. reasonable notice of the intended entry has been given;
 - 315.2. written evidence of the authority of the person seeking entry is produced to the Contractor on

request; and

315.3. entry is not made to any premises or part of the premises used as residential accommodation without the consent of the resident.

316. Either the Contractor or the Board may, if it wishes to do so, invite the *Local Medical Committee* for the area of the Board to be present at an inspection of the *practice premises* which takes place under clause 314.

Entry and inspection by members of PCT Patients' Forums

317. RESERVED

Entry and inspection by the Commission for Healthcare Audit and Inspection

318. RESERVED

PART 13

CERTIFICATES

319. The Contractor shall issue free of charge to a patient or his personal representative any medical certificate of a description prescribed in column 1 of the table below which is reasonably required under or for the purposes of the enactments specified in relation to the certificate in column 2 of the table below, except where, for the condition to which the certificate relates, the patient-

319.1. is being attended by a medical practitioner who is not-

319.1.1. employed or engaged by the Contractor, or

319.1.2. if this Contract is with a partnership, one of the partners, or

319.2. is not being treated by or under the supervision of a *health care professional*.

320. The exception in clause 319.1 shall not apply where the certificate is issued pursuant to regulation 2(1)(b) of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976 (which provides for the issue of a certificate in the form of a special statement by a doctor on the basis of a written report made by another doctor).

LIST OF PRESCRIBED MEDICAL CERTIFICATES

Description of medical certificate	Enactment under or for the purpose of which certificate required
------------------------------------	--

1. To support a claim or to obtain payment either personally or by proxy; to prove inability to work or incapacity for self-support for the purposes of an award by the Department; or to enable proxy to draw pensions etc.	<p>Naval and Marine Pay and Pensions Act 1865</p> <p>Air Force (Constitution) Act 1917</p> <p>Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939</p> <p>Personal Injuries (Emergency Provisions) Act 1939</p> <p>Pensions (Mercantile Marine) Act 1942</p> <p>Polish Resettlement Act 1947</p> <p>Social Security Administration (Northern Ireland) Act 1992</p> <p>Social Security Contributions and Benefits (Northern Ireland) Act 1992</p> <p>Social Security Act 1998</p>
2. To establish pregnancy for the purpose of obtaining welfare foods	<p>SArticle 13 of the Social Security (Northern Ireland) Act 1988 (schemes for distribution etc of welfare foods)</p>
3. To secure registration of still-birth	<p>The Births and Deaths Registration (Northern Ireland) Act 1976)</p>
4. To enable payment to be made to an institution or other person in case of mental disorder of persons entitled to payment from public funds.	<p>The Mental Health (Northern Ireland) Order 1986</p>
5. To establish unfitness for jury service	<p>Juries (Northern Ireland) Order 1996</p>
6. To support late application for reinstatement in civil employment or notification of non-availability to take up employment owing to sickness.	<p>Reserve Forces (Safeguarding of Employment) Act 1985.</p> <p>Reserve Forces Act 1980</p> <p>Reserve Forces Act 1996</p>
7. To enable a person to be registered as an absent voter on grounds of physical incapacity	<p>Representation of the People Act 1983</p> <p>Northern Ireland Assemblies Election Order 1995</p> <p>The Local Elections (Northern Ireland) Order 1985</p>
8. To support applications for certificates conferring exemption from charges in respect of drugs, medicines and appliances.	<p>National Health Service Act 1977</p>
9. To support a claim by or on behalf of a severely mentally impaired person for exemption from liability to pay the Council Tax or eligibility for a discount in respect of the amount of Council Tax payable.	<p><u>Local Government Finance Act 1992.</u></p>

PART 14

PAYMENT UNDER THE CONTRACT

321. The Board shall make payments to the Contractor under the Contract promptly and in accordance with the terms of the Contract and Articles 34 to 37 of *the Transitional Order* subject to any right the Board may have to set off against any amount payable to the Contractor under the Contract any amount-

321.1. that is owed by the Contractor to the Board under the Contract; or

321.2. that the Board may withhold or deduct in accordance with the terms of the Contract.

Payment provisions specific to a Contractor entering into the Contract where the Board has previously made payments to the Contractor under article 40(1) of *the Transitional Order*

322. As a condition of entering into the Contract, the Contractor has surrendered all rights to further payments from the Board under article 40(1) of *the Transitional Order*, and the Contractor acknowledges that any such rights were extinguished when the Contractor entered into the Contract.

323. For the purposes of payment under the Contract, the Contract shall be treated as if it commenced on 1st April 2004.

324. Any payment that has been made under article 41(1) of *the Transitional Order* that could have been made as a payment under the Contract, had the Contractor entered into this Contract on or before 31st March 2004, shall be treated as a payment under the Contract, and accordingly any condition attached to such a payment by virtue of *the Transitional Order* is attached to that payment.

PART 15

FEES AND CHARGES

325. The Contractor shall not, either itself or through any other person, demand or accept from any patient of its a fee or other remuneration for its own or another's benefit-

325.1. for the provision of any treatment whether under the Contract or otherwise, or

325.2. for any prescription or repeat prescription for any drug, medicine or appliance,

except in the circumstances set out in clause 326.

326. The Contractor may demand or accept a fee or other remuneration—

326.1. from any statutory body for services rendered for the purposes of that body's statutory functions;

326.2. from any body, employer or school for a routine medical examination of persons for whose welfare the body, employer or school is responsible, or an examination of such persons for the purpose of advising the body, employer or school of any administrative action they might take;

326.3. for treatment which is not primary medical services or otherwise required to be provided under the Contract and which is given-

326.3.1. pursuant to the provisions of Article 31 of *the Order*, or

326.3.2. in a registered nursing home which is not providing services under that Order,

if, in either case, the person administering the treatment is serving on the staff of a hospital providing services under *the Order* as a specialist providing treatment of the kind the patient requires and if, within 7 days of

giving the treatment, the Contractor or the person providing the treatment supplies the Board, on a form provided by it for the purpose, with such information about the treatment as it may require;

326.4. RESERVED;

326.5. when it treats a patient under clause 327, in which case it shall be entitled to demand and accept a reasonable fee from the patient (recoverable in certain circumstances under clause 328) for any treatment given, if it gives the patient a receipt;

326.6. for attending and examining (but not otherwise treating) a patient-

326.6.1. at his request at a police station in connection with possible criminal proceedings against him,

326.6.2. at the request of a commercial, educational or not-for-profit organisation for the purpose of creating a medical report or certificate, or

326.6.3. for the purpose of creating a medical report required in connection with an actual or potential claim for compensation by the patient;

326.7. for treatment consisting of an immunisation for which no remuneration is payable by the Board and which is requested in connection with travel abroad;

326.8. for prescribing or providing drugs, medicines or appliances (including a collection of such drugs, medicines or appliances in the form of a travel kit) which a patient requires to have in his possession solely in anticipation of the onset of an ailment or occurrence of an injury while he is outside the United Kingdom but for which he is not requiring treatment when the medicine is prescribed;

326.9. for a medical examination to enable a decision to be made whether or not it is inadvisable on medical grounds for a person to wear a seat belt, or for the purpose of creating a report relating to a road traffic accident or criminal assault, or that offers an opinion as to whether a patient is fit to travel;

326.10. for testing the sight of a person to whom none of paragraphs (a), (b) or (c) of Article 62(1) of *the Order* applies (including by reason of regulations under Article 62(6) of that Order);

326.11. where the Contractor is authorised or required by a *Health and Social Services Board* under

regulation 12 of the *Pharmaceutical Regulations* or clauses 184 to 193 to provide drugs, medicines or appliances to a patient and provides for that patient, otherwise than by way of pharmaceutical services or dispensing services, any Scheduled drug;

326.12. for prescribing or providing drugs for malaria chemoprophylaxis.

327. Where a person applies to the Contractor for the provision of *essential services* and claims to be on the Contractor's list of patients, but fails to produce his *medical card* on request and the Contractor has reasonable doubts about that person's claim, the Contractor shall give any necessary treatment and shall be entitled to demand and accept a reasonable fee in accordance with clause 326.5, subject to the provision for repayment contained in clause 328.

328. Where a person from whom the Contractor received a fee under clause 326.5 applies to the Board for a refund within 14 days of payment of the fee (or such longer period not exceeding a month as the Board may allow if it is satisfied that the failure to apply within 14 days was reasonable) and the Board is satisfied that the person was on the Contractor's list of patients when the treatment was given, the Board may recover the amount of the fee from the Contractor, by deduction from its remuneration or otherwise, and shall pay that amount to the person who paid the fee.

329. Part 15 shall survive the expiry or termination of the Contract to the extent that it prohibits the Contractor from, either itself or through any other person, demanding or accepting from any patient of it's a fee or other remuneration for it's own or another's benefit –

329.1. for the provision of any treatment, whether under the Contract or otherwise, that was provided during the existence of the Contract; or

329.2. for any prescription for any drug, medicine or appliance, that was provided during the existence of the Contract.

PART 16

CLINICAL GOVERNANCE

330. The Contractor shall have an effective *system of clinical governance*. The Contractor shall nominate a person who will have responsibility for ensuring the effective operation of the *system of clinical governance*. The person nominated shall be a person who performs or manages services under the Contract.

PART 17

INSURANCE

331. The Contractor shall at all times hold adequate insurance against liability arising from negligent performance of clinical services under the Contract.
332. The Contractor shall not sub-contract its obligations under the Contract to provide clinical services unless it has satisfied itself that the sub-contractor holds adequate insurance against liability arising from negligent performance of such services. This clause applies to any sub-contract specified in clause 245.
333. For the purposes of clauses 331 to 333.2-
- 333.1. “insurance” means a contract of insurance or other arrangement made for the purpose of indemnifying the Contractor; and
- 333.2. the Contractor shall be regarded as holding insurance if it is held by an employee of its in connection with clinical services which that employee provides under the contract or, as the case may be, sub-contract.
334. The Contractor shall at all times hold adequate public liability insurance in relation to liabilities to third parties arising under or in connection with the Contract which are not covered by the insurance referred to in clause 331.

PART 18

GIFTS

335. The Contractor shall keep a register of gifts which-

335.1. are given to any of the persons specified in clause 336 by, or on behalf of, a patient, a relative of a patient or any person who provides or wishes to provide services to the Contractor or its patients in connection with the Contract; and

335.2. have, in its reasonable opinion, a value of more than £100.00.

336. The persons referred to in clause 335 are-

336.1. the Contractor;

336.2. if the Contractor is a partnership, any partner;

336.3. any person employed by the Contractor for the purposes of the Contract;

336.4. any *general medical practitioner* engaged by the Contractor for the purposes of the Contract;

336.5. any spouse of the Contractor (if the Contractor is an individual medical practitioner) or of a person specified in clauses 336.2 to 336.4; or

336.6. any person (whether or not of the opposite sex) whose relationship with the Contractor (where the Contractor is an individual medical practitioner) or with a person specified in clauses 336.2 to 336.4 has the characteristics of the relationship between husband and wife.

337. Clause 335 does not apply where-

337.1. there are reasonable grounds for believing that the gift is unconnected with services provided or to be provided by the Contractor;

337.2. the Contractor is not aware of the gift; or

337.3. the Contractor is not aware that the donor wishes to provide services to the Contractor.

338. The Contractor shall take reasonable steps to ensure that it is informed of gifts which fall within clause 335 and which are given to the persons specified in clauses 336.2 to 336.6;

339. The register referred to in clause 335 shall include the following information-

339.1. the name of the donor;

339.2. in a case where the donor is a patient, the patient's Central Health Index number or health and Care number or, if the number is not known, his address;

339.3. in any other case, the address of the donor;

339.4. the nature of the gift;

339.5. the estimated value of the gift; and

339.6. the name of the person or persons who received the gift.

340. The Contractor shall make the register available to the Board on request.

PART 19

COMPLIANCE WITH LEGISLATION AND GUIDANCE

341. The Contractor shall comply with all relevant legislation and have regard to all relevant guidance issued by the Board, or *the Department*.

PART 20

COMPLAINTS

Complaints procedure

342. The Contractor shall establish and operate a complaints procedure to deal with any complaints in relation to any matter reasonably connected with the provision of services under the Contract.
343. The complaints procedure referred to above shall-
- 343.1. comply with the requirements in clauses 346 to 354 and 358.
 - 343.2. RESERVED
344. The Contractor shall take reasonable steps to ensure that patients are aware of-
- 344.1. the complaints procedure, and
 - 344.2. the role of the Board and other bodies in relation to complaints about services under the Contract.
 - 344.3. RESERVED
345. The Contractor shall take reasonable steps to ensure that the complaints procedure is accessible to all patients.

Making of complaints

346. A complaint may be made by or, with his consent, on behalf of a patient, or former patient, who is receiving or has received services under the Contract, or

346.1. where the patient is a child-

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

346.1.2. by a person duly authorised by a Health and Social services Trust to whose care the child has been committed under the provisions of the Children (Northern Ireland) Order 1995; or

346.1.3. by a person duly authorised by a voluntary organisation by which the child is being accommodated under the provisions of that Order;

346.2. where the patient is incapable of making a complaint, by a relative or other adult who has an interest in his welfare.

347. Where a patient has died a complaint may be made by a relative or other adult person who had an interest in his welfare or, where the patient fell within clause 346.1.2 or 346.1.3, by the Trust or voluntary organisation, as the case may be.

Period for making complaints

348. Subject to clause 349, the period for making a complaint is-

348.1. six months from the date on which the matter which is the subject of the complaint occurred; or

348.2. six months from the date on which the matter which is the subject of the complaint comes to the complainant's notice, provided that the complaint is made no later than 12 months after the date on which the matter which is the subject of the complaint occurred.

349. Where a complaint is not made during the period specified in clause 348, it shall be referred to the person specified in clause 350.1 who may, if he is of the opinion that-

349.1. having regard to all the circumstances of the case, it would have been unreasonable for the complainant to make the complaint within that period; and

349.2. notwithstanding the time that has elapsed since the date on which the matter which is the subject matter of the complaint occurred, it is still possible to investigate the complaint properly

treat the complaint as if it had been received during the period specified in clause 348.

Further requirements for complaints procedure

350. The Contractor shall nominate-

350.1. a person (who need not be connected with the Contractor and who, in the case of an individual, may be specified by his job title) to be responsible for the operation of the complaints procedure and the investigation of complaints; and

350.2. a partner, or other senior person associated with the Contractor, to be responsible for the effective management of the complaints procedure and for ensuring that action is taken in the light of the outcome of any investigation.

351. All complaints shall be-

351.1. either made or recorded in writing,

351.2. acknowledged in writing within the period of three working days beginning with the day on which the complaint was made or, where that is not possible, as soon as reasonably practicable; and

351.3. properly investigated.

352. Within the period of 10 working days beginning with the day on which the complaint was received by the person specified under clause 350.1 or, where that is not possible, as soon as reasonably practicable, the

complainant shall be given a written summary of the investigation and its conclusions.

353. Where the investigation of the complaint requires consideration of the patient's medical records, the person specified under clause 350.1 must inform the patient or person acting on his behalf if the investigation will involve disclosure of information contained in those records to a person other than the Contractor or an employee of the Contractor.

354. The Contractor shall keep a record of all complaints and copies of all correspondence relating to complaints, but such records must be kept separate from patients' medical records.

Co-operation with investigations

355. The Contractor shall co-operate with-

355.1. any investigation of a complaint in relation to any matter reasonably connected with the provision of services under the Contract undertaken by the Board and the Northern Ireland Ombudsman; and

355.2. any investigation of a complaint by a HSS body, an NHS body or local authority which relates to a patient or former patient of the Contractor.

356. In the previous clause-

356.1. "NHS body" means a Primary Care Trust, (in England and Wales and Scotland) an NHS trust, an NHS foundation trust, a Strategic Health Authority, a Local Health Board, or a *Health Board*; and

356.2. "local authority" means any of the bodies listed in section 1 of the Local Authority Social Services Act 1970, the Council of the Isles of Scilly or a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

357. In co-operating with any investigation, the Contractor shall, by way of example,-

357.1. answer questions reasonably put to the Contractor by the Board;

357.2. provide any information relating to the complaint reasonably required by the Board;

357.3. attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given) if the Contractor's presence at the meeting is reasonably required by the Board.

358. The Contractor shall inform the Board, at such intervals as required, of the number of complaints it has received under the procedure established in accordance with Part 20 of the Contract.

359. Part 20 of this Contract shall survive the expiry or termination of the Contract insofar as it relates to any complaint or investigation reasonably connected with the provision of services under the contract before it terminated.

PART 21

DISPUTE RESOLUTION PROCEDURES

Local resolution of contract disputes

360. In the case of any dispute arising out of or in connection with the Contract, the Contractor and the Board must make every reasonable effort to communicate and cooperate with each other with a view to resolving the dispute, before referring the dispute for determination in accordance with the *dispute resolution procedure* (or, where applicable, before commencing court proceedings).

361. Either the Contractor or the Board may, if it wishes to do so, invite the *Local Medical Committee* for the area of the Board to participate in discussions which take place pursuant to clause 360,

Dispute resolution

362. Any dispute arising out of or in connection with the Contract, except matters dealt with under the complaints procedure set out in clauses 342 to 358 of this Contract, may be referred for consideration and determination to *the Department*, if:

362.1. the Board so wishes and the Contractor has agreed in writing; or

362.2. the Contractor so wishes (even if the Board does not agree).

363. In the case of a dispute referred to the *Department* under clause 362, the procedure to be followed is the *dispute resolution procedure*, and the parties agree to be bound by a determination made by the *adjudicator*.

Dispute resolution procedure

364. The *dispute resolution procedure* applies in the case of any dispute arising out of or in connection with the Contract which is referred to *the Department* in accordance with clause 362 above, and the Board, and the Contractor shall participate in the *dispute resolution procedure* which shall be the procedure set out in paragraphs 93(3) to (14) and 94 of Schedule 5 to *the Regulations* subject to the modification that the references in paragraph 94(2) and (3) to paragraph 97(1) shall be read as references to Article 32(1) of the *Transitional Order*..

365. Any party wishing to refer a dispute shall send to *the Department* a written request for dispute resolution which shall include or be accompanied by-

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

365.2. a copy of the Contract; and

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

366. Any party wishing to refer a dispute as mentioned in clause 364 must send the request under clause 365 within a period of three years beginning with the date on which the matter giving rise to the dispute happened or should reasonably have come to the attention of the party wishing to refer the dispute.

367. In clauses 360 to 366 “any dispute arising out of or in connection with the contract” includes any dispute arising out of or in connection with the termination of the contract.

368. Part 21 shall survive the expiry or termination of the Contract.

PART 22

VARIATION AND TERMINATION OF THE CONTRACT

Variation of the Contract: general

369. Subject to this Part, no amendment or variation shall be made to the Contract.

370. The Board may vary the Contract without the Contractor's consent so as to comply with *the Order*, any order or regulations made pursuant to that Order, or any direction given by *the Secretary of DepartmentState* pursuant to that Order where it-

370.1. is reasonably satisfied that it is necessary to vary the Contract in order so to comply; and

370.2. notifies the Contractor in writing of the wording of the proposed variation and the date upon which that variation is to take effect.

371. Where it is reasonably practicable to do so, the date that the proposed variation is to take effect shall be not less than 14 days after the date on which the notice under clause 370.2 is served on the Contractor.

Variation provisions specific to a contract with an individual medical practitioner

372. Where the Contractor is an individual medical practitioner and proposes to practise in partnership with one or more persons during the existence of the Contract, the Contractor shall notify the Board in writing of-

372.1. the name of the person or persons with whom it proposes to practise in partnership;

372.2. the date on which the Contractor wishes to change its status from that of an individual medical practitioner to that of a partnership, which shall be not less than 28 days after the date upon which it has served the notice on the Board pursuant to this clause.

373. A notice under clause 372 shall, in respect of the person or each of the persons with whom the Contractor is

proposing to practise in partnership, and also in respect of the Contractor as regards the matters specified in clause 373.3-

373.1. confirm that he is a *general medical practitioner*,

373.2. confirm that he is a person who satisfies the conditions imposed by regulations 4 and 5 of *the Regulations*; and

373.3. state whether or not it is to be a *limited partnership*, and if so, who is to be a limited partner and who a general partner,

and the notice shall confirm that the partnership acknowledges that the terms contained in Schedule 1 (partnerships) will apply to it as a Contractor, and the notice shall be signed by the Contractor, and by the person or each of the persons with whom it is proposing to practice in partnership.

374. The Contractor shall ensure that any person who will practise in partnership with it is bound by the Contract, whether by virtue of a partnership deed or otherwise.

375. If the Board is satisfied as to the accuracy of the matters specified in the notice referred to in clause 372, the Board shall give notice in writing to the Contractor confirming that the Contract shall continue with the partnership entered into by the Contractor and its partners, from a date that the Board specifies in that notice.

376. The date specified by the Board pursuant to clause 375 shall be the date requested in the notice served by the Contractor pursuant to clause 372, or, where that date is not reasonably practicable, the date closest to the requested date as is reasonably practicable.

Variation provisions specific to a contract with a Partnership

377. Subject to clause 379, where the Contractor consists of two or more individuals practising in partnership, in the event that the partnership is terminated or dissolved, the Contract shall only continue with one of the former partners if that partner is-

377.1. nominated in accordance with clause 378; and

377.2. a *general medical practitioner*,

and provided that the other requirements in clause 378 are met.

378. The Contractor shall notify the Board in writing at least 28 days in advance of the date on which the Contractor proposes to change its status from that of a partnership to that of an individual medical practitioner. The notice shall:

378.1. specify the date on which the Contractor proposes to change its status from that of a partnership to that of an individual medical practitioner;

378.2. specify the name of the *general medical practitioner* with whom the Contract will continue, which must be one of the partners; and

378.3. be signed by all the persons who are practising in partnership.

379. If the partnership is terminated or dissolved because, in a partnership consisting of two individuals practising in partnership, one of the partners has died-

379.1. clauses 377 and 378 shall not apply; and

379.2. the Contract shall continue with the individual who has not died only if that individual is a *general medical practitioner* who meets the condition in regulation 4(2)(a) of *the Regulations*, and that individual shall in any event notify the Board in writing as soon as is reasonably practicable of the death of his partner.

380. When the Board receives a notice pursuant to clause 378 or 379, it shall acknowledge in writing receipt of the notice, and in relation to a notice served pursuant to clause 378, the Board shall do so as soon as reasonably practicable, and in any event before the date specified pursuant to clause 378.1.

Termination by agreement

381. The Board and the Contractor may agree in writing to terminate the Contract, and if the parties so agree, they shall agree the date upon which that termination will take effect and any further terms upon which the Contract should be terminated.

Termination by the Contractor

382. The Contractor may give notice in writing (“late payment notice”) to the Board if the Board has failed to make any payments due to the Contractor in accordance with Part 14 of this Contract. The Contractor shall specify in the late payment notice the payments that the Board has failed to make in accordance with Part 14 of the Contract.

383. The Contractor may, at least 28 days after having served a late payment notice, terminate the contract by a further written notice if the Board has still failed to make payments due to the Contractor, and that were specified in the late payment notice served on the Board pursuant to clause 382.

384. If, following receipt of a late payment notice, the Board refers the matter to the *dispute resolution procedure* within 28 days of the date upon which it is served with the late payment notice, and it notifies the Contractor in writing that it has done so within that period of time, the Contractor may not terminate the Contract pursuant to clause 383 until-

384.1. there has been a determination of the dispute in accordance with the procedure specified in Part 21 of the Contract; or

384.2. the Board ceases to pursue the *dispute resolution procedure*,

whichever is the sooner.

385. Clauses 382 to 384 are without prejudice to any other rights to terminate the Contract that the Contractor may have.

Termination by the Board: general

386. The Board may only terminate the Contract in accordance with the provisions of Part 22 of this Contract.

Termination by the Board where the individual medical practitioner, or any one of the partners, is no longer a *general medical practitioner*

387. The Board shall serve notice in writing on the Contractor terminating the Contract forthwith if the Contractor is an individual, and that person is no longer a *general medical practitioner*.

Other grounds for termination by the Board

388. The Board may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if-

388.1. in the case of a contract with an individual medical practitioner, that medical practitioner; or

388.2. in the case of a contract with two or more individual medical practitioners practising in partnership, any individual or the partnership,

falls within clause 389 during the existence of the Contract.

389. A person falls within this clause if-

389.1. he or it is the subject of a general or *national disqualification*;

389.2. subject to clause 390, he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any *licensing body* anywhere in the world;

389.3. subject to clause 391, he has been dismissed (otherwise than by reason of redundancy) from any employment by a *health services body* unless before the Board has served a notice terminating the Contract pursuant to this clause, he is employed by the *health services body* that dismissed him or by another *health services body*;

389.4. he or it is disqualified from a *primary medical services list* unless his or its name has subsequently been included in such a list;

389.5. he has been convicted in the United Kingdom of murder or an offence referred to in Schedule 1 to the Children and Young Persons (Northern Ireland) Order 1968, Schedule 1 to the Children and Young Persons Act 1933 or Schedule 1 to the Criminal Procedure (Scotland) Act 1995;

389.6. he has been convicted in the United Kingdom of a criminal offence other than murder, and has been sentenced to a term of imprisonment of over six months;

389.7. subject to clause 392, he has been convicted elsewhere of an offence which would, if committed in Northern Ireland-

389.7.1. constitute murder, or

389.7.2. constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;

389.8. he or it has-

389.8.1. been adjudged bankrupt or had sequestration of his estate awarded unless (in either case) he has been discharged or the bankruptcy order has been annulled;

389.8.2. been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986, unless that order has ceased to have effect or has been annulled;

389.8.3. made a composition or arrangement with, or granted a trust deed for, his or its creditors unless he or it has been discharged in respect of it;

389.9. that person is a partnership and-

389.9.1. a dissolution of the partnership is ordered by any competent court, tribunal or arbitrator,
or

389.9.2. an event happens that makes it unlawful for the business of the partnership to continue, or for members of the partnership to carry on in partnership together;

389.10. he has been-

389.10.1. removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in

the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated;

389.10.2. removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, from being concerned in the management or control of any body;

389.11. he is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986;

389.12. he has refused to comply with a request by the Board for him to be medically examined on the grounds that it is concerned that he is incapable of adequately providing services under the contract and, in a case where the contract is with two or more individuals practising in partnership, the Board is not satisfied that the Contractor is taking adequate steps to deal with the matter.

390. The Board shall not terminate the Contract pursuant to clause 389.2 where the Board is satisfied that the disqualification or suspension imposed by a *licensing body* outside the United Kingdom does not make the person unsuitable to be a contractor or a partner as the case may be.

391. The Board shall not terminate the Contract pursuant to clause 389.3 until a period of at least three months has elapsed since the date of the dismissal of the person concerned; or if, during that period of time, the person concerned brings proceedings in any competent tribunal or court in respect of his dismissal, until proceedings before that tribunal or court are concluded. The Board may only terminate the Contract in the latter situation if there is no finding of unfair dismissal at the end of those proceedings.

392. The Board shall not terminate the Contract pursuant to clause 389.7 where the Board is satisfied that the conviction does not make the person unsuitable to be a contractor or a partner as the case may be.

Termination by the Board for a serious breach

393. The Board may serve notice in writing on the Contractor terminating the Contract forthwith or with effect from such date as may be specified in the notice if-

393.1. the Contractor has breached the Contract and the Board considers that as a result of that breach, the safety of the Contractor's patients is at serious risk if the Contract is not terminated; or

393.2. the Contractor's financial situation is such that the Board considers that the Board is at risk of material financial loss.

Termination by the Board: remedial notices and breach notices

394. Where the Contractor has breached the Contract other than as specified in clauses 387 to 393 and the breach is capable of remedy, the Board shall, before taking any action it is otherwise entitled to take by virtue of the Contract, serve a notice on the Contractor requiring it to remedy the breach ("remedial notice").

395. A remedial notice shall specify-

395.1. details of the breach;

395.2. the steps the Contractor must take to the satisfaction of the Board in order to remedy the breach;
and

395.3. the period during which the steps must be taken ("the notice period").

396. The notice period shall, unless the Board is satisfied that a shorter period is necessary to protect the safety of the Contractor's patients or protect itself from material financial loss, be no less than 28 days from the date that notice is given.

397. Where the Board is satisfied that the Contractor has not taken the required steps to remedy the breach by the end of the notice period, the Board may terminate the Contract with effect from such date as the Board may specify in a further notice to the Contractor.

398. Where the Contractor has breached the Contract other than as specified in clauses 387 to 393 and the breach is not capable of remedy, the Board may serve notice on the Contractor requiring it not to repeat the breach ("breach notice").

399. If, following a breach notice or a remedial notice, the Contractor-

399.1. repeats the breach that was the subject of the breach notice or the remedial notice; or

399.2. otherwise breaches the Contract resulting in either a remedial notice or a further breach notice,

the Board may serve notice on the Contractor terminating the Contract with effect from such date as may be specified in that notice.

400. The Board shall not exercise its right to terminate the Contract under the previous clause unless it is satisfied that the cumulative effect of the breaches is such that it would be prejudicial to the efficiency of the services to be provided under the Contract to allow the Contract to continue.

401. If the Contractor is in breach of any obligation and a breach notice or a remedial notice in respect of that default has been given to the Contractor, the Board may withhold or deduct monies which would otherwise be payable under the Contract in respect of that obligation which is the subject of the default.

Termination by the Board: additional provisions specific to Contracts with two or more individuals practising in partnership

402. Where the Contractor is two or more persons practising in partnership, the Board shall be entitled to terminate the Contract by notice in writing on such date as may be specified in that notice where one or more partners have left the practice during the existence of the Contract if in its reasonable opinion, the Board considers that the change in membership of the partnership is likely to have a serious adverse impact on the ability of the Contractor or the Board to perform its obligations under the Contract.

403. A notice given to the Contractor pursuant to clause 402 shall specify-

403.1. the date upon which the Contract is to be terminated; and

403.2. the Board's reasons for considering that the change in the membership of the partnership is likely to have a serious adverse impact on the ability of the Contractor or the Board to perform its obligations under the Contract.

Contract sanctions

404. In clauses 405 to 412, and in clauses 418 and 419 "the contract sanction" means withholding or deducting monies otherwise payable under the Contract

405. Where the Board is entitled to terminate the Contract pursuant to clauses 388, 393, 397 and 399, it may

instead impose the contract sanction if the Board is reasonably satisfied that the contract sanction is appropriate and proportionate to the circumstances giving rise to the Board's entitlement to terminate the Contract.

406. If the Board decides to impose the contract sanction, it must notify the Contractor of the details of the contract sanction that it proposes to impose and the date upon which that sanction will be imposed.
407. Subject to clauses 409 to 412, the Board shall not impose the contract sanction until at least 28 days after it has served notice on the Contractor pursuant to clause 406 unless the Board is satisfied that it is necessary to do so in order to protect itself from material financial loss.
408. Where the Board imposes the contract sanction, the Board shall be entitled to charge the Contractor the reasonable costs of additional administration that the Board has incurred in order to impose, or as a result of imposing, the contract sanction.

Contract sanctions and the *dispute resolution procedure*

409. If there is a dispute between the Board and the Contractor in relation to the contract sanction that the Board is proposing to impose, the Board shall not, subject to clause 412, impose the proposed contract sanction except in the circumstances specified in clause 410.1 or 410.2.
410. If the Contractor refers the dispute relating to the contract sanction to the *dispute resolution procedure* within 28 days beginning on the date on which the Board served notice on the Contractor in accordance with clause 406 (or such longer period as may be agreed in writing with the Board), and notifies the Board in writing that it has done so, the Board shall not impose the contract sanction unless-
- 410.1. there has been a determination of the dispute in accordance with Part 21 of the Contract and that determination permits the PCT to impose the contract sanction; or
- 410.2. the Contractor ceases to pursue the *dispute resolution procedure*,
- whichever is the sooner.
411. If the Contractor does not invoke the *dispute resolution procedure* within the time specified in clause 410, the Board shall be entitled to impose the contract sanction forthwith.

412. If the Board is satisfied that it is necessary to impose the contract sanction before *the dispute resolution procedure* is concluded in order to protect itself from material financial loss, the Board shall be entitled to impose the contract sanction forthwith, pending the outcome of that procedure.

Termination and the *dispute resolution procedure*

413. Where the Board is entitled to serve written notice on the Contractor terminating the contract pursuant to clauses 388, 393, 397, 399 or 402 the Board shall, in the notice served on the Contractor pursuant to those clauses, specify a date on which the Contract terminates that is not less than 28 days after the date on which the Board has served that notice on the Contractor unless clause 414 applies.

414. This clause applies if the Board is satisfied that a period less than 28 days is necessary in order to protect the safety of the Contractor's patients or protect itself from material financial loss.

415. In a case falling within clause 413 where the exception in clause 414 does not apply, where the Contractor invokes the *dispute resolution procedure* before the end of the period of notice referred to in clause 413, and it notifies the Board in writing that it has done so, the Contract shall not terminate at the end of the notice period but instead shall only terminate in the circumstances specified in clause 416.

416. The Contract shall only terminate pursuant to this clause if and when there has been a determination of the dispute in accordance with Part 21 of the Contract and that determination permits the Board to terminate the Contract or the Contractor ceases to pursue the *dispute resolution procedure*, whichever is the sooner.

417. If the Board is satisfied that it is necessary to terminate the Contract before the *dispute resolution procedure* is concluded in order to protect the safety of the Contractor's patients or protect itself from material financial loss, clauses 415 and 416 shall not apply and the Board shall be entitled to confirm by written notice to be served on the Contractor, that the Contract will nevertheless terminate at the end of the period of the notice it served pursuant to clauses 388, 393, 397, 399 or 402.

Consultation with the *Local Medical Committee*

418. Whenever the Board is considering terminating the Contract pursuant to clauses 388, 393, 397, 399, or 402 or imposing the contract sanction, it shall, whenever it is reasonably practicable to do so, consult the *Local Medical Committee* (if any) for its area before it terminates the Contract or imposes the contract sanction.

419. Whether or not the *Local Medical Committee* has been consulted pursuant to clause 418, whenever the Board imposes the contract sanction on the Contractor or terminates the Contract pursuant to this Part, it shall, as soon as reasonably practicable, notify the *Local Medical Committee* in writing of the contract sanction imposed or of the termination of the Contract (as the case may be). The obligation to notify the *Local Medical Committee* of the matters set out in this clause shall survive the termination of the Contract.

Consequences of termination

420. The termination of the Contract, for whatever reason, is without prejudice to the accrued rights of either party under the Contract.

421. On the termination of the Contract for any reason, the Contractor shall-

421.1. subject to the requirements of this clause, cease performing any work or carrying out any obligations under the Contract;

421.2. co-operate with the Board to enable any outstanding matters under the Contract to be dealt with or concluded in a satisfactory manner;

421.3. co-operate with the Board to enable the Contractor's patients to be transferred to one or more other contractors or providers of *essential services* (or their equivalent), which shall include-

421.3.1. providing reasonable information about individual patients, and

421.3.2. delivering patient records

to such other appropriate person or persons as the Board specifies.

421.4. deliver up to the Board all property belonging to the Board including all documents, forms, computer hardware and software, drugs, appliances or medical equipment which may be in the Contractor's possession or control;

422. Subject to clauses 423 to 425, the Board's obligation to make payments to the Contractor in accordance with

the Contract shall cease on the date of termination of the Contract.

423. On termination of the Contract or termination of any obligations under the Contract for any reason, the Board shall perform a reconciliation of the payments made by the Board to the Contractor and the value of the work undertaken by the Contractor under the Contract. The Board shall serve the Contractor with written details of the reconciliation as soon as reasonably practicable, and in any event no later than 28 days after the termination of the Contract.
424. If the Contractor disputes the accuracy of the reconciliation, the Contractor may refer the dispute to the *dispute resolution procedure* in accordance with the terms of the Contract within 28 days beginning on the date on which the Board served the Contractor with written details of the reconciliation. The parties shall be bound by the determination of the dispute.
425. Each party shall pay the other any monies due within three months of the date on which the Board served the Contractor with written details of the reconciliation, or the conclusion of the *dispute resolution procedure*, as the case may be.
426. The obligations contained in clauses 420 to 425 shall continue to apply notwithstanding the termination of the Contract.

PART 23

NON-SURVIVAL OF TERMS

427. Unless expressly provided, and where so expressly provided, subject to clause 428, no term of this Contract shall survive expiry or termination of this Contract. Express provision is made in relation to-

427.1. clauses 283 and 284 (patient records);

427.2. Part 15 (fees and charges);

427.3. Part 20 (complaints);

427.4. Part 21 (dispute resolution procedures);

427.5. clause 419 (notifying the *Local Medical Committee*);

427.6. clauses 420 to 425 (consequences of termination); and

427.7. clauses 431 and 432 (governing law and jurisdiction).

428. The terms specified in clauses 427.1 to 427.3 and 427.6 shall not survive the expiry or termination of the Contract where the Contractor, immediately following the expiry or termination of the Contract, is a party to a general medical services contract with the Board.

ENTIRE AGREEMENT

429. Subject to any variations made in accordance with Part 22, this Contract constitutes the entire agreement between the parties with respect to its subject matter.

430. The Contract supersedes any prior agreements, negotiations, promises, conditions or representations, whether

written or oral, and the parties confirm that they did not enter into the Contract on the basis of any representations that are not expressly incorporated into the Contract. However, nothing in this Contract purports to exclude liability on the part of either party for fraudulent misrepresentation.

GOVERNING LAW AND JURISDICTION

431. This Contract shall be governed by and construed in accordance with Northern Ireland law.

432. Without prejudice to the dispute resolution procedures contained in this Contract, in relation to any legal action or proceedings to enforce this Contract or arising out of or in connection with this Contract, each party agrees to submit to the exclusive jurisdiction of the courts of Northern Ireland.

433. Clauses 431 and 432 shall continue to apply notwithstanding the termination of the Contract.

WAIVER, DELAY OR FAILURE TO EXERCISE RIGHTS

434. The failure or delay by either party to enforce any one or more of the terms or conditions of this Contract shall not operate as a waiver of them, or of the right at any time subsequently to enforce all terms and conditions of this Contract.

FORCE MAJEURE

435. Neither party shall be responsible to the other for any failure or delay in performance of its obligations and duties under this Contract which is caused by circumstances or events beyond the reasonable control of a party. However, the affected party must promptly on the occurrence of such circumstances or events:

435.1. inform the other party in writing of such circumstances or events and of what obligation or duty they have delayed or prevented being performed; and

435.2. take all action within its power to comply with the terms of this Contract as fully and promptly as possible.

436. Unless the affected party takes such steps, clause 435 shall not have the effect of absolving it from its obligations under this Contract. For the avoidance of doubt, any actions or omissions of either party's personnel or any failures of either party's systems, procedures, premises or equipment shall not be deemed to be circumstances or events beyond the reasonable control of the relevant party for the purposes of this clause, unless the cause of failure was beyond reasonable control.

437. If the affected party is delayed or prevented from performing its obligations and duties under the Contract for a continuous period of 3 months, then either party may terminate this Contract by notice in writing within such period as is reasonable in the circumstances (which shall be no shorter than 28 days).

438. The termination shall not take effect at the end of the notice period if the affected party is able to resume performance of its obligations and duties under the Contract within the period of notice specified in accordance with clause 437 above, or if the other party otherwise consents.

SERVICE OF NOTICE

439. Save as otherwise specified in this Contract or where the context otherwise requires, any notice or other information required or authorised by this Contract to be given by either party to the other party must be in writing and may be served:

439.1. personally;

439.2. by post, or in the case of any notice served pursuant to Part 22, registered or recorded delivery post;

439.3. by telex, or facsimile transmission (the latter confirmed by telex or post);

439.4. unless the context otherwise requires and except in clause 369, electronic mail; or

439.5. by any other means which the Board specifies by notice to the Contractor.

440. Any notice or other information shall be sent to the address specified in the Contract or such other address as the Board or the Contractor has notified to the other.

441. Any notice or other information shall be deemed to have been served or given:

441.1. if it was served personally, at the time of service;

441.2. if it was served by post, two *working days* after it was posted; and

441.3. if it was served by telex, electronic mail or facsimile transmission, if sent during *normal hours* then at the time of transmission and if sent outside *normal hours* then on the following *working day*.

442. Where notice or other information is not given or sent in accordance with clauses 439 to 441, such notice or other information is invalid unless the person receiving it elects, in writing, to treat it as valid.

SCHEDULE 1[18] (INDIVIDUAL)

Part 1

The Board whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is a medical practitioner whose name, address, telephone number, fax number (if any) and email address (if any)[19] is:

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

SCHEDULE 1[20] (PARTNERSHIP)

Part 1

The Board whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is a [limited][21] partnership under the name of [] carrying on business at [*address of place of business*]

The telephone number, fax number (if any) and email address (if any) of the Contractor are as follows:-

[*insert details here*]

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give notice in writing to the other party as soon as is reasonably practicable.

The names of the partners at the date of signature of this Contract are:

GENERAL / LIMITED

GENERAL / LIMITED

GENERAL / LIMITED

GENERAL / LIMITED

GENERAL / LIMITED

GENERAL / LIMITED

GENERAL / LIMITED

The Contract is made with the partnership as it is from time to time constituted and shall continue to subsist notwithstanding:

(1) the retirement, death or expulsion of any one or more partners; and/or

(2) the addition of any one or more partners

save that it is a term of the Contract that any partner joining the partnership after the Contract has been entered into must be a *general medical practitioner*.

The Contractor shall ensure that any person who becomes a member of the partnership after the Contract has come into force is bound automatically by the Contract whether by virtue of a partnership deed or otherwise.

SCHEDULE 2

SIGNATURES OF THE PARTIES TO THE AGREEMENT

Signed by

For and on behalf of the Board

Signed by

In the presence of

[The Contract must be signed by a person with power to bind the Contractor. If the Contractor is a partnership, it is recommended that all of the partners comprising the partnership at the date the Contract is signed (whether those partners are general partners or limited partners) sign the Contract]

SCHEDULE 3

-

SPECIFICATION OF PREMISES, PRACTICE AREA AND STATUS OF CONTRACTOR'S LIST

1. Pursuant to clause 26, the address of each of the premises to be used by the Contractor or any sub-contractor for the provision of services under the Contract are:

[INSERT DETAILS HERE][22].

2. Pursuant to clause 79, the area in respect of which persons resident in it will, subject to any other terms of the Contract relating to patient registration, be entitled to register with the Contractor, or seek acceptance by the Contractor as a *temporary resident*, is:

[INSERT DETAILS HERE][23].

3. Pursuant to clause 80, the Contractor's list of patients is [open/closed][24].

SCHEDULE 4

INFORMATION TO BE INCLUDED IN PRACTICE LEAFLETS

A practice leaflet shall include—

1. The name of the Contractor.
2. In the case of a Contract with a partnership—
 - (1) whether or not it is a *limited partnership*; and
 - (a) the names of all the partners and, in the case of a *limited partnership*, their status as a general or limited partner.
3. The full name of each person performing services under the Contract.
4. In the case of each *health care professional* performing services under the Contract his professional qualifications.
5. Whether the Contractor undertakes the teaching or training of *health care professionals* or persons intending to become *health care professionals*.
6. The contractor's *practice area*, by reference to a sketch diagram, plan or postcode.
7. The address of each of the *practice premises*.
8. The Contractor's telephone and fax numbers and the address of its website (if any).
9. Whether the *practice premises* have suitable access for all disabled patients and, if not, the alternative arrangements for providing services to such patients.
10. How to register as a patient.
11. The right of patients to express a preference of practitioner in accordance with clause 99 and the means of expressing such a preference.
12. The services available under the Contract.
13. The opening hours of the *practice premises* and the method of obtaining access to services throughout the core hours.
14. The criteria for home visits and the method of obtaining such a visit.
15. The consultations available to patients under clauses 35 and 36, and 37 and 38.
16. The arrangements for services in the out of hours period and how the patient may contact such services.
17. If the services in paragraph 16 are not provided by the Contractor, the fact that the Board referred to in paragraph 27 is responsible for commissioning the services.
18. RESERVED
19. RESERVED
20. The method by which patients are to obtain repeat prescriptions.
21. RESERVED

22. If the Contractor is a dispensing contractor the arrangements for dispensing prescriptions.
23. How patients may make a complaint or comment on the provision of service.
24. The rights and responsibilities of the patient, including keeping appointments.
25. The action that may be taken where a patient is violent or abusive to the Contractor, its staff or other persons present on the *practice premises* or in the place where treatment is provided under the contract or other persons specified in clause 117.
26. Details of who has access to patient information (including information from which the identity of the individual can be ascertained) and the patient's rights in relation to disclosure of such information.
27. The name, address and telephone number of the Board and from whom details of primary medical services in the area may be obtained.

SCHEDULE 5

REPEAT DISPENSING FORMSRESERVED

PART 2 - RESERVEDSCHEDULE 6

PLAN FOR IMPROVEMENT OF PREMISES

[1] The General Medical Services Transitional and Consequential Provisions No.1 (Northern Ireland) Order 2004.

[2] This provision has been included so that if, in relation to a particular *default contract*, a footnote indicates that a particular clause number or numbers are not relevant and should be deleted, the words of that clause can be deleted and the word 'reserved' can be inserted next to that clause number: this is to avoid renumbering the clauses or cross-references in the Contract.

[3] 1st April 2004 must be selected as the commencement date of the Contract unless the Contractor successfully appealed against the refusal of a *default contract* pursuant to article 13(9) of *the Transitional Order*, in which case the commencement date to be inserted is a date within 14 days of the determination of that appeal.

[4] Schedule 6 need only be completed if the Board is not satisfied that any or all of the premises at which services are to be provided meet the standards set out in clause 27 at the date the Contract is signed. If the premises do meet the standards, Schedule 6 need not be completed.

[5] This Part only needs to be included in the Contract where the Contractor has to provide any one or more of the *additional services*. Article 16 of the *Transitional Order* provides that the Contractor must provide all of the *additional services* under the Contract except where-

- on 31st March 2004 (or on the date on which the *default contract* is signed, if earlier) the equivalent of that service is or was not being provided to his or their patients by-

- the medical practitioner who has entered into the *default contract*; or
- in the case of a *default contract* with a partnership, all of the medical practitioners comprising the partnership; and

- the Contractor does not wish to provide that service to its patients under a *general medical services contract* which it intends to enter into after 31st March 2004 pursuant to article 3 or 5 of the *Transitional Order*.

[6] Delete from the list at clause 55 any of the *additional services* that the Contractor is not going to be providing under the Contract to the persons specified in clause 54.

[7] This clause only needs to be included if any of clauses 56 to 58 are included. If not, this clause should be deleted.

[8] Clauses 60 to 62 are required only where the Contract includes the provision of *cervical screening services*. If the Contractor is not providing *cervical screening services*, these clauses should be deleted.

[9] Clause 63 is required only where the Contract includes the provision of *contraceptive services*. If the Contractor is not providing *contraceptive services*, this clause should be deleted.

[10] Clauses 64 and 65 are required only where the Contract includes the provision of *vaccinations and immunisations*. If the Contractor is not providing *vaccinations and immunisations*, these clauses should be deleted.

[11] Clauses 66 to 67 are required only where the Contract includes the provision of *childhood vaccinations and immunisations*. If the Contractor is not providing *childhood vaccinations and immunisations*, these clauses should be deleted.

[12] Clauses 68 to 70 are required only where the Contract includes the provision of *child health surveillance services*. If the Contractor is not providing *child health surveillance services*, these clauses should be deleted.

[13] Clauses 71 to 72 are required only where the Contract includes the provision of *maternity medical services*. If the Contractor is not providing *maternity medical services*, these clauses should be deleted.

[14] Clauses 73 and 74 are required only where the Contract includes the provision of *minor surgery*. If the Contractor is not providing *minor surgery*, these clauses should be deleted.

[15] If the Contractor is an individual medical practitioner who is, or was, on 31st March 2004, relieved of responsibility for providing services to his patients under paragraph 20(2) of Schedule 2 to the General Medical Services Regulations (Northern Ireland) 1997, or if the Contractor is a partnership in which all of the partners are, or were on 31st March 2004, relieved of responsibility for providing services to their patients under that paragraph of those Regulations, the Contractor does not have to provide *out of hours services* and this Part can be deleted in its entirety. See article 19(1) of the *Transitional Order*.

[16] Clause 84 is required by article 27 of the *Transitional Order*.

[17] Clause 85 is required by article 29 of the *Transitional Order*.

[18] Please use this form of Schedule if the Contractor is an individual medical practitioner.

[19] Please provide the address to which official correspondence and notices should be sent.

[20] Please use this form of Schedule if the Contractor is a general or *limited partnership*.

[21] Please delete if this is not applicable.

[22] If the Contractor is an individual medical practitioner, unless the Board agrees otherwise in writing, there should be inserted in this space the addresses of all the premises which, on 31st March 2004 (or on the date on which the contract is signed if earlier) were approved (whether with or without conditions) by the Board or the *Department* under paragraph 36 of Schedule 2 to the General Medical Services Regulations (Northern Ireland) 1997 in respect of that practitioner and whose approval has not been withdrawn. If the Contractor is a partnership, unless the PCT agrees otherwise in writing, there should be inserted in this space all the premises which, on 31st March 2004 (or on the date on which the contract is signed, if earlier), were approved (whether with or without conditions) by the Board or *the Department* under paragraph 36 of Schedule 2 to the General Medical Services Regulations (Northern Ireland) 1997 in respect of any of the practitioners comprising the partnership and whose approval has not been withdrawn. See Article 25 of the *Transitional Order*

[23] If the Contractor is an individual medical practitioner, insert here the area which was that practitioner's practice area on 31st March 2004 (or on the date on which the contract is signed, if earlier), for the purposes of his arrangements under Article 56 of the *Order*. If the Contractor is a partnership, insert here the area which covers all of the areas which were the practice areas of the practitioners comprising the partnership for the purposes of each of their arrangements under Article 56 of the *Order*. This is required by Article 26 of the *Transitional Order*

[24] The word 'open' should be selected: the word "closed" may only be selected if-

- on 31st March 2004, or on the date on which the Contract was signed if earlier-
 - if the Contractor is an individual medical practitioner, that practitioner is or was exempt from the liability to have persons (other than a specified person) assigned to him under regulation 4(8) of the Health Services (Choice of Medical Practitioner) Regulations (Northern Ireland) 1998; or
 - if the Contractor is a partnership, all of the medical practitioners comprising the partnership are or were exempt from such liability; and
- the Board has determined, in the light of circumstances in which it granted the exemption or exemptions referred to above, that the Contractor's list of patients should, from the commencement of the Contract, be *closed* to applications for inclusion in the list other than from the *immediate family members* of *registered patients*. See article 30 of the *Transitional Order*.