

SCHEDULE 14

Review Procedure (for Programmed Maintenance)

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1. Review

- 1.1 The provisions of this Schedule 14 shall apply where a Schedule of Programmed Maintenance is required to be submitted by each Relevant Provider to TCIG for its review and approval pursuant to clause 5A.1 of this Agreement.
- 1.2 Within twenty (20) Working Days of the date of receipt of a submission (or re-submission, as the case may be) of the Schedule of Programmed Maintenance to the TCIG (or such other period as the parties may agree), TCIG shall return one copy of the Schedule of Programmed Maintenance to each Relevant Provider endorsed "no comment" or, subject to and in accordance with paragraph 3 (Grounds for Objection), "comments" as appropriate.
- 1.3 If TCIG fails to return a copy of any Schedule of Programmed Maintenance (including any re-submitted Schedule of Programmed Maintenance) duly endorsed in accordance with paragraph 1.2 within twenty (20) Working Days (or within such other period as the parties may agree in writing) of the date of its submission to the TCIG Representative, then TCIG shall be deemed to have returned the Schedule of Programmed Maintenance endorsed "no comment";
- 1.4 If TCIG raises comments on the Schedule of Programmed Maintenance in accordance with paragraph 3 (Grounds for Objection) it shall state the ground upon which such comments are based and the evidence or other information necessary to substantiate that ground.

2. Further Information

- 2.1 Each Relevant Provider shall, to the extent relating to its Provider Obligations, submit to the TCIG any further or other information data and documents that TCIG reasonably requires in order to determine whether it has a basis for raising comments or making objections to the Schedule of Programmed Maintenance in accordance with this Schedule 14. If a Relevant Provider does not submit any such information, data and documents, TCIG shall be entitled to:
 - 2.1.1 comment on the Schedule of Programmed Maintenance on the basis of the information, data and documents which have been provided; or
 - 2.1.2 object to the Schedule of Programmed Maintenance on the grounds that insufficient information, data and documents have been provided to enable the TCIG to determine whether it has a legitimate basis for commenting or objecting in accordance with this Schedule.

3. Grounds for Objection

3.1 The expression "raise comments" in this paragraph shall be construed to mean "raise comments or make objections" unless the contrary appears from the context. TCIG may raise comments in relation to the Schedule of Programmed Maintenance on the grounds set out in paragraph 2 above or on the grounds that the Schedule of Programmed Maintenance would (on the balance of probabilities) breach any Law but otherwise may raise comments in relation to the Schedule of Programmed Maintenance only as follows:

3.1.1 the proposed items of Programmed Maintenance a Relevant Provider proposes to carry out are not consistent with the principles set out in the 5 Year Maintenance Plan;

3.1.2 the proposed method of performance of the Programmed Maintenance or the Unprogrammed Maintenance or the Unprogrammed Maintenance Works (i) in the case of maintenance of the Facilities would not be in accordance with the FM Service Level Specifications for that Service or (ii) in the case of Ringfenced Equipment would not be in accordance with clause 5A of this Agreement.

3.1.3 the safety of patients of other users of the Facilities would (on the balance of probabilities) be adversely affected; or

3.1.4 the period for carrying out the Programmed Maintenance or the Unprogrammed Maintenance Works would (on the balance of probabilities) exceed the period reasonably required for the relevant works.

4. Effect of review

4.1 Any Schedule of Programmed Maintenance which is returned or deemed returned by TCIG endorsed "no comment" shall be complied with or implemented (as the case may be) by the Relevant Provider.

4.2 Subject always to paragraph 6.2, in the case of any Schedule of Programmed Maintenance, if TCIG returns the Schedule of Programmed Maintenance to a Relevant Provider endorsed "comments", such Relevant Provider shall comply with the Schedule of Programmed Maintenance after amendment in accordance with the comments unless it disputes that any such comment is on grounds permitted by this Agreement, in which case such Relevant Provider or TCIG may refer the matter to the Contract Management Committee for consideration.

4.3 During the period in which the Contract Management Committee is considering the Schedule of Programmed Maintenance together with TCIG's comments in accordance with paragraph 4.2 above, such Relevant Provider shall continue to

carry out the Programmed Maintenance in accordance with the Schedule of Programmed Maintenance issued by such Relevant Provider to the TCIG Representative in accordance with clause 5A of this Agreement as if TCIG had returned it endorsed "no comment".

- 4.4 In the event that the Contract Management Committee determines that the TCIG's comments are on grounds permitted by this Agreement such Relevant Provider shall comply with the Schedule of Programmed Maintenance after amendment in accordance with the TCIG's comments.
- 4.5 In the event that the Contract Management Committee determines that TCIG's comments are not on grounds permitted by this Agreement such Relevant Provider shall continue to comply with its Schedule of Programmed Maintenance as if TCIG had returned it endorsed "no comment".
- 4.6 In the event that the Contract Management Committee is unable to reach a decision or fails to provide any response to the parties within twenty (20) Working Days of receipt of the Schedule of Programmed Maintenance with TCIG's comments such Relevant Provider or TCIG may refer the matter for determination in accordance with Schedule 5 (Dispute Resolution Procedure). Such Relevant Provider shall be entitled to carry out any Programmed Maintenance in accordance with the Schedule of Programmed Maintenance issued by it to the TCIG Representative in accordance with clause 5A of this Agreement until the matter has been determined in accordance with the Dispute Resolution Procedure. In the event that the Dispute Resolution Procedure determines that such Relevant Provider should have complied with the Schedule of Programmed Maintenance as amended by TCIG's comments, such Relevant Provider shall, at its own cost, repeat the Programmed Maintenance specified in the Schedule of Programmed Maintenance in accordance with TCIG's comments where required to do so by TCIG.

5. Document Management and Co-operation

- 5.1 Each Relevant Provider shall issue two (2) copies of each Schedule of Programmed Maintenance to the TCIG Representative and compile and maintain a register of the date of and contents of the submission of all Schedules of Programmed Maintenance.
- 5.2 Each Relevant Provider shall compile and maintain a register of the date of receipt and content of all Schedules of Programmed Maintenance that are returned or deemed to be returned by TCIG.
- 5.3 No review, comment or approval by TCIG shall operate to exclude or limit the Relevant Provider's obligations or liabilities under this Agreement (or the TCIG's rights under this Agreement).

5.4 The provisions of clause 5A.11 of this Agreement shall apply to this Schedule 14.

6. **Changes**

6.1 No approval or comment or any failure to give or make an approval or comment under this Schedule shall constitute a Change save to the extent provided in this Schedule.

6.2 If, having received comments from the TCIG, a Relevant Provider considers that compliance with those comments would amount to a Change, such Relevant Provider shall, before complying with the comments, notify the TCIG of the same and, if it is agreed by the parties or determined pursuant to Schedule 5 (Dispute Resolution Procedure) that a Change would arise if the comments were complied with, the TCIG may if it wishes, implement the Change and it shall be dealt with in accordance with Schedule 7 (Change Procedure). Any failure by such Relevant Provider to notify TCIG, within twenty (20) Working Days of receipt of a Schedule of Programmed Maintenance endorsed "comments" pursuant to paragraph 4.2, that it considers compliance with any comments of TCIG would amount to a Change shall constitute an irrevocable acceptance by the Relevant Provider(s) that any compliance with TCIG's comments shall be without cost to TCIG and without any extension of time.