Dated 2014

(1) **WEST SUSSEX COUNTY COUNCIL**

and

(2) **[INSERT DETAILS OF SERVICE PROVIDER]**

PUBLIC HEALTH SERVICES CONTRACT

FOR THE PROVISION OF COMMUNITY BASED SERVICES

Legal Services
West Sussex County Council
County Hall
Chichester
West Sussex
PO19 1RQ
(Legal Ref:AC4.42)

WEST SUSSEX COUNTY COUNCIL

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[APPENDIX 1 – SERVICE PROVIDER PHARMACIES]

DATED.....day of.....20.....

PARTIES

(1) **WEST SUSSEX COUNTY COUNCIL** of County Hall, Chichester, West Sussex PO19 1RQ ("**the Council**"); and

(2) [**INSERT NAME OF SERVICE PROVIDER**], (Registered Pharmacy No: [INSERT NUMBER] of [INSERT REGISTERED COMPANY ADDRESS] [with offices at the locations set out in Appendix 1] ("**the Service Provider**"),

each a "**Party**" and together "**the Parties**".

RECITALS

(A) The Council wishes to engage the Service Provider to provide public health services, namely [NHS Health Checks Services, Smoking Cessation Services, Emergency Hormonal Contraception Services, Needle and Syringe Programme Services and Supervised Opiate Substitution Services].

(B) The Service Provider wishes to provide such services, and is willing and able to do so in accordance with the terms and conditions of this Contract.

(C) [The Service Provider enters into this Contract on behalf of itself and all Pharmacies owned by the Service Provider, the details of which are as set out in Appendix 1 and each individual Service Provider owned Pharmacy is bound by the terms and conditions of this Contract. For the avoidance of doubt the term "Service Provider" used in this Contract shall be deemed to include each individual Service Provider owned Pharmacy. The Services to be delivered by each individual Service Provider owned Pharmacy are as set out in Appendix 1.]

SECTION 1 – PRELIMINARY

1. DEFINITIONS AND INTERPRETATION

1.1 In this Contract, unless the context otherwise requires, the terms set out in Schedule A (Definitions) and Schedule B (Payment Schedule) shall have the meanings ascribed to them in therein.

1.2 Any references in this Contract to a clause, schedule, section, part or appendix is a reference to a clause, schedule, section, part or appendix within this Contract unless expressly stated otherwise.

1.3 The schedules to this Contract form part of this Contract and, as such, references to this Contract shall include the schedules.

1.4 References to any act of parliament, statutory provision, enactment, order, regulation or other instrument (including any EU instrument) shall be construed as a reference to the act, statutory provision, enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re–enacted from time to time and shall (unless the reference expressly states otherwise) include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it.

1.5 Words importing one gender shall include the other, words in the singular shall include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa.

1.6 Clause headings and notes are included for ease of reference only and do not affect the interpretation of this Contract.

2. COMMENCEMENT, DURATION AND EXTENT OF CONTRACT

2.1 This Contract shall commence on the Commencement Date and shall remain in force for a period of one (1) year from the Commencement Date expiring on 31 March 2015 ("**the Initial Period**") unless the Initial Period is extended pursuant to this clause 2 or this Contract is terminated earlier in accordance with its terms.

2.2 Subject to satisfactory performance and review, the Council may at its sole discretion, extend this Contract beyond the Initial Period by a further period or periods of up to one (1) year (each an "**Extension**"), subject to a maximum Contract Period of two (2) years. For the avoidance of doubt the "**Contract Period**" shall be the Initial Period plus any Extension(s) agreed by the Parties, subject to earlier termination.

2.3 If the Council wishes to extend this Contract, it shall give the Service Provider at least three (3) Months written notice of its intention to do so before the expiry of the Initial Period or a subsequent Extension (as appropriate).

2.4 The Council shall be entitled to extend the Contract Period in respect of certain elements of the Services only and shall notify the Service Provider which Specifications shall be extended and the required length of such extension in the notice provided pursuant to clause 2.3.

2.5 If the Council does not wish to extend this Contract beyond the Initial Period or an Extension (as appropriate) this Contract shall end on the expiry of the Initial Period or the expiry of the relevant Extension (as appropriate). If the Council decides to extend the Contract Period in respect of certain elements of the Services only, then the elements of the Services that have not been extended shall automatically end on the expiry of the Initial Period or the expiry of the relevant Extension (as appropriate).

2.6 Unless otherwise agreed by the Parties, any Extension shall be on the same terms and conditions, including the Contract Price, as this Contract.

3. PRE-CONDITIONS

3.1 On or before the Commencement Date the Service Provider shall produce to the Council, for inspection:

3.1.1 documentary evidence that the Required Insurances are properly in place, adequate and valid;

3.1.2 evidence of any required registration for the provision of the Services with the CQC and/or Other Regulatory Body; and

3.1.3 evidence of all Necessary Consents.

3.2 If the Service Provider fails to comply with any of the provisions of clause 3.1, this shall constitute breach of a fundamental term of this Contract and the Council may (without prejudice to any other right or remedy available to it) terminate this Contract by written notice served on the Service Provider having immediate effect.

4. CONTRACT DOCUMENTS

4.1 Where there is any conflict or inconsistency between the provisions of this Contract, such conflict or inconsistency shall be resolved according to the following order of priority:

4.1.1 the Conditions of Contract; and

4.1.2 the Schedules.

SECTION 2 – THE SERVICE

5. PROVISION OF THE SERVICE

5.1 During the Contract Period the Service Provider shall provide the Services with all reasonable skill, prudence, care and foresight and in accordance with:

5.1.1 the provisions of this Contract, including the Specifications;

5.1.2 the requirements of all Necessary Consents;

5.1.3 the Public Health Requirements;

5.1.4 the Law;

5.1.5 the KPIs;

5.1.6 Good Clinical Practice; and

5.1.7 all reasonable instructions of the Authorised Officer acting in good faith and in accordance with this Contract.

5.2 The Service Provider shall, as a minimum, meet the Quality Standard and Service Standards throughout the Contract Period.

5.3 The Service Provider must, unless otherwise agreed (subject to the Law) with the Council in writing:

5.3.1 respond, where applicable, to all requirements and enforcement actions issued from time to time by the CQC or any relevant Other Regulatory Body;

5.3.2 consider and respond to the recommendations arising from any audit, death, Serious Incident report or Patient Safety Incident report; and

5.3.3 respond, where applicable, to any reports and recommendations made by Local Healthwatch.

5.4 The Service Provider shall promptly notify the Council of any notice, order or instruction issued or served on it by the CQC or Other Regulatory Body relating to the Services or this Contract.

5.5 The Service Provider will immediately notify the Council of any application to the CQC or Other Regulatory Body for any variation to a Necessary Consent or any change requested by any Other Regulatory Body. The Service Provider will not make any application of its own volition that, if granted, will mean that any aspect of the Services cannot then be provided as required under this Contract.

5.6 The Service Provider shall adopt Safeguarding Policies and such policies shall comply with the local multi agency policies as amended from time to time.[1] The Service Provider shall provide evidence to the Council that it is addressing any safeguarding concerns, relating to the Services, by no later than five (5) Working Days following a written request of the Council.

5.7 If requested to do so by the Council, the Service Provider shall participate in the development of any local multi agency safeguarding quality indicators and/or plan Where relevant, the Service Provider shall operate, maintain and publish a Service User consent policy to comply with Good Clinical Practice and the Law.

5.8 The Service Provider shall comply with the arrangements for notification for Serious Incidents to CQC and/or Other Regulatory Bodies, as appropriate, in accordance with the Law, and shall ensure that the Council receives all relevant correspondence between the Service Provider and CQC and/or Other Regulatory Bodies. Subject to the Law, the Council shall have complete discretion to use the information provided by the Service Provider under this clause 5.8.

5.9 The Service Provider shall immediately (within 24 hours) inform the Council of any Serious Incident and shall report any Serious Incident to National Patient Safety Agency (NPSA)[2] and/or NHS England (NHSE)[3] (and any replacement organisation); such reports submitted by the Service Provider to the NPSA and/or NHSE shall be made available to the Council upon request. The Service Provider shall comply with the "Serious Incident Framework 2013",[4] as may be amended from time to time, when dealing with a Serious Incident.

5.10 The Parties shall co-operate with any arrangements for reporting, investigating, implementing and sharing the Lessons Learned from Serious Incidents, Patient Safety Incidents and non-Service User safety incidents.

5.11 The Service Provider shall to the extent reasonably practicable co-operate with and assist the Council in fulfilling its Best Value Duty.

[1] Available at: http://pansussexadultssafeguarding.proceduresonline.com/index.htm
[2] http://www.nrls.npsa.nhs.uk/report-a-patient-safety-incident/
[3] http://www.england.nhs.uk/ourwork/patientsafety/
[4] http://www.england.nhs.uk/wp-content/uploads/2013/03/sif-guide.pdf

WITHHOLDING AND/OR DISCONTINUATION OF SERVICE

5.12 Except where required by Law, the Service Provider shall not be required to provide or to continue to provide the Services to any Service User:

5.12.1 who in the reasonable professional opinion of the Service Provider is unsuitable to receive the relevant Services, for as long as such unsuitability remains;

5.12.2 who displays abusive, violent or threatening behaviour unacceptable to the Service Provider acting reasonably and taking into account the mental health of that Service User.

5.13 If the Service Provider proposes not to provide or to stop providing the Services to any Service User under clause 5.12:

5.13.1 where reasonably possible, the Service Provider must explain to the Service User, taking into account any communication or language needs, the action that it is taking, when that action takes effect, and the reasons for it (confirming that explanation in writing within two (2) Working Days);

5.13.2 the Service Provider must tell the Service User of the right to challenge the Service Provider's decision through the Service Provider's complaints procedure and how to do so; and

5.13.3 the Service Provider must inform the Council in writing without delay and wherever possible in advance of taking such action.

Provided that nothing in clauses 5.12 and 5.13 entitles the Service Provider not to provide or to stop providing the Services where to do so would be contrary to the Law.

5.14 Where applicable under section 1(F)(1) of the NHS Act 2006, the Service Provider must co-operate with and provide appropriate support to the Local Education and Training Boards and/or Health Education England to help them secure an effective system for the planning and delivery of the education and training.

6. SERVICE USER INVOLVEMENT

6.1 The Service Provider shall engage, liaise and communicate with Service Users, their Carers and Legal Guardians in an open and clear manner in accordance with the Law, Good Clinical Practice and their human rights.

6.2 The Service Provider shall carry out Service User surveys and Carer surveys and shall carry out any other surveys reasonably required by the Council in relation to the Services. The form (if any), content, frequency and reporting of such surveys shall be agreed between the Parties in writing from time to time.

6.3 The Service Provider where required shall review the responses from any Service User surveys and Carer surveys undertaken and identify any actions reasonably required to be implemented by the Service Provider and shall implement such actions as soon as practicable. The Service Provider shall where required by the Council publish the outcomes and actions taken in relation to such surveys.

7. SERVICE USER HEALTH RECORDS

7.1 The Service Provider shall create, maintain, store and retain Service User Health Records for all Service Users. The Service Provider shall retain such records for the periods of time identified in Law and securely destroy them thereafter in accordance with any applicable guidance.

7.2 The Service Provider shall:

7.2.1 use Service User Health Records solely for the execution of the Service Provider's obligations under this Contract; and

7.2.2 give each Service User full and accurate information regarding his/her treatment and Services received.

7.3 Subject to Guidance and where appropriate, the Service User Health Records should include the Service Users verified NHS number.

7.4 The Service Provider shall at all times during the Contract Period have a Caldicott Guardian and shall notify the Council of their identity and contact details prior to the Commencement Date. If the Service Provider replaces its Caldicott Guardian at any time during the Contract Period, it shall promptly notify the Council of the identity and contact details of such replacements.

8. PAYMENT

8.1 The Council shall pay the Service Provider the Contract Price in consideration for the provision of the Services in accordance with Schedule B (Payment Schedule).

8.2 In its performance of this Contract the Service Provider shall not provide or offer to a Service User any clinical or medical services for which any charges would be payable by the Service User (other than in accordance with this Contract, the Law and/or Guidance).

SECTION 3 – REVIEW

9. OFFICERS

9.1 The Authorised Officer shall liaise with and instruct the Service Provider and its Representatives regarding all matters relating to performance by the Service Provider of its obligations under this Contract and shall determine any matters or issue any notices as stipulated under this Contract.

9.2 The Service Provider shall specify the Service Provider's Manager who shall be the main point of contact for the Council and shall have power to act on behalf of the Service Provider in connection with any matter relating to performance of the Services and shall exercise the rights, functions and obligations of the Service Provider under this Contract.

9.3 On or before the Commencement Date, the Service Provider shall provide the Authorised Officer with contact details for the Service Provider's Manager.

10. MEETINGS

10.1 The Authorised Officer and Service Provider's Manager shall hold regular meetings (being at least Annually, unless agreed otherwise) in accordance with this clause 10 and relevant provisions of the Specifications to review the working of this Contract and the provisions of the Services under this Contract.

10.2 For the avoidance of doubt, in relation to any particular annual review meeting, the Parties may agree that one annual meeting should be held for all elements of the Services together or that each element of the Services will require its own annual review meeting under this clause 10.

10.3 Such meetings shall identify ways in which either Party is or may become in breach of its obligations under this Contract and any remedial action required as a result.

10.4 The Service Provider will not charge the Council for any costs incurred in attending the meetings.

11. PERFORMANCE MONITORING

11.1 The Services shall be subject to such monitoring systems as the Authorised Officer considers appropriate to undertake including, but not limited to, the provisions of this clause 11 and the Specification(s).

11.2 The Authorised Officer may investigate any case where the Service Provider may have or appears to have failed to perform the Services in whole or in part in accordance with the provisions of this Contract (a "**Default**").

11.3 Where the Authorised Officer is satisfied that in any particular case the Service Provider has committed a Default, he may issue a Default Notice and instruct the Service Provider to remedy the failure within such reasonable period as the Authorised Officer may determine which, if no period is stated, shall be two (2) Working Days from the receipt of the instruction to remedy by the Service Provider.

11.4 If the Service Provider fails to remedy the Default within the period specified, the Council may (without prejudice to any other right or remedy available to it) terminate this Contract, in whole or in part, upon four (4) weeks written notice.

11.5 Where any failure by the Service Provider to perform the Service in whole or in part in accordance with the provisions of this Contract is one which materially and adversely affects the performance of the Services, or one which results in material damage to the reputation of the Council, notwithstanding that a Default Notice(s) has been issued pursuant to this clause 11, the Council shall be entitled, by service of notice on the Service Provider to terminate this Contract (in whole or in part) forthwith by written notice to the Service Provider.

11.6 The response times for a Default Notice shall commence upon the date and time of transmission of the relevant notice (either verbally or in writing) by the Authorised Officer.

12. SERVICE PROVIDER DIRECT MONITORING

12.1 Where the Service Provider is unable to perform the Services or any part of them at any time, the Service Provider shall immediately inform the Authorised Officer and confirm the same in writing giving details of the circumstances, reasons and likely duration of the delay in provision of the Services. Provision of information in accordance with this clause 12 shall not release or excuse the Service Provider from any of its obligations under this Contract.

12.2 The Service Provider shall develop a system for managing any complaints it receives in relation to the Services in accordance with the Specification, the Complaints Regulations and to the satisfaction of the Authorised Officer. The Service Provider shall immediately investigate any complaint it receives in relation to the Services and take appropriate corrective action in accordance with the Specification. The system for dealing with complaints and the steps taken by the Service Provider shall be made available upon request to the Authorised Officer for review.

12.3 If a complaint is received about the standard of the provision of the Services or about the manner in which the Services have been supplied or work has been performed or about the material or procedures used or about any other matter connected with the performance of the Service Provider's obligations under this Contract, then the Council may take any steps it considers reasonable in relation to that complaint, including investigating the complaint and discussing the complaint with the Service Provider, any relevant Other Regulatory Body. Without prejudice to any other rights of the Council may have under this Contract, the Council may, in its sole discretion, uphold the complaint and take any action specified in clause 11 (Performance Monitoring) or section 10 (Termination).

13. SERVICE PROVIDER'S RECORDS

13.1 In addition to the information to be supplied to the Council in accordance with the Specification and in relation to the Contract Price, throughout the Contract Period the Service Provider shall keep and maintain such necessary data and information and shall complete or provide such assistance as the Council may reasonably require by written notice to the Service Provider to enable the Council to complete all official returns, including, but without limitation the following:

13.1.1 returns to any central government body or properly authorised agency of central government;

13.1.2 information required by any statutory body or compliance with any statute or statutory instrument; and

13.1.3 information required pursuant to clause 27 (Equal Opportunities and Human Rights),

provided in each case that the nature of such data and information and the format for the same has been agreed by the Parties or is specified by Law.

13.2 The Service Provider shall provide the Council with information and data reasonably requested by the Council to enable it to be satisfied as to whether or not any terms of this Contract are being breached and/or whether the KPIs are being met in relation to the Services.

FINANCIAL INFORMATION & AUDITS

13.3 The Service Provider shall, as required by the Council, provide the Council with such financial information and data reasonably requested by the Council to enable the Council to:

13.3.1 comply with the Best Value Accounting Code of Practice issued by the Chartered Institute of Public Finance and Accountancy; and/or

13.3.2 examine, evaluate and be satisfied as to the Council's minimum standards of economic and financial standing required of the Service Provider with regard to the provision of the Services.

SECTION 4 – HEALTH AND SAFETY

14. HEALTH & SAFETY

14.1 The Service Provider shall comply and ensure its Representatives comply at all times with the Health and Safety at Work etc. Act 1974 and all other Laws pertaining to health and safety of employees and other affected persons including, but not limited to, the Management of Health and Safety at Work etc. Regulations 1999, and all other health, safety and welfare requirements applicable to the Services including those detailed in the Specification.

14.2 Without prejudice to section 10 (Termination), the Council shall be entitled to suspend the provision of the Services where the Service Provider fails to comply with this clause 14, or where the Council reasonably considers that a breach by the Service Provider of any provision of this Contract may create an immediate and serious threat to the health or safety of any Service User. In such circumstances, the provisions of clause 11 (Performance Monitoring) shall apply.

14.3 Where the Council has exercised its powers under clause 14.2:

14.3.1 the Service Provider shall not resume provision of the Services until the Authorised Officer is satisfied that such non-compliance/breach has been rectified;

14.3.2 the Service Provider shall co-operate fully with the Council during and following the suspension in order to ensure continuity and a smooth transfer of the suspended Services, and to avoid any inconvenience or any risk to the health and safety of Service Users or members of the public; and

14.3.3 the Council shall not incur any liability for any such suspension of the Services.

14.4 The Service Provider shall have in place and comply with a health and safety policy and safe working procedures as well as appropriate risk assessments (the "**Safe Working Arrangements**") which comply with clause 14.1

14.5 The Service Provider shall:

14.5.1 conduct the Services so as to eliminate or minimise so far as is reasonably practicable any health and safety risks to members of the public, the Council's employees and its Representatives; and

14.5.2 accept primary responsibility for all aspects of health and safety at the Service Provider's Premises in relation to provision of the Services at the Council's Premises and for all persons using the Service Provider's Assets.

14.6 The Service Provider shall be solely responsible for the proper supervision of the Services provided that the Service Provider may refuse to provide the Services if it reasonably considers that the provision of the Services will expose any person to a serious risk of danger. In such case, the Service Provider will be required to demonstrate to the satisfaction of the Authorised Officer that it has taken all reasonable steps to undertake the Services.

SECTION 5 – PREMISES AND ASSETS

15. ASSETS AND EQUIPMENT

15.1 Except as otherwise specified in the Contract or the Specification, the Service Provider shall be responsible at its own cost for providing all equipment, vehicles, plant and materials necessary and/or used for the proper and efficient performance of the Services during the Contract Period ("**the Service Provider's Assets**").

15.2 The Service Provider shall maintain all Service Provider's Assets in a safe condition so that they are fit for the purpose of delivering the Services and as a minimum comply with the requirements of this Contract and any manufacturers servicing and maintenance requirements.

15.3 Where the Service Provider requires any additional equipment to be purchased in order to deliver the Services, the Service Provider shall first contact the Council to discuss the equipment required and cost of the same and shall submit a written request to the Council for such equipment. The Council shall, following discussion with the Service Provider and review of the request, determine in its sole discretion whether any such equipment is required and shall if necessary purchase the additional equipment.

15.4 The Service Provider shall not be permitted to purchase any such additional equipment required under clause 15.3. Where the Service Provider purchases its own additional equipment, such equipment shall belong to the Service Provider and the Council shall not be liable to re-imburse the Service Provider for the cost of such equipment.

15.5 Any delay in the Service Provider receiving the additional equipment from the Council shall not entitle the Service Provider to suspend or cease to provide any of the Services.

15.6 Any equipment purchased in accordance with clause 15.3 shall be purchased by and shall belong to the Council. For the avoidance of doubt, the ownership of and warranties for the additional equipment shall be solely vested in the Council. All such additional equipment purchased and provided by the Council to the Service Provider in accordance with clause 15.3 and any other equipment provided by the Council to the Service Provider for the delivery of the Services shall be delivered to the Council immediately upon expiry or termination of the Contract.

15.7 The Service Provider shall be responsible for the security of all equipment and materials used by the Service Provider in connection with the provision of the Services and the Council shall not (as far as permitted by law) be liable for loss, damage or injury in respect of the same.

15.8 The Service Provider shall only use in the provision of the Service equipment owned or hired under a simple hire agreement (not hire purchase) by the Service Provider (the Service Provider Assets) and/or any additional equipment purchased by the Council under clause 15.3 or as otherwise provided by the Council to the Service Provider for the delivery of the Services.

16. COUNCIL PREMISES AND SERVICE PROVIDER PREMISES

16.1 The Service Provider shall have access to and use of the Council Premises and any equipment provided by the Council only to the extent as set out in this Contract, if any, or as otherwise agreed in writing with the Authorised Officer.

16.2 The Service Provider shall not use the Council Premises or Council Assets for any purpose other than to provide the Services or as permitted by this Contract.

16.3 The Service Provider shall ensure that:

16.3.1 where using Council Premises and equipment provided by the Council they are kept properly secure and the Service Provider will comply and cooperate with the Authorised Officer's reasonable directions regarding the security of the same;

16.3.2 any equipment owned or held by the Council (including those of its Representatives, excluding the Service Provider) and any equipment purchased by the Council in accordance with clauses 15.3 ("**the Council Assets**") and used by the Service Provider are maintained (or restored at the Expiry Date) in the same or similar condition as at the Commencement Date or the date equipment is provided to the Service Provider, whichever is the later (fair wear and tear excepted)

16.4 The Council shall maintain and repair the Council Assets, however where such maintenance or repair arises directly from the act, omission, default or negligence of the Service Provider or its Representatives (fair wear and tear excluded) the costs incurred by the Council in maintaining/repairing the same shall be recoverable from the Service Provider as a debt.

16.5 The Service Provider's Manager shall immediately inform the Authorised Officer of any defects, loss or damage appearing in or occurring to any Councils Assets as a result of the provision of the Services.

16.6 The permission given to the Service Provider to use any Council Premises or Council Assets is personal to the Service Provider and shall cease immediately this Contract ceases to be in force.

16.7 Except for the Council Premises, the Service Provider shall provide all other premises and/or sites necessary to provide the Services ("**the Service Provider Premises**").

17. RIGHTS OF ACCESS

17.1 The Service Provider shall at all times during the Contract Period permit the Council and its Representatives, CQC, National Audit Office and the authorised representative of Local Healthwatch access on reasonable notice during working hours (save in the case of emergency where no notice shall be required) to any Council Premises and Service Provider Premises for the purpose of:

17.1.1 monitoring and inspecting work being performed to provide the Services;

17.1.2 interviewing Service Provider's Representatives engaged in connection with the provision of the Service; and

17.1.3 inspecting the Service Provider Assets and the Council Assets and systems and procedures used by the Service Provider to provide the Services.

17.2 The Service Provider may refuse access to Service Provider Premises only where it would adversely affect the provision of the Services or the privacy or dignity of a Service User. In such a situation the Parties shall agree an alternative time for access to the Service Provider Premises.

SECTION 6 – WARRANTIES AND ACKNOWLEDGEMENTS

18. INDEMNITY

The Service Provider shall indemnify the Council and keep the Council indemnified against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence), default or breach of contract, to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of the Service Provider or of its employees or of any of its Representatives or Sub-Contractors, save to the extent that the same is directly caused by or directly arises from the negligence, breach of contract or Law by the Council or its Representatives (excluding the Service Provider and its Representatives).

19. INSURANCE

19.1 The Service Provider shall at its own cost take out and maintain the insurances listed at clause 19.2 ("**the Required Insurances**") and any other insurances required by Law with reputable insurers.

19.2 The Required Insurances referred to at 19.1 above are:

19.2.1 public liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000.00) in relation to any one claim or series of claims arising from the Services;

19.2.2 employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000.00) in relation to any one claim or series of claims arising from the Services;

19.2.3 professional indemnity insurance with a limit of cover of not less than two million pounds (£2,000,000.00) in relation to any one claim or series of claims arising from the Services; and

19.2.4 medical malpractice insurance with a limit of cover of not less than ten million pounds (£10,000,000.00) in relation to any one claim or series of claims arising from the Services.

19.3 The Required Insurances must remain in place for the Contract Period and be effective in each case no later than the date on which the relevant risk commences.

19.4 As and when reasonably required in writing by the Council, the Service Provider shall provide the Council with copies of current insurance certificates or other evidence demonstrating to the satisfaction of the Council that the requirements of this clause 19 are being met.

20. LIMITATION OF LIABILITY

20.1 Subject to clauses 18, 20.2, 20.3 and 20.4, neither Party shall be liable to the other Party (as far as permitted by Law) for indirect special or consequential loss or damage in connection with this Contract which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, use, goodwill or business opportunities whether direct or indirect.

20.2 Each Party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Contract.

20.3 Any clause limiting the Service Provider's liability does not apply in relation to the commission of any Prohibited Act.

20.4 Notwithstanding any other provision of this Contract neither Party limits or excludes its liability for:

20.4.1 fraud or fraudulent misrepresentation;

20.4.2 death or personal injury caused by its negligence;

20.4.3 breach of any obligation as to title implied by statute; or

20.4.4 any other act or omission, liability for which may not be limited under Law.

21. SERVICE PROVIDER WARRANTIES

21.1 The Service Provider warrants and represents that:

21.1.1 it has full capacity and authority to enter into and to perform this Contract;

21.1.2 this Contract is executed by a duly authorised representative;

21.1.3 there are no actions, suits or proceedings or regulatory investigations pending or, to the Service Provider's knowledge, threatened against or affecting the Service Provider before any court or administrative body or arbitration tribunal that might affect the ability of the Service Provider to meet and carry out its obligations under this Contract;

21.1.4 it will comply with applicable Laws and regulations and maintain all Necessary Consents, licences and registrations as applicable;

21.1.5 any information obtained by the Service Provider during the Contract Period shall only be used for the purposes contemplated under this Contract;

21.1.6 once duly executed this Contract will constitute the Service Provider's legal, valid and binding obligations;

21.1.7 it has operated, and will continue to operate, in material compliance with applicable laws and regulations; and

21.1.8 it has not committed any Prohibited Act in entering into this Contract or any other agreement with the Council and will not commit any such acts in the performance of or with regard to the extension of the term of this Contract or such other agreement.

21.2 For the avoidance of doubt the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination the Council may have in respect of breach of that provision by the Service Provider.

SECTION 7 – INFORMATION AND IPR

22. CONFIDENTIALITY AND TRANSPARENCY

22.1 Subject to clause 22.2, each Party shall keep confidential, all matters relating to this Contract and shall use all reasonable endeavours to prevent their Representatives from making any disclosure to any person of any matters relating hereto.

22.2 Clause 22.1 shall not apply to any disclosure of information required by Law (including any requests for information under the Information Laws).

22.3 The Service Provider acknowledges that the Council is subject to transparency obligations which require the Council to publish certain contract information and materials. Accordingly, and notwithstanding any other term of this Contract, the Service Provider hereby gives its consent for the Council to publish this Contract and its schedules and appendices in its entirety, including from time to time agreed changes to this Contract (save and except such matters as the Council is by law able to exclude as being confidential, commercially sensitive, or otherwise not in the public interest to disclose), to the general public in whatever form the Council decides.

22.4 On or before the Expiry Date, the Service Provider shall ensure that all documents and/or computer records in its possession, custody or control which contain information relating to the Council, the Services, any of the Council's Representatives or Council Premises, including any documents in the possession, custody or control of any Sub-Contractor, are delivered up to the Council or securely destroyed.

23. FREEDOM OF INFORMATION

23.1 The Service Provider acknowledges that the Council is subject to the requirements of the Information Laws.

23.2 The Service Provider shall, at no additional cost to the Council, co-operate promptly with the Council's reasonable requests for assistance in complying with its disclosure obligations under the Information Laws.

23.3 Notwithstanding any other provision of this Contract, the Council shall have absolute discretion as to whether to apply or not to apply any exemptions under the Information Laws.

23.4 In no event shall the Service Provider respond directly to a request for information unless expressly authorised to do so by the Council.

24. DATA PROTECTION

24.1 The Service Provider shall (and shall procure that any of its Representatives involved in the provision of this Contract) comply with any notification requests under the Data Protection Requirements and both Parties will duly observe all their obligations under the Data Protection Requirements, which arise in connection with the performance of this Contract.

24.2 Notwithstanding the general obligation in clause 24.1, where the Service Provider is processing Personal Data as a Data Processor for the Council, the Service Provider shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the personal data (and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data), as required under the Seventh Data Protection Principle in Schedule 1 to the Data Protection Act 1998; and

24.2.1 provide the Council with such information as the Council may reasonably require to satisfy itself that the Service Provider is complying with its obligations under the Data Protection Requirements;

24.2.2 promptly notify the Council of any breach of the security measures required to be put in place pursuant to this clause 24.2;

24.2.3 process the Personal Data only in accordance with instructions from the Council and only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Other Regulatory Body;

24.2.4 take reasonable steps to ensure the reliability of any Staff who have access to the Personal Data and ensure that all Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 24;

24.2.5 ensure that none of the Staff publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Council;

24.2.6 notify the Council within five (5) Working Days), if it receives:

24.2.6.1 a request from a Data Subject to have access to that person's Personal Data; or

24.2.6.2 a complaint or request relating to the Council's obligations under the Data Protection Requirements;

24.2.7 provide the Council with full co-operation and assistance in relation to any complaint or request made, including by:

24.2.7.1 providing the Council with full details of the complaint or request;

24.2.7.2 complying with a data access request within the relevant timescales set out in the Data Protection Requirements and in accordance with the Council's instructions;

24.2.7.3 providing the Council with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Council); and

24.2.7.4 providing the Council with any information requested by the Council;

24.2.8 ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the Data Protection Requirements.

24.3 The Service Provider shall comply at all times with the Data Protection Requirements and shall not perform its obligations under this Contract in such a way as to cause the Council to breach any of its applicable obligations under the Data Protection Requirements.

24.4 The Service Provider shall be liable for and shall indemnify the Council and keep the Council indemnified against each and every action, proceeding, liability, cost, claim, loss, expense (including reasonable legal fees and disbursements on a solicitor and client basis) and demands incurred by the Council which arise directly from a breach by the Service Provider of its obligations under the Data Protection Requirements, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, wilful misconduct, breach of statutory duty or non-compliance with any part of the Data Protection Requirements by the Service Provider or its employees, servants, agents or Sub-Contractors.

24.5 The provisions of this clause 24 shall apply during the continuance of this Contract and indefinitely after its expiry or termination.

25. INTELLECTUAL PROPERTY RIGHTS

25.1 The Service Provider agrees that the Intellectual Property Rights under its reasonable control in any and all documents, drawings, designs, databases, data or other material in any format created by the Service Provider in the course of and for the purpose of providing the Services on behalf of the Council shall be assigned to the Council. The Service Provider shall execute or cause to be executed all deeds, documents and acts required to vest such Intellectual Property Rights in the Council.

SECTION 8 - PERSONNEL

26. PERSONNEL

26.1 The Service Provider shall ensure that all individuals employed or engaged in connection with the Services are of suitable character and are appropriately qualified, trained and experienced in the area of work which they are to perform, and are given the opportunity to develop through appraisals and training, in accordance with Good Clinical Practice.

26.2 The Service Provider shall ensure that where applicable, Staff employed or engaged in providing the Services are registered with the appropriate professional regulatory body.

26.3 The Service Provider shall not employ, engage or use the services of any person:

26.3.1 who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out any Regulated Activity or who may otherwise present a risk to children or Vulnerable Adults or any other person, in the provision of any part of the Services involving a Regulated Activity or access to or unsupervised contact with children or Vulnerable Adults without the Council's prior and express written consent;

26.3.2 who discloses that he or she has a Relevant Conviction, or who is found by the Service Provider to have any Relevant Convictions (whether as a result of a police check or through the Disclosure and Barring Service (or any successor body) procedures or otherwise), in the provision of any part of the Services involving access to or processing of financial data, or access to or processing of sensitive personal data without the Council's prior and express written consent;

26.3.3 if the Service Provider has not satisfactorily completed the Employment Checks; or

26.3.4 if the Service Provider has not satisfactorily completed any other checks required by the Disclosure and Barring Service (or any successor body), or which are required to be undertaken pursuant to current and future national guidelines and policies.

26.4 The Service Provider shall (and shall procure that the relevant Sub-Contractors shall):

26.4.1 ensure that all Service Provider Personnel who, in providing the Services, will be engaged in the provision of a Regulated Activity are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service (or any successor body) including a check against the adults' barred list or the children's barred list, as appropriate; and

26.4.2 monitor the level, frequency and validity of the checks required under this clause 26.4 for each relevant Service Provider Personnel.

26.5 The Service Provider warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Service Provider in the provision of the Services:

26.5.1 has a Relevant Conviction; or

26.5.2 is barred from carrying out Regulated Activity,

in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.

26.6 The Service Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 26 have been met.

26.7 The Service Provider shall refer information about any person carrying out the Services to the Disclosure and Barring Service (or any successor body) where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to children or Vulnerable Adults.

26.8 The Service Provider shall ensure that its Representatives:

26.8.1 are adequately supervised and informed of the aspects of this Contract applicable to them so that they can comply with the terms of this Contract;

26.8.2 where specifically agreed to be provided, will be assigned to provide the Services;

26.8.3 other than as permitted by this Contract, do not solicit or act in such a manner as to induce payment for performance of the Services; and

26.9 The Service Provider shall provide, maintain and permit access to records of its Representatives in accordance with this Contract.

26.10 Subject to clause 26.11, the Authorised Officer may require the Service Provider, by notice in writing, which shall include his/her reasons for the same, to reprimand or remove from the provision of the Services any Representatives specified by such notice (including without limitation the Service Provider's Manager). Where required the Service Provider shall forthwith remove such Representatives from the provision of the Services and provide a replacement as appropriate to ensure that the Services are carried out in accordance with the Specification. Any Representatives removed from work under the provisions of this clause 26.10 may not be employed subsequently in the provision of the Services without the written consent of the Authorised Officer.

26.11 The Authorised Officer shall not require removal of personnel under clause 26.10 unless he has given due consideration as to whether the Council would (if the individual concerned were an employee of the Council) take the same action against such employee in the same or similar circumstances.

26.12 The Council shall not be liable either to the Service Provider or to any Representatives in respect of any liability loss or damage occasioned by the operation of clause 26.10.

27. EQUAL OPPORTUNITIES AND HUMAN RIGHTS

27.1 The Service Provider shall have in place an equal opportunities policy. This policy must specify that the Service Provider will not treat Staff less favourably on the grounds of their colour, race, ethnic or national origin, nationality (including citizenship), marital status, sex, sexual orientation, religion or belief, age or because they have a disability. The policy must also specify that the Service Provider will not tolerate behaviour, which is inconsistent with it, and detail the measures it will take if this occurs.

27.2 The Service Provider shall take all reasonable steps to ensure that all of its Representatives do not unlawfully discriminate and comply with the Service Provider's obligations under this clause 27.

27.3 In the performance of the Services and in its dealings with Service Users, Council employees and members of the general public, the Service Provider shall comply and shall ensure that its Representatives comply with:

27.3.1 the Human Rights Act 1998 as if the Service Provider were a public body (as defined in the Human Rights Act 1998);

27.3.2 all Laws relating to equal opportunities; and

27.3.3 the Council's equal opportunities policies and procedures as may be adopted and amended from time to time and as notified to the Service Provider.

28. TUPE

The Parties agree that the provisions of Schedule D (Staff Transfer) will apply during the Contract Period to any transfer under TUPE.

SECTION 9 – DISPUTE RESOLUTION

29. REFERRAL TO OFFICERS AND SENIOR REPRESENTATIVES

29.1 If any dispute arises out of or in connection with this Contract, the Parties shall promptly notify each other of the matter in dispute ("**Dispute**"), which shall in the first instance be referred to the Authorised Officer and the Service Provider's Manager, who shall use all reasonable skill, care and diligence to ensure that they receive the views of the Parties and consider all solutions proposed with the objective of resolving the Dispute and achieving an agreed solution.

29.2 Where the Authorised Officer and the Service Provider's Manager do not achieve a solution acceptable to both Parties within fourteen (14) Working Days of notification of a Dispute, and provided no right of termination has been exercised, senior representatives of both Parties shall meet promptly, and in any event within twenty one (21) days of notification of the Dispute, in good faith to discuss and seek to resolve the Dispute.

29.3 The Service Provider agrees that the provision of the Services shall not be affected or suspended in the event of and during any Dispute.

ADJUDICATION

29.4 If within thirty (30) days of notification of a Dispute, the processes set out in clauses 29.1 or 29.2 do not resolve such dispute to the satisfaction of the Parties either Party may refer any Dispute to an adjudicator, whose decision shall be binding except in the case of manifest error. Where the Parties are unable to agree the appointment of such adjudicator within seven (7) days of the request by either Party for such an appointment, then an adjudicator (willing to act in that capacity hereunder) shall be appointed by the President or Vice President of the Centre for Effective Dispute Resolution ("**CEDR**") and the Parties agree to accept such appointment.

29.5 Disputes shall be decided by such adjudicator in accordance with the latest Rules of Adjudication of the CEDR as in place at the time of the Dispute being referred to such adjudicator.

29.6 The costs of any adjudicator shall be borne in such proportions as the adjudicator may determine to be fair and reasonable in all the circumstances or, if the adjudicator makes no such determination, by the Parties in equal proportions.

29.7 Nothing in this clause 29 shall preclude either Party from applying at any time to the English courts for such interim or conservatory measures as may be considered appropriate.

SECTION 10 - TERMINATION

30. EXPIRY & TERMINATION

30.1 This Contract shall expire automatically on the Expiry Date unless it shall have been terminated earlier in accordance with its terms. For the avoidance of doubt the Service Provider shall not be entitled to any compensation on such expiry.

30.2 The Council may terminate the whole of this Contract by giving not less than six (6) Months' notice in writing to the Service Provider, such notice to expire at any time.

30.3 The Council may terminate any part of this Contract (including, but not limited to, any Specification(s) [or in relation to any individual Service Provider owned Pharmacy]) by giving not less than three (3) Months' notice in writing to the Service Provider, such notice to expire at any time.

30.4 The Council may terminate this Contract, in whole or in part, with immediate effect by notice in writing to the Service Provider on or at any time if the Service Provider:

30.4.1 becomes Insolvent;

30.4.2 commits a breach of any of its obligations under this Contract which may or will cause a risk to Service User safety;

30.4.3 commits a breach of any of its obligations under this Contract which materially and adversely affects the performance of the Services provided that if such breach is in the reasonable opinion of the Council capable of remedy, the Council may only terminate this Contract under this clause 30.4.3 if the Service Provider has failed to remedy such breach within thirty (30) days (or such shorter timescale as the Council specifies and is reasonable in the circumstances) after receipt of written notice from the Council to remedy the breach;

30.4.4 makes an assignment of this Contract in breach of clause 32.6 or sub contracts the Services or any part of the Services in breach of clause 32.7;

30.4.5 breaches any of its obligations under clause 19 (Insurance);

30.4.6 commits a Prohibited Act;

30.4.7 has any of its required registrations suspended or cancelled by CQC or the Other Regulatory Body (as applicable);

30.4.8 fails to obtain or loses any Necessary Consent or has any Necessary Consent varied or restricted the effect of which might reasonably be considered by the Council to have a material adverse affect in the performance of the Services;

30.4.9 commits a breach that results in material damage to the reputation of the Council.

30.5 If a Force Majeure Event prevents either Party from performing its obligations under this Contract in any material respect for a period of three (3) consecutive Months then, provided the notification requirements set out in clause 32.11 (Force Majeure) have been met, without prejudice to any accrued rights or remedies under this Contract, either Party may terminate this Contract by notice in writing to the other Party having immediate effect.

31. EFFECT OF TERMINATION OR EXPIRY & DUTY TO CO-OPERATE

31.1 Upon termination or expiry of the Contract the Council shall be entitled to repossess any Council Assets held by the Service Provider.

31.2 Termination of this Contract by whatever means shall not prejudice the right of action of either Party in respect of any antecedent breach of any of the terms and provisions of this Contract or the repayment of any sums due.

31.3 The Service Provider shall co-operate fully with the transfer of responsibility for the Service(s) (or any part of the Service) to any New Service Provider undertaking such services, the same or similar to the Services.

SECTION 11 – GENERAL

32. GENERAL

32.1 No variation or modification to this Contract is valid unless it is in writing and signed by duly authorised representatives of the Council and the Service Provider.

32.2 The provisions of this Contract are binding on any successors in title of the Parties.

32.3 Any notice required by this Contract to be given by either Party to the other shall be in writing and shall be served personally, by fax or by sending it by registered post or recorded delivery to the appropriate address or fax number notified to each other. Any notice served personally will be deemed to have been served on the day of delivery, any notice sent by post will be deemed to have been served forty eight (48) hours after it was posted and any notice sent by fax will be deemed to have been served twenty four (24) hours after it was despatched save where the deemed date of service falls on a day other than a Working Day in which case the date of service will be the following Working Day.

32.4 The Service Provider and its Sub-Contractors shall not be or be deemed to be an agent of the Council and the Service Provider and its Sub-Contractors shall not hold itself out as having authority or power to bind the Council in any way, other than expressly conferred by this Contract.

32.5 Nothing in this Contract shall be construed as creating a partnership within the meaning of the Partnership Act 1890, or as a contract of employment between the Service Provider and the Council.

32.6 The Service Provider shall not assign, novate, transfer or otherwise dispose of any of its rights or benefits under this Contract other than except with the prior written consent of the Council, which consent the Council may in its absolute discretion refuse and/or grant on terms.

32.7 The Service Provider shall not be entitled to sub-contract, sub licence, engage a third party to deliver the whole or part of the Services or otherwise dispose of the provision of the Services or any part thereof without the prior written consent of the Council, which may include conditions.

32.8 This Contract is enforceable by the original Parties to it, by their successors in title and permitted assignees. Any rights of any person to enforce the terms of this Contract pursuant to The Contracts (Rights of Third Parties) Act 1999 are excluded.

32.9 No term or provision of this Contract shall be considered as waived by any Party unless a waiver is given in writing by that Party and specifically states that it is a waiver of such term or provision. No waiver shall be a waiver of a past or future default or breach, nor shall it amend, delete or add to the terms, clauses or provisions of this Contract unless (and then only to the extent) that it is expressly stated in that waiver.

32.10 Each Party shall use all reasonable endeavours to ensure that any formal public statements made by a Party as to each other's activities or the performance of this Contract shall only be made after consultation with the other Party, except as required otherwise by law. Neither Party shall make use of the other Party's logo without their express permission.

32.11 A Party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to any failure or delay in performing its obligations under this Contract shall forthwith notify the other and shall inform the other of the period for which it is estimated that such failure or delay will continue. The affected Party shall take all reasonable steps to mitigate the effect of the Force Majeure Event.

32.12 Each of the Parties will pay their own costs and expenses incurred in connection with the negotiation, preparation, execution, completion and implementation of this Contract

32.13 If any provision of this Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not impair or affect any other provision all of which shall remain in full force and effect.

32.14 This Contract constitutes the entire agreement between the Parties relating to the subject matter of this Contract. This Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause 32.14 shall not exclude liability in respect of any fraudulent misrepresentation.

32.15 Termination of this Contract for any reason shall not affect this clause 32.15 and the following clauses or sections, which shall continue in force after such termination: clause 1 (Definitions and interpretation), clause 13 (Service Provider's Records), section 6 (Warranties), clause 22 (Confidentiality and Transparency), clause 23 (Freedom of Information), clause 24 (Data Protection), clause 28 (TUPE), section 9 (Dispute Resolution), section 10 (Termination), clause 32.3 (Notices), clause 32.6 (Assignment), clause 32.7 (Sub-Contracting), clause 32.16 (Law of Contract and Jurisdiction) and the provisions relating to disputed sums and set off in Schedule B (Payment Schedule).

32.16 The Parties agree that this Contract shall be construed in accordance with the laws of England and the Parties submit to the exclusive jurisdiction of the English Courts.

IN WITNESS of which this Contract has been duly executed by the Parties.

Signed for and on behalf of the **COUNCIL** by:	Signed for and on behalf of the **SERVICE PROVIDER** by:
Signed: ……	**Signed:** ……
Position: ……..	Position: ……
Print Name: ……..	Print Name: ……..
Authorised Signatory	**Company Director or duly Authorised Signatory***

* If the Service Provider Pharmacy is a registered company this Contract should be signed on behalf of the Company by one of the Company Directors. If the Service Provider is a partnership the Contract should be signed by a Partner who has explicit authority from the Partnership to enter into Contracts on behalf of the Partnership. Otherwise, the Contract should be signed on behalf of the Service Provider by an Authorised Signatory who has authority to enter into Contracts on behalf of the Service Provider.

SCHEDULE A - DEFINITIONS

In accordance with clause 1.1, in this Contract the following words shall have the meanings set out below:

"Authorised Officer"	Means: Name: Judith A Wright, Director of Public Health, Commissioner for Health & Social Care Address: County Hall, Chichester, West Sussex, PO19 1RQ Email: judith.a.wright@westsussex.gov.uk Phone: 03302222667 as the same may be replaced or delegate his/her functions from time to time and notified to the Service Provider;
"Best Value Duty"	means the duty imposed by Part 1 of the Local Government Act 1999 ("**the LGA 1999**") and under which the Authority is under a statutory duty to continuously improve the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to the guidance issued in connection with, the LGA 1999 from time to time;
"Bribery Act"	means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;
"Caldicott Guardian"	means the senior health professional responsible for safeguarding the confidentiality of patient information;
"Carer"	means a family member or friend of the Service User who provides day-to-day support to the Service User without which the Service User could not manage;
"CEDR"	has the meaning given in clause 29.4;
"Commencement Date"	means 1 April 2014, or such other date as agreed in writing between the Parties;
"Complaints Regulations"	means the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and/or any other applicable regulations prescribed that are relevant to complaints made in respect of the Services;
"Conditions of Contract"	means clauses 1 to 32 (inclusive) of this Contract;
"Contract"	means this Contract including and all schedules and appendices referred to herein and/or attached hereto;
"Contract Period"	means the Initial Period plus any extension under clause 2;
"Contract Price"	means the charges/fees payable by the Council in accordance with this Contract as ascertained by the sums set out in Schedule B (Payment Schedule) as amended in accordance with this Contract;
"Contract Year"	means any twelve (12) Month period measured from the Commencement Date or any anniversary thereof;
"Conviction"	means, other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order, or being placed on a list kept pursuant to section 1 of the Protection of Children Act 1999 or being made the subject of a prohibition or restriction under section 218(6) of the Education Reform Act 1988);
"Council Assets"	means as defined at clause 16.3.2;
"Council Premises"	means any premises and/or sites owned, occupied or controlled by the Council or its Representatives (excluding the Service Provider);
"CQC"	means the Care Quality Commission established under the Health and Social Care Act 2008;

"Data Controller"	means as defined in the Data Protection Act 1998;
"Data Processor"	means as defined in the Data Protection Act 1998;
"Data Protection Requirements"	means the Data Protection Act 1998, the EU Data Protection Directive 95/46EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI2000/2699), the Electronic Communications (EC Directive) Regulations 2003, and all applicable laws and regulations relating to the processing of personal data and privacy, including as and where applicable the guidance and codes of practice issued by the Information Commissioner; the BSI standard for data protection (BSI 10012: Specification for a personal information management system); and the Personal Data Guardianship Code of the Information Security Awareness Forum and the British Computer Society;
"Data Subject"	means as defined in the Data Protection Act 1998;
"Default"	means as defined at clause 11.2;
"Default Notice"	means a notice issued by the Council in accordance with clause 11.3;
"Dispute"	means as defined at clause 29.1;
"DPA"	means the Data Protection Act 1998;
["Emergency Hormonal Contraception Services"	means the emergency hormonal contraception services to be provided by the Service Provider under this Contract as more particularly described in the Emergency Hormonal Contraception Services Specification and any Variation thereto made in accordance with this Contract;
"Emergency Hormonal Contraception Services Specification"	means the emergency hormonal service specification set out at Schedule C Part 3 detailing the Emergency Hormonal Contraception Services;]
"Employment Checks"	means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks, criminal record checks and occupational health checks;
"Expiry Date"	means the end of the Contract Period;
"Extension"	means as defined at clause 2.2;
"Fees Regulations"	means the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004;
"Force Majeure Event"	means war, natural flood, exceptionally adverse weather conditions, strike or lockout (other than a strike or lock-out which is limited to the Service Provider's Representatives), civil disorder, Act of God, power cuts or delays or other wholly exceptional events outside the control of the Parties which could not have reasonably been foreseen or avoided;
"Good Clinical Practice"	means using standards, practices, methods and procedures conforming to the Law and using that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, efficient and experienced clinical services provider and a person providing services the same as or similar to the Services at the time the Services are provided;
"Guidance"	means any applicable local authority, health or social care guidance, direction or determination which the Council and/or the Service Provider have a duty to have regard to including any document published under section 73B of the NHS Act 2006;
"Information Laws"	means the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the Data Protection Act 1998 and any codes of practice and guidance made pursuant to the same as amended or replaced from time to time;
"Initial Period"	means a period of one (1) year from the Commencement Date;

"Insolvent"	means in relation to the Service Provider: (a) any arrangement or composition with or for the benefit of its creditors (including any voluntary arrangement as defined in the Insolvency Act 1986) being entered into (or, in the case of such a voluntary arrangement, being proposed); (b) a supervisor, receiver, administrator, administrative receiver or other encumbrancer of a similar nature taking possession of or being appointed over or any distress, execution or other process being levied or enforced (and not being discharged within seven (7) days) upon the whole or any material part of the Service Provider's assets; (c) a court makes an order that the Service Provider be wound up or a resolution for a voluntary winding up of the Service Provider is passed; (d) ceasing or threatening to cease to carry on business or being or being deemed to be unable to pay its debts when they become due within the meaning of Section 123 Insolvency Act 1986; (e) being an individual(s), has a bankruptcy order made against him/her or compounds with his/her creditors or comes to any arrangements with any creditors; or (f) any steps are taken in respect of or relating to the Service Provider by Monitor, the Secretary of State for Health or a Trust Special Administrator pursuant to the provisions of the National Health Service Act 2006;
"Intellectual Property Rights"	means any and all patents, trademarks, service marks, copyright, moral rights, rights in design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether now or in the future subsisting in the United Kingdom or any other part of the world together with all or any goodwill and accrued rights of action;
"KPIs"	means the key performance indicators set out at Schedule C (Specification (s)) (KPIs);
"Law"	means any applicable statute or any delegated or subordinate legislation, any enforceable community rights within the meaning of section 2 of the European Communities Act 1972, duly applicable guidance, code of practice, direction, judgment or determination with which the Council and/or the Service Provider is bound to comply including the Council's rules, procedures, guidelines, policies, codes of practice, standing orders, financial regulations and standards from time to time;
"Legal Guardian"	means an individual who, by legal appointment or by the effect of written law, is given custody of both the property and person of one who is unable to manage their own affairs;
"Lessons Learned"	means experience derived from provision of the Services, the sharing and implementation of which would be reasonably likely to lead to an improvement in the quality of the Service Provider's provision of the Services;
"Local Healthwatch"	means the local independent consumer champion for health and social care in England;
"Month"	means a calendar month;
"Necessary Consents"	means all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents required by Law or necessary from time to time for the performance of the Services including without limitation all planning permissions and waste management licences;
["Needle and Syringe Programme Services"	means the needle and syringe programme services to be provided by the Service Provider under this Contract as more particularly described in the Needle and Syringe Programme Services Specification and any Variation thereto made in accordance with this Contract;
"Needle and Syringe Programme Services Specification"	means the needle and syringe programme service specification set out at Schedule C Part 4 detailing the Needle and Syringe Programme Services;]

"New Service Provider"	means any person contracted to provide service(s) to the Council that are identical or substantially similar to any of the Services and which the Council receives in substitution for any of the Services following the termination or expiry of this Contract;
["NHS Health Checks Services"	means the Tier 3 NHS health checks services to be provided by the Service Provider under this Contract as more particularly described in the NHS Health Checks Services Specification and any Variation thereto made in accordance with this Contract;
"NHS Health Checks Services Specification"	means the NHS health checks services specification set out at Schedule C Part 1 detailing the NHS Health Checks Services;]
"Other Regulatory Body"	means government Departments and agencies, the European Union Commission or any other regulatory council or body (other than the Council) including any health and safety enforcement agency, with power to regulate the Services and their respective successors and substitutes or any body other than CQC exercising similar regulatory functions to the CQC;
"Patient Safety Incident"	means any unintended or unexpected incident that occurs in respect of a Service User that could have led or did lead to, harm to that Service User;
"Personal Data"	means as defined in the Data Protection Act 1998;
"Prohibited Act"	means: (a) directly or indirectly offering, promising or giving any person working for or engaged by the Council a financial or other advantage to: i. induce that person to perform improperly a relevant function or activity; or ii. reward that person for improper performance of a relevant function or activity; (b) directly or indirectly requesting, agreeing to receive or accepting any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; (c) committing any offence:- i. under the Bribery Act; ii. under legislation creating offences concerning fraudulent acts; iii. at common law concerning fraudulent acts relating to this Contract or any other contract with the Council; or iv. defrauding, attempting to defraud or conspiring to defraud the Council; or (d) committing an offence under sub-section (2) of section 117 of the Local Government Act 1972;
"Public Health Requirements"	means any guidance, appraisals, recommendations, requirements, codes of practice or other similar documents issued by the National Institute for Health and Clinical Excellence or any Other Regulatory Body in relation to the provision of public health services;
"Quality Standard"	means an appropriate and current British Standards Specification or British Standard Code of Practice issued by the British Standard Institution or any similar European Union standard applying to goods or services relating to the Services or equivalent;
"Quarter"	means a consecutive period of three Months commencing on 1 April, 1 July, 1 October or 1 January and "Quarterly" shall be interpreted accordingly;
"Regulated Activity"	means in relation to children as defined in Part 1 of Schedule 4, and in relation to Vulnerable Adults, as defined in Part 2 of Schedule 4, of the Safeguarding

	Vulnerable Groups Act 2006 as amended from time to time;
"Relevant Conviction"	means a Conviction that is relevant to the nature of the Services to be provided;
"Representative"	means any employee, officer, worker, agent or service provider engaged by a Party in connection with the Services including any Sub-Contractor;
"Required Insurances"	means as defined at clause 19.1;
"Safeguarding Policies"	means the Service Provider's written policies as amended from time to time, for safeguarding children and adults;
"Serious Incident" or "Serious Incidents"	means an incident or accident or near miss where a patient (whether or not a Service User), member of staff, or member of the public suffers serious injury, major permanent harm or unexpected death in relation to the Service Provider's provision of the Services, and where the actions of the Service Provider, its Staff or the Council are likely to be of significant public concern;
"Services" or "Service"	means the services to be provided by the Service Provider under this Contract consisting of [NHS Health Checks Services, Smoking Cessation Services, Emergency Hormonal Contraception Services, Needle and Syringe Programme Services and Supervised Opiate Substitution Services] as more particularly described in the Specification(s) and any Variation thereto made in accordance with this Contract;
"Service Provider Personnel"	means all employees, agents, consultants and contractors of the Service Provider and/or of any Sub-Contractor;
"Service Provider Premises"	means as defined at clause 16.6;
"Service Provider's Assets"	means as defined at clause 15.1;
"Service Provider's Manager"	Means: [Name:…….. Telephone:……] OR [As set out in Appendix 1 for each individual Service Provider owned Pharmacy] as the same may be replaced from time to time and notified to the Council;
"Service Standards"	means those standards of services and outcomes in accordance with Good Clinical Practice and Public Health Requirements as more particularly set out in the Specification(s);
"Service User"	means the person directly receiving the Services provided by the Provider as specified in the Specification and shall include their Carer and Legal Guardian where appropriate;
"Service User Health Records"	means any record that consists of information relating to the particular physical or mental health or condition of a Service User;
["Smoking Cessation Services"	means the smoking cessation services to be provided by the Service Provider under this Contract as more particularly described in the Smoking Cessation Services Specification and any Variation thereto made in accordance with this Contract;
"Smoking Cessation Services Specification"	means the smoking cessation services specification set out at Schedule C Part 2 detailing the Smoking Cessation Services;]
"Specification(s)"	means the specification(s) for the Services consisting of [the NHS Health Checks Services Specification, the Smoking Cessation Services Specification, the Emergency Hormonal Contraception Services Specification, the Needle and Syringe Programme Services Specification and the Supervised Opiate Substitution Services Specification] at Schedule C detailing the Services;

"Staff"	means all persons employed by the Service Provider to perform its obligations under this Contract together with the Service Provider's servants, agents, suppliers and Sub-Contractors used in the performance of its obligations under this Contract;
"Sub-Contractor"	means the contractors or service providers engaged by the Service Provider to provide goods, services or works to, for or on behalf of the Service Provider for the purposes of providing the Services to the Council;
["Supervised Opiate Substitution Services"	means the supervised opiate substitution services to be provided by the Service Provider under this Contract as more particularly described in the Supervised Opiate Substitution Services Specification and any Variation thereto made in accordance with this Contract;
Supervised Opiate Substitution Services Specification	means the supervised opiate substitution services specification set out at Schedule C Part 5 detailing the Supervised Opiate Substitution Services;]
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006;
"VAT"	means value added tax or any similar or substituted tax;
"Vulnerable Adult(s)"	means any adult to whom an activity which is a Regulated Activity relating to vulnerable adults by virtue of any paragraph of paragraph 7(1) of Schedule 4 of the Safeguarding Vulnerable groups Act 2006 is provided;
"Warranty"	generally means an assurance, promise, or guarantee made by one party that a particular statement of fact is true and may be relied upon by the other party;
"Working Days"	means Monday to Friday inclusive of each week excluding Christmas Day, Good Friday and Bank Holidays in England; and

SCHEDULE B – PAYMENT SCHEDULE

PART 1 – PAYMENT MECHANISM

1. The Contract Price payable by the Council shall be based on the actual activity provided by the Service Provider, calculated in accordance with the pricing set out in Part 3 of this Schedule B. For the avoidance of doubt the pricing/charges set out at Part 3 shall be inclusive of all fees/charges but exclusive of VAT.

2. The fixed charges for [NHS Health Checks Services, Emergency Hormonal Contraception Services, Needle and Syringe Programme Services and Supervised Opiate Substitution Services] shall be payable monthly in arrears in accordance with this Schedule B. [The fixed charges for Smoking Cessation Services shall be payable Quarterly in arrears in accordance with this Schedule B.]

3. At the end of each calendar month the Service Provider shall submit to the Council an invoice in respect of the work/activity forming part of the [NHS Health Checks Services, Emergency Hormonal Contraception Services, Needle and Syringe Programme Services and Supervised Opiate Substitution Services] that have been completed by the Service Provider during the previous calendar month and the price of the same (as set out in Part 3 of this Schedule B) in a format to be agreed between the parties.

4. [At the end of each Quarter the Service Provider shall submit to the Council an invoice in respect of the work/activity forming part of the Smoking Cessation Services that have that have been completed by the Service Provider during the previous Quarter and the price of the same (as set out in Part 3 of this Schedule B) in a format to be agreed between the parties.]

5. [Where the Service Provider is delivering Needle and Syringe Programme Services a one off retainer fee of £500.00 is payable per Contract Year, providing the Service Provider submits an invoice in respect of this amount within the first three Months of each Contract Year. If the Service Provider fails to submit the invoice for the annual retainer fee for this Service by the end of the third Month of each Contract Year then the Council will not be liable to make any payment for the retainer fee for that Contract Year]

6. Subject to paragraph [8] of Part 1 and Part 2 of this Schedule B, all payments for undisputed sums shall be made within thirty (30) Working Days of receipt of a valid invoice from the Service Provider.

7. The invoice referred to in paragraph 2 of this Part 1 of Schedule B shall be rendered on the Service Provider's own invoice form and shall show[5]:

   (a) the period to which the invoice relates;

   (b) the aspects of the Services for which payment is claimed;

   (c) any VAT payable;

   (d) a valid purchase order number as issued by the Council;

   (e) the Service Provider's vendor/supplier number as set out in the purchase order issued by the Council; and

   (f) the Service Provider's full business name and address.

8. The Council shall notify the Service Provider in writing within thirty (30) Working Days of the date of the relevant invoice if it disputes any of the charges payable under such invoice. Such disputes shall be resolved in accordance with the provisions of section 9 (Dispute Resolution) of this Contract.

9. All payments shall be made by BACS (Bank Automated Clearing System) or as otherwise agreed by the Parties in writing.

[5] http://www.westsussex.gov.uk/doing_business/doing_business_with_us/invoice_and_payment/how_do_i_prepare_my_invoice.aspx

PART 2 – GENERAL

1. Where any Party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be referred to section 9 (Dispute Resolution) of this Contract.

2. Interest due on any sums in dispute shall not accrue until the earlier of thirty (30) days after:
   - 2.1 resolution of the dispute between the Parties; or
   - 2.2 receipt of the decision of the adjudicator in accordance with section 9 (Dispute Resolution) of this Contract.

3. A Party shall pay interest on all overdue payments to the other Party accruing from day to day for the period of default at an annual rate of 2% over the daily base lender rate from time to time of HSBC Bank Plc applicable in England from time to time.

4. Whenever any sum of money shall be recoverable from or payable by the Service Provider to the Council under this Contract, the same may be deducted from any sum then due or which may become due to the Service Provider under this Contract or any other contract with the Council.

5. The Council shall pay to the Service Provider such VAT that may be chargeable by the Service Provider in connection with the provision of the Services and the Service Provider shall issue a tax invoice in respect thereof.

6. The Service Provider shall install and implement such apparatus and systems as the Authorised Officer may reasonably require from time to time to ensure that the Council is charged for and pays only such amounts as it is obliged to under this Contract.

7. All payments will be made in accordance with the Council's One Way to Buy Policy[6]. Invoices shall be submitted to the Councils Accounts and Purchasing Team,[7] a copy of which is to be provided to the Authorised Officer.

PART 3 – PRICING INFORMATION

PART 3A – NHS HEALTH CHECKS SERVICES

Service	Fixed price per Service User
Tier 3 Delivery of NHS Health Check	£28.00

PART 3B – SMOKING CESSATION SERVICES

Service – Service User Quit Smoking Rate	Fixed Price per Service User
Service User has quit smoking for four (4) weeks ("Quit")	£45.78
Service User has attended all smoking cessation sessions over the four (4) week programme but has not quit smoking at four (4) weeks ("Not Quit")	£30.52
Service User has not attended or completed all sessions in the four (4) week programme ("Lost – to follow up")	£15.26

[6] http://www.westsussex.gov.uk/doing_business/doing_business_with_us/what_is_one_way_to_buy.aspx
[7] http://www.westsussex.gov.uk/doing_business/doing_business_with_us/invoice_and_payment/where_do_i_need_to_send_my_inv.aspx

PART 3C – EMERGENCY HORMONAL CONTRACEPTION SERVICES

Service	Fixed price per Service User
Per client consultation (whether supply of drug is made or not)	£15.00
Drug Tariff Price Reimbursement (The NHS Drug Tariff is subject to change in price as is published monthly by NHS Business Services Authority, NHS Prescription Services)[8]	£5.20

PART 3D – NEEDLE AND SYRINGE PROGRAMME SERVICES

Service	Fixed price per Pack
Supply of "Packs" as defined in the Needle and Syringe Programme Services Specification. http://www.westsussex.gov.uk/living/social_care_and_health/adults_looking_for_support/being_healthy/drug_and_alcohol_services/needle_exchanges.aspx	£1.75

PART 3E – SUPERVISED OPIATE SUBSTITUTION SERVICES

Weekly Payments (as set out in the Supervised Opiate Substitution Services Specification)

Service	Fixed price per Service User
One week of supervision of Service User (a week is up to 7 days with 6 days supervision and one day to take out (TTO))	£7.50 per week

Daily Payments (as set out in the Supervised Opiate Substitution Services Specification)

Service	Fixed price per Service User
1-5 days of treatment for "new starter" Service User (as further explained in the Supervised Opiate Substitution Services Specification)	£1.25 per day for up to 5 consecutive days
Sunday Supervision of Service User	£1.75 per day for up to 5 consecutive Sundays

[8] http://www.ppa.org.uk/ppa/edt_intro.htm

SCHEDULE C – SPECIFICATION(S)

PART 1 – NHS HEALTH CHECKS SERVICES SPECIFICATION

PART 2 – SMOKING CESSATION SERVICES SPECIFICATION

PART 3 – EMERGENCY HORMONAL CONTRACEPTION SERVICES SPECIFICATION

PART 4 –NEEDLE AND SYRINGE PROGRAMME SERVICES SPECIFICATION

PART 5 – SUPERVISED OPIATE SUBSTITUTION SERVICES SPECIFICATION

SCHEDULE D - STAFF TRANSFER

D1 The definitions and rules of interpretation in this clause apply in this Contract:

"Effective Date"	means the date on which the Services (or any part of the Services), transfer from the Council or any of its contractors to the Service Provider;
"Employment Liabilities"	means all claims, including without limitation claims for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy or maternity, or sexual orientation discrimination, claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims (whether in tort, contract, statute or otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body), and of implementing any requirements which may arise from such investigation, and any legal costs and expenses;
Employee Liability Information	means the information that a transferor is obliged to notify to a transferee under Regulation 11(2) of TUPE: a)the identity and age of the employee; b)the employee's written statement of employment particulars (as required under section 1 of the Employment Rights Act 1996); c)information about any disciplinary action taken against the employee and any grievances raised by the employee, where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes applies, within the previous two years; d)information about any court or tribunal case, claim or action either brought by the employee against the transferor within the previous two years or where the transferor has reasonable grounds to believe that such action may be brought against the District Council arising out of the employee's employment with the transferor; and e)information about any collective agreement that will have effect after the Service Transfer Date, in relation to the employee under regulation 5(a) of TUPE;
"Final Staff List"	means the list of all the Service Provider personnel engaged in, or wholly or mainly assigned to, the provision of the Service or any part of the Service at the Service Transfer Date;
"Provisional Staff List"	means the list prepared and updated by the Service Provider of all the Service Provider personnel engaged in, or wholly or mainly assigned to, the provision of the Service or any part of the Service at the date of the preparation of the list, and in the format requested by the Council;
"Relevant Employees"	means those employees whose contracts of employment transfer with effect from the Service Transfer Date to the Council or a New Service Provider by virtue of the application of TUPE;
"Relevant Transfer"	means a relevant transfer for the purposes of TUPE in relation to the provision of the Service including upon or as a result of termination of this Contract;
"Service Transfer Date"	means the date on which the Service (or any part of the Service), transfers from the Service Provider to the Council or any New Service Provider;
"Staffing Information"	means in relation to all persons detailed on the Provisional Staff List, in an anonymised format, such information as the Council may reasonably request including the Employee Liability Information and details of whether the

	Service Provider personnel are employees, workers, self-employed, contractors or consultants, agency workers or otherwise, and the amount of time spent on the provision of the Service;

D2.1 This Contract envisages that subsequent to its commencement, the identity of the provider of the Service (or any part of the Service) may change (whether as a result of termination of this Contract, or part or otherwise) resulting in a transfer of the Service in whole or in part ("Service Transfer"). If a Service Transfer is a Relevant Transfer then the Council or New Service Provider will inherit liabilities in respect of the Relevant Employees with effect from the relevant Service Transfer Date.

D2.2 The Service Provider shall and shall procure that any Sub-Contractor shall on receiving notice of termination of this Contract or otherwise, on request from the Council and/or at such times as required by TUPE, provide in respect of any person engaged or employed by the Service Provider or any Sub-Contractor in the provision of the Services, the Service Provider's Provisional Staff List and the Staffing Information together with any additional information required by the Council, including information as to the application of TUPE to the employees. The Service Provider shall notify the Council of any material changes to this information as and when they occur.

D2.3 At least 14 days prior to the Service Transfer Date, the Service Provider shall and shall procure that any Sub-Contractor shall prepare and provide to the Council and/or, at the direction of the Council, to the New Service Provider, the Service Provider's Final Staff List, which shall be complete and accurate in all material respects. The Service Provider's Final Staff List shall identify which of the Service Provider's and Sub-Contractor's personnel named are Relevant Employees.

D2.4 The Council shall be permitted to use and disclose the Service Provider's Provisional Staff List, the Service Provider's Final Staff List and the Staffing Information for informing any tenderer or other prospective New Service Provider for any services that are substantially the same type of services as (or any part of) the Services.

D2.5 The Service Provider warrants that the Service Provider's Provisional Staff List, the Service Provider's Final Staff List and the Staffing Information (the TUPE Information) will be true and accurate in all material respects and that no persons are employed or engaged in the provision of the Services other than those included on the Service Provider's Final Staff List.

D2.6 The Service Provider shall and shall procure that any Sub-Contractor shall ensure at all times that it has the right to provide the TUPE Information under the Data Protection Requirements.

D2.7 The Council regards compliance with this clause D2 as fundamental to this Contract.

D2.8 In the six months prior to termination or expiry of this Contract, the Service Provider shall not and shall procure that any Sub-Contractor shall not materially increase or decrease the total number of staff listed on the Service Provider's Provisional Staff List, their remuneration, or make any other change in the terms and conditions of those employees without the Council's prior written consent.

D2.9 The Service Provider shall indemnify and keep indemnified in full the Council and at the Council's request each and every New Service Provider against all Employment Liabilities relating to:

D2.9.1 any person who is or has been employed or engaged by the Service Provider or any Sub-Contractor in connection with the provision of any of the Service; or

D2.9.2 any trade union or staff association or employee representative (where such claim arises as a result of any act, fault or omission of the Service Provider and/or any Sub-Contractor),

arising from or connected with any failure by the Service Provider and/or any Sub-Contractor to comply with any legal obligation, whether under regulation 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE, under the Acquired Rights Directive or otherwise and, whether any such claim arises or has its origin before or after the Service Transfer Date.

D2.10 The Parties shall co-operate to ensure that any requirement to inform and consult with the employees and or employee representatives in relation to any Relevant Transfer as a consequence of a Service Transfer will be fulfilled.

APPENDIX 1 - SERVICE PROVIDER PHARMACIES

[TABLE TO BE COMPLETED IF THE SERVICE PROVIDER OWNS MORE THAN ONE PHARMACY]

Service Provider Pharmacy Trading Name	Service Provider Pharmacy Address	Registered Pharmacy Number	Service Providers Manager (Name & Contact No)	NHS Health Checks Services	Smoking Cessation Services	Emergency Hormonal Contraception Services	Needle and Syringe Programme Services	Supervised Opiate Substitution Services