

John Westwood
Director of Asset Management
NHS Property Services Limited
99 Gresham Street
London
EC2V 7NG

Date: 15 May 2020

Dear John

Re: Stokesley Health Centre, North Road, Stokesley, TS9 5DY

Background

1. NHS North Yorkshire Commissioning Group (the “CCG”) has requested that NHS Property Services Limited (“NHSPS”) carries out capital works (the “Capital Works”) as detailed in the specification in Appendix 1 to this letter (“Specification”) to Stokesley Health Centre, North Road, Stokesley, TS9 5DY (the “Premises”).
2. This letter sets out the binding agreement between the CCG and NHSPS and between NHS England/NHS Improvement and NHSPS in relation to the funding and undertaking of the Capital Works in respect of the Premises.
3. The budgeted total capital cost to NHSPS of carrying out the Capital Works and the funding source is NHS England/NHS Improvement ETTF - £1,700,000.00 (the “Budgeted Capital Cost”¹)
4. NHSPS and the CCG will enter into a multi-party agreement with Dr Duggleby and Partners (the “Current Provider”) to deal with the payment to NHSPS of the STP and ETTF funding in instalments on receipt of invoices, such funding to be held under the multi-party agreement by the CCG.

NHSPS commitments

5. NHSPS has agreed to carry out or procure the carrying out of the Capital Works in accordance with the Specification and to use all reasonable endeavours to do so at the Budgeted Capital Cost.
6. NHSPS has agreed that it will notify the CCG and NHS England/NHS Improvement of any material changes to the Specification for, and design of the Capital Works and seek the CCG’s and NHS England/NHS Improvement’s prior written approval to any associated increase to the Budgeted Capital Cost.

¹ The final capital cost to be confirmed following design phase and formal approval by NHS North Yorkshire CCG



7. NHSPS and the CCG have agreed that in this instance as the Capital Works are being funded in the main by ETTF funding there will be no adjustment to the market rent payable for the Premises by the Current Provider (or any subsequently procured provider) to reflect the cost of the Capital Works for a minimum period of at least [25 years] (the “Committed Term”).

Commissioner commitments

8. The CCG and NHS England/NHS Improvement agree not unreasonably to withhold or delay consent to any increase in the Budgeted Capital Cost.
9. In consideration of the commitments on the part of NHSPS recorded in this letter the CCG (the “Relevant Commissioner”) agrees, to the fullest extent permitted by law, to commission the services set out alongside its name (or such other services for which it has primary commissioning responsibility as it may substitute) (the “Relevant Services”) from the proportion of the NIA of the Premises designated for the provision of each Relevant Service (the “Relevant Space”), all as set out in the table below, to ensure full utilisation of the Relevant Space in the provision of the Relevant Service For the Committed Term

Relevant Commissioner	Relevant Service	Current Provider of the Relevant Service (“Current Provider”)	Relevant Service subject to Co-commissioning (yes/no)	Relevant Space (expressed as the percentage of total NIA of Premises which is designated for the Relevant Service)
NHS North Yorkshire CCG	GP Services	Dr Duggleby and Partners	No	Between 52.21% and 100% subject to final design to be agreed by all parties prior to Full Business Case approval

10. Delegated responsibility for the commissioning of primary medical and general medical services (“GP Services”) has passed fully between NHS England/NHS Improvement and the CCG and there are limited circumstances during the Committed Term in which that responsibility might pass back to NHS England/NHS Improvement. In respect of any Relevant Service that is a GP Service the commissioner commitment provided for in paragraph (9) above in respect of that Relevant Service shall be owed to NHSPS by whichever of NHS England/NHS Improvement or the CCG has the principal commissioning responsibility for such services at the relevant time, but not both of them and neither NHS England/NHS Improvement nor the CCG shall have any liability or responsibility to NHSPS for the acts or omissions of the other while that other held the principal commissioning responsibility for GP Services.
11. The Relevant Commissioner agrees to use all reasonable endeavours to ensure that the Current Provider will promptly enter into a lease of the Relevant Space with NHSPS. Your and our expectation is that the Current Provider lease will be a term equal to that Current Provider’s service contract and will contain a mutual break right should the Current Provider’s service contract be subjected to earlier termination.
12. The Relevant Commissioner will in a timely manner as and when necessary during the Committed Term carry out any re-procurement of Relevant Services in order to ensure full utilisation of the Relevant Space in the provision of Relevant Services during the Committed Term and shall keep NHSPS updated as to the progress with its re-procurement.

13. In preparation for a Relevant Commissioner going out to tender for the re-provision of Relevant Services we would expect NHSPS to provide/approve draft text for inclusion in the Relevant Commissioner's tender pack to ensure that what the Relevant Commissioner requires of tenderers accords with the commitments described in this letter. We would also expect NHSPS to provide the Relevant Commissioner with a final form of lease that meets the requirements described in paragraph (14) below to include in its tender pack in relation to the prospective occupancy of the Relevant Space.
14. The Relevant Commissioner will ensure that the tender documents it issues in connection with any re-procurement of Relevant Services will, to the fullest extent permitted by law, require that the new Provider(s) will:
 - a. provide the Relevant Service(s) from the Relevant Space;
 - b. before taking up occupation of the Relevant Space, enter into a lease with NHSPS for a term equal to their service contract term:
 - reserving a market; and
 - that is no more onerous than any applicable superior lease by which NHSPS is bound and is otherwise fully consistent with the prevailing national policy framework established between DHSC, NHS England/NHS Improvement and NHSPS (the "Charging Policy").
15. The CCG recognises and acknowledges that:
 - a. NHSPS will be placing reliance on its commitments as set out in this letter when NHSPS commits to undertaking the Capital Works; and
 - b. if it fails to honour its commitments to NHSPS under any of paragraphs 9, 11 and 12 above then, to the extent that such failure is not caused by or fairly attributable to a NHSPS act or failure to act (in a timely manner, or at all) the Relevant Commissioner will be responsible for ensuring that NHSPS is not financially disadvantaged as a result.
16. We and you have acknowledged and agreed that:
 - a. where the commitments in this letter conflict with nationally agreed policies in respect of charging commissioners for vacant space in the Charging Policy, the terms of this letter shall prevail if at any time the Premises or a material part of the Premises should cease permanently to be required for the provision of health services we and you will work together and in good faith to achieve a sustainable solution as soon as is reasonably practicable to mitigate the cost to the NHS of continuing to hold that surplus space; and
 - b. this letter is not intended to, and does not give to any person other than the CCG and NHSPS any rights to enforce any provisions contained in this letter except for any statutory successor in title, or non-statutory successor NHS organisation, or Secretary of State company carrying out the same or similar functions as the parties to this letter.
17. Please countersign and return the enclosed duplicate of this letter to confirm acceptance, acknowledgement and agreement to its terms on behalf of NHSPS.

Yours sincerely,

Signature:

Name of Director signatory:

for and on behalf of NHS North Yorkshire CCG

Signature:

Name of authorised signatory:

for and on behalf of NHS Commissioning Board (known as NHS England/NHS Improvement)

On Duplicate: Accepted, acknowledged and agreed for and on behalf of NHSPS



Signature:

Name of signatory: John Westwood

Position of signatory: Director of Asset Management

NHS Property Services Limited

Appendix 1 - Specification

Specification to be the NHS Property Services Ltd Standard specification.

Specification to be reviewed as part of design phase of the project and confirmed with Dr Duggleby and partners and the district valuer.