



AGREEMENT

CONTRACT REFERENCE NUMBER	CHCPxxxx
SERVICE NAME	Pharmacy Provided Sexual Health Services
AGREEMENT EFFECTIVE DATE	
SERVICE COMMENCEMENT DATE	1st April 2020
SERVICE EXPIRY DATE	31st March 2021
CONTRACT COMMISSIONED BY	City Health Care Partnership CIC Company Number: 06273905
PROVIDER	Company Number:

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THIS AGREEMENT will take effect on the Effective Date of XXXXXXXXXXXXXXXXXXXX 2020

BETWEEN:

- (1) **CITY HEALTH CARE PARTNERSHIP CIC** whose principal office address is at 5 Beacon Way, Brighton Street, Hull, HU3 4AE ("**CHCP CIC**"); and
- (2) **XXXXXXXXXXXXXXXXXXXX** whose principal or registered office address is at XXXXXXXXXXXXXXXXXXXXXXX (the "**Provider**").

BACKGROUND:

CHCP CIC has been commissioned to provide certain health services and wishes to engage the Provider to provide the services as more specifically described in Schedule 1 to this Agreement (the "**Services**").

IN WITNESS OF WHICH the Parties have signed this Agreement on the date(s) shown below.

PRINT NAME Andrew Burnell

SIGNED by *Andrew L Burnell*

for and on behalf of

CITY HEALTH CARE PARTNERSHIP CIC

Date: XXXXXXXXXXXXXXXXXXXXXXX

PRINT NAME

SIGNED by

for and on behalf of

XXXXXXXXXXXXXXXXXXXX

Date.....

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following definitions apply:

“Auditor”	an appropriately qualified, independent third party auditor appointed by CHCP CIC;
“Authorised Person”	(i) CHCP CIC or their authorised representatives; (ii) Any body or person concerned with the treatment or care of a Service User approved by CHCP CIC; (iii) (For the purposes permitted by Law) any authorised representative of any Regulatory or Supervisory Body; (iv) NHS Protect or any body or person appointed by CHCP CIC in connection with the investigation of bribery, fraud, corruption or security incidents;
“Best Practice”	any methodologies, pathway designs and processes relating to the Services developed by the Provider or any Sub-Contractor (whether singly or jointly with CHCP CIC or other provider) for the purposes of delivering the Services and which are capable of wider use in the delivery of healthcare services for the purposes of the NHS, but not including inventions that are capable of patent protection and for which patent protection is being sought or has been obtained, registered designs, or copyright in software;
“Bribery Act”	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;
“CEDR”	means The Centre for Effective Dispute Resolution, the independent mediatory and dispute resolution body located at 70 Fleet Street, London, England, EC4Y 1EU;
“Change In Control”	(i) any sale or other disposal of any legal, beneficial or equitable interest in any or all of the equity share capital of a corporation (the effect of which is to confer on any person (when aggregated with any interest(s) already held or controlled) the ability to control the exercise of 50% or more of the total voting rights exercisable at general meetings of that corporation on all, or substantially all, matters), provided that a Change in Control will be deemed not to have occurred if after any such sale or disposal the same entities directly or indirectly exercise the same degree of control over the relevant corporation; or (ii) any change in the ability to control an NHS Foundation Trust, NHS Trust or NHS Body by virtue of the entering into of any franchise, management or other agreement or arrangement, under the terms of which the control over the management of the relevant NHS Foundation Trust, NHS Trust or NHS Body is conferred on another person without CHCP CIC's prior written consent;
"Charges"	the charges payable by CHCP CIC for the supply of the Services in accordance with clause 8;

“CHCP CIC Deliverables”	all documents, products and materials developed by CHCP CIC in relation to the Services in any form and submitted to the Provider under this Agreement, including data, reports, policies, plans and specifications;
"CHCP CIC Materials"	has the meaning set out in Clause 4.3.9;
"Commencement Date"	is date from when this Agreement shall take effect and is the date on which the Provider commences delivery of the Services as defined at clause 2.1;
“Commercially Sensitive Information”	any information comprising information of a commercially sensitive nature relating to the Provider, its intellectual property rights or its business or which the Provider has indicated to CHCP CIC that, if disclosed by CHCP CIC, would cause the Provider significant commercial disadvantage or material financial loss;
“Commissioner”	Not Applicable;
“Confidential Information”	any information or data in whatever form disclosed, which by its nature is confidential or which the disclosing Party acting reasonably states in writing to the receiving Party is to be regarded as confidential, or which the disclosing Party acting reasonably has marked ‘confidential’ (including, financial information, or marketing or development or workforce plans and information, and information relating to services or products) but which is not Service User Health Records or information relating to a particular Service User, or Personal Data, or information which is disclosed in accordance with this Agreement, in response to an FOIA request, or information which is published as a result of government policy in relation to transparency;
“Contract Management Meeting”	a meeting of CHCP CIC and the Provider held in accordance with Schedule 3 clauses 1.4 and 1.5;
“Contract Performance Notice”	a notice given by CHCP CIC to the Provider under Schedule 3 clause 1.3, alleging failure by the Provider to comply with any obligation on its part under this Agreement;
“Complaint”	is an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the Provider or by CHCP CIC;
“Concern”	is an expression of unhappiness or something that affects or is of importance to a person such as waiting time for appointment or lack of appointment availability;

“Consent”	(i) any permission, consent, approval, certificate, permit, licence, statutory agreement, authorisation, exception or declaration required by Law for or in connection with the performance of Services; and/or (ii) any necessary consent or agreement from any third party needed either for the performance of the Provider’s obligations under this Agreement or for the provision by the Provider of the Services in accordance with this Agreement, including any registration with any relevant Regulatory or Supervisory Body;
“CQC”	the Care Quality Commission established under section 1 of the Health and Social Care Act 2008;
“Personal Data Breach”	has the meaning given to it in Data Protection Legislation;
“Data Controller”	has the meaning given to it in Data Protection Legislation;
“Data Guidance”	any applicable guidance, guidelines, direction or determination, framework, code of practice, standard or requirement regarding information governance, confidentiality, privacy or compliance with Data Protection Legislation (whether specifically mentioned in this Agreement or not) to the extent published and publicly available or their existence or contents have been notified to the Provider by CHCP CIC and/or any relevant Regulatory or Supervisory Body. This includes but is not limited to guidance issued by NHS Digital, the National Data Guardian for Health & Care, the Department of Health and Social Care, NHS England, the Health Research Authority, Public Health England, the European Data Protection Board and the Information Commissioner;
“Data Processor”	has the meaning given to it in Data Protection Legislation;
“Data Protection Legislation”	(i) The GDPR, the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national Laws implementing them as amended from time to time; (ii) The DPA 2018 (the Data Protection Act 2018); (iii) all applicable Law concerning privacy, confidentiality or the processing of personal data including but not limited to the Human Rights Act 1998, the Health and Social Care (Safety and Quality) Act 2015, the common law duty of confidentiality and the Privacy and Electronic Communications (EC Directive) Regulations;
“Data Subject”	has the meaning given to it in Data Protection Legislation;
“Discloser”	is the Party that owns the confidential information it discloses to the “Recipient” ;
“Dispute”	a dispute conflict or other disagreement between the Parties arising out of or in connection with this Agreement;
“Enhanced DBS & Barred List Check”	a disclosure of information comprised in an Enhanced Disclosure and Barring Service (“DBS”) Check together with information from the DBS children’s barred list, adults’ barred list and children’s and adults’ barred list;

“Enhanced DBS Check”	a disclosure of information comprised in a Standard DBS Check together with any information held locally by police forces that it is reasonably considered might be relevant to the post applied for;
“Enhanced DBS Position”	any position listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended), which also meets the criteria set out in the Police Act 1997 (Criminal Records) Regulations 2002 (as amended), and in relation to which an Enhanced DBS Check or an Enhanced DBS & Barred List Check (as appropriate) is permitted;
“Environmental Information Regulations”	the Environmental Information Regulations 2004;
“Equipment”	medical or non-medical equipment that the Provider may use in the delivery of the Services (including Vehicles);
“Ethical Procurement Standards”	are defined as procurement processes which respect fundamental standards and conduct relating to criminal / non-criminal conduct and human rights / environmental abuse which are designed to discourage conduct and behaviours; resulting in progressive improvement to the lives of people and the environment to the extent that these can be influenced by supply chain decision-making;
“Event of Force Majeure”	an event or circumstance which is beyond the reasonable control of the Party claiming relief under clause 27 (Force Majeure), including war, civil war, armed conflict or terrorism, strikes or lock outs, riot, fire, flood or earthquake, and which directly causes that Party to be unable to comply with all or a material part of its obligations under this Agreement in relation to any Service;
“Expiry Date”	is the date this Agreement expires as defined at clause 2.2;
“FOIA”	the Freedom of Information Act 2000;
“GDPR”	the General Data Protection Regulation (Regulation (EU) 2016/679);
“Good Practice”	using standards, practices, methods and procedures conforming to the Law and reflecting up-to-date published evidence 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;
“Governing Body”	in respect of any Party, the board of directors, governing body, executive team or other body having overall responsibility for the actions of that Party;

“Guidance”	any applicable health or social care guidance, guidelines, direction or determination, framework, code of practice, standard or requirement to which CHCP CIC and/or the Provider have a duty to have regard (and whether specifically mentioned in this Agreement or not), to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Provider by CHCP CIC and/or any relevant Regulatory or Supervisory Body;
“IG Guidance for Serious Incidents”	NHS Digital’s <i>Checklist Guidance for Information Governance Serious Incidents Requiring Investigation</i> June 2013, available at: https://www.igt.hscic.gov.uk/KnowledgeBaseNew/HSCIC%20IG%20SIRI%20%20Checklist%20Guidance%20V2%200%201st%20June%202013.pdf
“Indemnity Arrangements”	either: (i) A policy of insurance; (ii) An arrangement made for the purposes of indemnifying a person or organisation; or (iii) A combination of (i) and (ii)
“Indirect Losses”	loss of profits (other than profits directly and solely attributable to provision of the Services), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis but, for the avoidance of doubt, excluding any costs incurred in remedying any breach of Data Protection Legislation;
“Information”	has the meaning given under section 84 of FOIA;
“Information Commissioner”	the independent authority established to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals ico.org.uk and any other relevant data protection or supervisory authority recognised pursuant to Data Protection Legislation;
“Information Governance Audit Guidance”	guidance issued by the Department of Health and Social Care and/or NHS England available at: http://www.gov.uk/government/publications/a-question-of-balance-independent-assurance-of-information-governance-returns ;
“Information Governance Breach”	an information governance serious incident requiring investigation, as defined in IG Guidance for Serious Incidents;
“Information Governance Lead”	the individual responsible for information governance and for providing the Provider’s Governing Body with regular reports on information governance matters, including details of all incidents of data loss and breach of confidence;
“IPR”	inventions, copyright, patents, database right, trademarks, designs and confidential know-how and any similar rights anywhere in the world whether registered or not, including applications and the right to apply for any such rights;

“Knowledge and Skills Framework”	an element of the career and pay progressions strand of Agenda for Change;
“Law”	(i) any applicable statute or proclamation or any delegated or subordinate legislation or regulation; (ii) any enforceable EU right within the meaning of section 2(1) European Communities Act 1972; (iii) Any applicable judgment of a relevant court of law which is a binding precedent in England and Wales; (iv) Guidance; and (v) Any applicable code, in each case in force in England and Wales;
“Lessons Learned”	experience derived from provision of the Services or otherwise, the sharing and implementation of which would be reasonably likely to lead to an improvement in the quality of the Provider’s provision of the Services;
“Local Auditor”	a local auditor appointed by a relevant authority in accordance with the Local Audit and Accountancy Act 2014;
“Local Quality Requirements”	the requirements, if appropriate, set out in Schedule 3 as may be amended by the Parties in accordance with this Agreement or with the recommendations or requirements of NICE;
“Losses”	all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses;
“Main Contract”	Not Applicable;
“Managing Conflicts of Interest in the NHS”	the NHS publication by that name available at https://www.england.nhs.uk/about/board-meetings/committees/coi/ ;
“MCA Policies”	the Provider’s written policies for compliance with the 2005 Act and the Deprivation of Liberty Safeguards, and updated from time to time in accordance with clause 24 Safeguarding and Mental Capacity;
“Monitor”	the corporate body known as Monitor provided by section 61 of the Health and Social Care Act 2012;
“Monitor’s Licence”	a licence granted by Monitor under section 87 of the Health and Social Care Act 2012;
“National Audit Office”	the independent office established under section 3 of the National Audit Act 1983 which conducts financial audits and reports to Parliament on the spending of public money (and any successor body or bodies from time to time);
“National Data Guardian”	the body which advises and challenges the health and care system to help ensure that citizens’ confidential information is safeguarded securely and used properly: https://www.gov.uk/government/organisations/national-data-guardian , and its predecessor body the Independent Information Governance Oversight Panel;

- “National Data Guardian’s Data Security Standards”** the standards recommended by the National Data Guardian and approved by the Department of Health and Social Care, as set out in Annex D of *Your Data: Better Security, Better Choice, Better Care*, available at <https://www.gov.uk/government/consultations/new-data-security-standards-for-health-and-social-care> ;
- “National Quality Requirements”** the requirements, if appropriate, set out in Schedule 3;
- “National Variation”** a Variation mandated by NHS England to reflect changes to the NHS Standard Contract and notified to the Parties by whatever means NHS England may consider appropriate;
- “Never Event”** an event or occurrence in relation to a Service User as so defined in the Never Events Policy Framework from time to time;
- “Never Events Policy Framework”** the Never Events Policy Framework, available at: <https://improvement.nhs.uk/resources/never-events-policy-and-framework> ;
- “NHS Care Records Guarantee”** the publication setting out the rules that govern how patient information is used in the NHS and what control the patient can have over this, available here: <http://systems.digital.nhs.uk/rasmartcards/strategy/nhscrg>
- “NHS Constitution”** the constitution for the NHS in England which establishes the principles and values of the NHS in England and sets out the rights, pledges and responsibilities for patients, the public and staff (and including the *Handbook To The NHS Constitution*, available at: <https://www.gov.uk/government/publications/supplements-to-the-nhs-constitution-for-england>) ;
- “NHS Data Security and Protection Toolkit”** an online system (<https://www.dsptoolkit.nhs.uk/>), which allows NHS Bodies and non-NHS providers of NHS-funded services to assess their compliance with GDPR and with the National Data Guardian’s Data Security Standards;
- “NHS Digital”** the Health and Social Care Information Centre <https://digital.nhs.uk/>;
- NHS Employment Check Standards** the pre-appointment checks that are required by Law, those that are mandated by any Regulatory Body policy, and those that are required for access to Service User Health Records: <http://www.nhsemployers.org/your-workforce/recruit/employment-checks>;
- “NHS England”** the National Health Service Commissioning Board established by section 1H of the National Health Service Act 2006, also known as NHS England;
- “NHS Standard Contract”** the model commissioning contract or contracts published by NHS England from time to time pursuant to its powers under regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (*Responsibilities and Standing Rules*) Regulations 2012;

“NICE”	the National Institute for Health and Care Excellence, the special health authority responsible for providing national guidance on the promotion of good health and the prevention and treatment of ill health;
“Notifiable Safety Incident”	has the definition given to it in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014;
“Parties”	CHCP CIC and the Provider and “Party” means any one of them;
“Parties in Dispute”	CHCP CIC as one Party in Dispute, and the Provider, as the other;
“Patient Safety Incident”	any unintended or unexpected incident that occurs in respect of a Service User, during and as a result of the provision of the Services, that could have led, or did lead to, harm to that Service User:
“Personal Data”	has the meaning given to it under Data Protection Legislation;
“Privacy Notice”	the information that must be provided to a Data Subject under whichever of the following Laws is in force at the relevant time: (i) Article 13 and Article 14 of the GDPR; or (ii) DPA 2018
“Process / Processing”	has the meaning given to it under Data Protection Legislation;
“Prohibited Act”	the following constitute Prohibited Acts: a) offering, giving, or agreeing to give CHCP CIC (or any of their officers, employees or agents) any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining of performance of this Agreement or any other contract with the Provider, or for showing or not showing favour or disfavour to any person in relation to this Agreement or any other Agreement with the Provider; and b) In connection with this Agreement, paying or agreeing to pay any commission, other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to CHCP CIC; or c) Committing an offence under the Bribery Act 2010;
“Provider Deliverables”	all documents, products and materials developed by the Provider or its agents, subcontractors, consultants and employees in relation to the Services in any form and required to be submitted to CHCP CIC under this Agreement, including data, reports, policies, plans and specifications;
“Provider Insolvency Event”	the occurrence of any of the following events in respect of the Provider:

- (i) The Provider being, or being deemed for the purposes of any Law to be, unable to pay its debts or insolvent;
- (ii) The Provider admitting its inability to pay its debts as they fall due;
- (iii) The value of the Provider's assets being less than its liabilities taking into account contingent and prospective liabilities);
- (iv) The Provider suspending payments on any of its debts or announces an intention to do so;
- (v) by reason of actual or anticipated financial difficulties, the Provider commencing negotiations with creditors generally with a view to rescheduling any of its indebtedness;
- (vi) A moratorium is declared in respect of any of the Provider's indebtedness;
- (vii) The suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Provider;
- (viii) A composition, assignment or arrangement with any creditor of any member of the Provider;
- (ix) The appointment of a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer (in each case, whether out of court or otherwise) in respect of the Provider or any of its assets;
- (x) A resolution of the Provider or its directors is passed to petition or apply for the Provider's winding-up or administration;
- (xi) the Provider's directors giving written notice of their intention to appoint a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, or administrator (whether out of court or otherwise); or
- (xii) If the Provider suffers any event analogous to the events set out in (i) to (xi) of this definition in any jurisdiction in which it is incorporated or resident;

“Provider’s Personnel”

all staff, persons (whether clinical or non-clinical) employed or engaged by the Provider or by any Sub-Contractor (including volunteers, agency, locums, casual or seconded personnel) in the provision of the Services or any activity related to, or connected with the provision of the Services, including Consultants;

“Public Company”

a company which:

- (i) has shares that can be purchased by the public; and
- (ii) has an authorised share capital of at least £50,000 with each of the company's shares being paid up at least as to one quarter of the nominal value of the share and the whole of any premium on it; and
- (iii) has securities listed on a stock exchange in any jurisdiction

“Public Health England”

an executive agency of the Department of Health and Social Care established under the Health and Social Care Act 2012;

“Quality Requirements”	where applicable, the Operational Standards, the National Quality Requirements, the Local Quality Requirements and the Never Events;
Raising Concerns Policy for the NHS	the model whistleblowing policy for NHS organisations, published by NHS Improvement and NHS England, available at https://improvement.nhs.uk/resources/freedom-to-speak-up-whistleblowing-policy-for-the-nhs/
“Recipient”	is the Party that receives confidential information from the “Discloser”;
“Referral”	the referral of any Service User to the Provider by a Referrer or (for a Service for which a Service User may present or self-refer for assessment and/or treatment in accordance with this Agreement and/or Guidance) presentation or self-referral by a Service User;
“Referrer”	(i) the authorised Healthcare Professional who is responsible for the referral of a Service User to the Provider; and (ii) any organisation, legal person or other entity which is permitted or appropriately authorised in accordance with the Law to refer the Service User for assessment and/or treatment by the Provider;
“Regulatory or Supervisory Body”	any statutory or other body having authority to issue guidance, standards or recommendations with which the relevant Party or Staff must comply or to which it or they must have regard, including CQC, NHS Improvement, NHS England, the Department of Health and Social Care, NICE, Healthwatch England and Local Healthwatch, Public Health England, the General Pharmaceutical Council, the Healthcare Safety Investigation Branch, the Information Commissioner, and the European Data Protection Board;
“Relevant Person”	has the meaning given to it in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014;
“Restricted Person”	(i) any person, other than an organisation whose primary purpose is to invest its own assets or those held in trust by it for others, including a bank, mutual fund, pension fund, private equity firm, venture capitalist, insurance company or investment trust, who has a material interest in the production of tobacco products or alcoholic beverages; or (ii) Any person who the CHCP CIC otherwise reasonably believes is inappropriate for public policy reasons to have a controlling interest in the Provider or in a Sub-Contractor;
“Safeguarding Guidance”	<i>Care and Support Statutory Guidance issued under the Care Act.</i> https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315993/Care-Act-Guidance.pdf <i>Working Together to Safeguard Children - A guide to inter-agency working to safeguard and promote the welfare of children – statutory guidance</i> https://www.gov.uk/government/publications/working-together-to-safeguard-children--2

Working Together: transitional guidance Statutory guidance for Local Safeguarding Children Boards, local authorities, safeguarding partners, child death review partners, and the Child Safeguarding Practice Review Panel
<https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

Safeguarding Vulnerable People in the NHS – Accountability and Assurance Framework
<https://www.england.nhs.uk/wp-content/uploads/2015/07/safeguarding-accountability-assurance-framework.pdf>;

- “Safeguarding Policies”** the Provider’s written policies for safeguarding children, young people and adults;
- “Section 251 Regulations”** the Health Service (Control of Patient Information) Regulations 2002, made pursuant to section 251 of the National Health Service Act 2006;
- “Senior Information Risk Owner”** the Provider’s nominated person, being an executive or senior manager on the Governing Body of the Provider, whose role it is to take ownership of the organisation’s information risk policy, act as champion for information risk on the Governing Body of the Provider and provide written advice to the accounting officer on the content of the organisation’s statement of internal control in regard to information risk;
- “Serious (Untoward) Incident”** is defined as an occurrence where a service user, member of staff, or member of the public has suffered serious injury, major permanent harm, or unexpected death;
- “Service User”** a patient or service user for whom CHCP CIC has statutory responsibility and who receives Services under this Agreement;
- "Services"** the services (and any part or parts of those services) described in each of, or, as the context admits, all of the Service Specifications, and/or as otherwise provided or to be provided by the Provider under and in accordance with this Agreement;
- "Service Specification"** means the description or specification for the Services more specifically described or referred to in Schedule 1;
- “Services Environment”** the rooms, theatres, wards, treatment bays, clinics or other physical location, space, area, accommodation or other place as may be used or controlled by the Provider from time to time in which the Services are provided, excluding Service Users’ private residences, Local Authority premises, schools and premises controlled by CHCP CIC;
- “Shares”** has the meaning given in section 540 of the Companies Act 2006, including preference shares;

“Staffing Guidance”	any Guidance applicable to the Services in relation to Staff numbers or skill-mix, including the National Quality Board publication <i>Supporting NHS providers to deliver the right staff, with the right skills, in the right place at the right time</i> , available at: https://www.england.nhs.uk/wp-content/uploads/2013/04/nqb-guidance.pdf , and, for NHS Trusts and NHS Foundation Trusts, the NHS Improvement publication, <i>Developing Workforce Safeguards</i> , available at: https://improvement.nhs.uk/resources/developing-workforce-safeguards/ ;
“Standard DBS Check”	a disclosure of information which contains details of an individual’s convictions, cautions, reprimands or warnings recorded on police central records and includes both 'spent' and 'unspent' convictions;
“Standard DBS Position”	any position listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) and in relation to which a Standard DBS Check is permitted: https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance ;
“Sub-Contract”	any sub-contract entered into by the Provider or by any Sub-Contractor of any level for the purpose of the performance of any obligation on the part of the Provider under this Agreement;
“Sub-Contractor”	any sub-contractor, whether of the Provider itself or at any further level of sub-contracting, under any Sub-Contract;
“Sub-processor”	any Sub-Contractor appointed by a Data Processor to process Personal Data on behalf of CHCP CIC pursuant to this Agreement;
“Suspension Event”	the occurrence of any of the following: (i) CHCP CIC and/or any Regulatory or Supervisory Body having reasonable grounds to believe that the Provider is or may be in breach of the Law, or in material breach of the Quality Requirements or regulatory compliance Standards issued by a Regulatory or Statutory Body; or (ii) CHCP CIC and/or any Regulatory or Supervisory Body having reasonable and material concerns as to the continuity, quality or outcomes of any Service, or for the health and safety of any Service User; or (iii) the Provider receiving a Contract Performance Notice in respect of a Service within 12 months after having agreed to implement a Remedial Action Plan in respect of the same issue with that Service; or (iv) CHCP CIC, acting reasonably, considering that the circumstances constitute an emergency (which may include an Event of Force Majeure affecting provision of a Service or Services); or (v) an Exception Report being issued under Schedule 3 (Contract and Performance Management) Clause 1.15 and the Provider’s Governing Body failing to procure the rectification of the relevant breach of the Remedial Action Plan within the timescales indicated in that Exception Report; or

(vi) The Provider or any Sub-Contractor being prevented from providing a Service due to the termination, suspension, restriction or variation of any Consent or NHS Improvement's Licence; or

(vii) The Provider being in breach of any material obligation, or in persistent breach of any obligation, on its part under this Agreement; or

(viii) the Provider failing to complete an action required of it, or to deliver or maintain the improvement required of it within the timescales and otherwise as agreed in accordance with Schedule 3 clause 1.5 (except as a result of an act or omission or the unreasonableness of CHCP CIC);

"Transaction Records" the accounts and transaction records of all payments, receipts and financial and other information relevant to the provision of the Services;

"VAT" value added tax at the rate prevailing at the time of the relevant supply charged in accordance with the provisions of the Value Added Tax Act 1994; and

"Working Day" means a day other than a Saturday, Sunday or bank holiday in England.

1.2 In this Agreement, unless the context otherwise requires:

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.2.2 A reference to a **party** includes its personal representatives, successors or permitted assigns;

1.2.3 A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.2.4 any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

1.2.5 A reference to **writing** or **written** includes faxes.

2. COMMENCEMENT AND DURATION

2.1 The Provider shall commence delivery of the Services on the later of:

2.1.1 The expected service commencement date of **1st April 2020** (the "**Commencement Date**"); and

2.1.2 The day after the date on which all Conditions Precedent at **Schedule 8 – Conditions Precedent** are satisfied

2.2 This Agreement shall expire on **31st March 2021** (the "**Expiry Date**"), unless it is terminated earlier in accordance with Clause 16.

- 2.3. CHCP CIC may at its discretion propose to the Provider that this Agreement should be extended in whole or in part by a period of up to **12 months** on **two** occasions. If CHCP CIC wishes to extend this Agreement, it shall give the Provider at least three (3) months' (or such shorter period as agreed between the parties) written notice of such intention before the Expiry Date. If CHCP CIC gives such notice and the Provider agrees to the extension, the Expiry Date will be extended by the period set out in the notice.

3. MAIN CONTRACT

- 3.1 This clause is intentionally blank.

4. PROVISION OF SERVICES

- 4.1 The Provider shall, from the Commencement Date and for the duration of this Agreement, provide the Services to CHCP CIC in accordance with the terms of the Agreement.
- 4.2 The Provider shall meet any stipulated performance dates for the Services specified in this Agreement or notified to the Provider by CHCP CIC in writing.
- 4.3 In providing the Services, the Provider shall:
- 4.3.1 Co-operate with CHCP CIC in all matters relating to the Services, and comply with all instructions of CHCP CIC;
 - 4.3.2 Perform the Services with the best care, skill and diligence in accordance with best practice in the Provider's industry, profession or trade;
 - 4.3.3 Use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Provider's obligations are fulfilled in accordance with this Agreement;
 - 4.3.4 ensure that the Services and Provider Deliverables will conform with all descriptions and specifications set out in the Specification, and that the Provider Deliverables shall be fit for any purpose expressly or impliedly made known to the Provider by CHCP CIC;
 - 4.3.5 Provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - 4.3.6 use the best quality goods, materials, standards and techniques, and ensure that the Provider Deliverables, and all goods and materials supplied and used in the Services or transferred to CHCP CIC, will be free from defects in workmanship, installation and design;
 - 4.3.7 where appropriate, obtain and at all times maintain all necessary licences and consents, and comply with all legislation, and statutory requirements, NHS Requirements, implied terms, standards, regulations, codes of practice relating to the supply of services generally and the Services, Good Practice and in compliance with all required Consents (including the giving of notices and the obtaining of any such Consents) and so as not to prejudice the renewal of any such Consents;
 - 4.3.8 Observe all health and safety rules and regulations and any other security requirements that apply at any premises out of which Services are delivered;
 - 4.3.9 hold all materials, equipment and tools, drawings, specifications and data supplied by CHCP CIC to the Provider ("**CHCP CIC Materials**") in safe custody at its own risk, maintain CHCP CIC Materials in good condition until returned to CHCP CIC, and not dispose or use CHCP CIC Materials other than in accordance with CHCP CIC's written instructions or authorisation;

4.3.10 Not do or omit to do anything which may cause CHCP CIC to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Provider acknowledges that CHCP CIC may rely or act on the Services.

4.4 The Provider acknowledges and confirms that:

4.4.1 It has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked CHCP CIC all the questions it considers relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Agreement;

4.4.2 It has received all information requested by it from CHCP CIC pursuant to clause 4.4.1 to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement;

4.4.3 It has made its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of CHCP CIC pursuant to clause 4.4.2;

4.4.4 It has raised all relevant due diligence questions with CHCP CIC before the Commencement Date; and

4.4.5 It has entered into this Agreement in reliance on its own due diligence.

4.5 Save as provided in this Agreement, no representations, warranties or conditions are given or assumed by CHCP CIC in respect of any information which is provided to the Provider by CHCP CIC and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

4.6 CHCP CIC shall:

4.6.1 If appropriate, provide the Provider with reasonable access at reasonable times to CHCP CIC's premises for the purpose of providing the Services; and

4.6.2 Provide such information to the Provider as the Provider may reasonably request and CHCP CIC considers reasonably necessary for the purpose of providing the Services.

5. CO-OPERATION

5.1 The Parties must at all times act in good faith towards each other and in the performance of their respective obligations under this Agreement.

5.2 The Parties must co-operate and share information with each other and with other commissioners and providers of health or social care in respect of Service Users, in accordance with the Law and Good Practice, to facilitate the delivery of high quality, co-ordinated and integrated care for the benefit of Service Users.

6. REMEDIES

6.1 If the Provider fails to perform the Services in accordance with this Agreement, CHCP CIC shall, without limiting its other rights or remedies, have one or more of the following rights:

6.1.1 To terminate this Agreement in accordance with clause 16;

6.1.2 Where CHCP CIC has paid in advance for Services that have not been provided by the Provider, to have such sums refunded by the Provider;

6.1.3 To claim damages for any additional costs, loss or expenses incurred by CHCP CIC which are in any way attributable to the Provider's failure to perform the Services; or

- 6.1.4 To suspend the provision of all Services (or such services as CHCP CIC shall reasonably determine) for such period as is considered necessary by CHCP CIC acting reasonably.
- 6.2 Not Applicable.
- 6.3 Not Applicable.
- 6.4 The provisions of this clause 6 shall extend to any substituted or remedial services provided by the Provider
- 6.5 CHCP CIC's rights under this Agreement are in addition to its rights and remedies implied by statute and common law.

7. ASSIGNMENT AND SUBCONTRACTING

- 7.1 CHCP CIC may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under this Agreement. In such cases CHCP CIC may disclose to such persons any information in its possession that relates to this Agreement or its subject matter, the negotiations relating to it, or the Provider, provided always that this is in accordance with Data Protection Legislation and Data Guidance.
- 7.2 The Provider may not novate this Agreement nor assign, delegate, transfer, charge, subcontract or otherwise dispose of all or any of its rights or obligations under this Agreement without CHCP CIC's prior written consent.
- 7.3 Any positive obligation or duty on the part of the Provider under this Agreement includes an obligation or duty to ensure that all Sub-Contractors comply with that positive obligation or duty. Any negative duty or obligation on the part of the Provider under this Agreement includes an obligation or duty to ensure that all Sub-Contractors comply with that negative obligation or duty.
- 7.4 Sub-contracting any part of this Agreement will not relieve the Provider of any of its obligations or duties under this Agreement. The Provider will be responsible for the performance of and will be liable to CHCP CIC for the acts and/or omissions of all Sub-Contractors as though they were its own.

8. CHARGES AND PAYMENT

- 8.1 The Charges for the Services shall be set out in Schedule 2 of this Agreement, and shall be the full and exclusive remuneration of the Provider in respect of the performance of the Services. Unless otherwise agreed in writing by CHCP CIC, the Charges shall include every cost and expense of the Provider directly or indirectly incurred in connection with the performance of the Services.
- 8.2 The Provider shall invoice CHCP CIC **monthly in arrears**. Each invoice shall include supporting information required by CHCP CIC to verify the accuracy of the invoice, including but not limited to the relevant **contract reference number**. Invoices must be submitted no later than **2 months** after the invoice activity month. In the event that a valid and undisputed invoice is submitted later than 3 months after the invoice activity month, then provided that such invoice is not a reissued invoice that was previously rejected, disputed or contested, CHCP CIC may, at its sole discretion, elect not to pay such invoice.
- 8.3 In consideration of the supply of the Services by the Provider, CHCP CIC shall pay the invoiced amounts within thirty (30) days of the date of a correctly rendered invoice to a bank account nominated in writing by the Provider.

- 8.4 Where any taxable supply for VAT purposes is made under this Agreement by the Provider to CHCP CIC, CHCP CIC shall, on receipt of a valid VAT invoice from the Provider, pay to the Provider such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 8.5 Subject to any express provision of this Agreement to the contrary, the Provider will be entitled, in addition to any other right or remedy, to receive interest at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998 on any payment not made from the day after the date on which payment was due up to and including the date of payment. This Clause shall not apply to payments that CHCP CIC disputes in good faith.
- 8.6 The Provider shall maintain complete and accurate records of the time spent and materials used by the Provider in providing the Services, and shall allow CHCP CIC to inspect such records at all reasonable times on request.
- 8.7 The Provider shall not be entitled to assert any credit, set-off or counterclaim against CHCP CIC in order to justify withholding payment of any such amount in whole or in part. CHCP CIC may, without limiting its other rights or remedies, set off any amount owing to it by the Provider against any amount payable by CHCP CIC to the Provider provided that it has given 5 working days' notice of its intention to do so.

9. SERVICE STANDARDS

- 9.1 The Provider must use all reasonable endeavours to, where applicable:
- 9.1.1 Not breach the thresholds in respect of the Operational Standards, National Quality Requirements and Local Quality Requirements; and
- 9.1.2 Ensure that Never Events do not occur.
- 9.2 A failure by the Provider to comply with Clause 9 will be excused if it is directly attributable to or caused by an act or omission of CHCP CIC or a Commissioner, but will not be excused if the failure was caused primarily by an increase in Referrals.
- 9.3 The Provider must continually review and evaluate the Services and must implement Lessons Learned from those reviews and evaluations, by reference to clinical audit data, data from complaints, Serious Untoward Incidents, Patient Safety Incidents and Never Events, and the results of Service User and Staff involvement (including Surveys), and must demonstrate at Review Meetings the extent to which Service improvements have been made as a result and how these have been communicated to Service Users, their Carers, GPs and the public.
- 9.4 If the Provider breaches any of the relevant thresholds in respect of the Operational Standards, the National Quality Requirements or the Local Quality Requirements the Provider must repay to CHCP CIC or CHCP CIC must deduct from payments due to the Provider (as appropriate), the relevant sums as determined in accordance with the applicable Operational Standards and/or applicable National Quality Requirements and/or applicable Local Quality Requirements. The sums repaid or deducted under this Clause 9.4 in respect of any Quarter will not in any event exceed 2.5% of the Actual Value of invoices submitted in, or applicable to, the Quarter in which the breach occurs.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Except as set out expressly in this Agreement no Party will acquire the Intellectual Property Rights ("IPR") of any other Party.

- 10.2 In respect of any goods that are transferred to CHCP CIC under this Agreement, including without limitation the Provider Deliverables or any part of them, the Provider warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to CHCP CIC, it will have full and unrestricted rights to transfer all such items to CHCP CIC.
- 10.3 Not Applicable.
- 10.4 Not Applicable.
- 10.5 The Provider shall, promptly at CHCP CIC's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as CHCP CIC may from time to time require for the purpose of securing for CHCP CIC the full benefit of the Agreement, including all right, title and interest in and to the Intellectual Property Rights assigned to CHCP CIC in accordance with Clause 10.2.
- 10.6 All CHCP CIC Materials are the exclusive property of CHCP CIC.

11. INSURANCE

- 11.1 The Provider shall put in place and maintain in force (and/or procure that its subcontractors shall maintain in force) appropriate indemnity arrangements to cover its **relevant** potential liabilities in connection with this Agreement including:
- 11.1.1 Employers' liability;
 - 11.1.2 Clinical negligence where the provision or non-provision of any part of the Services (or any other services under this Agreement) may result in a clinical negligence claim;
 - 11.1.3 Public liability; and
 - 11.1.4 Professional negligence.
- 11.2 Within 5 Operational Days following written request from CHCP CIC, the Provider must provide documentary evidence that Indemnity Arrangements required under 11.1 are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.
- 11.3 If the proceeds of any Indemnity Arrangements are insufficient to cover the settlement of any claim relating to this Agreement the Provider must make good any deficiency.
- 11.4 No later than 3 months prior to the expiry of this Agreement, or within 10 Operational Days following the date of service of notice to terminate or of agreement to terminate this Agreement (as appropriate), the Provider must provide to CHCP CIC satisfactory evidence in writing of its (and its Sub-Contractors') arrangements to satisfy the requirements of clause 11.1 in respect of any ongoing liability it has or may have in negligence to any Service User or CHCP CIC arising out of a Service User's care and treatment under this Agreement. If the Provider fails to do so CHCP CIC may procure appropriate Indemnity arrangements in respect of such ongoing liabilities and the Provider must indemnify and keep CHCP CIC indemnified against the costs incurred by them in doing so.

12. LIABILITY AND INDEMNITY

- 12.1 Without prejudice to its liability for breach of any of its obligations under this Agreement the Provider shall be liable to CHCP CIC for, and shall indemnify and keep indemnified CHCP CIC against:

- 12.1.1 any loss, damages, costs, expenses, liabilities, claims, actions and/or proceedings (including the cost of legal and/or professional services) whatsoever in respect of:
- 12.1.1.1 Any loss of or damage to property (whether real or personal); and
 - 12.1.1.2 Any injury to persons, including injury resulting in death; and
 - 12.1.1.3 Any Losses of CHCP,

that result from or arise out of the Provider's or any Sub-Contractor's negligence or breach of contract in connection with the performance of this Agreement or the provision of the Services (including its' use of Equipment or other materials or products, and the actions or omissions of Staff or any sub-contractor in the provision of the Services), except insofar as that loss, damage or injury has been caused by any act or omission by, or on the part of, or in accordance with the instructions of CHCP CIC, its employees or agents.
- 12.2 Subject to clauses 12.3 and 12.5, the Provider's total liability to the CHCP CIC, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to the Charges paid by CHCP CIC over the term of this Agreement.
- 12.3 Nothing in this Agreement will exclude or limit the liability of either Party for death or personal injury caused by negligence or for fraud or fraudulent misrepresentation.
- 12.4 Except where expressly stated to the contrary, an indemnity under this Agreement will not apply and there will be no right to claim damages for breach of this Agreement, in tort or on any other basis whatsoever, to the extent that any loss claimed by any Party under that indemnity or on that basis is for Indirect Losses.
- 12.5 Each Party will at all times take all reasonable steps to minimise and mitigate any Losses or other matters for which one Party is entitled to be indemnified by or to bring a claim against the other under this Agreement.
- 13. GOVERNANCE, TRANSACTION RECORDS and AUDIT**
- 13.1 Whenever relevant to either any Provider obligations to the CQC or the provision of the Services within this Agreement, the Provider must comply with Regulation 17 of the 2014 Regulations as follows: <https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-17-good-governance>
- 13.2 The Provider must comply with all reasonable written requests made by CHCP CIC or any relevant Commissioner, Regulatory or Supervisory Body (or its authorised representatives), a Local Auditor or any Authorised Person for entry to the Provider's Premises and/or the Services Environment and/or the premises of any Sub-Contractor, and/or to Staff, and/or information relating to the provision of the Services:
- 13.2.1 To audit or inspect those premises and/or the provision of the Services;
 - 13.2.2 in connection with the detection and investigation of bribery, fraud, corruption or security incidents.
- 13.3 Subject to compliance with the Law and Good Practice the Parties must implement and/or respond to all relevant recommendations:
- 13.3.1 Made in any report by a relevant Regulatory or Supervisory Body; or
 - 13.3.2 Agreed with the National Audit Office or a Local Auditor following any audit; or

- 13.3.3 Of any appropriate clinical audit; or
- 13.3.4 That are otherwise agreed by the Provider and CHCP CIC to be implemented.
- 13.4 The Parties must maintain complete and accurate Transaction Records.
- 13.5 The Provider must, at its own expense, in line with applicable Law and Guidance implement an ongoing, proportionate programme of clinical audit of the Services in accordance with Good Practice and provide to CHCP CIC on request the findings of any such audits.
- 13.6 CHCP CIC may at any time, having given the Provider not less than 10 Working Days' notice of its intention to do so, appoint an Auditor to conduct an objective and impartial audit of any aspect of the Services, the Provider's invoices and/or the performance of any of the Provider's obligations under this Agreement. Subject to compliance with Data Protection Legislation (including any applicable Service User consent requirements), the Provider must allow the Auditor reasonable access to (and the right to take copies of) the Transaction Records, books of account and other sources of relevant information, and any Confidential Information so disclosed will be treated in accordance with clause 20 Confidentiality. The cost of any audit carried out under this clause 13.6 will be borne by CHCP CIC.

14. DISPUTE RESOLUTION

- 14.1 The provisions of Clause 14 will not apply when any Party in Dispute seeks an injunction relating to a matter arising out of Clause 20 Confidentiality.

Escalated Negotiation

- 14.2 If any Dispute arises, the Parties in Dispute must first attempt to settle it by any of them making a written offer to negotiate to the other. During the Negotiation Period each of the Parties in Dispute must negotiate and be represented:
- 14.2.1 for the first **10 Working Days**, by a senior person who where practicable has not had any direct day-to-day involvement in the matter and has authority to settle the Dispute; and
- 14.2.2 for the last **5 Working Days**, by their chief executive, director, or member of its Governing Body who has authority to settle the Dispute.
- 14.3 Where practicable, no Party in Dispute should be represented by the same individual under 14.2.1 and 14.2.2.

Mediation

- 14.4 If the Parties in Dispute are unable to settle the Dispute by negotiation, they must, within **5 Working Days** after the end of the Negotiation Period, submit the Dispute to mediation by CEDR or other independent body or organisation agreed between the Parties.
- 14.5 Mediations under 14.4 will follow the mediation process of CEDR or other independent body or organisation named and agreed by the Parties.
- 14.6 No Party may commence any court proceedings in relation to any dispute arising out of this Agreement until **30 working days** after the appointment of a mediator, provided that the right to issue proceedings is not prejudiced by a delay.
- 14.7 Not Applicable.

15. SUSPENSION

- 15.1 If a Suspension Event occurs, CHCP CIC may by written notice to the Provider with immediate effect to suspend all or part of the Services.
- 15.2 The Provider comply with any steps that CHCP CIC may reasonably specify in order to remedy a Suspension Event, even if the matter has been referred to Dispute Resolution.
- 15.3 If and when CHCP CIC is reasonably satisfied that the Provider is able to and will provide the suspended Service to the required standard, it must by written notice require the Provider to restore the provision of the suspended Service.
- 15.4 The Provider will not be entitled to any payment for the suspended Services in respect of the period of suspension.
- 15.5 Unless suspension occurs as a result of an Event of Force Majeure, the Provider will indemnify CHCP CIC in respect of any Losses reasonably incurred by them in respect of a suspension (including for the avoidance of doubt Losses incurred in commissioning the suspended Service from an alternative provider).
- 15.6 The Parties must use all reasonable endeavours to minimise any inconvenience to Service Users as a result of the suspension of the Service.

16. TERMINATION

- 16.1 Without limiting its other rights or remedies, CHCP CIC may terminate this Agreement with immediate effect by giving written notice to the Provider if:
- 16.1.1 Any Condition Precedent is not met by the requested date; or
- 16.1.2 The Provider ceases to carry on its business or substantially all of its business; or
- 16.1.3 A Provider Insolvency Event occurs; or
- 16.1.4 the Provider is in persistent or repetitive breach of any material obligation, or has persistently breached any obligation, on its part under this Agreement and, if capable of remedy, the Provider fails to remedy the breach or breaches within 20 Operational Days following receipt of notice from CHCP CIC requiring it to do so; or
- 16.1.5 Termination is required by any Regulatory or Supervisory Body; or
- 16.1.6. the Provider has been issued with any enforcement or penalty notice under the Data Protection Legislation, or the Provider or any member of Staff is found guilty or admits guilt in respect of an offence under the Data Protection Legislation, in relation to any matter connected with this Agreement or the Services; or
- 16.1.7. two or more Exception Reports are issued to the Provider under Schedule 3 clause 1.15 within any rolling 6 month period which are not disputed by the Provider, or if disputed, are upheld under Dispute Resolution; or
- 16.1.8 the Provider has breached any of its obligations in accordance with the Law and Good Practice in any material respect, and the Provider has not remedied that breach within 40 Working Days following receipt of notice from CHCP CIC identifying the breach; or
- 16.1.9 The Provider has breached the terms of clause 22 Prohibited Acts; or
- 16.1.10 CHCP CIC reasonably believes that the circumstances set out in regulation 73(1)(b) of the Public Contracts Regulations 2015 apply.

- 16.2 Without limiting its other rights or remedies, either party may terminate this Agreement at any time by giving the other a minimum of **3 months'** written notice. CHCP CIC and the Provider may terminate this Agreement or any Service within it, within a period of time less than this notice period if this is agreed in writing by both Parties.
- 16.3 The Provider may terminate this Agreement or any Service with immediate effect by written notice to CHCP CIC if CHCP CIC is in material breach of any obligation under this Agreement provided that if the breach is capable of remedy, the Provider may only terminate this Agreement under this clause 16.3 if CHCP CIC has failed to remedy such breach within 20 Operational Days of receipt of notice from the Provider to do so.

17. CONSEQUENCES OF EXPIRY OR TERMINATION

- 17.1 Expiry or termination of this Agreement, or termination of any Service, will not affect any rights or liabilities of the Parties that have accrued before the date of that expiry or termination or which later accrue.
- 17.2 If, as a result of termination of this Agreement or of any Service following service of notice by CHCP CIC under clause 16.1, CHCP CIC procures any terminated Service from an alternative Provider, and the cost of doing so (to the extent reasonable) exceeds the amount that would have been payable to the Provider for providing the same Service, then CHCP CIC, acting reasonably, will be entitled to recover from the Provider (in addition to any other sums payable by the Provider to CHCP CIC in respect of that termination) the excess cost and all reasonable related administration costs it incurs (in each case) in respect of the period of 6 months following termination.
- 17.3 For a reasonable period before and after termination of this Agreement or of any Service, the Provider must co-operate fully with CHCP CIC and any successor Provider of the terminated Services in order to ensure continuity and a smooth transfer of the expired or terminated Services.
- 17.4 Any rights, duties or obligations of any of the Parties which are expressed to survive, or which otherwise by necessary implication survive the expiry or termination for any reason of this Agreement, together with all indemnities, will continue after expiry or termination, subject to any limitations of time expressed in this Agreement.

18. DATA PROTECTION

With respect to the parties' rights and obligations under this Agreement, the parties agree that CHCP CIC is a Data Controller and that the Provider is a Data Controller.

- 18.1 The Provider must have in place a communications strategy and implementation plan to ensure that Service Users are provided with, or have made readily available to them, Privacy Notices, and to disseminate nationally-produced patient information materials. Any failure by the Provider to inform Service Users as required by Data Protection Legislation or Data Guidance about the uses of Personal Data that may take place under this Agreement cannot be relied on by the Provider as evidence that such use is unlawful and therefore not contractually required.
- 18.2 Whether or not a Party or Sub-Contractor is a Data Controller or Data Processor will be determined in accordance with Data Protection Legislation and the ICO Guidance on Data Controllers and Data Processors and any further Data Guidance from a Regulatory or Supervisory Body. The Parties acknowledge that a Party or Sub-Contractor may act as both a Data Controller and a Data Processor.
- 18.3 The Provider must ensure that all Personal Data processed by or on behalf of the Provider in the course of delivering the Services is processed in accordance with the Provider's obligations under Data Protection Legislation and Data Guidance.

The Provider as the Data Controller

- 18.4 In relation to Personal Data processed by the Provider in the course of delivering the Services, the Provider must publish, maintain and operate:
- 18.4.1 Policies relating to confidentiality, data protection and information disclosures that comply with the Law and Good Practice;
 - 18.4.2 Policies that describe the personal responsibilities of Staff for handling Personal Data;
 - 18.4.3 A policy that supports the Provider's obligations under the NHS Care Records Guarantee;
 - 18.4.4 Agreed protocols to govern the sharing of Personal Data with partner organisations; and
 - 18.4.5 Where appropriate, a system and a policy in relation to the recording of any telephone calls or other telehealth consultations in relation to the Services, including the retention and disposal of those recordings,

And apply those policies and protocols conscientiously.

- 18.5 Where CHCP CIC requires information for the purposes of quality management of care processes, the Provider must consider whether CHCP CIC's request can be met by providing anonymised or aggregated data which does not contain Personal Data. Where Personal Data must be shared in order to meet the requirements of CHCP CIC, the Provider must:
- 18.5.1 Provide such information in pseudonymised form where possible; and in any event
 - 18.5.2 Ensure that there is a legal basis for the sharing of Personal Data.
- 18.6 Notwithstanding clause 18.5, the Provider must (unless it can lawfully justify non-disclosure) disclose defined or specified confidential patient information to or at the request of CHCP CIC where support has been provided under the Section 251 Regulations, respecting any individual Service User's objections and complying with other conditions of the relevant approval.

The Provider as a Data Processor

- 18.7 Not Applicable.

Responsibilities when engaging Sub-Contractors

- 18.8 Subject always to Clause 7 Assignment and Sub-Contracting, if the Provider is to engage any Sub-Contractor to deliver any part of the Services and the Sub-Contractor is to access Personal Data or interact with Service Users, the Provider must impose on its Sub-Contractor obligations that are no less onerous than the obligations imposed on the Provider by this clause 18.

19. FREEDOM OF INFORMATION AND TRANSPARENCY

- 19.1 The Provider shall assist and co-operate with CHCP CIC to enable CHCP CIC to comply with the Information disclosure requirements in relation to Freedom of Information Act ("FOIA") and the Environmental Information Regulations ("EIR").
- 19.2 The Provider shall and shall procure that the Provider's Personnel shall:
- 19.2.1 Transfer any Request for Information to CHCP CIC as soon as practicable after receipt and in any event within **three working days** of receiving a Request for Information;

- 19.2.2 provide CHCP CIC with a copy of all Information in its possession or power in the form that CHCP CIC requires within **seven working days** (or such other period as CHCP CIC may specify) of CHCP CIC requesting that Information; and
 - 19.2.3 Provide all necessary assistance as reasonably requested by CHCP CIC to enable CHCP CIC to respond to a Request for Information within the time for compliance set out in section 10 of FOIA or regulation 5 of the EIR.
- 19.3 CHCP CIC shall be responsible for determining at its absolute discretion whether any Commercially Sensitive Information and/or any other Information:
- 19.3.1 Is exempt from disclosure in accordance with the provisions of FOIA or the EIR;
 - 19.3.2 Is to be disclosed in response to a Request for Information.
- 19.4 In no event shall the Provider respond directly to a Request for Information unless expressly authorised to do so by CHCP CIC.
- 19.5 The Provider acknowledges that CHCP CIC may be obliged under FOIA or the EIR to disclose Information:
- 19.5.1 Without consulting with the Provider, or
 - 19.5.2 Following consultation with the Provider and having taken its views into account.
- Provided always that where clause 19.5.2 applies CHCP CIC shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Provider advanced notice, or failing that, to draw the disclosure to the Provider's attention after any such disclosure.
- 19.6 The Provider shall ensure that all Information produced in the course of the Agreement or relating to the Agreement is retained for disclosure (subject to requirements under Data Protection Legislation) and shall permit CHCP CIC to inspect such records as requested from time to time.
- 19.7 The Provider acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that CHCP CIC may nevertheless be obliged to disclose Confidential Information in accordance with clause 19.5.

20. CONFIDENTIALITY

- 20.1 Except where this Agreement otherwise provides, Confidential Information is owned by the disclosing party (the “**Discloser**”) and the receiving party (the “**Recipient**”) has no right to use it.
- 20.2 Subject to clause 20.3 and 20.4, the Recipient agrees:
- 20.2.1 To use the Discloser’s Confidential Information only in connection with the Recipient’s performance under this Agreement;
 - 20.2.2 Not to disclose the Discloser’s Confidential Information to any third party or to use it to the detriment of the Discloser; and
 - 20.2.3 To maintain the confidentiality of the Discloser’s Confidential Information and to return it immediately on receipt of written demand from the Discloser.
- 20.3 The Recipient may disclose the Discloser’s Confidential Information:

- 20.3.1 In connection with any Dispute Resolution;
 - 20.3.2 In connection with any litigation between the Parties;
 - 20.3.3 To comply with the Law;
 - 20.3.4 To any appropriate Regulatory or Supervisory Body;
 - 20.3.5 To its staff, who in respect of that Confidential Information will be under a duty no less onerous than the Recipient's duty under clause 20.2;
 - 20.3.6 To NHS Bodies for the purposes of carrying out their duties;
 - 20.3.7 As permitted under or as may be required to give effect to Schedule 3 clause 1 Contract Management; and
 - 20.3.8 As permitted under any other express arrangement or other provision of this Agreement.
- 20.4 The obligations in clauses 20.1 and 20.2 will not apply to any Confidential Information which:
- 20.4.1 Is in or comes into the public domain other than by breach of this Agreement;
 - 20.4.2 The Recipient can show by its records was in its possession before it received it from the Discloser; or
 - 20.4.3 The Recipient can prove it obtained or was able to obtain from a source other than the Discloser without breaching any obligation of confidence.
- 20.5 The Discloser does not warrant the accuracy or completeness of the Confidential Information.
- 20.6 The Recipient must indemnify the Discloser and keep the Discloser indemnified against Losses suffered or incurred by the Discloser as a result of any breach of this clause 20.
- 20.7 The Parties acknowledge that damages would not be an adequate remedy for any breach of this clause 20 by the Recipient, and in addition to any right to damages the Discloser will be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of this clause 20.
- 20.8 This clause 20 will survive the expiry or the termination of this Agreement for a period of 5 years and will not limit the Public Interest Disclosure Act 1998 in any way whatsoever.

21. INFORMATION GOVERNANCE

- 21.1 The Provider will, on written request from CHCP CIC, provide CHCP CIC with sufficient guarantees in respect of its technical and organisational measures in such a manner that processing of Personal Data will meet the requirements to ensure the protection and rights and freedoms of the Data Subject.
- 21.2 The Provider must inform CHCP CIC of the identity of the Information Governance Lead and if applicable to the Provider, the Data Protection Officer, Caldicott Guardian and the Senior Information Risk Owner (SIRO).

- 21.3 The Provider must adopt and implement the National Data Guardian's Data Security Standards and must comply with further Guidance issued by the Department of Health and Social Care, NHS England and / or NHS Digital pursuant to or in connection with those standards. The Provider must be able to demonstrate its compliance with those standards in accordance with the requirements and timescales set out in such Guidance, including its adherence to data security standards and requirements for enabling patient choice.
- 21.4 Not Applicable.
- 21.5 Not Applicable.
- 21.6 The Provider must report and publish any Personal Data Breach and any Information Governance Breach in accordance with IG Guidance for Serious Incidents. If the Provider is required under Data Protection Legislation to notify the Information Commissioner or a Data Subject of a Personal Data Breach in connection with this Agreement then as soon as reasonably practical and in any event on or before the first such notification is made the Provider must inform CHCP CIC of the Personal Data Breach. This clause 21.6 does not require the Provider to provide CHCP CIC with information which identifies any individual affected by the Personal Data Breach where doing so would breach Data Protection Legislation.
- 21.7 If the Information Breach is not rectified within **5 Working Days** of the date of the informing CHCP CIC (unless due to any act or omission of CHCP CIC), CHCP CIC may withhold, a reasonable and proportionate sum of up to 1% of the Actual Monthly Invoice Value in respect of the current month and then for each and every month until the Provider has rectified the relevant Information Breach to the reasonable satisfaction of CHCP CIC.
- 21.8 CHCP CIC will continue to withhold any sums withheld under Clause 21.7 unless and until the Provider rectifies the relevant Information Breach to the reasonable satisfaction of CHCP CIC. CHCP CIC will then pay the withheld sums to the Provider within **10 Working Days**. No Interest will be payable by CHCP CIC to the Provider on any sum withheld under Clause 21.7.
- 21.9 Any sums withheld under Clause 21.7 may be retained permanently if the Provider fails to rectify the relevant Information Breach to the reasonable satisfaction of CHCP CIC by the earliest of:
- 21.9.1 The date 3 months after the date of the notice served in accordance with Clause 21.6;
- 21.9.2 The termination of this Agreement; and
- 21.9.3 The Expiry Date.
- 21.10 The aggregate of sums withheld in any month in respect of Information Breaches is not to exceed 5% of the Actual Monthly Invoice Value.

22. PROHIBITED ACTS

- 22.1 The Provider must not commit any Prohibited Act.
- 22.2 If the Provider or its employees or agents (or anyone acting on its or their behalf) commits any Prohibited Act in relation to this Agreement with or without the knowledge of CHCP CIC, CHCP CIC will be entitled:
- 22.2.1 To exercise its right to terminate under clause 16.1.9 and to recover from the Provider the amount of any loss resulting from the termination; and
- 22.2.2 To recover from the Provider the amount or value of any gift, consideration or commission concerned; and

- 22.2.3 To recover from the Provider any loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence.
- 22.3 The Provider shall have an anti-bribery policy (which shall be disclosed on request to CHCP CIC) to prevent any Provider Party or Provider Personnel from committing a Prohibited Act and shall enforce it where appropriate.
- 22.4 The Provider shall within 20 Working Days of the Commencement Date, and annually thereafter, certify to CHCP CIC in writing (such certification to be signed by an officer of the Provider) compliance with this clause 22 by the Provider and all persons associated with it or other persons who are supplying goods or services in connection with this Agreement. The Provider shall provide such supporting evidence of compliance as CHCP CIC may reasonably request.
- 22.5 If any breach of clause 22 is suspected or known, the Provider must notify CHCP CIC immediately.

23. CONFLICT OF INTEREST AND GIFTS and HOSPITALITY

- 23.1 If a Party becomes aware of any actual, potential or perceived conflict of interest which is likely to affect another Party's decision (that Party acting reasonably) whether or not to contract or continue to contract substantially on the terms of this Agreement, the Party aware of the conflict must immediately declare it to the other using **Schedule 10 – Conflict Of Interest Declaration**. The other Party may then, without affecting any other right it may have under Law, take whatever action under this Agreement as it deems necessary.
- 23.2 The Provider must and must ensure that, in delivering the Services, all Staff comply with Law, with Managing Conflicts of Interest in the NHS and other Guidance, and with Good Practice, in relation to gifts, hospitality and other inducements and actual or potential conflicts of interest.

24. SAFEGUARDING and MENTAL CAPACITY

- 24.1 The Provider must ensure that Service Users are protected from abuse, grooming, neglect and improper or degrading treatment, and must take appropriate action to respond to any allegation or disclosure of any such behaviour in accordance with the Law.
- 24.2 Subject to clause 24.3, before the Provider or any Sub-Contractor engages or employs any person in the provision of the Services, or in any activity related to or connected with, the provision of Services, the Provider must and must ensure that any Sub-Contractor will, at its own cost, comply with:
- 24.2.1 NHS Employment Check Standards; and
- 24.2.2 Other checks as required by the DBS or which are to be undertaken in accordance with current and future national guidelines and policies.
- 24.3 The Provider or any Sub-Contractor may engage a person in an Enhanced DBS Position or a Standard DBS Position (as applicable) pending the receipt of the Standard DBS Check or Enhanced DBS Check or Enhanced DBS & Barred List Check (as appropriate) with the agreement of CHCP CIC and subject to any additional requirement of CHCP CIC for that engagement. As a minimum such checks should take place on a three yearly basis.
- 24.4 The Provider must comply with the requirements and principles in relation to the safeguarding of children, young people and adults, including in relation to deprivation of liberty safeguards and child abuse and sexual exploitation, domestic abuse and female genital mutilation (as relevant to the Services, set out or referred to in Law and Guidance (including Safeguarding Guidance and Child Sexual Abuse and Exploitation Guidance)).

- 24.5 Where applicable the Provider will ensure that all individuals engaged in the provision of the Services comply with the requirements their own Safeguarding Policies and as such the Provider will ensure that their staff attend required mandatory training.
- 24.6 The Provider has adopted and must comply with the Safeguarding Policies and MCA Policies. The Provider has ensured and must at all times ensure that the Safeguarding Policies and MCA Policies reflect and comply with:
- 24.6.1 Law and Guidance; and
- 24.6.2 The local multi-agency policies and any CHCP CIC safeguarding and MCA requirements.
- 24.7 The Provider must implement comprehensive programmes for safeguarding and MCA training for all relevant Staff and must have regard to Safeguarding Training Guidance.
- 24.8 If the Provider does not have their own Safeguarding policies, the Provider will ensure that all individuals engaged in the provision of the services comply with the requirements of the Safeguarding Children Policy and / or Protecting Vulnerable Adults Policy as contained in **Schedule 7**.

25. MODERN SLAVERY ACT AND ETHICAL PROCUREMENT

Modern Slavery

- 25.1 In performing its obligations under the agreement, the Provider shall and shall use all reasonable endeavours to ensure that each of its sub-contractors shall:
- 25.1.1 comply with all applicable laws, statutes, regulations in force from time to time including but not limited to the Modern Slavery Act 2015; and
- 25.1.2 Take reasonable steps to ensure that there is no modern slavery or human trafficking in the Suppliers or sub-contractors supply chains or in any part of their business.
- 25.2 The Provider represents and warrants that to the best of its knowledge neither the Provider nor any of its officers, employees or other persons associated with it:
- 25.2.1 Has been convicted of any offence involving slavery and human trafficking; and
- 25.2.2 having made reasonable enquiries, to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 25.3 The Provider shall implement due diligence procedures for its own suppliers, sub-contractors and other participants to ensure that there is no slavery or human trafficking in its supply chains.
- 25.4 If CHCP CIC agrees that the Provider may sub-contract its obligations, the Provider shall implement an appropriate system of due diligence designed to ensure their sub-contractor complies with the principles of the Modern Slavery Act 2015 and that the sub-contractor shall take reasonable steps to ensure that there is no modern slavery or human trafficking in the sub-contractors supply chains or in any part of its business.
- 25.5. The Provider shall notify CHCP CIC **as soon as reasonably practicable** it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Agreement.

- 25.6 If the Provider has an annual turnover in excess of £36 million, the Provider will prepare an annual slavery and human trafficking statement setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.
- 25.7 The Provider represents, warrants and undertakes that it conducts its business in a manner that is consistent with the principles of the Modern Slavery Act 2015.
- 25.8. CHCP CIC may terminate this Agreement with immediate effect by giving written notice to the Provider if the Provider commits a breach of Clauses 25.1, 25.2, 25.5 or 25.7.

Ethical Procurement

- 25.9. The Provider must employ, and continue to improve, ethical procurement standards within their own organisation and within their own supply chain.

26. EMPLOYMENT PROVISIONS

- 26.1 In this clause:

“Key Personnel” means those personnel, if any, identified in Schedule 5

- 26.2 The Key Personnel have been identified by each party as being key to the success of the implementation and/or operation of the Services and shall be retained on the implementation and/or operation of the Services for such time as a person is required to perform the role which has been allocated to the applicable Key Personnel.
- 26.3 The Provider shall not remove or replace any of the Key Personnel unless:
- 26.3.1 Requested to do so by CHCP CIC;
- 26.3.2 The person is on long-term sick leave;
- 26.3.3 The element of the Services in respect of which the individual was engaged has been completed to CHCP CIC's satisfaction;
- 26.3.4 The person resigns from their employment with the Provider; or
- 26.3.5 The Provider obtains the prior written consent of CHCP CIC.
- 26.4 The Provider shall inform CHCP CIC of the identity and background of any replacements for any of the Key Personnel as soon as a suitable replacement has been identified. CHCP CIC may object to any such proposed appointment within 14 calendar days of being informed of or meeting any such replacement if, in its reasonable opinion, it considers the proposed replacement to be unsuitable for any reason.
- 26.5 The Provider shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for more than 90 calendar days without CHCP CIC's prior written consent. Any replacement shall be as, or more qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced. A temporary replacement shall be identified with immediate effect from the Provider becoming aware of the role becoming vacant.
- 26.6 CHCP CIC may require the Provider to remove, or procure the removal of, any of its Key Personnel whom it considers, in its reasonable opinion, to be unsatisfactory for any reason which has a material impact on such person's responsibilities.
- 26.7 If the Provider replaces the Key Personnel as a consequence of this clause, the cost of effecting such replacement shall be borne by the Provider.

- 26.8 The Provider shall at all times ensure that any of the Provider's Personnel shall, if required by CHCP CIC, attend such meetings at CHCP CIC's premises or elsewhere as reasonably required by CHCP CIC.
- 26.9 At all times, the Provider shall ensure that:
- 26.9.1 There are sufficiently appropriately registered, qualified and experienced medical, nursing and other clinical and non-clinical Provider Personnel to enable the Services to be provided in all respects and at all times in accordance with this Agreement;
 - 26.9.2 There is an adequate number of Provider's Personnel to provide the Services properly;
 - 26.9.3 Only those people who are authorised by the Provider are involved in providing the Services; and
 - 26.9.4 All of the Provider's Personnel comply with all of CHCP CIC's policies including those that apply to persons who are allowed access to the applicable CHCP CIC's Premises.
- 26.10 CHCP CIC may refuse to grant access to, and remove, any of the Provider's Personnel who do not comply with any such policies, or if they otherwise present a security threat.
- 26.11 The Provider shall replace any of the Provider's Personnel who CHCP CIC reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Provider's Personnel for any reason, the Provider shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.
- 26.12 The Provider shall maintain up-to-date personnel records on the Provider's Personnel engaged in the provision of the Services and, on request, provide reasonable information to CHCP CIC on the Provider's Personnel. The Provider shall ensure at all times that it has the right to provide these records under Data Protection Legislation.
- 26.13 The Provider shall use its reasonable endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good as the prevailing industry norm for similar services, locations and environments.
- 26.14 Where applicable, the Provider must implement a standard operating procedure, as required by Staffing Guidance, for responding to any day-to-day shortfalls in the number and skill mix of Staff available to provide each Service and inform CHCP CIC immediately of any actual or expected impact on the delivery of Services arising from any such shortfall and/or implementation of the procedure. The implementation of any such standard operating procedure will not affect the rights and obligations of the Parties under this Agreement in respect of any Suspension Event or Event of Force Majeure, or in respect of any failure on the part of the Provider to comply with any obligation on its part under this Agreement.

27. FORCE MAJEURE

- 27.1 If an Event of Force Majeure occurs, the Affected Party must:
- 27.1.1 Take all reasonable steps to mitigate the consequences of that event;
 - 27.1.2 Resume performance of its obligations as soon as practicable; and
 - 27.1.3 Use all reasonable efforts to remedy its failure to perform its obligations under this Agreement.

- 27.2 The Affected Party must notify the other Party as soon as reasonably practicable when it becomes aware of the Event of Force Majeure, giving detail of the Event of Force Majeure and its likely impact on the delivery of Services.
- 27.3 If it has complied with its obligations under clauses 27.1 and 27.2, the Affected Party will be relieved from liability under this Agreement if and to the extent that it is not able to perform its obligations under this Contract due to the Event of Force Majeure.
- 27.4 A Party cannot claim relief as a result of an event of Force Majeure, if the event of Force Majeure is attributable to that Party's wilful act, neglect or failure to take reasonable precautions against the relevant event of Force Majeure.

28. VARIATION

- 28.1 Except as set out in this Agreement, any variation to the Agreement, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by CHCP CIC and the Provider.
- 28.2 The Parties acknowledge that any National Variation may be mandated by NHS England, in which case the Provider will be deemed to have received a draft Variation Agreement from CHCP CIC requesting the National Variation on the date that NHS England mandates the National Variation.
- 28.3 If the Provider refuses to accept a National Variation, CHCP CIC may terminate this Agreement by giving the Provider not less than **3 months'** written notice following the issue of a notice that that National Variation is refused.
- 28.4 If the Provider refuses to accept a Service Variation, CHCP CIC may terminate the Service affected by the proposed Service Variation by giving the Provider not less than **3 months'** written notice following the issue of a notice that the proposed Service Variation is refused or not accepted.

29. GOVERNING LAW AND JURISDICTION

- 29.1 This Agreement will be considered as a Contract made in England and will be subject to the laws of England.
- 29.2 Subject to the provisions of clause 14 (Dispute Resolution), the Parties agree that the courts of England have exclusive jurisdiction to hear and settle any action, suit, proceedings or dispute in connection with this Agreement (whether contractual or non-contractual in nature).

30. THIRD PARTY RIGHTS

- 30.1 A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of this Agreement.
- 30.2 The rights of the Parties to terminate, rescind or agree any Variation, waiver or settlement under this Agreement are not subject to the consent of any person who is not a party to this Agreement.

31. RELATIONSHIP BETWEEN THE PARTIES

- 31.1 This Agreement is a contract for the provision of Services. The Provider is an independent Provider of services and not an employee, partner or agent of CHCP CIC. The Provider must not represent or conduct its activities so as to give the impression that it is the employee, partner or agent of CHCP CIC.

31.2 Nothing in the Agreement will create a partnership or joint venture or relationship of employer and employee or principal and agent between CHCP CIC and the Provider.

32. SEVERABILITY

32.1 If any provision or part of any provision of this Agreement is declared invalid or otherwise unenforceable, that provision or part of the provision as applicable will be severed from this Agreement. This will not affect the validity and/or enforceability of the remaining part of that provision or of other provisions.

33. WAIVER

33.1 Any relaxation of or delay by any Party in exercising any right under this Agreement must not be taken as a waiver of that right and will not affect the ability of that Party subsequently to exercise that right.

34. NOTICES

34.1 Any notices given under this Agreement must be in writing and must be served by hand, post or e-mail to the address for service of notices for the relevant Party set out in this Agreement.

34.2 Notices:

34.2.1 By post will be effective upon the earlier of the actual receipt, or 5 working days after mailing;

34.2.2 By hand will be effective upon delivery; and

34.2.3 By e-mail will be effective when sent in legible form, but only if, following transmission, the sender does not receive a non-delivery message.

35. DUTY OF CANDOUR

35.1 The Provider must act in an open and transparent way with Relevant Persons in relation to Services provided to Service Users.

35.2 The Provider must, where applicable, comply with its obligations under regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 in respect of any Notifiable Safety Incident.

35.3 If any breach of this Clause 35 is suspected or known, the Provider must notify CHCP CIC immediately.

35.4 CHCP CIC may terminate this Agreement by written notice with immediate effect if the Provider, Provider Party or Provider Personnel (in all cases whether or not acting with the Provider's knowledge) breaches clause 35.

36. SERVICE CONTINUITY

36.1 The Provider must maintain its ability to provide, and must ensure that it is able to offer to CHCP CIC, the Services.

36.2 The Provider must have and at all times maintain an up-to-date Services Continuity Plan. The Provider must provide a copy of any updated Services Continuity Plan to CHCP CIC within 5 Working Days following any update.

36.3 The Provider must, in consultation with CHCP CIC, implement the Services Continuity Plan as required:

- 36.3.1 If there is any interruption to the Provider's ability to provide the Services as appropriate;
- 36.3.2 If there is any partial or entire suspension of the Services as appropriate; or
- 36.3.3 On expiry or early termination of this Agreement or of any Service for any reason (and this obligation will apply both before and after expiry or termination).

37. CHANGE IN CONTROL

- 37.1 This clause 37 applies to any Change in Control in respect of the Provider or any Sub-Contractor, but not to a Change in Control of a company which is a Public Company.
- 37.2 Without prejudice to clause 37.3 the Provider must, as soon as possible following a Change in Control, notify CHCP CIC of that Change in Control and must supply to CHCP CIC whatever further information relating to the Change in Control CHCP CIC may reasonably request.
- 37.3 Notwithstanding any other provision of this Agreement:
 - 37.3.1 a Restricted Person must not hold, and the Provider must not permit a Restricted Person to hold, at any time 5% or more of the total value of any Security in the Provider or in the Provider's Holding Company or any of the Provider's subsidiaries (as defined in the Companies Act 2006); and
 - 37.3.2 a Restricted Person must not hold, and the Provider must not permit (and must procure that a Sub-Contractor must not at any time permit) a Restricted Person to hold, at any time 5% or more of the total value of any Security in a Sub-Contractor or in any Holding Company or any of the subsidiaries (as defined in the Companies Act 2006) of a Sub-Contractor.

SCHEDULE 1 - THE SERVICE SPECIFICATION

1. PURPOSE OF SERVICE

- 1.1. The purpose of this service is to provide pharmacy based emergency contraception to improve access and choice for the residents of Hull (NB CHCP CIC will only fund care for clients with a Hull Postcode). The service will:
 - 1.1.1. deliver emergency hormonal contraception and onward referral as appropriate to CHCP CIC or sub-contracted sexual health and contraception services, ensuring adherence to CHCP CIC agreed protocols and best practice guidance;
 - 1.1.2. Support the reduction of teenage conceptions;
 - 1.1.3. Support the reduction of terminations and repeat terminations and unintended pregnancies;
 - 1.1.4. Reduce the risk of onward transmission of STI with provision of chlamydia postal screening kits;
 - 1.1.5. reduce inequalities in sexual health in line with the Equality Act 2010 and for people living in poverty and/or with social deprivation (e.g. ethnic minorities, people with learning disabilities); and
 - 1.1.6. Assist in the delivery of both local and national contraception and sexual health targets for example via the offer of a postal chlamydia screen for 15-24 year olds.

2. DEFINITION OF SERVICE

- 2.1. This Service will be delivered by XXXXXXXXXXXXXXXXXXXXXXXX at those Branches listed at **Appendix 2**.

- 2.2. The Provider will deliver the following service elements:

2.2.1. Emergency Contraception (EC); and

2.2.2. Referral for ongoing contraception by referring into the Service User's GP Surgery or sexual health care services for preferably a LARC fitting.

The Service will include counselling including advice on the most effective methods of contraception (e.g. the copper intrauterine device (IUD), with Emergency Contraception (EC) supply) with an onward referral for emergency IUD siting if this is the Service User preference, should always been encouraged.

- 2.3. The Provider will provide emergency contraception as specified in clause 2.6 below to residents of Hull.
- 2.4. The Provider will provide one-to-one support and advice to the Service Users and refer on to their GP or Conifer in Wilberforce Health Centre for more information or support.
- 2.5. Access routes to this Service will include:
 - 2.5.1. Pharmacy referral;
 - 2.5.2. Referral via the local website, social media or app operated by CHCP CIC;
 - 2.5.3. Referral by staff from SRH services;
 - 2.5.4. Referral by another health or social care worker; and

2.5.5. Direct referral by the Service User (self-referral).

2.6. The Service will provide:

- 2.6.1. Oral Emergency Contraception (both oral methods) from the agreed formulary (see **Appendix 1**); and
- 2.6.2. Referral for an IUD fitted as an emergency through their GP or Conifer in Wilberforce Health Centre;
- 2.6.3. Advice and referral for ongoing LARC contraception as per service user choice, to their GP or Conifer in Wilberforce Health Centre e.g. an implant can be fitted as quick start contraception;
- 2.6.4. Signposted for Sexual Health screening.

2.7. The Provider must ensure that all Staff:

- 2.7.1. have the appropriate qualifications, experience, skills and competencies to perform the duties required of them and are appropriately supervised, managerially and professionally;
- 2.7.2. have undergone appropriate training commensurate with the post and a self-declaration of competency has been completed (see clause 4.17) by all pharmacists supplying emergency contraception under PGD;
- 2.7.3. are covered by the Provider's (and/or by the relevant Sub-Contractor's) Indemnity Arrangements for the provision of the Services; and
- 2.7.4. Are aware of and respect Equality and Human Rights of colleagues, Service Users, Carers and the public.

CHCP CIC will, on an annual basis, check evidence of continuing staff registrations and competence via the PharmOutcomes CPPE viewer.

2.8. The Provider must have in place systems for seeking and recording specialist professional advice and must ensure that every member of Staff involved in the provision of the Services receives:

- 2.8.1. Proper and sufficient induction, continuous professional and personal development, clinical supervision, training and instruction;
- 2.8.2. Full and detailed appraisal (in terms of performance and on-going education and training) using where applicable the Knowledge and Skills Framework or a similar equivalent framework; and

2.8.3. Professional leadership appropriate to the Services,

Each in accordance with Good Practice and the standards of their relevant professional body.

3. REFERRALS

3.1. The Provider will refer Service Users into GP services or the Integrated Sexual Health services where appropriate and as directed in the pathway.

4. SERVICE REQUIREMENTS

- 4.1. The Services will support the improvement of access by participating in service development. The LPC will be invited to contribute to the wider sexual health network.
- 4.2. The Services will be provided for a minimum of 42 weeks per year and where the service is not available due to annual leave or sickness, women requesting EHC should be offered the choice of an alternative Provider.
- 4.3. Service hours will be agreed between CHCP CIC and the Provider. It is expected that the Provider will operate the agreed service during existing pharmacy opening hours. Any changes to the current operating hours should be communicated to CHCP CIC in advance.
- 4.4. The Provider will ensure that appropriately trained members of staff will be available to provide the service at the times required. The Provider will maintain a record of appropriately trained pharmacists providing emergency contraception under PGD. Should there be changes to the staffing establishment at the Pharmacy which impacts on the ability to deliver this service specification the Provider should communicate this to CHCP CIC.
- 4.5. The Provider will confirm the eligibility of the person to access the service i.e. the person is resident in Hull (as opposed to being registered with a Hull GP). For Service Users registered with a Hull GP but who are resident in other local authority areas e.g. the East Riding of Yorkshire, the Provider must agree a separate contract with that Local Authority to provide these services.
- 4.6. A new client consultation should be recorded on the PharmOutcomes system and should include:
 - 4.6.1. An assessment of Fraser competence / risk of child sexual exploitation is completed and documented for under 16s. Where required, the individual should be referred on to local safeguarding teams or other relevant agencies;
 - 4.6.2. The person's reason for attendance;
 - 4.6.3. Relevant medical, including sexual, history;
 - 4.6.4. The chosen treatment(s);
 - 4.6.5. Appropriate additional contraceptive service information for that individual, including referral for an emergency fitting of an IUD and signposting to the GP or sexual health services that cannot be offered in the pharmacy including direct access to the most effective methods of contraception (Long-Acting Reversible methods the IUD, intra-uterine system (IUS) and implant) accessed by calling 01482 247111;
 - 4.6.6. That there has been an explanation of safe sex and information on how to protect yourself and how to a sexual health screen; and
 - 4.6.7. That information has been given, in addition to contraceptive services, about online support, such as the virtual sexual health clinic, the sexual health app, and online testing services and how to access these.
- 4.7. The Provider will enter timely information directly onto the PharmOutcomes system and will record patient information as required. Providers will be notified in advance of any planned alterations to the reporting/invoicing process however any changes will be undertaken in conjunction with contracted pharmacies.
- 4.8. Supply of EHC will be recorded by the Provider and reported to CHCP CIC detailing the product used.

- 4.9. The LPC will generate reports monthly for CHCP CIC from the PharmOutcomes data inputted by the Provider. The format of these reports will be agreed between the LPC and CHCP CIC.
 - 4.10. Any follow-up care required will usually be undertaken by the Provider. Where a clinical sexual health need is identified that is outside of the scope of this Agreement, the Provider will ensure the patient is offered either a referral to CHCP CIC or to primary care if that is the patients' preference.
 - 4.11. The Provider will utilise a consultation area with a sufficient level of privacy and safety.
 - 4.12. The Provider will maintain patient confidentiality, taking into account CHCP CIC safeguarding adults and children policies and guidelines.
 - 4.13. The Provider will support service evaluation via the administration of a patient satisfaction survey (Friends and Family Test) that will be provided by CHCP CIC.
 - 4.14. The Provider will comply with CHCP CIC clinical and information governance requirements which will be discussed as standing agenda items at contract review meeting – should such a review meeting be required.
 - 4.15. Medications will be supplied by the Provider in accordance with the agreed Formulary (see **Appendix 1**) and reimbursed by CHCP CIC.
 - 4.16. The Provider will ensure that a signed copy of a valid PGD for each medication in the Formulary (see **Appendix 1**) is available at the premises at all times.
 - 4.17. The Provider will ensure the competencies of all Pharmacists providing the service are appropriate for the delivery of this service. Pharmacists will:
 - 4.17.1. Complete the CPPE Declaration of Competency Framework and turn on the CPPE viewer to enable CHCP CIC to view their learning history. This will remain turned on unless the member of staff is no longer providing the service; and
 - 4.17.2. Enrol using the CPPE declaration of competency on the PharmOutcomes system.
 - 4.18. The Provider will ensure that clinicians involved in the provision of the service are aware of and act in accordance with local protocols, FRSH, NICE and BASHH and guidance where relevant.
 - 4.19. CHCP CIC will be responsible for commissioning the promotion of the service locally, including the development of publicity materials which pharmacies can use to promote the service to the public. Providers providing this service will be included in local service promotions and publicity materials.
 - 4.20. CHCP CIC will provide details of relevant referral points which Provider staff can use to signpost service users who require further assistance from the service.
 - 4.21. The Provider will continue to use existing PGDs where these are still valid.
 - 4.22. CHCP CIC will invite Providers to attend refresher/update training on contraception on an ad hoc basis.
- General Requirements**
- 4.23. The Provider will ensure that all medical, clinical and non-clinical staff receive appropriate clinical, managerial and safeguarding supervision. The Provider will be required to provide evidence of this to CHCP CIC on an annual basis.

- 4.24. The Provider will ensure that all their workforce policies, processes and practices comply with all relevant employment legislation and codes of practice applicable in the UK.
- 4.25. The Provider will demonstrate their compliance to the Equality Act 2010.
- 4.26. The Provider will demonstrate ongoing compliance with all relevant Health and Safety legislation and industry and best practice requirements.
- 4.27. The Provider shall have in place, promote and operate a policy and effective procedures, in accordance with Raising Concerns Policy for the NHS, to ensure that Staff have appropriate means through which they may raise any concerns they may have in relation to the Services.
- 4.28. The Provider will have in place an up to date Violence and Aggression Policy and will ensure a copy of this is sent to CHCP CIC on an annual basis.
- 4.29. The Provider must inform CHCP CIC **immediately** if any of the following events occur:
 - 4.29.1. A Breach of Duty of Candour;
 - 4.29.2. A Serious Incident or Patient Safety Incident;
 - 4.29.3. An Information Governance Breach or Data Protection Incident;
 - 4.29.4. A Never Event.
- 4.30. In the event of any inconsistency between the terms of this Schedule and the main body of the Agreement, the terms of this Schedule shall take precedence.

5. CORE SERVICE VALUES

- 5.1. In delivering the service the Provider will observe and follow the core service values which are:
 - 5.1.1 Be friendly;
 - 5.1.2 Be Confidential (whilst supporting safeguarding children and adults legislation);
 - 5.1.3 Non-judgemental;
 - 5.1.4 Provide clear, accurate, understandable information and advice;
 - 5.1.5 Provide timely referral on into mainstream services (Conifer and Primary Care);
 - 5.1.6 Be Young Person friendly
 - 5.1.7 Ensure staff undertake personal development reviews
 - 5.1.8 Ensure that all staff undertake safeguarding training; and
 - 5.1.9 Ensure that all staff undertake information governance training.

6. RAISING CONCERNS / COMPLAINTS

- 6.1. The Provider should put into place and operate a Complaints Procedure and have systems in place, which monitor the incident and outcome of all complaints and investigations regarding the service.
- 6.2. All complaints reported concerning both the service provided by the Provider or any other linked process in general should be reported to CHCP CIC as soon as possible and in any event within **three working days** of the complaint being made.

- 6.3. A response should be received by the complainant from the Provider within **30 working days** of receipt. The complainant should be informed of the progress if this is not going to happen.
- 6.4. The Provider will ensure that all complaints are acknowledged and reported to CHCP CIC within **three working days** of their receipt.
- 6.5. If the complainant is not satisfied with the response from the Provider, the complaint should be escalated to CHCP CIC where it will follow the procedure for PALS and complaints within CHCP CIC. Patients will be made aware of this escalation procedure and information about this procedure will be added to any appropriate information leaflet / materials.
- 6.6. Upheld complaints relating to the provision of this Service that result in CHCP CIC being brought into disrepute may result the termination of this Agreement.

7. GOVERNANCE ARRANGEMENTS

- 7.1. The Provider will have systems, policies and guidelines in place that comply with relevant local and national guidelines in relation to patient safety and governance.
- 7.2. The Provider will provide evidence of being up to date with clinical practice and all mandatory and statutory training as part of the contract review.
- 7.3. The Provider will report any deaths, serious incidents or patient safety incidents to CHCP CIC **immediately**.
- 7.4. Any changes to practice within the service provided by the Provider should be discussed and agreed with CHCP CIC prior to the implementation of any such changes.

8. REVIEW

- 8.1. CHCP CIC and the Provider's Personnel will meet on an **annual** basis, should it be deemed necessary, to review performance and management information provided for the previous **12 months**. Nominated Authorised Officers may be called upon to provide feedback or attend such reviews as required.
- 8.2. CHCP CIC may request that the Provider or their nominated representative attend ad hoc meetings with the Authorised Officer and / or CHCP CIC's Key Personnel as requested.

9. DOCUMENTATION AND MANAGEMENT REPORTING

- 9.1. All activity, performance and invoice data is to be recorded and reported on a monthly basis (see Schedule 3 – Performance Management). The monthly data will be entered onto the PharmOutcomes system by the Provider.
- 9.2. Amendments to information to be included in such reports are to be agreed and approved between CHCP CIC's and the Provider's key personnel.

10. SERVICE USER EXPERIENCE

- 10.1. Service Users will be offered the opportunity to provide feedback of their experience of this Service.
- 10.2. The Provider will utilise a patient satisfaction and feedback mechanism in accordance with any CHCP CIC instructions.

10.3. The Provider will implement the Friends and Family Test in line with National Guidance. This is a “simple, comparable test which, when combined with follow-up questions, provides a mechanism to identify both good and bad performance and encourage staff to make improvements where services do not live up to expectations”. Further Friends and Family test Guidance is available at <http://www.england.nhs.uk/ourwork/pe/fft/>. The Provider will use the template Friends and Family Test document attached at **Schedule 6**.

10.4. All completed Friends and Family Test questionnaires should be collated and sent to:

Phil Yates
Engagement and Communications Assistant

City Health Care Partnership CIC
Corporate Services
Business Support Centre
5 Beacon Way
Hull
HU3 4AE

SCHEDULE 2 - PRICE

1. AGREEMENT PRICE

- 1.1 CHCP CIC hereby agrees to make payment to the Provider as per the pricing / rate mechanism specified below:
- 1.1.1 Provision of Emergency Hormonal Contraception @ **£11.52** per patient seen;
 - 1.1.2 Plus reimbursement of Oral Emergency Contraception (both oral methods) as per the agreed Formulary (see **Appendix 1**).

The tariff price above cover **all** costs associated with the Service. No additional payments will be made.

The Provider shall be responsible for all Income Tax Liabilities and National Insurance or similar contributions in respect of all personnel supplied by the Provider to undertake duties as described in this Agreement and the Provider hereby indemnifies CHCP CIC against these and similar costs, out-goings and expenses.

- 1.2 The above costs are the maximum costs payable. CHCP CIC will pay the Provider on an actual costs incurred basis.
- 1.3 Payment is exclusive of any applicable VAT for which CHCP CIC will be additionally liable to pay the Provider upon receipt of a valid tax invoice at the prevailing rate in force from time to time.
- 1.4 Invoices will be generated automatically by PharmOutcomes and will be submitted on a **monthly** basis. The Provider will ensure timely input of data to facilitate the generation of an invoice.
- Invoices must be submitted in accordance with **Clause 8.2**.
- 1.4 The Agreement Price will be fixed and firm for the duration of this Agreement.
- 1.5 Payment is to be made via **BACS (Bank Automated Clearing System)** and the Provider should provide required details to CHCP CIC to facilitate BACS payment.

SCHEDULE 3 - CONTRACT AND PERFORMANCE MANAGEMENT

1. CONTRACT MANAGEMENT

- 1.1 If the Parties have agreed a consequence in relation to the Provider failing to meet a Quality Requirement and the Provider fails to meet the Quality Requirement, CHCP CIC will be entitled to exercise the agreed consequence immediately and without issuing a Contract Performance Notice, irrespective of any other rights CHCP CIC may have under this Schedule.
- 1.2 The provisions of this Clause 1. Contract Management do not affect any other rights and obligations the Parties may have under this Agreement.

Contract Performance Notice

- 1.3 If the CHCP CIC believes that the Provider has failed or is failing to comply with any obligation on its part under this Agreement it may issue a Contract Performance Notice to the Provider.

Contract Management Meeting

- 1.4 Unless the Contract Performance Notice has been withdrawn, CHCP CIC and the Provider must meet to discuss the Contract Performance Notice and any related issues within **10 Working Days** following the date of the Contract Performance Notice.
- 1.5 At the Contract Management Meeting CHCP CIC and the Provider must agree either:
- 1.5.1 That the Contract Performance Notice is withdrawn; or
- 1.5.2 To implement an appropriate Immediate Action Plan and/or Remedial Action Plan.

Remedial Action Plan

- 1.6 If a Remedial Action Plan is to be implemented, CHCP CIC and the Provider must agree the contents of the Remedial Action Plan within **5 Working Days** following the Contract Management Meeting.
- 1.7 The Remedial Action Plan must set out:
- 1.7.1 Actions required and which Party is responsible for completion of each action to remedy the failure in question and the date by which each action must be completed;
- 1.7.2 The improvements in outcomes and/or other key indicators required, the date by which each improvement must be achieved and for how long it must be maintained; and
- 1.7.3 Any agreed reasonable and proportionate financial sanctions or other consequences for any Party for failing to complete any agreed action and/or to achieve and maintain any agreed improvement (any financial sanctions applying to the Provider not to exceed in aggregate 10% of the Actual Monthly Value in any month in respect of any Remedial Action Plan).

If a Remedial Action Plan is agreed during the final Contract Year, that Remedial Action Plan may specify a date by which an action is to be completed or an improvement is to be achieved or a period for which an improvement is to be maintained falling or extending after the Expiry Date, with a view to that Remedial Action Plan being incorporated in a Service Development Improvement Plan (SDIP) under a subsequent contract between CHCP CIC and the Provider for delivery of services the same or substantially the same as the Services.

- 1.8 The Provider and CHCP CIC must implement the actions and achieve and maintain the improvements applicable to it within the timescales set out in, and otherwise in accordance with, the Remedial Action Plan.
- 1.9 CHCP CIC and the Provider must record progress made or developments under the Remedial Action Plan in accordance with its terms. CHCP CIC and the Provider must review and consider that progress on an ongoing basis and in any event at the next Review Meeting.

Withholding Payment for Failure to Engage or Agree

- 1.10 If:
- 1.10.1 either the Provider fails to attend a Contract Management Meeting within **20 Working Days** following the date of the Contract Performance Notice to which it relates; or
- 1.10.2 CHCP CIC and the Provider have not agreed a Remedial Action Plan within the relevant period specified in Clause 1.6,

Then, unless the Contract Performance Notice has been withdrawn, they must immediately and jointly notify the Governing Body of both the Provider and CHCP CIC accordingly.

- 1.11 If, **10 Working Days** after notifying the Governing Bodies, CHCP CIC and the Provider still cannot agree a Remedial Action Plan due to any unreasonableness or failure to engage on the part of the Provider, CHCP CIC may withhold, up to 2% of the Actual Monthly Invoice Value for each further month a Remedial Action Plan is not agreed.
- 1.12 CHCP CIC must pay the Provider any sums withheld under Clause 1.11 within **10 Working Days** of receiving the Provider's agreement to a Remedial Action Plan. Those sums are to be paid without Interest.

Implementation and Breach of Remedial Action Plan

- 1.13 If, following implementation of a Remedial Action Plan, the agreed actions have been completed and the agreed improvements achieved and maintained, it must be noted in the next Review that the Remedial Action Plan has been completed.
- 1.14 If either the Provider or CHCP CIC fails to complete an action required of it, or to deliver or maintain the improvement required, by a Remedial Action Plan in accordance with that Remedial Action Plan, then CHCP CIC or the Provider (as appropriate) may, at its discretion, apply any financial or other sanction agreed in relation to that failure.

Exception Report

- 1.15 If a Party fails to complete an action required of it, or to deliver or maintain the improvement required, by a Remedial Action Plan in accordance with that Remedial Action Plan and does not remedy that failure within **5 Working Days** following receipt of notice requiring it to do so, the Provider or CHCP CIC (as the case may be) may issue an Exception Report:
- 1.15.1 To the relevant Party's chief executive and/or Governing Body; and/or
- 1.15.2 (If it reasonably believes it is appropriate to do so) to any appropriate Regulatory or Supervisory Body,

In order that each of them may take whatever steps they think appropriate.

Withholding of Payment at Exception Report for Breach of Remedial Action Plan

- 1.16 If the Provider fails to complete an action required of it, or to deliver the improvement required, by a Remedial Action Plan in accordance with that Remedial Action Plan:
- 1.16.1 (if the Remedial Action Plan does not itself provide for a withholding or other financial sanction in relation to that failure) CHCP CIC may, when issuing an Exception Report, withhold, in respect of each action not completed or improvement not met, a reasonable and proportionate sum of up to 2% of the Actual Monthly Invoice Value, from the date of issuing the Exception Report and for each month the Provider's breach continues and/or the required improvement has not been achieved and maintained, subject to a maximum monthly withholding in relation to each Remedial Action Plan of 10% of the Actual Monthly invoice Value; and
- 1.16.2 CHCP CIC must pay the Provider any sums withheld under Clause 1.14 or Clause 1.16.1, within **10 working days** following CHCP CIC's confirmation that the breach of the Remedial Action Plan has been rectified and/or the required improvement has been achieved and maintained. No Interest will be payable on those sums.

Retention of Sums Withheld for Breach of Remedial Action Plan

- 1.17 If, **20 Working Days** after an Exception Report has been issued under Clause 1.15, the Provider remains in breach of a Remedial Action Plan, CHCP CIC may notify the Provider that any sums withheld under Clause 1.14 or Clause 1.16.1 are to be retained permanently.

Retention of Sums Withheld on Expiry or Termination of this Contract

- 1.18 If the Provider does not agree a Remedial Action Plan:
- 1.18.1 within 6 months following the expiry of the relevant time period set out in Clause 1.6 ;
or
- 1.18.2 before the Expiry Date or earlier termination of this Agreement,
- Whichever is the earlier, CHCP CIC may notify the Provider that any sums withheld under Clause 1.11 are to be retained permanently.
- 1.19 If the Provider does not rectify a breach of a Remedial Action Plan before the Expiry Date or earlier termination of this Agreement, CHCP CIC may notify the Provider that any sums withheld under Clause 1.14 or Clause 1.16.1 are to be retained permanently.

2. PERFORMANCE REPORT

- 2.1 Not Applicable.

3. REVIEW MEETINGS

- 3.1 Throughout the term of this Agreement the parties shall convene **annual** review meetings should these be required.
- 3.2 As a minimum this meeting should be attended by both CHCP CIC's and the Provider's personnel who have operational and management control of this Agreement as named in Schedule 4.
- 3.3 The review meeting will address the following issues:
- 3.3.1 any Service Quality and Performance Reports issued since the Service Commencement Date or the last Review Meeting (as appropriate);

- 3.3.2. The performance of the both Parties under this Agreement;
 - 3.3.3. The performance of the Provider under any Remedial Action Plan or other Provider plan in place under or in connection with this Agreement;
 - 3.3.4. Levels of Activity, Referrals and Utilisation under this Agreement;
 - 3.3.5. Any Variation proposed in relation to this Agreement;
 - 3.3.6. Service User's complaints received by the Provider which relate to these Services;
 - 3.3.7. The Price; and
 - 3.3.8. Any other matters that either Party considers necessary in relation to this Agreement.
- 3.4. Following each Review Meeting CHCP CIC must prepare and distribute a Review Meeting Record recording (without limitation) all the matters raised during the Review Meeting, actions taken, agreements reached, Disputes referred to Dispute Resolution, and any Variations agreed.
- 3.5. The review meeting dates are to be agreed between the **Operations Manager** of CHCP CIC and the representative of the Provider identified in Schedule 4, and must be scheduled as indicated at clause 3.1 above.

4. PERFORMANCE STANDARDS

- 4.1 The Provider will submit an annual Quality Dashboard Report as attached at **Schedule 9**. The Dashboard should be submitted to chcp.procurement@nhs.net and must be received within **5 working days** of each year end (31st March).

SCHEDULE 4 - ROLES AND RESPONSIBILITIES

1. REPRESENTATIVES

1.1 CHCP CIC's Representative(s)

1.1.1 The following person(s) are authorised to act on behalf of CHCP CIC on all matters relating to the contractual management of this Agreement:

Paul Robinson
Procurement and Contracts Lead
City Health Care Partnership CIC

Tel: 01482 976931

Email: paul.robinson16@nhs.net

1.1.2 The following person(s) are authorised to act on behalf of CHCP CIC on all matters relating to the operational management and financial control of this Agreement:

June Agius
Operations Manager
Integrated Sexual Health and Community Paediatrics
City Health Care Partnership CIC
Wilberforce Health Centre
6-10 Story Street
Hull
HU1 3SA

Tel: 01482 336932 / 07816 645831

Email: june.agius1@nhs.net

1.2 Provider's Representative(s)

1.2.1 The following person(s) are authorised to act on behalf of the Provider on all matters relating to the contractual, operational and financial control of this Agreement:

Details to be completed

SCHEDULE 5 - KEY PERSONNEL

None

SCHEDULE 6 – FRIENDS AND FAMILY TEST



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SCHEDULE 7 – SAFEGUARDING POLICIES

Children and Young People:



Safeguarding
Children Policy & Pr

Adults:



Safeguarding Adult
Standard Operating

SCHEDULE 8 - CONDITIONS PRECEDENT

The Provider must provide the following documents to CHCP CIC before service delivery can commence:

1. Evidence of appropriate Insurance Arrangements.
2. Evidence of Pharmacist registration with GPhC.
3. Evidence of qualifications that demonstrate competence to undertake role.
4. Evidence of current and relevant DBS Clearance.
5. Completion of Schedule 10 Conflict of Interest Declaration.

SCHEDULE 9- QUALITY DASHBOARD REPORT



2019-20 Quality
Dashboard Report \

Please note a separate Quality Dashboard will need to be completed for each participating Pharmacy.

APPENDIX 1 – MEDICATION FORMULARY

NAME OF MEDICATION	Generic Drug	PACK SIZE	REIMBURSEMENT PRICE (EXCLUDING VAT)
Levonorgestrel 1500microgram Tablet	Levonorgestrel	1	Based on current dM&d
Ulipristal acetate 30mg Tablet	Ulipristal	1	Based on current dM&d

APPENDIX 2 – BRANCH DETAILS

Branch details to be entered here.