



Cumbria and Lancashire Telestroke Network

COLLABORATIVE COMMISSIONING AGREEMENT

BETWEEN PCTS IN [insert]

FOR THE PROVISION OF [insert] SERVICES

LEAD AUTHORITY: [insert] TRUST

LEAD PCT: [INSERT] PCT

PROVIDER: [INSERT]

CONTRACT: PROVISION OF [INSERT] SERVICES

STAKEHOLDER TRUSTS:

[insert] PCT

February 2011

THIS AGREEMENT is made between:-

THE NHS TRUSTS NAMED IN PART 2 OF SCHEDULE 1

WHEREAS

- (a) NHS Primary Care Trusts in [insert] PCT (together known as the “**Stakeholder PCTs**”) wish to form a consortium as described in this Agreement for the provision of [insert] Services as described in Schedule 2.
- (b) The Stakeholder PCTs and [insert] wish to appoint [insert] as the **Lead Authority** to enter into the Main Contract with the **Provider** [insert] and wish to become parties to the Main Contract by enabling the Lead Authority to sign the Main Contract on their behalf.
- (c) The Lead Authority appointed under this Agreement is prepared to sign the Main Contract on behalf of the Stakeholder PCTs, and all PCTs are prepared to perform their obligations set out in this Agreement.
- (d) The Stakeholder PCTs and [insert] wish to appoint [insert] PCT as the **Lead PCT** to manage all dealings between the Stakeholder PCTs and the Lead Authority.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 Unless expressly stated otherwise in this Agreement, any terms defined in the Main Contract shall bear the same meaning when used in this Agreement.
- 1.2 “**Stakeholder PCTs**” means the parties whose names and signatures appear in Part 2 of the Schedule to this Agreement, including the Lead Authority and any other parties who choose to become bound by this Agreement in accordance with clause 5.3.
- 1.3 “**Constitution of the Consortium**” means the principles and rules according to which the consortium shall function as agreed between the Stakeholder PCTs from time to time.
- 1.4 “**Lead Authority**” means the NHS Trust appointed under the terms of this Agreement to enter into the Main Contract for itself and as agent for and on behalf of the Stakeholder PCTs of [insert] PCT, as identified in Part 1 of Schedule 1.
- 1.5 “**Main Contract**” means the contract to be entered into by the Provider and the Lead Authority (for itself and as agent for and on behalf of the Stakeholder PCTs) for the provision of the Services referred to in this Agreement.
- 1.6 “**Provider**” means the provider of the Services referred to in this Agreement.
- 1.7 “**[insert] Services**” means video conferencing software and data exchange services in the acute emergency department setting, to support out of hours [insert] to improve access to [insert].

1.8 Without prejudice to clause 2.1 below, if the Main Contract is varied to include revised provisions, this Agreement shall, to the extent necessary, be interpreted as including such variation as may be necessary to make this Agreement consistent with the Main Contract.

2. PRIORITY OF DOCUMENTS

2.1 If there is any conflict between the terms of this Agreement and the terms of the Main Contract, the terms of this Agreement shall prevail in so far as it relates to how the Lead Authority and the Stakeholder PCTs interact.

3. MAIN CONTRACT

3.1 Each of the Stakeholder PCTs named hereby appoints the Lead Authority and authorises the Lead Authority to execute the Main Contract as agent for and on behalf of the Stakeholder PCTs.

3.2 The Stakeholder PCTs further authorise the Lead Authority to manage the Main Contract on their behalf in accordance with the provisions of the Main Contract and the Constitution of the Consortium. For the avoidance of doubt, the Stakeholder PCTs agree that the Lead Authority shall be entitled to make decisions and to exercise discretion on their behalf to such extent as is required to enable the Lead Authority to comply with its obligations under the Main Contract or as otherwise contemplated by the Main Contract.

4. PRINCIPLES

4.1 Each Stakeholder PCT agrees with each of the others that the principles underpinning the Consortium are to act collaboratively in the procurement of [insert] Services so as to:

4.1.1 Maintain a close working and contractual relationship between the Stakeholder PCTs, operating with transparency, openness and good faith.

4.1.2 Obtain best value from the services obtained from the provider.

5. CONSORTIUM

5.1 The Stakeholder PCTs, including the Lead Authority, shall form a consortium for the purpose of commissioning the Services and which shall function in accordance with the Constitution of the Consortium.

5.2 The Stakeholder PCTs agree as between themselves to exercise their rights and to discharge their obligations under the Main Contract in accordance with the terms of the Main Contract and the Constitution of the Consortium.

5.3 The Stakeholder PCTs acknowledge and agree that other PCTs may become additional parties to this Agreement as a result of the Lead Authority executing a side letter with the

additional PCT(s), provided that the Provider agrees to the accession of such additional trusts and agrees to the variation of the Main Contract as appropriate to give effect to it.

- 5.4 The Lead Authority shall provide each of the Stakeholder PCTs with any information received by it from the Provider and required to enable the PCTs to comply with their obligations or to exercise their rights under the Main Contract.
- 5.5 It is expressly agreed that each of the Stakeholder PCTs shall be liable to make payment directly to the Provider, for all Services provided to it by the Provider in accordance with the Main Contract and on time. Each Stakeholder PCT will act as a paying agent to the Lead Authority and the Provider shall bill each Stakeholder PCT with their proportion of the total cost of the service. Invoices will be provided in standard format by the Provider and individual billing queries will be referred to the Lead Authority. In the Main contract the Lead Authority shall be solely responsible for Customer obligations to the Provider and it is imperative each Stakeholder PCT meets its obligations under this clause and on time.
- 5.6 Each Trust will make their own arrangements to account for lease agreements arising from the Main Contract and for recovery of VAT against the Managed Service supplied by the Provider. For the purposes of VAT recovery under contracted out services, the Main Contract will be treated as Computer Services supplied to the specification of the recipient including the provision of a fully managed and serviced computer infrastructure.
- 5.7 Each of the Stakeholder PCTs shall indemnify each other against any liabilities, damages, costs, claims or proceedings to the extent arising out of or in connection with any negligence on the part of the indemnifying party or any breach by the indemnifying party of any express provision of this Agreement, the Main Contract or the Constitution of the Consortium.
- 5.8 Clause 5.7 above shall survive any termination of this Agreement in accordance with the Main Contract or the Constitution of the Consortium.

6. EXPIRY AND TERMINATION

- 6.1 This Agreement shall:
- 6.1.1 Expire automatically upon the expiry of the Main Contract which shall be for three years;
- 6.1.2 Each Stakeholder PCT may extend its element of the Main Contract by a further period of 12 months commencing on the day after the Expiry Date (the “**First Extension**”), by issuing to the Provider, not later than 3 months prior to the Expiry Date an extension request notice; provided that there shall not be more than one subsequent extension under this Agreement, making a total contract duration of five years.

6.1.3 Terminate in accordance with any termination of the Main Contract.

7. COUNTERPARTS

7.1 This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, but all of which together shall constitute one agreement binding on all the parties, notwithstanding that all parties are not signatories to the same counterpart.

8. GOVERNING LAW

8.1 The formation, interpretation and operation of this Agreement shall be subject to English law, and the parties agree that any dispute arising out of any aspect of this Agreement shall be resolved in accordance with the provisions of the Main Contract, which provisions are deemed to be incorporated into this Agreement.

9. ASSIGNMENT AND NOVATION

9.1 It is expected that within the duration of this Agreement, the rights and obligations of the Stakeholder PCTs will be assigned or novated in accordance with instructions given by the Secretary of State for Health.

9.2 The Stakeholder PCTs or the Lead Authority shall not assign, delegate, sub-contract, transfer, charge or otherwise dispose of all or any their rights or obligations under this Agreement without the prior written consent of the other parties.

9.3 The rights and obligations of the parties under this Agreement shall continue for the benefit of and shall be binding on their respective successors in title and permitted assigns.

10

AS WITNESS in the Schedule the hands of the duly authorised representatives of the parties listed therein

SCHEDULE 1

THE STAKEHOLDER PCTS

Part 1: THE LEAD AUTHORITY

NAME OF THE LEAD AUTHORITY	SIGNATURE	NAME AND POSITION OF SIGNATORY	DATE

Part 2: The STAKEHOLDER PCTS

NAME OF PCT	SIGNATURE	NAME AND POSITION OF SIGNATORY	DATE

SCHEDULE 2

The Services

Part 1: Service Specification

This Agreement establishes the [insert] as Lead Authority and a Stakeholder in the Consortium for the provision of [insert] Services. The main purpose of the Consortium is to form a Managed Services Contract with [insert] but [insert] will provide administrative services to the other Stakeholder NHS Trusts to support the [insert]service and the delivery of [insert] at each Provider Stakeholder site. [insert] as Lead Authority will also act as Contract Manager for the Main Contract.

The Consortium will consist of all Stakeholder PCTs and the Lead Authority.

The Stakeholder PCTs are:-

[insert]

1. Overview

- 1.1 The Lead Authority will administer the [insert]service to improve access to [insert] across [insert] using Managed Services provided by [insert] which consist of [insert] setting.
- 1.2 The [insert] consists of a hospital end point cart and consultant laptop connected by video conferencing software, via a server on the N3 (NHS intranet).
- 1.3 Stroke patients and clinical teams in the emergency department or stroke unit departments connect with a remote on call consultant. The system allows the consultant an audio/video link with the patients and a view of the PACS brain images.

2. Working Methodology:

- 2.1 The [insert]service is owned by the Consortium.
- 2.2 The Lead Authority and Stakeholder NHS Trusts participating have an obligation to provide at least 1 (one) experienced stroke consultant for the multisite rota.
- 2.3 On call payments will be the responsibility of the individual Stakeholder NHS Trusts.
- 2.4 The Lead Authority and Stakeholder NHS Trusts will use the [insert] Service in agreement with their Medical Directors.
- 2.5 The Provider will monitor all [insert]equipment and ensure it is maintained and up to date. Locally NHS Stakeholder Trusts will carry out a daily check of the equipment.
- 2.6 The Lead Authority and Stakeholder Trusts will use all equipment in accordance with their original purpose.
- 2.7 The Lead Authority and Stakeholder NHS Trusts will ensure all users of the [insert]system will be trained to the specified competency level outlined in an operational policy.
- 2.8 The Lead Authority and Stakeholder NHS Trusts must participate in data collection, audit and evaluation of the Service as required by the Consortium and described in the [insert] operational policy.
- 2.9 The Lead Authority and Stakeholder NHS Trusts will participate in decision making about the Service and the Consortium.
- 2.10 The Lead Authority and Stakeholder NHS Trusts will abide by decisions agreed by the [insert] Board.
- 2.11 The Stakeholder NHS Trusts must ensure that replacement parts for faulty [insert]equipment within their hospital are replaced and meet any costs incurred should the parts be chargeable under the Main Contract.
- 2.12 The [insert] Service operates under strict governance arrangements and protocols; the Lead Authority and Stakeholder NHS Trusts will ensure that their staff operate according to these arrangements as outlined in [insert] governance policy.

2.13 The Stakeholder PCTs membership fees detailed in Schedule 3 will include the services of the rota co-ordinator for the Consortium and the Lead Authority will co-ordinate the deliverables.

3. Deliverables

3.1 The Lead Authority will be responsible for:

- Administration of the Service.
- Administration and organisation of the on call rota.
- Audit, evaluation and monitoring quality.
- Clinical governance arrangements.
- Governance of the consultant on call rota.
- Managing the financial arrangements for the specified Service.
- The ongoing provision of the Service, i.e. training and equipment updates.
- Contract managing the contracted Services

4. Clinical Governance

4.1 The [insert] Service provides advice on the management of [insert] patients; the patient remains at all times under the care of the trust in which they are treated.

4.2 The consultant on call will give advice which can be accepted or rejected by the clinicians at the local trust managing the patient.

4.3 The consultants giving advice by [insert] are responsible for the advice they give.

4.4 Documented record of advice sought and given must be recorded in the patient's notes.

4.5 This guidance on the governance arrangements of the [insert] service is in line with the NHS Improvement Guidance on governance issues for [insert]in acute stroke.

5. Indemnity

5.1 The trust that administered the treatment and the employing trust of the on-call consultant will be covered by their CNST membership for any liability that arises in negligence for patients for personal injury in connection with their diagnosis, care or treatment.

6. On call consultant expertise

6.1 In order to participate in the rota for [insert], consultants must;

- Have a substantive or honorary post in stroke care at consultant level in [insert];
- Be experienced in treating stroke patients and in delivering thrombolysis;
- Have undergone specific thrombolysis in stroke training;
- Participate in peer review of stroke cases; and

- Have received training in the use of the [insert] equipment.

6.2 All consultants giving advice by [insert] should do so under the agreement of their medical directors. The role of the on call consultant is detailed in [insert] Operational Policy.

7. Consent

7.1 Informed consent for the use of [insert] should be sought where possible and documented by the attending practitioner. In particular, the patient and family/carers should be made aware that a remote [insert] consultant will be consulted.

7.2 Signed consent is not required.

8. Documentation

8.1 The [insert] system provides a mechanism for the on-call consultant to document their clinical recommendations and send electronically to the Provider's 'cart'. This document will be stored in the patient's notes to provide an audit trail of the advice provided via telemedicine.

9. Information governance

9.1 The sharing of patient information outside of the trust is kept to a minimum.

9.2 No patient identifiable information will be stored outside the treating hospital.

SCHEDULE 3

Services Fee

1. The Stakeholder PCTs will contribute an agreed level of funding to the Provider and the Lead Authority, to fund the ongoing management and running of the Service at the agreed level of membership.
2. The cost of the initial start up equipment of £ for the [insert] Service (cart, server, software and set up) has been met by the [insert] Stroke Networks via funding from [insert]. This funding will be divided in proportion to the Stakeholder PCTs and will be paid promptly to the Provider in accordance with their Billing Arrangement. Stakeholder PCTs will manage their own accounting arrangements and reclamation of VAT.
3. The ongoing running and maintenance of the Service will be met by the Services Fees, it is intended that the majority of these costs will be borne by PCTs through a commissioning process organised by Cumbria and Lancashire PCTs Commissioning Business Service (CBS).

5. The fees for membership are detailed in Schedule 4 and include:

To the Provider:-

1. All the equipment including the telecarts
 - The software maintenance
 - The remote server maintenance
 - The licences for carts and laptops
 - Broadband connections to consultant's homes

To the Lead Authority:-

- [insert] Rota coordinator for the Stakeholder NHS Trusts

6. The membership fees do not cover:

- [insert]

7. Contribution to Overheads

- 7.1 The intention is that the Service will not require funding by the Stakeholder PCTs beyond the agreed contribution outlined in 'membership fee' and that the costs of

administering the activities of the Service are kept to a minimum however, to the extent that costs and expenses are incurred in the performance of the Service activities (where such costs have not been allocated to a Stakeholder PCT), then such further costs will be subject to the written agreement of the Lead PCT.

8. **Rota coordinator's Remuneration**

- 8.1 The rota coordinator (band 5) will be paid a salary from the membership funding and employed by the Lead provider.

SCHEDULE 4

MEMBERSHIP FEES

The breakdown of costs for Year 1 is as follows:-

Item	Qty	Price £	Cost £

Notes:

- 1.

Recurring costs to be funded by PCTs

	Year 1 £	Year 2 £	Year 3 £	Year 4 £	Year 5 £	Total £
Total revenue expenditure						
<i>Recurring costs by [insert]</i>						
Total						

Notes:

2. The Stakeholder PCTs may at their discretion agree that the Membership Fees from the commencement of Year [insert] may be adjusted in accordance with the net NHS uplift as defined in the NHS Operating Framework.
3. Recurring costs are calculated by dividing each Stakeholder PCT's [insert] for 2007/10 as a percentage of the total average stroke spells for 2007/10 for all Stakeholder PCTs, then multiplying this by the total recurring cost for each year.

Total revenue expenditure by PCT	Year 1 £	Year 2 £	Year 3 £	Year 4 £	Year 5 £	Total £

Total revenue expenditure by PCT –	Year 1 £	Year 2 £	Year 3 £	Year 4 £	Year 5 £	Total £

Total revenue expenditure by PCT	Year 1 £	Year 2 £	Year 3 £	Year 4 £	Year 5 £	Total £

SCHEDULE 5

AGREED PREMISES

The Stakeholder NHS Trusts premises from where the Provider shall provide the Services are located at: