



TENDER NOTICE

DMC 009 – PROVISION OF COMMUNITY HIV PREVENTION AND SUPPORT SERVICES FOR SHROPSHIRE AND TELFORD & WREKIN COUNCILS

Shropshire Council on behalf of Shropshire Council and Telford & Wrekin Council are seeking Provider/(s) to deliver a service which aims to positively impact on and improve the health of the local populations of Shropshire County and Telford & Wrekin through provision of community HIV Prevention and Support Services. These will be linked to local and Health Protection England campaigns, and will provide face to face support to help people reduce their risk taking, as well as increasing access to community HIV testing.

This contract is a for a period of three years and will commence on 01st April 2014, expiring on 31st March 2017.

Applicants wishing to be considered for inclusion in the tender process must first complete and return a Request to Participate Questionnaire. The information in the questionnaire shall form the basis for the selection of suppliers to be invited to tender. Depending on the level of response, the Council reserves the right to undertake subsequent stages of selection prior to the issue of a formal invitation to tender.

If you wish to receive a Request to Participate Questionnaire, please email Shropshire Council's Procurement Team procurement@shropshire.gov.uk quoting reference DMC 009.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement.

The deadline for the return of completed questionnaires is **12 noon Friday 30th August**.



Pre-Qualification Questionnaire

DMC 009 – PROVISION OF COMMUNITY HIV PREVENTION
AND SUPPORT SERVICES FOR SHROPSHIRE AND
TELFORD AND WREKIN COUNCILS

One hard copy and one CD copy must be returned to:

**Democratic Services Manager
Legal and Democratic Services
Shropshire Council
Shirehall
Abbey Foregate
SHREWSBURY SY2 6ND**

BY 12 NOON Friday 30th August

Name of Applicant: (please insert)	
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This document consists of 29 pages and must be completed in its entirety.

Please read pages 2, 3 & 4 carefully before completing this document.

Shropshire Council Pre-Qualification Questionnaire

Contract Description:

Shropshire Council on behalf of Shropshire Council and Telford & Wrekin Council are seeking Provider/(s) to deliver a service which aims to positively impact on and improve the health of the local populations of Shropshire County and Telford & Wrekin through provision of community HIV Prevention and Support Services. These will be linked to local and Health Protection England campaigns, and will provide face to face support to help people reduce their risk taking, as well as increasing access to community HIV testing.

This contract is a for a period of three years and will commence on 01st April 2014, expiring on 31st March 2017.

Procurement Process

This is a two-stage tender process. This document forms the first stage and will be used to select successful applicants who will proceed to the second stage of being invited to tender. Unsuccessful applicants will be informed and may seek feedback from the Council. The following timetable is indicative and gives approximate dates for each stage of the tender process:

	Stages	Date (approximate)
1.	Invitation and Issue of Tender Documents to Successful RTP Participants	Monday 30 th Sep 2013
2.	Tender return date	Friday 01 st November 2013
3.	Contract start date	01 st April 2014

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Instructions, Conditions for Applicants & Evaluation

Section A:

A. Instructions on Completing the Questionnaire

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section in the questionnaire and require further clarification, please contact: [REDACTED] via email quoting the contract reference to procurement@shropshire.gov.uk.
2. **One hard copy and one CD copy must be returned** by 12 noon on the deadline given at the front of the document. **Questionnaires returned after this time will not be considered.**
3. All questions require specific responses from you relating to the organisation named in Section B Question 1.1. All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the questionnaire is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany the **hard copy** of your Request to Participate Questionnaire.
5. The Questionnaire has been designed to make it as easy as possible for applicants to complete, with questions being split into sections depending on the type of information being asked. Applicants should complete all of the sections in the document in the English (UK) language. Documents which are not in the English language must be accompanied by an English translation and a certificate completed by a bona fide independent translator attesting to the authenticity of the translation. The English language version of any Questionnaire response shall prevail.
6. Financial and accounting information must also be completed in the English language and amounts must be specified in pounds sterling. Cells within questionnaire tables will expand as text is added. Please ensure that responses do not exceed the word limits where these are stated.

7. Applicants registered as legal entities outside the United Kingdom should answer the questions substituting where relevant the appropriate registration details applicable within their domestic jurisdiction.
8. Where any question or piece of information refers to relevant UK legislation, non-UK organisations or those not operating within the UK should answer on the basis of analogous applicable laws in the Applicant's own jurisdiction and/or that in which it operates.
9. Where questions ask for a YES/NO answer you should circle your answer or delete as applicable.

1.	Outstanding Claims / County Court Judgements	
1.1	Do you have any outstanding claims, litigations or judgements against your organisation?	YES/NO

10. **Freedom of Information and Environmental Information Regulations 2004**

Under the provisions of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities.

To the extent that the Contracting Authority is subject to the FOIA and EIR, all information submitted to the Contracting Authority may be disclosed by the Contracting Authority in response to a request under the FOIA and/or EIR. This means that, amongst other things, the following may be subject to disclosure unless an exemption applies:

- information in any tender or response to this Questionnaire submitted to the Contracting Authority;
- information in any contract to which the Contracting Authority are a party;
- information about costs, including invoices submitted to the Contracting Authority;
- correspondence and other papers generated in any dealing within the private sector.
- If an Applicant considers any of the information included within its response to this Questionnaire or tender should not be available for disclosure, then it should:
 - identify it specifically in the Questionnaire as commercially sensitive; and
 - explain the grounds for exemption from disclosure, by reference to the appropriate legislation reference and the time period applicable to that sensitivity.

For guidance on this issue see: <http://www.ico.gov.uk>

Applicants should be aware that, even where they have indicated that information is commercially sensitive or exempt from disclosure for another reason, the Contracting Authorities may be required to disclose it in any event as a matter of law if a request is received. Please also note that the receipt of any material marked 'confidential' or equivalent by the Contracting Authority should not be taken to mean that the Contracting

Authority accepts any duty of confidence by virtue of that marking. If a request is received, the Contracting Authority may also be required to disclose details of unsuccessful Applicants. All decisions regarding disclosure of information will be made at the sole discretion of the Contracting Authority.

11. **Consortium Applicants**

Where the Questionnaire is submitted on behalf of more than one organisation acting as a consortium, for the purposes of this Questionnaire, the term “Applicant” shall be interpreted as all the consortium members taken as a whole, unless otherwise specified.

Where a consortium approach is proposed, all information requested in sections B to E should be given in respect of each consortium member. Relevant information in respect of section F should also be provided in respect of consortium members who will play a significant role in the delivery of services or products under any ensuing contract. Responses must enable the Contracting Authority to assess the Applicant proposed.

Where the proposed prime contractor is a special purpose vehicle or holding company, information should be provided about the extent to which the Special Purpose Vehicle (SPV) or Holding company will call upon the resources and expertise of its members to fulfil the requirement.

The Contracting Authority recognises that arrangements in relation to consortia may be subject to future change. Applicants should therefore respond in the light of such arrangements as are currently envisaged. Applicants are reminded that any future change in relation to consortia must be notified to the Contracting Authority so that they can make a further assessment by applying the selection criteria to the new information provided

B. CONDITIONS FOR APPLICANTS

1. **General**

- (a) The Contracting Authority reserves the right to disqualify any Applicant who fails to comply with the terms of this Questionnaire.
- (b) Applicants should read this Questionnaire and the Contract Notice carefully before responding to this Questionnaire. These documents contain important information relating to the compilation of Questionnaire submissions.
- (c) An Applicant’s participation in this procurement constitutes acceptance of the terms and conditions of this procurement as laid out in this Questionnaire and the Contract Notice.
- (d) If any material information submitted on this Questionnaire changes in any way then the Contracting Authority must be informed immediately. The Contracting Authority will rely on the truth and accuracy of the information provided by the candidate in this questionnaire. In the event of the Contracting Authority entering into a contract with a candidate and becoming aware of a material misrepresentation contained in the questionnaire, the Contracting Authority shall be entitled to rescind or determine the contract.
- (e) The Questionnaire submitted by the successful candidate may be incorporated into the Contract as a contract document.

- (f) It is the responsibility of the Applicant to ensure that its Questionnaire response has been received by the deadline date.

2. **Continuation of Procurement Process**

- (a) The Contracting Authority shall not be committed to any course of action as a result of:
 - i) issuing the Contract Notice or this Questionnaire;
 - ii) communicating with an Applicant, an Applicant's representative or agent in respect of this procurement exercise;
 - iii) any other communication between the Contracting Authority (whether directly or through its agents or representatives) and any other party.
- (b) The Contracting Authority reserves the right to amend, add to or withdraw all or any part of this Questionnaire at any time during the Questionnaire stage of this procurement exercise at their sole discretion.
- (c) At any time before the deadline for receipt of Questionnaire returns the Contracting Authority may modify the Questionnaire by amendment. Any such amendment shall be numbered and dated and issued by the Contracting Authority to all participating Applicants. In order to give prospective Applicants reasonable time in which to take the amendment into account in preparing its Questionnaire return, the Contracting Authority may in their sole discretion, extend the deadline or submission of Questionnaire returns.
- (d) The Contracting Authority reserve the right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at their sole discretion.

3. **Liability of Contracting Authority**

- (a) The Contracting Authority do not accept any responsibility for any pre-tender representations made by or on their behalf or for any other assumptions that Applicants may have drawn or will draw from any pre-tender discussions.
- (b) The Contracting Authority shall not be liable to pay for any preparatory work or other work undertaken by the Applicant for the purposes of, in connection with or incidental to this Questionnaire, or submission of its bid response or any other communication between the Contracting Authority and any other party as a consequence of the issue of this Questionnaire exercise.
- (c) The Contracting Authority shall not be liable for any costs or expenses incurred by any Applicant in connection with the preparation of a Questionnaire return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.
- (d) Whilst the information in this Questionnaire has been prepared in good faith, it does not purport to be comprehensive nor has it been independently verified.
- (e) Neither of the Contracting Authority nor its advisors, officers, members, employees, other staff or agents:
 - i) makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the Questionnaire;

- ii) or accepts any responsibility for the information contained in the Questionnaire or for their fairness, accuracy or completeness of that information nor shall any of them be liable for any loss or damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication.
- (f) Any persons considering making a decision to enter into contractual relationships with the Contracting Authority following receipt of the Questionnaire should make their own investigations and their own independent assessment of the Contracting Authority and its requirements and should obtain their own professional financial and legal advice.
- (g) Nothing in this Questionnaire or in any other communication made between the Contracting Authority, or its agents and an Applicant, shall be taken as constituting a contract, agreement or representation between the Contracting Authority and an Applicant (except in the case of a formal award of contract made in writing by or on behalf of the Contracting Authority in accordance with this procurement process) nor should Applicants consider that this Questionnaire or any other communications from the Contracting Authority or its agents constitute a contract, agreement or representation that a contract shall be offered in accordance with this procurement process.

4. **Disqualification**

- (a) The Contracting Authority reserves the right to reject or disqualify an Applicant's Questionnaire return where:
 - i) the Applicant fails to comply fully with the requirements of this Questionnaire or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required in this document or Contract Notice; or
 - ii) the Applicant is guilty of serious or intentional or reckless misrepresentation in relation to its Questionnaire return and/or the procurement process.
- (b) The Contracting Authority reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control of the Applicant at any point in the process up to award of a contract and such change of control has a materially adverse effect on the Applicant's financial viability or ability to otherwise meet the requirements of the procurement process.

5. **Confidentiality**

- (a) All materials issued in connection with this Questionnaire are and shall remain the property of the Contracting Authority.
- (b) Applicants shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this Questionnaire.
- (c) The contents of this Questionnaire are being made available by the Contracting Authority on condition that:
 - (i) Applicants shall at all times treat the contents of the Questionnaire and any related documents as confidential, save in so far as they are already in the public domain;
 - (ii) Applicants shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce,

distribute or pass any of the contents of the Questionnaire to any other person at any time or allow any of these things to happen;

- (iii) Applicants shall not use any of the information contained in this Questionnaire for any purpose other than for the purposes of submitting (or deciding whether to submit) the Questionnaire; and
 - (iv) Applicants shall not undertake any publicity activity within any section of the media.
- (d) Applicants may disclose, distribute or pass this Questionnaire to their professional advisors, sub-contractors or to another person provided that:
- (i) this is done for the sole purpose of enabling a Questionnaire to be submitted and the person receiving the Information undertakes in writing to keep the Questionnaire confidential on the same terms as if that person were the Applicant; or
 - (ii) the Applicant obtains the prior written consent of the Contracting Authority in relation to such disclosure, distribution or passing of the Questionnaire; or
 - (iii) the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or
 - (iv) the Applicant is legally required to make such a disclosure.
- (e) In the above paragraphs the definition of 'person' includes but is not limited to any person, firm, body or association, corporate or incorporate.
- (f) The Contracting Authority may disclose detailed information relating to the Questionnaire to its officers, employees, agents, professional advisors or Governmental organisations and the Contracting Authority may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.

6. **Miscellaneous**

- (a) The Questionnaire is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded an Applicant to submit a Questionnaire, tender or enter into a Contract or any other contractual agreement.
- (b) Applicants shall not make contact with any officer, Member, employee, agent or consultant of the Contracting Authority or its officers or Members who is in any way connected with this procurement exercise during the period of this procurement exercise, where the contact is for reasons connected with this procurement, unless instructed otherwise by the Contracting Authority.
- (c) Any Applicant who directly or indirectly canvasses any officer, Member, employee, agent or consultant of the Contracting Authority or any of its officers or Members concerning this procurement exercise, the establishment of the Contract(s) or who directly or indirectly obtains or attempts to obtain information from any such officer, Member, employee, agent or consultant concerning any other Applicant, Questionnaire return or proposed Questionnaire return will be disqualified.

- (d) Any Applicant who:
- (i) communicates to any person other than the Contracting Authority, its professional advisors and consultants any details of a proposed Questionnaire return or information which would enable the details to be determined; or
 - (ii) enters into any agreement or arrangement with any other Applicant that such other Applicant shall refrain from submitting a Questionnaire return; or
 - (iii) enters into any agreement or arrangement with any other Applicant as to the details of any Questionnaire return or proposed to be submitted; or
 - (iv) offers or agrees to pay or give or does pay or give any sum or sums of money, inducement or valuable consideration directly or indirectly to any party for doing or having done or causing or having caused to be done in relation to any other Questionnaire return or proposed Questionnaire return, any act or omission, shall (without prejudice to any other civil remedies available to the Contracting Authority and without prejudice to any civil or criminal liability which such conduct by an Applicant may attract) be disqualified.

C. RTP Questionnaire Evaluation

Applicants will be evaluated on the answers they provide in the RTP Questionnaire. A shortlist of successful applicants will be subsequently invited to tender as part of the second stage of the tender process. The following marking scheme is made up of 'pass/fail' questions and 'weighted marked' questions and shows how each section of the questionnaire is to be marked.

Questionnaire Evaluation

Applicants will be evaluated on the answers they provide in the Questionnaire. A shortlist of successful Applicants will be subsequently invited to tender as part of the second stage of the tender process. The following marking scheme is made up of 'pass/fail' questions and 'weighted marked' questions and shows how each section of the Questionnaire is to be marked.

Pass/Fail Questions (Sections B to G)

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Applicants must comply with these issues to demonstrate their proven competence, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.

Section / Question No.	Selection Criteria
Section B / Q 1 & 2	Applicant details – For information only
Section C / Q 1 & 2	Adequate financial stability & insurance
Section D / Q 1 & 2	Adequate Outcome of previous contracts
Section E / Q 1	Adequate Health & Safety and
Section E / Q 2	Adequate Equalities Arrangements and Record
Section F / Q 1 & 2	Adequate Workforce Policies and CRB Checks
Section G / Q 1 & 2	Adequate References and Accreditations (Accreditations are for information only)

Section C Financial viability: Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax).

If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.

If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract – it shall be deemed to have passed the section.

Please note the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.

Section D Outcome of previous contracts: If in the opinion of the Contracting Authority the nature and level of outstanding claims and previous contract early terminations casts serious doubt on the Applicant's ability to perform this contract, they may be excluded.

Section E Health & Safety and Equalities: If in the opinion of the Contracting Authority the responses in this section are sufficiently poor as to cast serious doubt on the Applicant's abilities to perform this contract safely or to perform this contract with due regard for equalities, they may be excluded.

Section F Workforce Procedures and CRB Checks: If in the opinion of the Contracting Authority the responses in this section are sufficiently poor as to cast serious doubt on the Applicant's abilities to perform this contract safely or to perform this contract they may be excluded.

Section G References and Accreditations: If in the opinion of the Contracting Authority the responses in this section are sufficiently poor as to cast serious doubt on the Applicant's abilities to perform this contract safely or to perform this contract they may be excluded.

Weighted Marked Questions

Questions within the weighted mark section, **Section H**, will be scored using the following marking system and weightings.

Each answer to the questions in section G will be given a mark between 0 and 4 with the following meanings

- 0 - No response given
- 1 - Poor response given
- 2 - Average response given
- 3 - Good response given
- 4 - Excellent response given

An overall score will be derived for each Applicant by applying the weightings set out in the table below to the mark awarded for the question.

Section / Question No.	Selection Criteria	Weighting / Max Marks Available
Section H / Q 1.1	Position to undertake contract	10 / 40 max marks
Section H / Q 1.2	Delivering services to vulnerable people / communities.	10 / 40 max marks
Section H / Q 1.3	Delivering sexual health promotion/prevention programmes.	10 / 40 max marks
Section H / Q 1.4	Managing own sexual health	10 / 40 max marks
Section H / Q 1.5	Point of Care Testing	10 / 40 max marks
Total		10 / 200 max marks

The returned Questionnaires will be evaluated and all of those meeting the minimum requirements will be invited to tender.

A submission will be rejected in the following circumstances:

- (i) If it fails in any of the pass / fail sections
- (ii) If it fails to exceed the minimum quality threshold mark of 50.0% overall

Successful and unsuccessful Applicants will be notified by email.

Section B: Applicant Organisation Details

1.	Applicant Details	
1.1	Name of contracting Company/Organisation: Address: Postcode: Tel: Email:	
1.2	Registered name (if different from above): Registered Office Address: Postcode: Company registration number:	
1.3	Details of the individual completing this application and to which we may correspond: Name: Job title: Correspondence Address: Postcode: Tel: Email:	
1.4	Type of Organisation (please <u>tick</u> all those appropriate):	
(a)	Sole trader	<input type="checkbox"/>
(b)	Partnership	<input type="checkbox"/>
(c)	Private Limited Company	<input type="checkbox"/>
(d)	Public Limited Company	<input type="checkbox"/>
(e)	Charity/Social enterprise	<input type="checkbox"/>
(f)	Franchise	<input type="checkbox"/>
(g)	Public Sector Organisation	<input type="checkbox"/>

1.5	<p>Are you a Small or Medium Sized Enterprise (SME) <i>*An SME can be defined as an enterprise which employs fewer than 250 people</i></p>	YES/NO
	<p>If No, Please confirm you are an enterprise which employs more than 250 people</p>	YES/NO

2.	Company History/Background	
2.1	Date Company established:	
2.2	Is the applicant a subsidiary of another company as defined by the Companies Act 1985?	YES/NO
2.3	<p>If YES to 2.2 give the following details of the Holding/Parent Company:</p> <p>Registered Name:</p> <p>Registered Address:</p> <p>Postcode:</p> <p>Registration Number:</p>	
2.4	<p>If you have been providing HIV Prevention and Support Services please state number of years' experience</p> <p style="text-align: right;">..... years</p>	
2.5	Total number of employees: _____	
2.6	<p>Percentage of workforce engaged solely in the provision of HIV Prevention and Support services.</p> <p>_____</p>	

Section C: Financial & Insurance Information

1. Insurance Details		
*	<p><i>Why do we need to know this?</i></p> <p><i>We need to ensure that all of our suppliers have adequate insurance. The Council has set minimum insurance requirements which all companies working with the Council must adhere to.</i></p> <p><i>Please note that on some limited occasions the council may agree to vary these levels dependant on the nature of the contract.</i></p>	
1.1 (a)	Please Confirm that you hold a minimum of £5,000,000 Public Liability Insurance	YES/NO
(b)	<p>Please detail the relevant policy information and state if any conditions or exceptions apply to the policy.</p> <p>Name of Insurance Company</p> <p>Date policy taken out</p> <p>Expiry date of the policy</p> <p>Policy number/reference</p> <p>Conditions/Exceptions</p> <p>.....</p> <p>.....</p>	
1.2 (a)	Please confirm that you hold a minimum of £5,000,000 Employer's Liability Insurance	YES/NO
(b)	<p>Please detail the relevant policy information and state if any conditions or exceptions apply to the policy.</p> <p>Name of Insurance Company</p> <p>Date policy taken out</p> <p>Expiry date of the policy</p> <p>Policy number/reference</p> <p>Conditions/Exceptions</p> <p>.....</p> <p>.....</p>	
1.3 (a)	Please confirm that you hold a minimum of £1,000,000 Professional Indemnity Insurance	YES/NO

(b) Please detail the relevant policy information and state if any conditions or exceptions apply to the policy.

Name of Insurance Company

Date policy taken out

Expiry date of the policy

Policy number/reference

Conditions/Exceptions

.....

....

.....

....

1.4	Please enclose photocopies of your Certificates of Insurance duly signed as authentic copies of the originals	Enclosed YES/NO
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2. Financial Details

* *Why do we need to know this?*

Financial details are required in order to check that your company has sufficient financial resources to undertake the contract. This information will also ensure that your company is in a stable position and is likely to fulfil the contract for the period required.

How the Council evaluates this information will vary given the nature of the contract to be awarded.

2.1 Please provide a brief summary of your annual turnover and profit in the last 3 years. **(Please insert figures – do not refer to attached accounts)**
 Also provide copies of your last 2 years audited accounts.
 If audited accounts are not available please provide copies of your management accounts

<u>Company</u>			Account s Enclosed
<u>Year</u>	<u>Turnover</u>	<u>Profit(Loss)</u>	
2011/12	£.....	£.....	YES/NO
2012/13	£.....	£.....	YES/NO

(If exact figures are not available please provide your best estimate of the figures required)

2.2 Please show below your company's turnover in the provision of **HIV Prevention & Support Services** in the last two financial years.
(Please insert figures – do not refer to attached accounts)

<u>Year</u>	Turnover in relation to HIV Prevention & Support Services
2011/12	£.....
2012/13	£.....

(If exact figures are not available please provide your best estimate of the figures required)

Section D: **Claims & Contract Terminations/Deductions**

*	<p><i>Why do we need to know this?</i></p> <p><i>The Council needs to ensure that organisations have a proven record of completing contracts in full and to a high standard, and do not have any outstanding claims against them.</i></p>
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1.	Outstanding Claims / County Court Judgements	
1.1	Do you have any outstanding claims, litigations or judgements against your organisation?	YES/NO
1.2	If YES to 1.1 please provide further details.	

2.	Contract Terminations/Deductions	
2.1	Please give details of all contracts in the last 3 years which have been terminated early giving the name of the client company/authority, the date of termination and the reasons for termination.	
2.2	Please give details of all fines, penalties or deductions incurred in the last 3 years as a result of non-performance under any contract.	

Section E: Health & Safety and Equal Opportunities

1.	Health & Safety at Work	
*	<p><i>Why do we need to know this?</i></p> <p><i>We need to ensure that all companies that work with Shropshire Council are able to operate safely. We assess this by asking questions about arrangements at the contract stage and continue to monitor ongoing performance with all companies working on our behalf.</i></p> <p><i>Health & safety measures do not have to be expensive, time consuming or complicated – especially for smaller companies. In fact, safer and more efficient working practices can save money and greatly improve working conditions for employees. Shropshire Council is committed to promoting safe and proportionate working practices to companies as it recognises the benefits this can bring for companies competing for business both for local authority contracts and elsewhere.</i></p> <p><i>Information to help small companies is available on the Health and Safety Executive’s (HSE) website.</i></p> <p><i>Health and Safety Executive’s website: http://www.hse.gov.uk/</i></p> <p><i>Looking after your Business: http://www.hse.gov.uk/business/</i></p> <p><i>Getting Started Step-by-step: http://www.hse.gov.uk/business/must-do.htm</i></p>	
1.1	<p>Does your organisation have a formal health and safety policy or statement?</p> <p>*(if you employ 5 or more employees you are required to produce a Health and Safety Policy/Statement under the Health & Safety at Work Act 1974)</p> <p>Please tick here if copy enclosed <input type="checkbox"/></p>	YES/NO
1.2	<p>Do you currently hold any external health and safety accreditations, such as CHAS (Contractors Health and Safety Assessment Scheme), or equivalent?</p>	YES/NO
1.3	<p>If YES to 1.2 please supply the following details as well as a copy of any certificates.</p> <p>Accrediting Organisation:</p> <p>Reference No:</p> <p>Date accreditation expires or is to be renewed:</p> <p>Please tick here if a copy of certificate attached <input type="checkbox"/></p>	
1.4	<p>Has your company been served with an enforcement notice or been prosecuted in the past 3 years for breaches of health and safety legislation?</p>	YES/NO

1.5	If YES to 1.4 please give details of the prosecution or notice (and what measures you have taken to ensure the issue(s) will not re-occur).	
1.6	Do you routinely carry out Risk Assessments?	YES/NO
1.7	If YES to 1.6 please state what has been assessed. (At certain times, the Council may request copies of risk assessments, safe working procedure, or safety method statements.)	
1.8	Do you have a health and safety training programme for employees?	YES/NO
1.9	If YES to 1.8 please state what training has been given.	
1.10	Does your company monitor: (a) Accidents (b) Ill health caused by work (c) Health & Safety Performance	YES/NO YES/NO YES/NO
1.11	Does your company have a recognised health & safety management system? Please give details below:	YES/NO
1.12	Please state how many accidents have been reported to your Enforcing Authority under RIDDOR (The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) in the last 2 years.	
	Total	
	No. of accidents reported under RIDDOR last year	
	No. of accidents reported under RIDDOR this year	

1.13	<p>Does your company consult with employees on health and safety?</p> <p>If YES, please give details below.</p>	YES/NO
1.14	Will you be using any sub contractors as part of this contract?	YES/NO
1.15	If YES to 1.14 please give details of who your sub contractors are.	
1.16	If YES to 1.14 how do you ensure they are competent?	
1.17	<p>Where do you get your competent health and safety advice?</p> <p>To meet your legal responsibilities in 'The Management of Health and Safety at Work Regulations 1999' you must appoint one or more competent people to help you comply with your duties under health and safety law so you can prevent accidents and ill health at work. In practice, you can be that competent person as long as you know enough about what you have to do. If the risks are complex and you do not have access to competent advice in-house, you may want to appoint a safety consultant to help you.</p>	

2.	Equal Opportunities	
*	<p><i>Why do we need to know this?</i></p> <p><i>The equality duties placed on public authorities requires the Council to have due regard to the need to eliminate unlawful discrimination.</i></p> <p><i>We need to ensure all companies that work with Shropshire Council comply with both UK and EU regulations regarding equal opportunities and discrimination law. The Council actively promotes equal opportunities in procurement and partnership.</i></p> <p><i>The Council also needs to ensure that there are no outstanding claims against your organisation regarding discrimination.</i></p> <p><i>Information to help small companies is available at:</i></p> <p><i>Equality and Human Rights Commission -</i></p> <p>http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/</p> <p><i>Useful links for guidance & Information -</i></p> <p>http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/guidance-for-small-and-medium-size-businesses/related-links/</p>	
2.1	<p>How do you comply with your statutory obligation under UK/EU equalities and discrimination legislation (or equivalent legislation and regulations in the countries in which you employ staff)?</p> <ul style="list-style-type: none"> - UK/EU equalities and discrimination legislation includes:- - Human Rights Act 1998 - Equality Act 2010 <p>Please enclose evidence for the above e.g. documents, instructions, recruitment advertisements or other literature.</p>	Enclosed YES/NO
2.2	<p>As a contractor providing a public service on behalf of a local authority, you have a duty to comply with the General Duties of the Public Sector Equality Duty as outlined below.</p> <ul style="list-style-type: none"> • Eliminate discrimination, harassment and victimisation that is unlawful under the Equality Act 2010; • Advance equality of opportunity between those who share protected 	

	<p>characteristics and those who do not;</p> <ul style="list-style-type: none"> • Foster good relations between those who share protected characteristics and those who do not. <p>How do you promote equality in your service delivery and towards your employee management as part of your operations?</p>	
2.3	In the last 3 years, has any claim or finding of unlawful discrimination been made against your organisation by any court?	YES/NO
2.4	If YES to 2.3, please give details.	
2.5	In the last 3 years, has your organisation been the subject of formal investigation by the Equality and Human Rights Commission?	YES/NO
2.6	If YES to 2.5, please give details.	
2.7	<p>(NB Organisations with less than 5 employees are not required to respond to questions 2.8 and 2.9)</p> <p>How do you promote the diversity of your workforce e.g. do you take steps to encourage people from under-represented groups to apply for jobs or take up training opportunities and career progression?</p> <p>Please provide evidence of the above.</p>	
2.8	<p>Do you have a grievance process to address all complaints relating to perceived discrimination?</p> <p>Provide evidence for the above</p>	YES/NO

2.9	Organisation with less than 5 employees must confirm below that they will meet the requirements set out in questions 2.8 and 2.9 if they increase their number of staff above 5. <p style="text-align: center;">Confirmed</p>	YES/NO
-----	--	--------

Section F: **Workforce Policies and CRB Checks**

1.	Workforce Policies	
1.1	<p>Please provide executive summary information on the following:</p> <ul style="list-style-type: none"> - Recruitment Procedures (to include safeguarding policies and procedures) <p>(Please keep your answer within 250 words max)</p>	PASS/ FAIL
1.2	<p>Please provide executive summary information on the following:</p> <ul style="list-style-type: none"> - Procedures for ensuring compliance that all clinical staff, including doctors, nurses and allied health professionals, are registered with the relevant UK professional and regulatory bodies - Policy for ensuring clinical staff meet the CPD requirement of their professional and regulatory bodies <p>(Please keep your answer within 250 words max)</p>	PASS/ FAIL
2	CRB Checks	
2.1	<p>Will all members of your Company staff who would be used to undertake the required services go through the Disclosure and Barring Service (DBS) checks (previously CRB checks) CRB (Criminal Records Bureau)?</p> <p>(Please note that it is a mandatory requirement for all members of staff involved to have been DBS checked)</p> <p>Please enclose details of your processes to ensure these compliance requirements regarding staff working with children and vulnerable adults are met.</p> <p>(Please keep your answer within 250 words max)</p>	PASS /FAIL

Section G: References & Accreditations

1. Contract References					
Please list below up to a maximum of 10 similar contracts undertaken by your company in the past 3 years or currently being handled. Any previous Public Sector experience will be of particular interest.					
	Name of Organisation/Company	Contact Name, Address and Email address / Tel No.	Value of Contract (£)	Nature of work undertaken	Contract Dates (From – To)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

2.	Accreditations			
2.1	<p>Please list any professional or trade organisations by which your company is accredited. You should only list those that are relevant to this contract and which will support your application or EU Equivalent.</p> <p>Please state whether the award belongs to the company or an individual. (For information only)</p>			
	Name of Awarding Organisation/Body	Level of Accreditation	Date Achieved	Date of Expiry/Renewal
	Please provide copies of the certificates you have given above or other proof of the qualifications.			Enclosed YES/NO
2.2	<p>Please state any formal quality assurance systems relevant to this contract, which your company operates or EU Equivalent.</p> <p>For information only</p>			
	Name of Awarding Organisation/Body	Registration Number	Name of Quality Assurance System	Date Achieved
	Please provide copies of the certificates you have given above or other proof of the qualifications.			Enclosed YES/NO

Section H: Contract Specific Questions

1.	Experience, Qualifications & Resources	
1.1	<p>Please set out below why you feel your organisation is well placed to undertake this contract. You should include in your answer a brief history of your organisation and details of the organisations experience and details of staff experience in delivering any clinical and/or non clinical HIV Prevention and Support Services.</p> <p>(Please keep your answer within 600 words max)</p>	Weight: 10 Max Marks: 40
1.2	<p>Please describe your organisation's experience of delivering services to vulnerable people / communities.</p> <p>(Please keep your answer within 300 words max)</p>	Weight: 10 Max Marks: 40
1.3	<p>Please describe your organisation's experience of delivering sexual health promotion/prevention programmes.</p> <p>(Please keep your answer within 300 words max)</p>	Weight: 10 Max Marks: 40
1.4	<p>Please provide 4 examples of how your organisation has provided opportunities for people to manage their own sexual health (either independently or with support).</p> <p>(Please keep your answer within 300 words max)</p>	Weight: 10 Max Marks: 40
1.5	<p>Please describe your organisation's experience of delivering point of care / near patient testing for HIV.</p> <p>(Please keep your answer within 300 words max)</p>	Weight: 10 Max Marks: 40

Section I:
Shropshire Council Declaration

I understand that the responses I have given in this Request to Participate Questionnaire, together with any supporting documentation, are to be used as a basis for selection of companies to tender for this contract.

I note that Shropshire Council reserves the right to undertake supplementary stages of selection prior to inviting tenders.

I confirm that if I am awarded a contract all of the information I have provided in this Request to Participate Questionnaire together with any supporting documentation will be deemed to be part of the contract.

Signed _____

Name _____
(please print)

Designation _____

Date _____

Company _____

Address _____

Postcode _____

Tel No. _____

Fax No. _____

E-mail address _____

Website _____

Thank you for taking the time to complete this questionnaire

To ensure your application is evaluated properly you should complete all of the sections within the Request to Participate Questionnaire that are applicable to you.

Before returning the questionnaire, please use the checklist below to ensure you have enclosed all of the relevant documentation.

If you are unsure about any of the questions within this questionnaire and require further clarification you should contact the Procurement Team via email quoting the contract reference and title to procurement@shropshire.gov.uk.

Checklist for completed Questionnaires

Section / Question No.	Documents	Tick if enclosed/ complete
Answers provided to ALL questions within this document		
Section C / 1.3	Copy of Insurance certificates enclosed	
Section E / 1.1	Copy of health & safety policy document enclosed (if you have 5 or more employees)	
Section E / 1.3	Copy of health & safety accreditation certificates enclosed	
Section E / 2.7	Equal opportunities & diversity literature enclosed	
Section G / 2	Copies of any relevant professional or trade accreditation certificates enclosed	
	(insert details if anymore information has been requested for this tender)	
Section I	Declaration duly signed	
One hard copy and one CD copy of this questionnaire enclosed		

Please return copies of the completed RTP Questionnaire using the return label provided by the deadline of 12 noon on Friday 30th August.

Please note any questionnaires returned after the deadline will not be considered.



As per email

Tel: (01743) 252993

Fax: (01743) 255901

Please ask for: [REDACTED]

Email: procurement@shropshire.gov.uk

Dear Sirs

DMC 009 - PROVISION OF COMMUNITY HIV PREVENTION AND SUPPORT SERVICES FOR SHROPSHIRE AND TELFORD AND WREKIN COUNCILS SHROPSHIRE COUNCIL

You have been invited to tender for the above requirement. With this letter please find copies of the following documents:

1. Instructions to Tenderers
2. Shropshire Council Draft Public Health Contract
3. Telford & Wrekin Council Draft Public Health Contract (please note this is to follow in due course)
4. Shropshire Council Specification
5. Telford & Wrekin Council Specification
6. Tender Response Document
7. Shropshire Council Pricing Schedule
8. Telford & Wrekin Pricing Schedule
9. TUPE Confidentiality Letter
10. Return Label

Tenders should be made on the enclosed Tender Specification and Response Document. **One hard copy** and **one CD copy** of your Tender must be completed, signed and returned together with a signed copy of the 'Instructions to Tenderers and Special Terms and Conditions'. You are recommended to keep a copy of all tender documents and supporting documents for your own records.

Please pay particular attention to the points below concerning the returning of tenders.

Returning of Tenders

- The deadline for returning tenders is **noon on Monday 25th November**, any tenders received after this time will not be accepted
- Tenders must be returned to the **Democratic Services Manager, Legal and Democratic Services, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND**
- Tenders must be returned in **plain envelope(s)/packaging using the label provided**. Tender packaging must have **no other markings or writing** apart from the label provided

- Tenderers should **not use their company franking machine** and should check if returning their tenders via Royal Mail or a courier to ensure that **no marks identifying you** are placed on the envelope
- Tenders can be delivered any time before the due date, tenders are kept in a secure place and are not opened until after the designated time for receipt
- Tenders can be delivered by hand to the North Entrance Reception at the address given above prior to the deadline

Tenders **cannot** be accepted if:

- Tenders are received by facsimile or email
- Tenders are received after **12 noon on the given deadline**
- Tenders bear any marks identifying the tenderer

Freedom of Information

Under the provisions of the Freedom of Information Act 2000 from 1 January 2005, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. Information about your organisation, which Shropshire Council may receive from you may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

Therefore if you provide any information to Shropshire Council in the expectation that it will be held in confidence, you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

Other Details

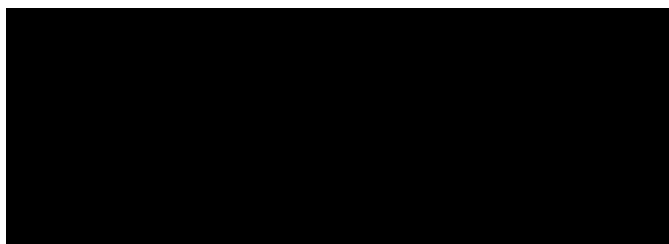
Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender.

As part of its sustainability policy, Shropshire Council encourages tenderers to minimise packaging, particularly presentational or retail packaging.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

If you have any queries relating to this invitation to tender, please contact me on telephone number 01743 252993.

Yours faithfully



Commissioning & Procurement

procurement@shropshire.gov.uk

Tel: 01743 252993

Enc

DATED _____ **2013**

**BOROUGH OF TELFORD &
WREKIN** (1)

and

(2)

AGREEMENT

For

**HIV PREVENTION & SUPPORT
SERVICE**



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THIS AGREEMENT is dated day of 2013

PARTIES

- (1) **BOROUGH OF TELFORD & WREKIN** of Darby House, Lawn Central, Telford, TF3 4JA (“**the Council**”); and
- (2) [**PROVIDER**] of [ADDRESS] OR [incorporated and registered in England and Wales with Council number [No.] whose registered office is [ADDRESS] (“**the Provider**”).

A. GENERAL PROVISIONS

A1 Definitions and Interpretation

A1.1 In this Contract unless the context otherwise requires the following provisions shall have the meanings given to them below:

“Approval” means the written consent of the Council.

“Best Value Duty” means the duty imposed by section 3 of the Local Government Act 1999 (the LGA 1999) as amended, and under which the Council is under a statutory duty to continuously improve the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to any applicable guidance issued from time to time

“Change Control Procedure” means the procedure set out in Schedule 4 (Change Control Procedure)

“Child” means a person who has not attained the age of eighteen (18) years of age

“Commencement Date” means the date of the Contract.

“Commercially Sensitive Information” means the information (i) listed in the Commercially Sensitive Information Schedule; or (ii) notified to the Council in writing (prior to the commencement of this Agreement) which has been clearly marked as Commercially Sensitive Information comprised of information:

- (a) which is provided by the Provider to the Council in confidence for the period set out in that Schedule or notification; and/or
- (b) that constitutes a trade secret.

“Confidential Information” means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the DPA. Confidential Information shall not include information which:

- (i) was public knowledge at the time of disclosure (otherwise than by breach of clause E2 (Confidential Information));
- (ii) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (iii) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (iv) is independently developed without access to the Confidential Information.

“Contract” means this written agreement between the Council and the Provider consisting of these clauses and any attached Schedules.

“Contracting Council” means any contracting Council as defined in Regulation 3 of the Public Contracts Regulations 2006.

“Contract Period” means the period from the Commencement Date to:

- (a) the date of expiry set out in clause A2 (Initial Contract Period),
or
- (b) following an extension pursuant to clause F8 (Extension of Initial Contract Period), the date of expiry of the extended period,

or such earlier date of termination or partial termination of the agreement in accordance with the Law or the provisions of the Contract.

“Contract Price” means the price (exclusive of any applicable VAT), payable to the Provider by the Council under the Contract, as set out in the Pricing Schedule, for the full and proper performance by the Provider of its obligations under the Contract but before taking into account the effect of any adjustment of price in accordance with clause C1 (Charges and Payment).

“Council’s Premises” means the premises which are to be made available for use by the Provider for the provision of the Services on the terms set out in this agreement.

“DBS” means the Disclosure and Barring Service established under the Protection of Freedoms Act 2012

“Default” means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Contract and in respect of which such Party is liable to the other.

“DPA” means the Data Protection Act 1998 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Council or relevant government department in relation to such legislation.

“Effective Date” means the date on which the Services (or any part of the Services), transfer from any Third Party Employer to the Provider, and a reference to the Effective Date shall be deemed to be the date on which the employees in question transferred or will transfer to the Provider.

“Employment Checks” means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks, criminal record checks and occupational health checks

“Employment Liabilities” shall mean all claims, including claims without limitation for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy or maternity, or sexual orientation discrimination, claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims (whether in tort, contract, statute or otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs

and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body), and of implementing any requirements which may arise from such investigation, and any legal costs and expenses.

“Enhanced DBS & Barred List Check” means an Enhanced DBS & Barred List Check (child) or Enhanced DBS & Barred List Check (adult) or Enhanced DBS & Barred List Check (child & adult) (as appropriate)

“Enhanced DBS & Barred List Check (child)” means a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS children's barred list

“Enhanced DBS & Barred List Check (adult)” means a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS adult's barred list

“Enhanced DBS & Barred List Check (child & adult)” means a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS children's and adult's barred list

“Enhanced DBS Check” means 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” means 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 Disclosure or an Enhanced DBS & Barred List Check (as appropriate) is permitted

“Environmental Information Regulations” means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Council or relevant government department in relation to such regulations.

“Equipment” means the Provider’s equipment, plant, materials and such other items supplied and used by the Provider in the performance of its obligations under the Contract.

“Fees Regulations” means the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Council or relevant government department in relation to such legislation.

“Force Majeure” means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:

- (a) any industrial action occurring within the Provider’s or any sub-Provider’s organisation; or
- (b) the failure by any sub-Provider to perform its obligations under any sub-contract.

“Fraud” means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Crown.

“Good Practice” means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of service provision under the same or similar circumstances.

“Information” has the meaning given under section 84 of the FOIA.

“Initial Contract Period” means the period from the Commencement Date to the date of expiry set out in clause A2 (Initial Contract Period), or such earlier date of termination of the Contract in accordance with the Law or the provisions of the Contract.

“Intellectual Property Rights” means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“Key Performance Indicators” means indicators that are key to the delivery of contract against performance.

“Key Personnel” mean those persons named in the Specification as being key personnel. This includes those named as key contacts for the contract and the named clinical lead.

“Key Service Outcomes” means outcomes that are key through delivery of the service against performance.

“Law” means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any Regulatory Body of which the Provider is bound to comply.

“Losses” means 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, excluding Indirect Losses

“Monitoring Schedule” means the Schedule containing details of the monitoring arrangements.

“Month” means calendar month.

“Party” means a party to the Contract.

“Pricing Schedule” means the Schedule containing details of the Contract Price.

“Provider” means the person, firm or company with whom the Council enters into the Contract.

“Quality Standards” means the quality standards detailed in Paragraph 3.3 of Schedule 1 (Service Specification) or such other quality standards that a skilled and experienced operator in the same type of industry or business sector as the Provider would reasonably and ordinarily be expected to comply with.

“Receipt” means the physical or electronic arrival of the invoice at the address of the Council detailed at clause A5.3 or at any other address given by the Council to the Provider for the submission of invoices.

“Regulated Activity” in relation to children as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006

“Regulated Activity Provider” as defined in Section 6 of the Safeguarding Vulnerable Groups Act 2006

“Regulatory Bodies” means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Council and “Regulatory Body” shall be construed accordingly.

“Replacement Provider” means any third party service provider appointed by the Council to supply any services which are substantially similar to any of the Services and which the Council receives in substitution for any of the Services following the expiry, termination or partial termination of the Contract.

“Request for Information” shall have the meaning set out in FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term “request” shall apply).

"Relevant Convictions" means a conviction that is relevant to the nature of the Services [or as listed by the Council and/or relevant to the work of the Council]

“Schedule” means a schedule attached to, and forming part of, the Contract.

“Services” means the services to be supplied as specified in the Specification.

“Service User” means users of the service that this contract will provide.

“Specification” means the description of the Services to be supplied under the Contract as set out in the Service Specification including, where appropriate, the Key Personnel, the Premises and the Quality Standards.

“Specification Schedule” means the Schedule containing details of the Specification.

“Staff” means all persons employed by the Provider to perform its obligations under the Contract together with the Provider’s servants, agents, suppliers and sub-contractors used in the performance of its obligations under the Contract.

“Staff Vetting Procedure” means the Council’s procedures for the vetting of personnel and ensuring that the safeguarding procedures are met and as advised to the Provider by the Council.

“Tender” means the document(s) submitted by the Provider to the Council in response to the Council’s invitation to suppliers for formal offers to supply it with the Services.

“Third Party Employees” means employees of Third Party Employers whose contracts of employment transfer with effect from the Effective Date to the Provider by virtue of the application of TUPE.

“Third Party Employer” means a service provider engaged by the Council to provide Services to the Authority before the Effective Date.

“Transferring Employees” means employees of the Third Party Employer whose contracts of employment transfer with effect from the Effective Date to the Provider by virtue of the application of TUPE.

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

“Variation” has the meaning given to it in clause F3.1 (Variation).

“VAT” means value added tax in accordance with the provisions of the Value Added Tax Act 1994.

“Vulnerable Adult” means any adult to whom an activity which is a Regulated Activity relating to vulnerable adults by virtue of paragraph 7(1) of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 is provided

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

A1.2 The interpretation and construction of this Contract shall be subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;

- (d) reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (e) reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (f) the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”; and
- (g) headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract.

A2 Initial Contract Period

- A2.1 The Contract shall take effect on the Commencement Date and shall expire automatically on **[Insert Date]** unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated, or extended under clause F8 (Extension of Initial Contract Period).

A3 Provider's Status

- A3.1 At all times during the Contract Period the Provider shall be an independent Provider and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be

authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

A4 Council's Obligations

A4.1 Save as otherwise expressly provided, the obligations of the Council under the Contract are obligations of the Council in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Council in any other capacity, nor shall the exercise by the Council of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Council to the Provider.

A5 Notices

A5.1 Except as otherwise expressly provided within the Contract, no notice or other communication from one Party to the other shall have any validity under the Contract unless made in writing by or on behalf of the Party concerned.

A5.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, first class post, recorded delivery or special delivery), or by facsimile transmission or electronic mail (confirmed in either case by letter).

Such letters shall be addressed to the other Party in the manner referred to in clause A5.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given 3 Working Days after the day on which the letter was posted, or 8 hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

A5.3 For the purposes of clause A5.2, the address of each Party shall be:

(a) For the Council:
Telford & Wrekin Council,
Address: Addenbrooke House, Ironmasters Way,
Telford, TF3 4NT.
For the attention of: Children's Commissioning & Contracting
Tel: 01952 388910
Fax: 01952 383993
Email: procurement@telford.gov.uk

(b) For the Provider:
Address
For the attention of:
Tel:
Fax: []
Email:

A5.4 Either Party may change its address for service by serving a notice in accordance with this clause.

A6 Mistakes in Information

A6.1 The Provider shall be responsible for the accuracy of all drawings, documentation and information supplied to the Council by the Provider in connection with the supply of the Services and shall pay the Council any extra costs occasioned by any discrepancies, errors or omissions therein.

A7 Conflicts of Interest

A7.1 The Provider shall take appropriate steps to ensure that neither the Provider nor any Staff is placed in a position where, in the reasonable opinion of the Council, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the

Provider and the duties owed to the Council under the provisions of the Contract. The Provider will disclose to the Council full particulars of any such conflict of interest which may arise.

A7.2 The Council reserves the right to terminate the Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Council, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider and the duties owed to the Council under the provisions of the Contract. The actions of the Council pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Council.

A7.4 Restricted Person means any person:

- a) Who the Council otherwise reasonably believes is inappropriate for public policy reasons to have a controlling interest in the Provider or in a material sub-Provider.

B. SERVICES

B1 The Services

B1.1 The Provider shall provide the Service in accordance with the Service Specification in Schedule 1 (Service Specification), including any service limitations set out in them, and in accordance with the provisions of Contract.

B2 Provision and Removal of Equipment

B2.1 The Provider shall provide all the Equipment necessary for the supply of the Services.

B2.2 The Provider shall maintain all items of Equipment within the Premises in a safe, serviceable and clean condition, as detailed in the specification schedule.

B2.3 The Provider shall, at the Council's written request, at its own expense and as soon as reasonably practicable:

(a) remove from the Premises any Equipment which in the reasonable opinion of the Council is either hazardous, noxious or not in accordance with the Contract; and

(b) replace such item with a suitable substitute item of Equipment.

B3 Manner of Carrying Out the Services

B3.1 The Provider shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of Services has not been specified in the Contract, the Provider shall agree the relevant standard of the Services with the Council prior to the supply of the Services and, in any event, the Provider shall perform its obligations under the Contract in accordance with the Law and Good Practice.

B3.2 The Provider shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.

B3.4 For the avoidance of any doubt it is the Provider's and their Sub-Contractor's responsibility to dispose of such waste materials off site and in so doing to ensure compliance with any laws or regulations relating to such disposal.

B4 Key Personnel and Clinical Lead

B4.1 The Provider acknowledges that the Key Personnel are essential to the proper provision of the Services to the Council. The Key Personnel shall be responsible for:

(a) Being the main point of contact and available at any time required.

B4.2 The Key Personnel shall not be released from supplying the Services without the agreement of the Council, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment and other extenuating circumstances.

B4.3 Any replacements to the Key Personnel shall be subject to the agreement of the Council. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

B4.4 The Council shall not unreasonably withhold its agreement under clauses B4.2 or B4.3. Such agreement shall be conditional on appropriate arrangements being made by the Provider to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel.

B5 Provider's Staff

B5.1 At all times, the Provider must ensure that:

a) each of the Staff is suitably qualified and experienced, adequately trained and capable of providing the applicable Services in respect of which they are engaged;

- b) there is an adequate number of Staff to provide the Services properly in accordance with the provisions of the applicable Service Specification;
- c) where applicable, Staff are registered with the appropriate professional regulatory body; and
- d) Staff are aware of and respect equality and human rights of colleagues and Service Users.

B5.2 If requested by the Council, the Provider shall as soon as practicable and by no later than 20 Business Days following receipt of that request, provide the Council with evidence of the Provider's compliance with clause B5.1.

B5.3 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:

- a) proper and sufficient continuous professional and personal development, training and instruction; and
- b) full and detailed appraisal (in terms of performance and on-going education and training),

each in accordance with Good Practice and the standards of any applicable relevant professional body.

B5.4 Subject to clause B5.5, before the Provider engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Provider must without limitation, complete:

- a) the Employment Checks; and

b) such other checks as required by the DBS.

B5.5 Subject to clause B5.6, the Provider may engage a person in a Standard DBS Position or an Enhanced 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 the Council.

B5.6 Where clause B5.5 applies, the Provider will ensure that until the Standard DBS Check or Enhanced DBS Check or Enhanced DBS & Barred List Check (as appropriate) is obtained, the following safeguards will be put in place:

- a) an appropriately qualified and experienced member of Staff is appointed to supervise the new member of Staff; and
- b) wherever it is possible, this supervisor is on duty at the same time as the new member of Staff, or is available to be consulted; and
- c) the new member of Staff is accompanied at all times by another member of staff, preferably the appointed supervisor, whilst providing services under this Contract; and
- d) any other reasonable requirement of the Council.

B5.7 The Provider must have policies and procedures which acknowledge and provide for ongoing monitoring of the Staff, including undertaking further DBS disclosures every three years.

B5.8 The Provider warrants that at all times for the purposes of this agreement it has no reason to believe that any person who is or will be employed or engaged by the Provider (or any Sub-Contractor) in the provision of the Services is barred from the activity in accordance with

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

B5.9 The Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause B5 have been met.

B5.10 The Provider shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to any [service users/children/vulnerable adults].

B5.11 The Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out a Regulated Activity or who may otherwise present a risk to service users.

B6 Council's Premises

B6.1 The Council may, by written notice to the Provider, refuse to admit onto, or withdraw permission to remain on, the Council's Premises:

- (a) any member of the Staff; or
- (b) any person employed or engaged by any member of the Staff, whose admission or continued presence would, in the reasonable opinion of the Council, be undesirable.

B6.2 At the Council's written request, the Provider shall provide a list of the names and addresses of all persons who may require admission in connection with the Contract to the Council's Premises, specifying the

capacities in which they are concerned with the Contract and giving such other particulars as the Council may reasonably request.

B6.3 The Provider's Staff, engaged within the boundaries of the Council's Premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Council's Premises.

B6.4 The decision of the Council as to whether any person is to be refused access to the Council's Premises shall be final and conclusive.

B7 Continuous Improvement

B7.1 The Provider must to the extent reasonably practicable co-operate with and assist the Council in fulfilling its Best Value Duty.

B7.2 The Provider shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services. As part of this obligation the Provider shall identify and report to the Council's Representative quarterly.

- a) the emergence of new and evolving relevant technologies which could improve the Services;
- b) new or potential improvements to the Services including the quality, responsiveness, procedures, benchmarking methods, performance mechanisms and customer support services in relation to the Services;
- c) new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Council which might result in efficiency or productivity gains or in reduction of operational risk; and

d) changes in ways of working that would enable the Services to be delivered at lower costs and/or at greater benefits to the Council.

B7.3 Any potential changes highlighted as a result of the Provider's reporting in accordance with clause B7.2 shall be addressed by the parties using the Change Control Procedure.

B8 Service Review

B8.1 The Provider must each quarter of this Contract deliver to the Council a service quality performance report against the factors set out in Paragraph 8 Schedule 1 (Service Specification).

B9 Review Meetings

B9.1 The Parties must review and discuss service quality performance reports and monitor performance of the Contract and consider any other matters reasonably required by either Party at Review Meetings.

B9.2 Notwithstanding clause B9.1, if either the Council or the Provider reasonably considers a circumstance constitutes an emergency or otherwise requires immediate resolution that Party may by notice require that a Review Meeting be held as soon as practicable and in any event within 5 Business Days following that notice.

B9.3 Any potential changes highlighted as a result of Service Review in accordance with clause B9 shall be addressed by the parties using the Change Control Procedure.

C CHARGES AND PAYMENT

C1 Charges and Payment

- C1.1 Subject to any provision of this Contract to the contrary (including without limitation those relating to withholding and/or retention), in consideration for the provision of the Services in accordance with the terms of this Contract, the Council shall pay the Provider the Charges set out at Schedule 2 (Charges).
- C1.2 The Provider shall invoice the Council for payment of the Charges at the end of each calendar month (or such other frequency agreed between the Parties in writing) which the Council shall pay within 30 Business Days of receipt.
- C1.3 The charges are stated exclusive of vat, which shall be added at the prevailing rate as applicable and paid by the Council following delivery of a valid VAT invoice.
- C1.4 In its performance of this Contract the Provider shall not provide or offer to a Service User any clinical, medical or other services for which any charges would be payable by the Service User (other than in accordance with this Contract, the Law and/or Guidance).
- C1.5 If a Party, acting in good faith, contests all or any part of any payment calculated in accordance with this clause C1:
- a) the contesting Party shall within 10 Business Days notify the other Party, setting out in reasonable detail the reasons for contesting the requested payment, and in particular identifying which elements are contested and which are not contested;
 - b) any uncontested amount shall be paid in accordance with this Contract.
- C1.6 If a Party contests a payment under clause C1.5 and the Parties have not resolved the matter within 30 Business Days of the date of notification under clause C1.5, the contesting Party may refer the

matter to dispute resolution under clause I 2 (Dispute Resolution) and following the resolution of any dispute referred to dispute resolution, where applicable the relevant party shall pay any amount agreed or determined to be payable in accordance with clause C1 (Charges and Payment) such sums are to be paid without interest.

C1.7 Subject to any express provision of this Contract to the contrary each Party shall be entitled, without prejudice to any other right or remedy it has under this Contract, to receive interest at the Default Interest Rate on any payment not made from the day after the date on which payment was due under clause C1.2 up to and including the date of payment.

C1.8 Each Party may retain or set off any sums owed to the other Party which have fallen due and payable against any sum due to the other Party under this Contract or any other agreement between the Parties.

C2 Recovery of Sums Due

C2.1 Wherever under the Contract any sum of money is recoverable from or payable by the Provider (including any sum which the Provider is liable to pay to the Council in respect of any breach of the Contract), the Council may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Provider under the Contract or under any other agreement or contract with the Council.

C2.2 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

C2.3 The Provider shall make all payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Provider has a valid court order requiring an

amount equal to such deduction to be paid by the Council to the Provider.

C2.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

D. STATUTORY OBLIGATIONS AND REGULATIONS

D1 Prohibited Acts

D1.1 Neither Party shall do any of the following:

- a) offer, give, or agree to give the other Party (or any of its Staff) 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 Contract or any other contract with the other Party, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the other Party; and
- b) in connection with this Contract, pay or agree 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 the other Party,

(together "**Prohibited Acts**").

D1.2 If either Party or its Staff (or anyone acting on its or their behalf) commits any Prohibited Act or commits any offence under the Bribery Act 2010 with or without the knowledge of the other Party in relation to this Contract, the non-defaulting Party shall be entitled:

- a) to exercise its right to terminate under clause H3 (Termination on Default) and to recover from the defaulting Party the amount of any loss resulting from the termination; and
- b) to recover from the defaulting Party the amount or value of any gift, consideration or commission concerned; and
- c) to recover from the defaulting Party any loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence.

D1.3 Each Party must provide the other Party upon written request with all reasonable assistance to enable that Party to perform any activity required for the purposes of complying with the Bribery Act 2010. Should either Party request such assistance the Party requesting assistance must pay the reasonable expenses of the other Party arising as a result of such request.

D1.4 The Provider must have in place an anti bribery policy for the purposes of preventing any of its Staff from committing a prohibited act under the Bribery Act 2010. Such policy must be disclosed to the Council within 5 Business Days of the Council requesting it and enforced by the Provider where applicable.

D1.5 Should the Provider become aware of or suspect any breach of this clause D1, it will notify the Council immediately. Following such notification, the Provider must respond promptly and fully to any enquiries of the Council, co-operate with any investigation undertaken by the Council and allow the Council to audit any books, records and other relevant documentation.

D2. Counter-Fraud and Security Management

- D2.1 The Provider must put in place and maintain appropriate counter fraud and security management arrangements.
- D2.2 The Provider must take all reasonable steps, in accordance with good industry practice, to prevent Fraud by Staff and the Provider in connection with the receipt of monies from the Council.
- D2.3 The Provider must notify the Council immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- D2.4 If the Provider or its Staff commits Fraud in relation to this or any other contract with the Council, the Council may terminate this Contract by written notice to the Provider with immediate effect (and terminate any other contract the Provider has with the Council) and recover from the Provider the amount of any Loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services for the remainder of the term of this Contract had it not been terminated.

D3 Equity of Access, Equality and No Discrimination

- D3.1 The Parties must not discriminate between or against Service Users, on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation or any other non-medical characteristics except as permitted by the Law.
- D3.2 The Provider must provide appropriate assistance and make reasonable adjustments for Service Users, who do not speak, read or write English or who have communication difficulties (including without limitation hearing, oral or learning impairments).

D3.3 In performing this Contract the Provider must comply with the Equality Act 2010 and have due regard to the obligations contemplated by section 149 of the Equality Act 2010 to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act 2010;
- b) advance equality of opportunity between persons who share a relevant protected characteristic (as defined in the Equality Act 2010) and persons who do not share it; and
- c) foster good relations between persons who share a relevant protected characteristic (as defined in the Equality Act 2010) and persons who do not share it,

and for the avoidance of doubt this obligation shall apply whether or not the Provider is a Public Authority for the purposes of section 149 of the Equality Act 2010.

D3.4 As soon as reasonably practicable following any reasonable request from the Council, the Provider must provide the Council with a plan detailing how it will comply with its obligations under clause B5.3.

D3.5 The Provider must provide to the Council as soon as reasonably practicable, any information that the Council reasonably requires to:

- a) monitor the equity of access to the Services; and
- b) fulfil their obligations under the Law.

D4 The Contracts (Rights of Third Parties) Act 1999

D4.1 A person who is not a Party to the Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

D5 Health and Safety

D5.1 The Provider shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract.

D5.2 While on the Premises, the Provider shall comply with any health and safety measures implemented by the Council in respect of Staff and other persons working there.

D5.3 The Provider shall notify the Council immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

D5.4 The Provider shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of its obligations under the Contract.

D5.5 The Provider shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Council on request.

D6 Safeguarding Requirements

D6.1 The Provider shall adopt the Council's procedures for dealing with allegations or suspicions of Abuse including the [West Midlands Multi-Agency Safeguarding Adults Policy and Procedure](#) (July 2012) (as amended from time to time during the Term).and the [West Mercia Consortium Inter-Agency Child Protection Procedures for Safeguarding Children](#) (February 2013) (as amended from time to time during the Term).

D6.2 The Council's Representative must be notified immediately in writing by the Provider of all instances of suspected Abuse of any Service User which comes to the attention of the Provider by any means pursuant to the operation of this Agreement.

D6.3 In cases of actual or suspected abuse to a Service User who is a Child or Vulnerable Adult the Provider must ensure strict adherence to the policies and procedures outlined in this clause 3 in order to protect the Service User, and in so doing shall comply with requirements of any investigation carried out by the Council or other appropriate agency.

D7 Human Rights

D7.1 The Provider must not do or permit to allow anything to be done which is incompatible with the rights contained in the European Convention on Human rights and the Human Rights Act 1998. Without prejudice to the rights of the Council under clause G1 (Liability, Indemnity and Insurance), the Provider must indemnify the Council against any loss, claims and expenditure resulting from the Provider's breach of this clause.

E PROTECTION OF INFORMATION

E1 Data Protection Act

- E1.1 For the purposes of this Clause E1, the terms “Data Controller”, “Data Processor”, “Data Subject”, “Personal Data”, “Process” and “Processing” shall have the meaning prescribed under the DPA.
- E1.2 The Provider shall (and shall ensure that all of its Staff) comply with any notification requirements under the DPA and both Parties will duly observe all their obligations under the DPA which arise in connection with the Contract.
- E1.3 Notwithstanding the general obligation in clause E1.2, where the Provider is processing Personal Data as a Data Processor for the Council the Provider shall ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA; and
- a) provide the Council with such information as the Council may reasonably request to satisfy itself that the Provider is complying with its obligations under the DPA;
 - b) promptly notify the Council of any breach of the security measures to be put in place pursuant to this clause; and
 - c) ensure that it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council’s obligations under the DPA.
- E1.4 The Provider shall
- (a) Process the Personnel Data only in accordance with instructions from the Council (which may be specific instructions or

instructions of a general nature) as set out in this Contract or as otherwise notified by the Council;

- (b) comply with all applicable laws;
- (c) Process the Personal Data only to the extent; and in such manner as is necessary for the provision of the Provider's obligations under this Contract or as is required by Law or any Regulatory Body;
- (d) take reasonable steps to ensure the reliability of its staff and agents who may have access to the Personal Data;
- (e) obtain prior written consent from the Council in order to transfer the Personal Data to any sub-Provider for the provision of the Services;
- (f) not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior consent of the Council;
- (g) ensure that all staff and agents required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause E1;
- (h) ensure that none of the staff and agents publish disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by the Council
- (i) not disclose Personnel Data to any third parties in any circumstances other than with the written consent of the Council or in compliance with a legal obligation imposed upon the Council

- (j) The council will make available a standard data collection agreement wording that MUST be used when collecting personal Identification Data. The Provider will need to ensure all clients read and agree with the data collection statement on take up the service. The provider MUST abide by the council data collection policy.
- (k) Upon Termination of this Contract the Provider shall transfer all original files, whether hard copy, electronic copy or in a virtual space to the Council (or it's nominee) within a time specified by the Council.

E1.5 The Provider shall notify the Council (within Three Working Days) if it receives:

- (a) a request from a Data Subject to have access to that person's Personal Data; or
- (b) a complaint or request relating to the Council's obligations under the DPA;

E1.6 The provision of this Clause E1 shall apply during the Contract Period and indefinitely after its expiry.

E2 Confidential Information

E2.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:

- (a) treat all Confidential Information belonging to the other Party as confidential and use all reasonable endeavours to prevent their Staff from making any disclosure to any person of any such Confidential Information; and

- (b) not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of either Party's obligations under the Contract or except where disclosure is otherwise expressly permitted by the provisions of the Contract.

E2.2 The Provider shall ensure that Staff or such professional advisors or consultants give a confidentiality undertaking before beginning work in connection with the Contract.

E2.3 The Provider shall not use any Confidential Information it receives from the Council otherwise than for the purposes of the Contract.

E2.4 Nothing in clauses E2.1 to E2.3 shall prevent the Council disclosing any Confidential Information obtained from the Provider:

- (a) for the purpose of the examination and certification of the Council's accounts; or
- (b) for the purpose of any examination of the economy, efficiency and effectiveness with which the Council has used its resources; or
- (c) to any government department or any other Contracting Council and the Provider hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Council; or

- (d) to any consultant, Provider or other person engaged by the Council, or any person conducting an Office of Government Commerce gateway review;

provided that in disclosing information under sub-paragraphs (c) and (d) the Council discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

E2.5 Nothing in clauses E2.1 to E2.3 shall prevent either Party from:

- (a) using any techniques, ideas or know-how gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights, or
- (b) disclosing Confidential Information which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations.

E2.6 In the event that the Provider fails to comply with clauses E2.1 to E2.3, the Council reserves the right to terminate the Contract with immediate effect by notice in writing.

E2.7 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Goods under the Contract, the Provider undertakes to maintain adequate security arrangements that meet the requirements of professional standards and best practice.

- E2.8 The Provider may only disclose the Council's Confidential Information to the Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
- E2.9 The Provider shall immediately notify the Council of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services under the Contract and will keep a record of such breaches. The Provider shall use its best endeavors to recover such Confidential Information or data however it may be recorded. This obligation is in addition to the Provider's obligations under clauses E2.1 to E2.3. The Provider shall co-operate with the Council in any investigation that the Council considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.
- E2.10 The Provider shall, at its own expense, alter any security systems at any time during the Contract Period at the Council's request if the Council reasonably believes the Provider has failed to comply with clause E2.8.

E3 Freedom of Information

- E3.1 The Provider shall acknowledge that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.
- E3.2 The Provider shall and shall procure that any Sub-Contractors shall transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

The Provider shall and shall procure that any sub-contractor shall:-

- (a) provide the Council with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and
- (b) provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

E3.3 The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations

E3.4 In no event the Provider shall respond directly to a Request for Information unless expressly authorised to do so by the Council.

E3.5 The Provider shall acknowledge that (notwithstanding the provisions of Clause E4 (Publicity, Media and Official Enquiries) the Council may, acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (“**the Code**”), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Provider or the Services in certain circumstances:

- (a) without consulting the Provider; or

- (b) following consultation with the Provider and having taken their views into account;

provided always that where E4.5(a) applies the Council 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.

E3.6 The Provider shall have a retention and disposal policy agreed with the Council.

E4 Publicity, Media and Official Enquiries

E4.1 Without prejudice to the Council's obligations under the FOIA, neither Party shall make any press announcement or publicise the Contract or any part thereof in any way, except with the written consent of the other Party.

E4.2 Both Parties shall take reasonable steps to ensure that their servants, employees, agents, Sub-Contractors, suppliers, professional advisors and consultants comply with clause E4.1.

E4.3 All public announcements made by the Provider must firstly be agreed by the Council's communications team in writing. The provider will abide by the council communications policy.

E5 Intellectual Property Rights

E5.1 In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Provider or any employee, agent or subcontractor of the Provider:

- (a) in the course of performing the Services; or

(b) exclusively for the purpose of performing the Services,

shall vest in the Authority on creation, free from all third party rights, for the purposes of the exercise of its functions and obtaining the full benefit of the Services, which will include the dissemination of best practice.

E5.2 The Provider grants to the Council a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights (IPR) that the Provider owned or developed prior to the Commencement Date and which the Council reasonably requires in order exercise its rights and take the benefit of this Contract including the Services provided.

E5.3 The Council grants the Provider a fully paid up non-exclusive licence to use Council IPR for the duration of this Contract for the sole purpose of providing the Services.

E5.4 At its own expense, the Provider shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this agreement, including securing for the Council all right, title and interest in and to the IPR and all other rights assigned to the Council in accordance with clauses E5.1 and E5.2.

E5.5 The Provider shall obtain waivers of any moral rights in the products of the Services (including the Deliverables) to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

E5.6 In the event that the Provider or the Council at any time devise, discover or acquire rights in any Improvement, they must promptly notify the other Party of the IPR to which that Improvement relates giving full details of the Improvement and whatever information and explanations as that Party may reasonably require to be able to use the Improvement effectively and must assign to that Party all rights and title in any such Improvement without charge.

E5.7 For the purposes of this clause:

Council IPR means any IPR owned by or licensed to the Council which is relevant and necessary to the performance of the Services by the Provider, including Improvements.

Improvements means any improvement, enhancement or modification to the Provider IPR which cannot be used independently of the Provider IPR or any improvement, enhancement or modification to the Council IPR which cannot be used independently of the Council IPR.

IPR means 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.

Provider IPR means any IPR owned by or licensed to the Provider (other than by the Council) that will be used by the Provider in the delivery of the Services.

E6 Audit

E6.1 The Provider shall keep and maintain until 6 years after the end of the Contract Period, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Council, and all

payments made by the Council. The Provider shall on request afford the Council or the Council's representatives such access to those records as may be requested by the Council in connection with the Contract.

E6.2 Subject to requirements of the Data Protection Act 1998, the Provider shall provide all reasonable co-operations and afford all reasonable access to personnel and records in order to assist the council in carrying out its function and in relation to this contract.

E7 Transparency

E7.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

E7.2 Notwithstanding any other term of this Contract hereby gives his consent for the Council to publish the Contract in its entirety, including from time to time agreed changes to the Agreement, to the general public.

F. CONTROL OF THE CONTRACT

F1 Transfer and Sub-Contracting

F1.1 The provider must not, assign, delegate, transfer, sub-contract, charge or otherwise dispose of all or any of its rights or obligations under this Contract without the Council in writing:

(a) consenting to the appointment of the Sub-contractor (such consent not to be unreasonably withheld or delayed); and

(b) approving the Sub-contract arrangements (such approval not to be unreasonably withheld or delayed);

F1.2 The Council's consent to sub-contracting under F1.1 will not relieve the Provider of its liability to the Council for the proper performance of any of its obligations under this Contract and the Provider shall be responsible for the acts, defaults or neglect of any Sub-contractor, or its employees or agents in all respects as if they were the acts, defaults or neglect of the Provider.

F1.3 Any sub-contract submitted by the Provider to the Council for approval of its terms, must impose obligations on the proposed sub-contractor in the same terms as those imposed on it pursuant to this Contract to the extent practicable.

F1.4 The Council may assign, transfer, novate or otherwise dispose of any or all of its rights and obligations under this Contract without the consent of the Provider.

F1.5 This Contract will be binding on and will be the benefit of the Council and Provider and their respective successors and permitted transferees and assigns.

F2 Waiver

F2.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.

F2.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause A5 (Notices).

F2.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

F3 Variation

F3.1 The Contract may not be varied or amended other than in accordance with this clause F3.

F3.2 Either party may from time to time during the term of this Contract, by written notice to the other party, request a Variation. A Variation Notice must set out in as much detail as is reasonably practicable the proposed Variation(s).

F3.3 If a Variation Notice is issued, the Council and the Provider must enter into good faith negotiations for a period of not more than 30 Business Days from the Date of the Variation Notice (unless such period is extended by the Parties in writing) with a view to reaching agreement on the proposed Variation, including on any adjustment to the Charges that, in all the circumstances, properly and fairly reflects the nature and extent of the proposed Variation.

If the parties are unable to agree a proposed Variation within such time period (or extended time period), the proposed Variation shall be deemed withdrawn and the Parties shall continue to perform their obligations under this Contract.

F3.4 No Variation to this Contract will be valid or of any affect unless agreed in writing by the Council Representative (or it's nominee) and the Provider Representative (or it's nominee) in accordance with this

clause F3. All agreed Variations will have a unique Variation Number assigned to it.

F4 Severability

F4.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

F5 Remedies in the event of inadequate performance

F5.1 Where a complaint is received about the standard of Services or about the manner in which any Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Provider's obligations under the Contract, then the Council shall notify the Provider, and where considered appropriate by the Council, investigate the complaint. The Council may, in its sole discretion, uphold the complaint and take further action in accordance with either clause H1 (Suspension and the Consequences of Suspension) or clause H3 (Termination on Default) of the Contract.

F5.2 In the event that the Council is of the reasonable opinion that there has been a material breach of the Contract by the Provider, then the Council may, without prejudice to its rights under clause H3 (Termination on Default), do any of the following:

- (a) In the event that the Council is of the reasonable opinion that a Suspension Event has occurred in accordance with clause H1 (Suspension and Consequences of Suspension) then the Council may suspend services in accordance with clause H1; and/or

- (b) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services; and/or
- (c) terminate, in accordance with clause H3 (Termination on Default), the whole of the Contract.

F5.3 Without prejudice to its right under clause C2 (Recovery of Sums Due), the Council may charge the Provider for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Council or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Provider for such part of the Services and provided that the Council uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.

F6 Remedies Cumulative

Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

F7 Monitoring of Contract Performance

F7.1 The Provider shall comply with the monitoring arrangements set out in Schedule 1 (Service Specification) including, but not limited to, providing such data and information as the Provider may be required to produce under the Contract.

F8 Extension of Initial Contract Period

F8.1 Subject to clause C1 (Charges and Payments), the Council may, by giving written notice to the Provider up to 3 months prior to the last day of the Initial Contract Period, extend the Contract for a further period of up to 12 Month(s). The provisions of the Contract will apply (subject to any Variation or adjustment to the Contract Price pursuant to clause C1 (Charges and Payments) throughout any such extended period.

F9 Entire Agreement

F9.1 The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

F9.2 In the event of, and only to the extent of, any conflict between the clauses of the Contract, any document referred to in those clauses and the Schedules, the conflict shall be resolved in accordance with the following order of precedence:

- (a) the clauses of the Contract;
- (b) the Schedules; and
- (c) any other document referred to in the clauses of the Contract.

F10 Counterparts

F10.1 This Contract may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

G LIABILITIES

G1 Liability, Indemnity and Insurance

- G1.1 Neither Party excludes or limits liability to the other Party for death or personal injury caused by its negligence or for any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.
- G1.2 The Provider shall indemnify and keep indemnified the Council fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with the Contract including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Provider, or any other loss which is caused directly or indirectly by any act or omission of the Provider. This Condition shall not apply to the extent that the Provider is able to demonstrate that such death or personal injury, or loss or damage was not caused or contributed to by its negligence or default, or the negligence or default of its staff or sub-contractor, or by any circumstances within its or their control.
- G1.3 The Provider shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing as a minimum the following levels of cover:
- (a) public liability insurance with a limit of indemnity of not less than £10,000,000.00 (ten million pounds) in relation to any one claim or series of claims;

- (b) employer's liability insurance in respect of Staff in accordance with any legal requirement for the time being in force in relation to any one claim or series of claims;
- (c) clinical negligence and malpractice insurance with a limit of indemnity of not less than £10,000,000.00 (ten million pounds) in relation to any one claim or series of claims and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover.

(the **Required Insurances**)

- G1.4 The cover shall be in respect of all risks which may be incurred by the Provider, arising out of the Provider's performance of the agreement, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Provider.
- G1.5 The Provider shall give the Council, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- G1.6 If, for whatever reason, the Provider fails to give effect to and maintain the Required Insurances, the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.
- G1.7 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under the agreement.

G1.7 The Provider shall hold and maintain the Required Insurances for a minimum of six years following the expiration or earlier termination of the agreement.

G2 Warranties and Representations

G2.1 The Provider warrants and represents that:

- (a) it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised representative of the Provider;
- (b) in entering the Contract it has not committed any Fraud;
- (c) as at the Commencement Date, all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Contract;
- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider or for its dissolution or for the

appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue;

- (g) it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (h) in the three 3 years prior to the date of the Contract:
 - (i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - (iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract.

H SUSPENSION, DEFAULT, DISRUPTION AND TERMINATION

H1 Suspension and Consequences of Suspension

H1.1 A suspension event shall have occurred if:

- a) the Council reasonably considers that a breach by the Provider of any obligation under this Contract:

- (i) may create an immediate and serious threat to the health or safety of any Service User; or
 - (ii) may result in a material interruption in the provision of any one or more of the Services; or
- b) clause H1.1 does not apply, but the Council, acting reasonably, considers that the circumstances constitute an emergency, (which may include an event of Force Majeure) affecting provision of a Service or Services; or
- c) the Provider is prevented, or will be prevented, from providing a Service due to the termination, suspension, restriction or variation of any Consent,
- (each a “**Suspension Event**”).

H1.2

Where a Suspension Event occurs the Council:

- a) may by written notice to the Provider and with immediate effect suspend any affected Service, or the provision of any affected Service, until the Provider demonstrates to the reasonable satisfaction of the Council that it is able to and will perform the suspended Service, to the required standard; and
- b) may itself supply or procure the supply of all or part of the affected Service until the Provider demonstrates to the reasonable satisfaction of the Council that it is able to and will perform the suspended Service, to the required standard in accordance with the Contract
- c) must where applicable promptly notify the Care Quality Commission and/or any relevant Regulatory Body of the suspension.

- H1.3 During the suspension of any Service under clause H1.2, the Provider must comply with any steps the Council reasonably specifies in order to remedy the Suspension Event, including where the Council's decision to suspend pursuant to clause H1.2 has been referred to dispute resolution under clause I2 (Dispute Resolution).
- H1.4 During the suspension of any Service under clause H1.2, the Provider will not be entitled to claim or receive any payment for the suspended Service except in respect of:
- a) all or part of the suspended Service the delivery of which took place before the date on which the relevant suspension took effect in accordance with clause H1.2; and/or
 - b) all or part of the suspended Service which the Provider continues to deliver during the period of suspension in accordance with clause H1.5.
- H1.5 The Parties must use all reasonable endeavours to minimise any inconvenience caused or likely to be caused to Service Users as a result of the suspension of the Service.
- H1.6 Except where suspension occurs by reason of an event of Force Majeure, the Provider must indemnify the Council in respect of any Losses directly and reasonably incurred by the Council in respect of that suspension (including for the avoidance of doubt Losses incurred in commissioning the suspended Service).
- H1.7 Following suspension of a Service the Provider must at the reasonable request of the Council and for a reasonable period:
- a) co-operate fully with the Council and any Successor Provider of the suspended Service in order to ensure continuity and a smooth transfer of the suspended Service and to avoid any inconvenience to

or risk to the health and safety of Service Users, employees of the Council or members of the public; and

b) at the cost of the Provider:

- (i) promptly provide all reasonable assistance and all information necessary to effect an orderly assumption of the suspended Service by an alternative Successor Provider; and
- (ii) deliver to the Council all materials, papers, documents and operating manuals owned by the Council and used by the Provider in the provision of the suspended Service.

H1.8 As part of its compliance with clause H1.7 the Provider may be required by the Council to agree a transition plan with the Council and/or any alternative Successor Provider.

H1.9 If it is determined, pursuant to clause I2 (Dispute Resolution), that the Council acted unreasonably in suspending a Service, the Council must indemnify the Provider in respect of any Losses directly and reasonably incurred by the Provider in respect of that suspension.

H2 Termination on insolvency and change of control

H2.1 The Council may terminate this Contract in whole or part with immediate effect by written notice to the Provider if:

- a) a resolution is passed or an order is made for the winding up of the Provider (otherwise than for the purpose of solvent amalgamation or reconstruction) or the Provider becomes subject to an administration order or a receiver or administrative receiver is appointed over or an encumbrancer takes possession of any of the Provider's property or equipment;

- b) the Provider undergoes a change of control, where the change of control impacts or may reasonably be expected to impact adversely and materially on the performance of the Contract, provided that the Council has not already agreed to the change of control in writing and the Council's right to terminate the Contract under this clause C20 is exercised within 6 months of the change of control. References in this clause C20 to a change of control are to be understood within the meaning of section 1124 of the Corporation Tax Act 2010;
- c) the Provider ceases or threatens to cease to carry on business in the United Kingdom; or

H3 Termination on Default

H3.1 The Council may terminate the Contract by written notice to the Provider with immediate effect if the Provider commits a Default and if:

- (a) the Provider has not remedied the Default to the satisfaction of the Council within 25 Working Days, or such other period as may be specified by the Council, after issue of a written notice specifying the Default and requesting it to be remedied; or
- (b) the Default is not, in the opinion of the Council, capable of remedy; or
- (c) the Default is a material breach of the Contract.

H3.2 The Council may terminate this Contract in whole or part with immediate effect by written notice to the Provider if:

- a) the Provider is in persistent or repetitive breach of the Quality Outcomes Indicators;

- b) the Council reasonably considers that the Provider has acted in a manner which is prejudicial to the Council's interests;
- c) the Provider:
 - (i) fails to obtain any Consent;
 - (ii) loses any Consent; or
 - (iii) has any Consent varied or restricted, the effect of which might reasonably be considered by the Council to have a material adverse effect on the provision of the Services;
- d) the Provider has breached the terms of clause D1 (Prohibited Acts);
- e) the Provider materially breaches its obligations in clause E1 (Data Protection);
- f) the Provider breaches the terms of clause F1 (Transfer and Sub-Contracting);

H3.3 If the Council fails to pay the Provider undisputed sums of money when due, the Provider shall notify the Council in writing of such failure to pay. If the Council fails to pay such undisputed sums within 90 Working Days of the date of such written notice, the Provider may terminate the Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Council exercising its rights under clauses C2 (Recovery of Sums Due).

H3.4 Either Party may terminate this Contract or any Service by written notice, with immediate effect, if and to the extent that the Council or the

Provider suffers an event of Force Majeure and such event of Force Majeure persists for more than 30 Business Days without the Parties agreeing alternative arrangements.

H4 Break

H4.1 The Council shall have the right to terminate the Contract at any time by giving 3 Months' written notice to the Provider.

H5 Consequences of Expiry or Termination

H5.1 Where the Council terminates the Contract under clause H2 (Termination on Default) and then makes other arrangements for the supply of Services, the Council may recover from the Provider the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Council throughout the remainder of the Contract Period. The Council shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under clause H2 (Termination on Default), no further payments shall be payable by the Council to the Provider (for Services supplied by the Provider prior to termination and in accordance with the Contract but where the payment has yet to be made by the Council), until the Council has established the final cost of making the other arrangements envisaged under this clause.

H5.2 The Council shall not be liable to pay any sum which:

- (a) was claimable under insurance held by the Provider, and the Provider has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy;
- (b) when added to any sums paid or due to the Provider under the Contract, exceeds the total sum that would have been payable

to the Provider if the Contract had not been terminated prior to the expiry of the Contract Period; or

- (c) is a claim by the Provider for loss of profit, due to early termination of the Contract.

H5.3 Save as otherwise expressly provided in the Contract:

- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Council or the Provider under clauses C1 (Charges and Payment), C2 (Recovery of Sums Due), D1 (Prohibited Acts), E1 (Data Protection Act), (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), E2 (Confidential Information), E3 (Freedom of Information), E5 (Intellectual Property Rights), E6 (Audit), F6 (Remedies Cumulative), G1 (Liability, Indemnity and Insurance), G2 (Warranties and Representations), H5 (Consequences of Expiry or Termination), H7 (Recovery upon Expiry or Termination) and I1 (Governing Law and Jurisdiction).

H6 Disruption

H6.1 The Provider shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Council, its employees or any other Provider employed by the Council.

H6.2 The Provider shall immediately inform the Council of any actual or potential industrial action, whether such action is by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.

H6.3 In the event of industrial action by the Staff, the Provider shall seek Approval to its proposals to continue to perform its obligations under the Contract.

H6.4 If the Provider's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Council acting reasonably, then the Contract may be terminated with immediate effect by the Council by notice in writing.

H6.5 If the Provider is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business of the Council, the Provider may request a reasonable allowance of time and in addition, the Council will reimburse any additional expense reasonably incurred by the Provider as a direct result of such disruption.

H7 Recovery upon Termination

H7.1 On the termination of the Contract for any reason, the Provider shall:

(a) immediately return to the Council original copies of all Confidential Information, Personal Data and IP Materials in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Services;

(b) immediately deliver to the Council all Property (including materials, documents, information and access keys) provided to the Provider under clause B6. Such property shall be handed

back in good working order (allowance shall be made for reasonable wear and tear);

- (c) assist and co-operate with the Council to ensure an orderly transition of the provision of the Services to the Replacement Provider and/or the completion of any work in progress.
- (d) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Council for the purposes of adequately understanding the manner in which the Services have been provided or for the purpose of allowing the Council or the Replacement Provider to conduct due diligence.

H7.2 If the Provider fails to comply with clause H7.1 (a) and (b), the Council may recover possession thereof and the Provider grants a licence to the Council or its appointed agents to enter (for the purposes of such recovery) any premises of the Provider or its permitted suppliers or sub-Providers where any such items may be held.

H7.3 Where the end of the Contract Period arises due to the Provider's Default, the Provider shall provide all assistance under clause H7(c) and (d) free of charge. Otherwise, the Council shall pay the Provider's reasonable costs of providing the assistance and the Provider shall take all reasonable steps to mitigate such costs.

H8 Force Majeure

H8.1 Where a Party is (or claims to be) affected by an event of Force Majeure, it must take all reasonable steps to mitigate the consequences of it, resume performance of its obligations under this Contract as soon as practicable and use its reasonable efforts to remedy its failure to perform its obligations under this Contract.

H8.2 Subject to clause H8.1, the Party claiming relief as a result of an event of Force Majeure will be relieved from liability under this Contract to the extent that because of the event of Force Majeure it is not able to perform its obligations under this Contract.

H8.3 The Party claiming relief as a result of an event of Force Majeure must serve an initial written notice on the other Party immediately it becomes aware of the event of Force Majeure. This initial notice shall give sufficient details to identify the particular event. The Party claiming relief must then serve a detailed written notice within a further 15 Business Days. This detailed notice shall contain all relevant available information relating to the failure to perform the relevant obligations under this Contract as is available, including the effect of the event of Force Majeure, the mitigating action being taken and, subject to clause H2.4, an estimate of the period of time required to overcome it and resume full delivery of Services.

H8.4 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.

H8.5 The Council shall not be entitled to exercise any rights to withholdings and/or deduction of payments under this Contract, to the extent that the circumstances giving rise to such rights arise as a result of an event of Force Majeure.

H9 TUPE

H9.1 If upon termination of this Contract the Services provided are transferred to another service provider then the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply. In such circumstances the contracts of employment of those employees who are essentially dedicated to the Services will

transfer to the new service provider (a **Relevant Transfer**) who will inherit the rights, duties and liabilities in relation to them.

H9.2 The Parties agree that the provisions of Schedule 3 (TUPE) shall apply to any Relevant Transfer of staff under this agreement

I DISPUTES AND LAW

I1 Governing Law and Jurisdiction

Subject to the provisions of clause I2, the Council and the Provider accept the exclusive jurisdiction of the English courts and agree that the Contract and all non-contractual obligations and other matters arising from or connected with it are to be governed and construed according to English Law.

I2 Dispute Resolution

I2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director (or equivalent) of each Party.

I2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

I2.3 If the dispute cannot be resolved by the Parties pursuant to clause I2.1 the Parties shall refer it to mediation pursuant to the procedure set out in clause I2.5 unless (a) the Council considers that the dispute is not

suitable for resolution by mediation; or (b) the Provider does not agree to mediation.

I2.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Provider and the Staff shall comply fully with the requirements of the Contract at all times.

I2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:

(a) a neutral adviser or mediator (the “**Mediator**”) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to an appropriate mediation provider to appoint a Mediator.

(b) The Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from an appropriate mediation provider to provide guidance on a suitable procedure.

(c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

- (d) If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.

- (e) If the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.

DRAFT

This Agreement has been entered into on the date stated at the beginning of it.

Signed for and behalf of)
BOROUGH OF TELFORD)
& WREKIN)

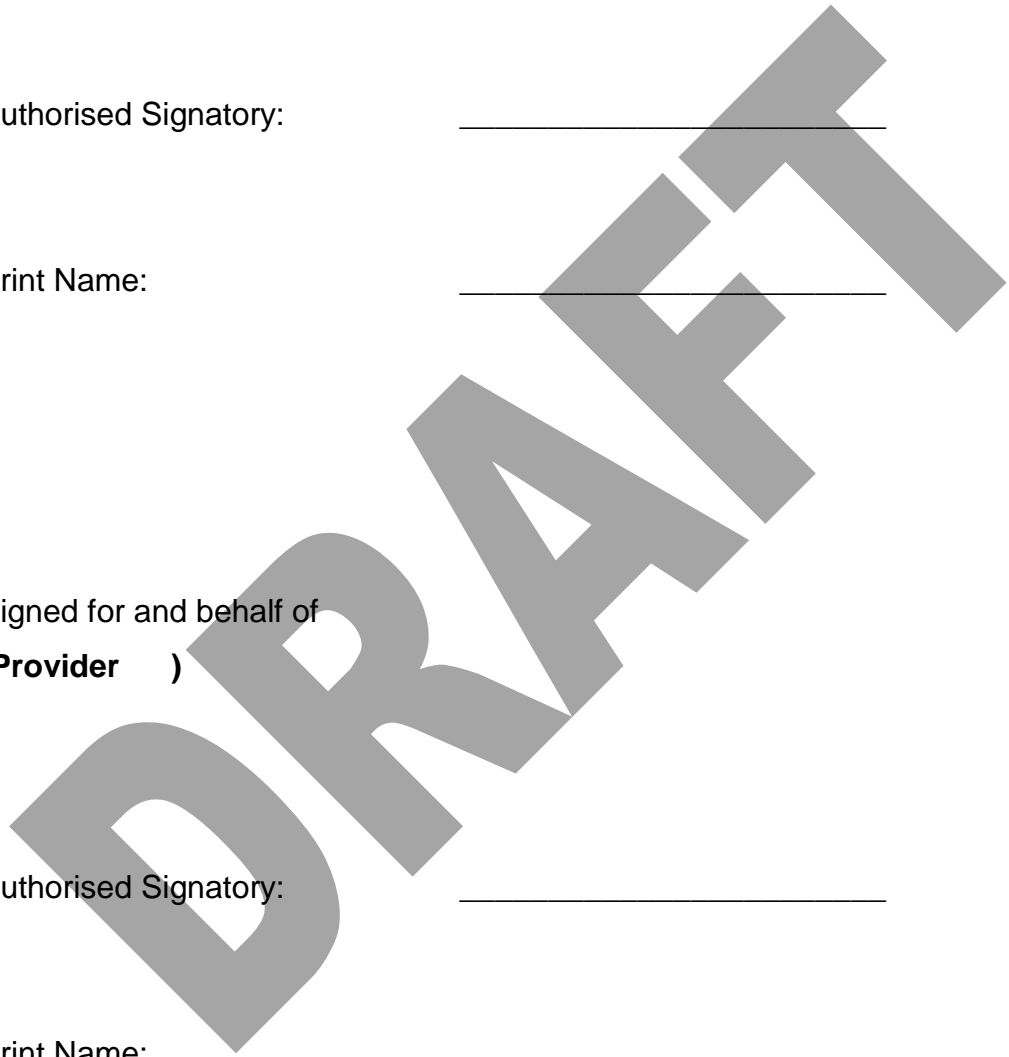
Authorised Signatory: _____

Print Name: _____

Signed for and behalf of
(Provider)

Authorised Signatory: _____

Print Name: _____



SCHEDULE 1
Service Specification

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Service Specification

Care Pathway/Service	HIV Prevention and Support Service
Commissioner Lead	Telford & Wrekin Council
Provider Lead	
Period	

1. Purpose

This Service Specification identifies the requirements for the provision of a comprehensive, evidence-based and innovative HIV Prevention and Support Service. The Specification sets out the expectations of Telford & Wrekin Council (the Commissioner) and the processes for monitoring, evaluation and review of performance against the Specification.

1.1 Aim(s)

The aim of this Service Specification is to outline the Public Health outcomes of a HIV Prevention and Support Service that will be targeted at groups at increased vulnerability to the Human Immune Deficiency Virus (HIV) within Telford & Wrekin. The key groups at increased vulnerability to HIV include, inter alia: men who have sex with men (MSM), Black African communities, sex workers and lesbian, gay, bisexual, transgender and questioning (LGBTQ) young people, and, lesbian, gay, bisexual, transgender (LGBT) adults.

1.2 Evidence Base

1.2.1 Policy Context

The objectives of the first National Strategy for Sexual Health and HIV (2001) were to:

- Reduce the transmission of Sexually Transmitted Infections (STIs) and HIV
- Reduce the prevalence of undiagnosed STIs and HIV
- Reduce unintended pregnancy rates
- Improve health and social care for people living with HIV
- Reduce the stigma associated with STIs and HIV
- 'Making It count' Framework (2003)
- Collaboration in HIV prevention and
- Local and national action

The Government White Paper on Public Health, '*Choosing Health: Making Healthier Choices Easier (2004)*' acknowledged that:

- Chlamydia, the most common STI, affects about one in ten sexually active young women and, left untreated, it leads to pelvic inflammatory disease, ectopic pregnancy and infertility.
- About a quarter of all pregnancies in England and Wales ended in abortion. Three in ten of these women had already had one or more previous abortions (repeat abortions).

A review of the first National Strategy for Sexual Health and HIV (2008) recommended that further action should be taken to:

- Reduce unintended pregnancy rates and improve care for women seeking abortion
- Reduce transmission of HIV and STIs
- Reduce prevalence of undiagnosed HIV and STIs
- Improve health and social care for people living with HIV
- Reduce stigma associated with HIV and other aspects of sexual health
- Improve sexual health and wellbeing

The Government White Paper on Public Health, '*Healthy lives, healthy people: our strategy for public health (2010)*' set out that:

- Sexual health, teenage pregnancy and contraception as public health priorities
- Local authorities (LAs) will be expected to commission open access sexual health services by 2013
- Sexual health services commissioned by LAs will include the prevention, testing and treatment of STIs and HIV

HIV Prevention England (HPE) is the new national HIV prevention programme for England. It will deliver a nationally coordinated programme of HIV prevention work with UK-based African people and with gay men/men who have sex with men (MSM) which will bring together campaigns, online services, local work and policy work. It will work closely with African and gay communities, faith communities, NHS clinics, the Health Protection Agency and, after April 2013, Public Health England.

HPE has established goals with the Government.

- To increase HIV testing to reduce undiagnosed and late diagnosed HIV in both communities
- To support sustained condom use, and other behaviours which prevent HIV infection in both communities

In addition, HPE will work to tackle stigma through its messaging, to increase the evidence base for effective HIV prevention and develop social marketing interventions using new information technologies

Improving Outcomes and Supporting Transparency, '*A public health outcomes framework for England, 2013-2016*', includes three sexual health indicators for LAs. The three sexual health indicators aim at reducing:

- Under 18 conceptions
- Chlamydia diagnoses (15-24 year olds)
- People presenting with HIV at a late stage of infection

1.2.2 Epidemiology

The Health Protection Agency (HPA) Report, '*HIV in the United Kingdom: 2011*', shows that there were about 92,000 people living with HIV in the United Kingdom (UK) by the end of 2010 and a quarter of them were unaware of their status. It is also estimated that there will be 100,000 people living with HIV in the UK by the end of 2012.

There were 6,660 new HIV diagnoses in England in 2010. 3,000 of the new HIV infections were in MSM and 3,660 were acquired heterosexually. 39% of all the new HIV diagnoses in MSM in 2010 were late (CD4 count <350 cells/mm³) and 18% were very late (CD4 count <200 cells/mm³). A late diagnosis increases the risk of death within a year 10-fold in comparison to prompt diagnosis.

National data for 2011 indicated that there were 104 people living with HIV infection in Telford & Wrekin. The cumulative rate of diagnosis of HIV infection locally is significantly lower than the average for the West Midlands. The prevalence of infections in the Local Authority is < 1 per 100,000 population. The figures refer to people living with diagnosed HIV only, and do not account for people who are not aware of their HIV infection. Nationally it is estimated that 24% of people living with HIV in the United Kingdom in 2011 remained undiagnosed and were therefore unaware of their infection.

Over 45% of those people diagnosed with HIV in Telford & Wrekin are diagnosed late in the disease. Late HIV diagnosis is defined as a CD4 count of less than 350 cells per mm³ of blood. Very late HIV diagnosis is a CD4 count of less than 200 cells per mm³ of blood at the time of diagnosis.

The majority of local people with HIV infection live within the most deprived communities and the majority are male. The majority of positive diagnoses record sex between men as the probable exposure route and figures locally have seen a steady rise over the last 5 years.

There is a lower than average uptake of HIV testing within the sexual health service (Level 3) within Telford & Wrekin, 71% uptake in 2011 compared to 80 England average and 85% within the West Midlands.

1.2.3 National Institute for Health and Clinical Excellence (NICE) Guidance

The NICE guidance PH3 (2007) is about one to one public health interventions to reduce the transmission of STIs and HIV, and to reduce the rate of under 18s conceptions, especially amongst vulnerable and at risk groups.

The NICE guidance PH33 (2011) is about public health interventions to increase the uptake of HIV testing, reduce undiagnosed infection and prevent transmission among black African communities living in England. The guidance is for commissioners, managers and practitioners who have a direct or indirect role in, and responsibility for, increasing the uptake of HIV testing among black Africans living in England.

The NICE guidance PH34 (2011) is about public health interventions to increase the uptake of HIV testing, reduce undiagnosed infection and prevent transmission among MSM. The guidance is for commissioners, managers and practitioners who have a direct or indirect role in, and responsibility for, increasing the uptake of HIV testing among MSM.

The NICE guidance PH9 (2008) is a public health intervention for community engagement to improve health. Community engagement refers to the process of getting communities involved in decisions that affect them. This includes the planning, development and management of services, as well as activities which aim to improve health or reduce health inequalities.

The NICE guidance CG89 (2009) advice in this guideline covers the alerting features in children and young people (under 18 years) of: Physical, sexual and emotional abuse, neglect, fabricated or induced illness.

This guidance provides a summary of the clinical features associated with maltreatment (alerting features) that may be observed when a child presents to healthcare professionals. Its purpose is to raise awareness and help healthcare professionals who are not specialists in child protection to identify children who may be being maltreated.

1.3 General Overview

HIV is one of the most important communicable diseases in the United Kingdom (UK). It has a significant

impact on morbidity, mortality, lifestyle, relationships, work, health, wellbeing and life expectancy. The virus affects all members of society irrespective of age, disability, ethnicity, faith, gender, sexuality, marital status or civil partnership, status of residence or language spoken (speakers of other languages).

There has been a significant improvement in the quality of life for people living with HIV (PLWHIV) since the introduction of the Highly Active Antiretroviral Therapy (HAART) in 1995. HAART has reduced the incidence of the acquired immune deficiency syndrome (AIDS), reduced the rates of AIDS-related deaths and increased the life expectancy of PLWHIV.

1.4 Objectives

The objectives of the HIV Prevention and Support Service will contribute to:

- Increased awareness of STIs and HIV, routes of transmission, testing, treatment, post-exposure prophylaxis following sexual exposure (PEPSE), safer sex and locally accessible sexual health services (allied healthcare professionals, social workers, general public and social care)
- Increased access to free condoms, lubricants and other safer sex resources
- Increased access to STI and HIV testing and repeat testing in non-GUM settings
- Increased testing, repeat testing and treatment for Chlamydia in under 25s in non-GUM settings
- Increased awareness of Hepatitis B & C, testing, repeat testing and access to Hepatitis B vaccinations
- Increased access to STI and HIV treatment and management
- Increased access to other health and social care services
- Proactively reducing health outcomes
- Reducing health inequalities

1.5 Expected Outcomes including improving prevention

The expected outcomes of the HIV Prevention and Support Service will contribute to:

- Reduced rates of STIs and HIV
- Earlier diagnosis of HIV
- Reduced rates of Chlamydia diagnoses in under 25s
- Reduced rates of Hepatitis B & C
- Reduced stigma associated with HIV
- Reduced rates of unintended pregnancies

2. Scope

2.1 Service Description

The HIV Prevention and Support Service will provide:

- Advice, counselling and information on STIs and HIV, routes of transmission, treatment and adherence to treatment, post-exposure prophylaxis following sexual exposure (PEPSE), safer sex and locally accessible sexual health services
- Training on STIs and HIV, routes of transmission, safer sex, treatment and PEPSE
- Testing for HIV, Hepatitis B and Chlamydia in under 25s (with pre and post-test discussions) in locally accessible settings with referrals as appropriate
- Distribution of condoms (including Condom Distribution Scheme)
- Free condoms, lubricants and other safer sex resources
- Support people to access Hepatitis B immunisation in primary care

2.2 Accessibility/acceptability

The HIV Prevention and Support Service will be accessible to all members of the community resident within Telford & Wrekin irrespective of age, disability, ethnicity, faith, gender, sexuality, marital status or civil partnership, status of residence or language spoken (speakers of other languages) including:

- BME groups
- LGBT adults
- LGBTQ young people
- Migrant workers
- MSM
- Sex Workers

2.3 Whole System Relationships

The HIV Prevention and Support Service will establish partnerships or referral pathways with national and local NHS-led, non-NHS and Independent agencies that will include:

- Abortion services
- Counselling services
- HIV support services
- Primary care providers or general practitioners (GPs)
- Schools and school nursing teams
- Social Care Providers
- The Adult Safeguarding Team (Telford & Wrekin Council)
- The Children Safeguarding Team (Telford & Wrekin Council)
- The Drugs and Substance Misuse Team
- The Local Sexual Health Service
- The National African HIV Prevention Programme (NAHIP)
- The Sexual Assault Referral Centre (SARC)
- The Youth Service

2.4 Interdependencies

The HIV Prevention and Support Service will be fully registered with the Care Quality Commission (CQC) and expected to be compliant with national sexual health policy, guidelines and clinical procedures produced by the:

- British Association of Sexual Health and HIV (BASHH)
- British HIV Association (BHIVA)
- Care Quality Commission (CQC)
- Department of Health (DH)
- Medical Foundation for AIDS and Sexual Health (MedFASH)
- National AIDS Trust (NAT)
- National Institute of Health and Clinical Excellence (NICE)
- HIV Prevention England

2.5 Local Networks and Screening Programmes

The HIV Prevention and Support Service will establish partnerships with organisations and screening programmes that will include:

- The Community HIV/AIDS Prevention Strategy (CHAPS) Implementation Group
- The National African HIV Prevention Programme (NAHIP)
- The National Chlamydia Screening Programme (NCSP)
- The NHS Cervical Screening Programme (CSP)
- Local Sexual Health Network

3. Service Delivery

3.1 Service Model

The HIV Prevention and Support Service will be expected to deliver, in an innovative and culturally sensitive manner, the following:

3.1.1 Advice, counselling and information on STIs and HIV, routes of transmission, testing, treatment, post-exposure prophylaxis following sexual exposure (PEPSE), safer sex and locally accessible sexual health services by:

- The production and dissemination of public awareness resources (e.g. leaflets, posters, DVDs, websites, social media or public events, etc)
- Training on STI and HIV awareness, routes of transmission, treatment, PEPSE, safer sex (e.g. healthcare professionals, social care workers, the ambulance service, the police, etc)
- Maintaining an interactive service website and using other social media
- Establishing HIV prevention networks with other sexual health providers
- Providing a targeted counselling service for individuals at increased vulnerability to HIV

3.1.2 Increased access to free condoms, lubricants and other safer sex resources by:

- Demonstrations of good condom use to reduce the occurrences of condom failure
- Provision of free condoms, lubricants and other safer sex resources
- Participation in local condom distribution scheme

3.1.3 Increased access to STI and HIV testing and repeat testing in non-GUM settings by:

- Sexual health outreach in locally accessible settings and public sex environments (PSEs)
- Using the HIV Point of Care Tests (POCT) to increase the early identification and treatment of HIV
- Referrals to integrated sexual health providers in primary care including specialist HIV provision
- Support for partner notification, testing and treatment or referral
- Support, signposting and referral for those who have self tested for HIV
- Proactively encouraging annual repeat testing for HIV-negative people at increased vulnerability to HIV

3.1.4 Increased testing, repeat testing and treatment for Chlamydia in under 25s in a range of settings by:

- Opportunistically testing for Chlamydia in under 25s and older adults
- Referrals to integrate community sexual health providers with primary care

- Supporting partner notification, testing, treatment or referral

3.1.5 Increased awareness of Hepatitis B & C, testing, repeat testing and access to Hepatitis B vaccinations by:

- Advice and information on Hepatitis B and Hepatitis B vaccinations
- Opportunistically testing for Hepatitis in those most at risk
- Targeted outreach in locally accessible settings and public sex environments
- Support for partner notification, testing and treatment or referral
- Referrals to integrated sexual health providers in primary care including specialist HIV/Hepatitis provision

3.1.6 Increased access to STI and HIV treatment, health and social care services by:

- Encouraging and supporting people with STIs and HIV-positive service users to access STI and HIV treatment services
- Supporting service users, their partners, carers or families to access other services (e.g. health and social care support services)

3.1.8 Proactively reducing health inequalities

It is the responsibility of the Service Provider to proactively reduce health inequalities in supplying this service. Health inequalities are the result of a complex and wide-ranging network of factors. People, who experience material disadvantage, poor housing, lower educational attainment, insecure employment or homelessness, are among those more likely to suffer poorer health and an earlier death, compared with the rest of the population. As part of the strategy to reduce health inequalities, the Service Provider must provide evidence of engagement and collaborative working practices with all relevant organisations, to promote and improve health equalities within the relevant population.

All partners are required to work in compliance with NICE guidelines PH 9 on Community Engagement, in order to deliver the legal obligations on the 'Duty to Involve' legislation. It is expected that all engagement processes are adequately resourced, long term and embedded within service delivery.

As a minimum, data returns submitted should include the broad nature of the service users encounter, actual age, gender, ethnicity and full postcode if feasible, using standard classification systems where possible. Equality monitoring for all Service Users, including referrals and those who did not attend (DNAs) where appropriate, should also be recorded and reported typically as monthly, but no less than quarterly. Equality monitoring should include physical, sensory or learning disabilities as appropriate and the Commissioner will agree specific data returns with the Service Provider in addition to those listed here.

The Service Provider shall not discriminate unlawfully within the meaning and scope of any law, enactment, order, regulation or similar instrument relating to discrimination (whether in relation to race, gender, disability, religion, age or otherwise) in employment or in relation to the performance of the services. The Service Provider will meet all its statutory responsibilities in this area.

The Service Provider will identify and implement continual improvements with evidence of progress against Standards for Better Health, also demonstrating an ability to adapt programmes to meet the requirements of local commissioners.

Every contact with a Service User provides an opportunity for a health promoting discussion and brief intervention. The Service Provider will ensure that staff are effectively trained and supported to ensure 'Every Contact Counts'.

3.2 Care Pathway(s)

The HIV Prevention and Support Service will establish clear referral mechanisms and protocols with locally accessible sexual health/HIV services.

3.3 Quality Standards

3.3.1 Registration and Assurance

The Service Provider must be able to demonstrate current registration with the Care Quality Commission (CQC) for the Service to be delivered where this is applicable to the Service or Service Provider. The Service Provider must notify the Commissioner of registration renewal dates and of any amendments, variations or applications. The Service Provider must also notify the Commissioner of any penalties imposed for non registration (services can no longer provide a service if not registered as this is a legal requirement), CQC inspections (planned or unannounced) and enforcements for delivery of poor quality. The Service Provider should make available all inspection reports, CQC periodic and special reviews, national audit reports, and national patient and staff surveys as applicable.

3.3.2 Care Quality Commission Registration Regulations, Requirements

The Service must be able to demonstrate compliance with all generic and service specific Registration Requirements, Regulations of the CQC. The regulations and outcomes ensure that the care people receive meets essential standards of quality and safety. Where CQC registration is not currently a requirement of the provider or service, the Service Provider should be able demonstrate compliance with them. The regulations and outcomes cover:

3.3.2.1 Involvement and Information

The Service Provider will ensure that service users and carers are involved in making decisions about their care, treatment and support. They will also ensure that the views of people who use services are taken into account when making decisions about how services are delivered and improved. Service Providers shall make information available so that people can make informed choices about their care, treatment and support.

3.3.2.2 Personalised Care, Treatment and Support

The Service Provider will ensure that people who use services receive effective, safe and appropriate care, treatment and support that meet their individual needs. Service Providers will assess health needs, develop care plans, take account of published research and best practice, cooperate with other agencies involved in the care, treatment and support of a person and share information in a confidential manner with all relevant services, teams or agencies

3.3.2.3 Safeguarding and Safety

The Service Provider will ensure that people who use the service, workers and others who visit are as safe as they can be and that risks are managed. They will also ensure that the human rights and dignity of people who use services are respected and identify and respond when people are in vulnerable situations. Service Providers will ensure that the premises and equipment they use to provide care, treatment & support are safe and suitable.

Service Providers will comply with guidance for safeguarding people who use services from abuse, cleanliness and infection control, management of medicines, safety & suitability of premises and safety and suitability of equipment.

All staff working with children, young people and vulnerable adults will have been recruited in line with Shropshire and Telford and Wrekin Local Safeguarding Board Standards for Safer Recruitment 2012 and will

be subject to a Disclosure and Barring Service (DBS) check. (This is the new system that has replaced Enhanced CRB check).

The provider or any subcontractor will comply with the local inter-agency Safeguarding Children and Young People and Adults Procedures and Practice guidelines. These are available from Shropshire and Telford and Wrekin Local Safeguarding Children's Board LSCB websites. These guidelines relate to the protection of all children and young people and vulnerable adults residing within Shropshire and Telford and Wrekin. The Board definition of a vulnerable child as any child under the age of 18 including the unborn baby.

These include (but are not limited to :-)

- "Looked after" children already in the care system
- Children with disabilities
- Homeless children
- Teenage mothers
- Children in custodial settings
- Children who live with parental drug and alcohol abuse or domestic violence.

The broad definition of a "vulnerable adult", is a person (aged 18+) who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him/herself, or unable to protect him or herself against significant harm or exploitation.

3.3.2.4 Suitability of Staffing

The Service Provider will ensure that they have the right staff with the right skills, qualifications, experience and knowledge to support people. Service Providers will comply with guidance relating to staffing and supporting workers.

3.3.2.5 Quality and Management

The Service Provider will manage risk in order to ensure that essential standards of quality and safety are maintained and have systems in place to assess and monitor the quality of service provision. Service Providers will also take account of comments and complaints, investigations into poor practice and advice from and reports by the CQC. The Service Provider will improve the service by learning from adverse events, incidents, errors and near misses, the outcome from comments and complaints and the advice from expert bodies. The Service Provider will also notify the CQC about incidents that affect the health, safety and welfare of people who use services including injuries to people, making an application to deprive someone of their liberty, allegations of abuse and police investigations.

3.3.3 Quality Improvement

The Service Provider will identify, implement and demonstrate continuous improvements to the quality of the Service as part of their quality framework. Evidence of action plans, monitoring progress and improvements / outcomes achieved will be reported to the Commissioner at regular intervals. These reports will be reviewed as part of the monitoring of the Service.

3.3.4 Management & Monitoring of Quality

The Service Provider will provide an Annual Quality Report to give the Commissioner assurance that care is safe; clinically effective; and provides service users with the most positive service user experience. This report will be used to assure the Commissioner of the quality of the Service delivered.

3.3.5 Clinical Effectiveness

The Service Provider will ensure that care is compliant with all relevant NICE guidance and other sources of evidence based practice. The Service Provider will also provide care based on recommendations and guidance contained in relevant National Service Frameworks and other national programmes.

The Service Provider will demonstrate compliance with best practice and improved outcomes through undertaking relevant clinical audits as part of an annual audit programme.

4. Referral, Access and Acceptance Criteria

4.1 Geographic coverage/boundaries

The HIV Prevention and Support Service will be provided within the boundaries of Telford & Wrekin.

4.2 Location(s) of Service Delivery

The HIV Prevention and Support Service will be a targeted outreach service for communities at increased vulnerability to HIV and resident within the boundaries of Telford & Wrekin.

4.3 Days/Hours of operation

The service shall be provided from a variety of outreach locations targeting vulnerable communities across Telford & Wrekin. A facility to signpost service users to other alternative providers 'out of hours' and during closures of planned service/clinics shall be in place at all times.

The HIV Prevention and Support Service will operate as follows:

- A minimum of 4 hours a day on weekdays (Mondays through Fridays)
- Flexibly in the evenings (on weekdays) and weekends i.e. the Service will operate to the requirements of Service Users

4.4 Referral criteria & sources

The HIV Prevention and Support Service will be an open-access service with no specific referral criteria. However, the Service Provider will ensure the Service has clear assessment and referral criteria for Service Users accessing counselling.

The HIV Prevention and Support Service will establish partnerships, referral mechanisms and protocols with other agencies as appropriate.

4.5 Onward referral routes

The HIV Prevention and Support Service will establish referral mechanisms and protocols with locally accessible sexual health services and they will include (but are not limited to :-)

- Abortion services
- Counselling services
- HIV support services
- Primary care providers or general practitioners (GPs)
- Schools and school nursing teams
- Social Care Providers

- The Adult Safeguarding Team (Telford & Wrekin Council)
- The Children Safeguarding Team (Telford & Wrekin Council)
- The Drugs and Substance Misuse Team
- Specialist HIV Provider
- The National African HIV Prevention Programme (NAHIP)
- The Sexual Assault Referral Centre (SARC)
- The Youth Service
- Maternity Services

4.6 Exclusion criteria

4.7 Response time & detail and prioritisation

The HIV Prevention and Support Service will be an open access service for all irrespective of age, disability, ethnicity, faith, gender, sexuality, marital status or civil partnership, status of residence or language spoken (speakers of other languages).

5. Discharge Criteria and Planning

The HIV Prevention and Support Service will be an open access service that will establish referral mechanisms and protocols with other agencies. There will be no discharge criteria.

6. Prevention, Self-Care and Patient and Carer Information

The HIV Prevention and Support Service will be expected to provide sexual health prevention interventions that will include:

- The production and dissemination of resources for public awareness raising about STIs and HIV (leaflets, posters, DVDs, websites, social media, etc).
- Participate in media campaigns on STIs and HIV (e.g. World AIDS Day, PEPSE, etc).
- Training on STI and HIV awareness, routes of transmission, safer sex, treatment, PEPSE.
- An interactive service website about STIs and HIV and other social media.
- Any training required to support new innovations/advances and interventions i.e. home care tests

7. Continual Service Improvement/Innovation Plan

The Commissioner and Service Provider will meet on a regular basis to review the Service and agree the way forward in respect of service improvements. Service performance and review meetings will be arranged by the commissioner.

8. Activity

8.1 Activity – these are indicative thresholds and will be subject to further negotiation with the successful provider.

Activity Performance Indicators	Method of measurement	Baseline Target	Annual Threshold	Frequency of Monitoring
1. Total number of Service Users (people provided with advice, information, support and referral to other services)	Monitoring data recorded by age, disability, ethnicity, faith, gender, marital status, sexuality, residence, etc	100%	For review in year	Quarterly
2. Number of new Service Users	Recorded by the service accessed e.g. training, counselling, C-Card registration, etc	New service	600	Quarterly
3. Number of repeat Service Users	Monitoring data	New service	Not applicable	Quarterly
4. Number of STI/HIV awareness training sessions provided	Monitoring data	New service	8	Quarterly
5. Number of Service Users attending STI/HIV awareness training	Monitoring data	New service	24	Quarterly
6. Number of professionals attending STI/ HIV awareness training	Monitoring data	New service	10 participants per session	Quarterly
7. Number of counselling session delivered	Monitoring data	New service	50 sessions (1 hour in duration)	Quarterly
8. Number of Service Users attending counselling sessions	Monitoring data	New service	For review in year	Quarterly
9. Number of HIV Point Of Care Test	Monitoring data (record date of last test)	New service	100	Quarterly
10. Number of Service Users referred for Post Exposure Prophylaxis Sexual Exposure (PEPSE)	Monitoring Data	Any Service User deemed at risk	100%	Quarterly
11. Number of under 25s screened for Chlamydia	Monitor data	New service	Every eligible young person aged 15-14 years.	Quarterly

12. Number and percentage of service users assessed as at risk offered the Hep B Point Of Care Test	Monitoring data	New service	100%	Quarterly
13. Number and percentage of Hep B Point Of Care Test accepted	Monitoring data	New service	100%	Quarterly
14. Number and percentage of new service users assessed as at risk offered Hep C Point of Care Test	Monitoring data	New service	100%	Quarterly
15. Number and percentage of Hep C Point of Care Test accepted	Monitoring data	New service	100%	Quarterly
16. Number and percentage of under 25s registered with the C-Card Scheme	Monitoring data	New service	N/A	Quarterly
17. Number of condoms distributed by site	Monitoring data	New service	Reviewed in year	Quarterly
18. Number, dates, venues and time spent (hours) in targeted outreach sessions	Monitoring data	New service	80 sessions (min of 1hour in duration)	Quarterly
19. Number of service user contacts within the outreach sessions	Monitoring data	New service	In year review	Quarterly
20. Number and percentage of Service Users serving as volunteers	Monitoring data	New Service	Not applicable	Annually
21. Number of STI and HIV awareness campaigns supported	Monitoring data	New service	4	Annually
22. Number of visits made to the service website by service users (interactive)	Monitoring data	New service	Not applicable	Quarterly
23. Numbers of referrals made to other services e.g. Integrated sexual health service, HIV specialist service, hepatitis specialist service, social care etc,	Monitoring data	New service	Not applicable	Quarterly
24. Audit – Safeguarding Record Keeping Audit by Safeguarding Lead	Analyse data	New Service	Review & report findings to HGSCC	Annual
25. Number of safeguarding issues addressed	Monitoring data	New Service	NA	Annual

24. Safeguarding Training figures	Monitor data	New Service	Level 1 100% Level 2 90 - 100% Level 3 90 - 100%	Quarterly (ASR)
25. Representation and reporting to Shropshire and Telford & Wrekin Healthcare Governance Safeguarding Children Committee (HGSCC) using HGSCC template	Monitor data	New Service	100% Attendance	Quarterly (ASR)
26. Staff training – Brief interventions ‘Making Every Contact Count’	Monitor data	New Service	100%	Quarterly

8.2 Activity Plan / Activity Management Plan

To be agreed.

8.3 Capacity Review

Telford & Wrekin Council as the Commissioner and the Service Provider will meet on a regular basis to review service capacity and agree the way forward in respect of service improvements.

SCHEDULE 2

CHARGES

[To Be Added]

DRAFT

SCHEDULE 3

TUPE SCHEDULE

TUPE

1. If the Council has notified the Provider that it intends to tender or retender any Services, the Provider must within 20 Business Days following written request (unless otherwise agreed in writing) provide the Council with anonymised details of Staff engaged in the provision of the relevant Services who may be subject to TUPE. The Provider must indemnify and keep indemnified the relevant Commissioner and at the Co-ordinating Commissioner's request, any new provider who provides any services equivalent to the Services or any of them after expiry or termination of this Contract or termination of a Service, against any Losses in respect any inaccuracy in or omission from the information provided under this clause.
2. During the 3 months immediately preceding the expiry of this Contract or at any time following a notice of termination of this Contract or of any Service being given, the Provider must not and must procure that its sub-contractors do not, without the prior written consent of the Council, in relation to any persons engaged in the provision of the Services or the relevant Service:
 - a) terminate or give notice to terminate the employment of any person engaged in the provision of the Services or the relevant Service (other than for gross misconduct);
 - b) increase or reduce the total number of people employed or engaged in the provision of the Services or the relevant Service by the Provider and any sub-contractor by more than 5% (except in the ordinary course of business);
 - c) propose, make or promise to make any material change to the

remuneration or other terms and conditions of employment of the individuals engaged in the provision of the Services or the relevant Service;

- d) replace or relocate any persons engaged in the provision of the Services or the relevant Service or reassign any of them to duties unconnected with the Services or the relevant Service; and/or
 - e) assign or redeploy to the Services or the relevant Service any person who was not previously a member of Staff engaged in the provision of the Services or the relevant Service.
3. The Provider will indemnify and keep indemnified the Council and, at the Council's request, any new provider who provides any services equivalent to the Services or any of them after expiry or termination of this Contract or any Service, against any Losses in respect of:
- a) the employment or termination of employment of any person employed or engaged in the delivery of the relevant Services by the Provider and/or any sub-contractor before the expiry or termination of this Contract or of any Service which arise from the acts or omissions of the Provider and/or any sub-contractor;
 - b) claims brought by any other person employed or engaged by the Provider and/or any sub-contractor who is found to or is alleged to transfer to the Council or new provider under TUPE; and/or
 - c) any failure by the Provider and/or any sub-contractor to comply with its obligations under TUPE in connection with any transfer to the Council or new provider.
4. The Council must use all reasonable endeavours to procure that any new provider who provides any services equivalent to the Services or the relevant Service after expiry or termination of this Contract or of any

Service will indemnify and keep indemnified the Provider and/or any sub-contractor against any Losses in respect of:

- a) any failure by the new provider to comply with its obligations under TUPE in connection with any relevant transfer under TUPE to the new provider;
- b) any claim by any person that any proposed or actual substantial change by the new provider to the persons' working conditions or any proposed measures of the new provider are to that person's detriment, whether that claim arises before or after the date of any relevant transfer under TUPE to the new provider on expiry or termination of this Contract or of any Service; and/or
- c) any claim by any person in relation to any breach of contract arising from any proposed measures of the new provider, whether that claim arises before or after the date of any relevant transfer under TUPE to the new provider on expiry or termination of this Contract or of any Service.

SCHEDULE 4
CHANGE CONTROL PROCEDURE

1. If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing.

2. If either party requests a change to the scope or execution of the Services, the Provider shall, within a reasonable time (and in any event not more than [NUMBER] working days after receipt of the Council's request), provide a written estimate to the Council of:
 - (a) the likely time required to implement the change;
 - (b) any necessary variations to the Provider's charges arising from the change;
 - (c) the likely effect of the change on the [Specification]; and
 - (d) any other impact of the change on this agreement.

3. Unless both parties consent to a proposed change, there shall be no change to this agreement.

4. If both parties consent to a proposed change, the change shall be made, only after agreement of the necessary variations to the Supplier's charges, the Services, and any other relevant terms of this agreement to take account of the change that has been reached and this agreement has been varied in accordance with clause C11 (Variations).

5. If the Provider requests a change to the scope or execution of the Services, in order to comply with any applicable safety or statutory requirements, and such changes do not materially affect the nature, scope of, or charges for the Services, the Council shall not unreasonably withhold or delay consent to it. Unless the Provider's request was attributable to the Council's non-compliance with the Council's obligations, neither the Provider's charges or any other terms of this agreement shall vary as a result of such change.

DRAFT

SCHEDULE 5

Data Protection Act 1998

Data Processing Agreement

Telford & Wrekin Council & [3rd Party Supplier]

WHEREAS:-

- A. The Data Controller and the Data Processor (taking the meanings accorded in Section B 2), have entered into an Agreement to secure the provision and processing of personal and sensitive personal data (hereinafter referred to as the 'data').

The Data Processor will process authorised data sets as set out in Schedule 1 (Service Specification), and in accordance with the obligations of the Data Processor, in order to support their contractual obligations.

The Data Processor will ensure all of their staff and any sub-contracted staff have undertaken and continue to receive relevant training around data protection and information security.

- B. IT IS HEREBY AGREED BETWEEN THE PARTIES IN SCHEDULE A TO THIS AGREEMENT AS FOLLOWS:-**

1. Agreement

Clearly defined processing requirements of personal and sensitive personal data between the Data Controller ("Telford & Wrekin Council") and the Data Processor ("[insert details]"), whereby the Data Processor provides [insert details] for the purposes referred to in Schedule B, subject to the warranties and obligations hereinafter contained.

2. Definitions & Interpretations

- a) Data Controller – means Telford & Wrekin Council as the organisation who determines the purposes of which the personal data is to be processed;
- b) Data Processor – means [insert supplier] as the organisation who will process the information on behalf of the Data Controller
- c) Data Subject – means an individual who is the subject of personal data
- d) Personal Data – means data that relates to a living individual who can be identified: from the data; or from data or other information that is in the possession of or is likely to come into the possession of the Data Controller
- e) Processing - means obtaining, recording, or holding the information or data or carrying out any operation or set of operations on the information or data including: organisation, adaptation or alteration; retrieval, consultation or use; disclosure by transmission, dissemination or otherwise making available; or

alignment, combination, blocking, erasure or destruction of the information or data.

3. Warranty and Obligations of Data Processor

- a) The Data Processor warrants that it has the necessary legal authority in the United Kingdom where it is established for the purpose of controlling the processing of the data and to use it for the purpose(s) set out herein, and to give warranties and fulfil the undertakings set out herein.
- b) The Data Processor will process the data exclusively for purposes and in accordance with the means of processing listed in Schedule B to the exclusion of any other purposes or means of processing.
- c) The Data Processor will not enter into any arrangement to process the data outside the United Kingdom without the written permission of Data Controller.
- d) The Data Processor has in place security programs and procedures appropriate to the risks presented by the processing, to ensure that unauthorised persons will not have access to the data and that any persons it authorises to have access to the data will be bound by contract or otherwise to respect and maintain the confidentiality and security of the data.
- e) The Data Processor warrants that it will comply with the obligations set out in Schedule C and apply them to the processing of the data originally provided or subsequently amended.

4. Applicable Law

The parties to this Agreement shall be subject to English law and specifically the Data Protection Act 1998 in respect of such processing as is governed by this Agreement.

5. Rights of Data Subjects

The obligations of the Data Processor set out in Schedule C are conferred as third party rights on those data subjects, in respect of whom data is accessed for processing under the terms of this Agreement. Therefore, this processing may be the subject of proceedings under the appropriate legal enactments in the Member State in which the Data Processor is established, in respect of the processing of accessed data that is the subject of this Agreement.

6. Suspension of Contract

This agreement can be suspended for 45 working days, if security has been seriously breached. This should be detailed in writing and be evidenced by the Data Processor to the Data Controller. Any suspension will be subject to a risk assessment and a resolution meeting between nominated representatives of the Data Processor and the Data Controller being held. This meeting will take place within 14 working days of the identification of any breach. The suspension may be lifted when the cause of the breach has been satisfactorily investigated and appropriate measures have been taken to address the situation.

7. Indemnity

Each party will keep the other indemnified against all reasonable costs, expenses and claims arising out of any breach of this Agreement and in particular, but without limitation, the unauthorised or unlawful access, loss, theft, use, destruction or disclosure by the offending party, employees, agents or any other person within the control of the offending partner of any data obtained in connection with this Agreement.

The Data Processor will indemnify the Data Controller against all claims, costs and fines that may arise in connection with data breaches which are the result of the failure of [insert supplier name], its employees, agents or sub-contractors to properly perform their functions.

8. Consequences of Termination of the Contract

If either party terminates the Agreement relating to the accessing of data and its subsequent processing, the Data Processor shall immediately (within 7 days) securely return/transfer, if requested to do so by the Data Controller, all data provided under this Agreement, in its possession or control, and certify in writing to the Data Controller that it has done so, unless this is prohibited by the national law or regulator of the country in which the Data Processor processes the data. Where this is the case, to the extent allowed under such requirements, the data will be kept confidential and will no longer be processed.



INSTRUCTIONS FOR TENDERING

**DMC 009 - PROVISION OF COMMUNITY HIV
PREVENTION AND SUPPORT SERVICES FOR
SHROPSHIRE AND TELFORD AND WREKIN COUNCILS**

Shropshire Council Instructions for tendering

Contract Description:

Shropshire Council on behalf of Shropshire Council and Telford & Wrekin Council are seeking Provider/(s) to deliver a service which aims to positively impact on and improve the health of the local populations of Shropshire County and Telford & Wrekin through provision of community HIV Prevention and Support Services. These will be linked to local and Health Protection England campaigns, and will provide face to face support to help people reduce their risk taking, as well as increasing access to community HIV testing.

The two Local Authorities will procure one organisation to provide the relevant services but will individually enter into separate contracts with the successful bidder. In addition, there are separate specifications for both contracts

The two contracts are for an initial period of 12 months with the option to extend for a further 2 years. They will commence on 01st April 2014, expiring on 31st March 2017.

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1.0 Invitation to Tender

- 1.1** You are invited to tender for the provision of HIV Prevention and Support Services for Shropshire and Telford & Wrekin Councils as detailed in the Tender Response Document. The contract/framework will be for an initial period of 12 months commencing on the 01st April 2014 with the option to extend up to the 31st March 2017.
- 1.2** Tenders are to be submitted in accordance with **the General Terms and Conditions of Shropshire Council** – DRAFT PUBLIC HEALTH CONTRACT FOR SHROPSHIRE COUNCIL AND TELFORD & WREKIN COUNCIL and the instructions outlined within this document.
- 1.3** Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.
- 1.4** The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an “in confidence” basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.
- 1.5** Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.
- 1.6** The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer’s financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby reserved by the Council.
- 1.7** The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.
- 1.8** Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council’s involvement.

2.2 Terms and Conditions

2.1 Every Tender received by the Council shall be deemed to have been made subject to the General Terms and Conditions and these Instructions for Tendering unless the Council shall previously have expressly agreed in writing to the contrary.

2.2 The Tenderer is advised that in the event of their Tender being accepted by the Council, they will be required to undertake the required services.

3.0 Preparation of Tenders

3.1 Completing the Tender Response Document

3.1.1 Tenders should be submitted using the 'Tender Response Document' following the instructions given at the front of the document. The Tenderer's attention is specifically drawn to the date and time for receipt of Tenders and that no submission received after the closing time will be considered.

3.1.2 All documents requiring a signature must be signed;

- a) Where the Tenderer is an individual, by that individual;
- b) Where the Tenderer is a partnership, by two duly authorised partners;
- c) Where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.

3.1.3 The Invitation to Tender Documents are and shall remain the property and copyright of the Council

3.2 Tender Preparation and Costs

3.2.1 It shall be the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tender. No claim arising out of want of knowledge will be accepted. Any information supplied by the Council (whether in the Tender Documentation or otherwise) is supplied only for general guidance in the preparation of tenders.

3.2.2 Any Tenderer considering making the decision to enter into a contractual relationship with the Council must make an independent assessment of the Tender opportunity after making such investigation and taking such professional advice as it deems necessary.

3.2.3 Tenderers will be deemed for all purposes connected with their Tender submission where appropriate to have visited and inspected the Council, its assets, all the locations in respect of the delivery of the services/supplies/works and to have satisfied themselves sufficiently as to the nature, extent and character of the services supplies/works sought, and the human resources, materials, software, equipment, machinery, and other liabilities and other matters which will be required to perform the contract.

3.2.4 The Council will not be liable for any costs incurred by Tenderers in the preparation

or presentation of their tenders.

- 3.2.5** Tenderers are required to complete all pricing schedules in the Invitation to tender documents. The terms “Nil” and “included” are not to be used but a zero or figures must be inserted against each item. Unit rates and prices must be quoted in pounds sterling and whole new pence.
- 3.2.6** It shall be the Tenderer’s responsibility to ensure that all calculations and prices in the Tender documentation are correct at the time of submission.
- 3.2.7** The Tenderer is deemed to have made him/herself acquainted with the Council’s requirements and tender accordingly. Should the Tenderer be in any doubt regarding the true meaning and intent of any element of the specification he is invited to have these fully resolved before submitting his Tender. No extras will be allowed for any loss or expense involved through any misunderstanding arising from his/her failure to comply with this requirement.
- 3.2.8** Any Tender error or discrepancy identified by the Council shall be drawn to the attention of the Tenderer who will be given the opportunity to correct, confirm or withdraw the Tender.
- 3.2.9** The Tender Documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Tender document other than on an In Confidence basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the Tender.

3.3 Parent Company Guarantee

It is a condition of contract that if the tendering company is a subsidiary then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company if requested to do so by the Council. Where the direct parent company cannot provide an adequate guarantee in the opinion of the Council, the Council will look to another group or associate company, with adequate assets, to be the guarantor. In cases where the contract is with a Joint Venture Company (JVC) or a Special Purpose Vehicle (SPV) company, which may have two or more parent companies and which may not be adequately capitalised or have sufficient financial strength on its own to support the risk and obligations it has under the contract, ‘joint and several’ guarantees / indemnities from the parent companies of the JVC or SPV may be sought.

3.4 Warranty

The Tenderer warrants that all the information given in their Tender and if applicable their Request to Participate Questionnaire is true and accurate. The information provided will be deemed to form part of any contract formed under this contract.

The Tenderer warrants that none of their current Directors have been involved in liquidation or receivership or have any criminal convictions

4.0 Tender Submission

- 4.1 Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender using the label provided. Tenders must be submitted by the deadline of **noon, Friday 25th November**. **One hard copy and one CD copy of your Tender Response Document must be returned.**
- 4.2 No unauthorised alteration or addition should be made to the Specification and Tender Response Document, or to any other component of the Tender document. If any such alteration is made, or if these instructions are not fully complied with, the Tender may be rejected.
- 4.3 Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is acceptable will be final.
- 4.4 Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.
- 4.5 Tenderers should note that Tenders and supporting documents must be written in English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.
- 4.6 Where Tender submissions are incomplete the Council reserves the right not to accept them.
- 5.0 **Variant Bids**
- 5.1 The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.
- 5.2 Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender"). Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.
- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.
- 6.0 **The Transfer of Undertakings (Protection of Employment) regulations 2006**
- 6.1 Tenderers should note that the Employee 'Transfer of Undertakings (Protection of Employment) Regulations '2006 ('TUPE') will apply to this contract. Also compliance with the provisions in relation to Local Authority Pensions will also be required. Tenderers are advised to seek their own legal advice about the

practicality of these regulations and should reflect the financial implications of such a transfer in their tender submissions.

- 6.2 Details of employees of companies/and of the Council who are currently carrying out the work that is included in the Contract can be obtained from the Procurement Team. Tenderers should note, however, that where the Council provides information to them for the purposes of TUPE, such information may originate from a third party. As the Council has no control over the compilation of such third party information, the Council gives no guarantee or assurance as to the accuracy or completeness of such information and cannot be held responsible for any errors or omissions in it.

7.0 Tender Evaluation

- 7.1 The Tenderers may be called for interview to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.
- 7.2 If the Council suspects that there has been an error in the pricing of a Tender, the Council reserves the right to seek such clarification, as it considers necessary from the Tenderer in question.

8.0 Clarifications

- 8.1 Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.
- 8.2 Any queries arising in relation to this invitation to tender should be raised in writing to the Procurement Team (email: procurement@shropshire.gov.uk) quoting the contract reference and title.
- 8.3 Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.
- 8.4 All queries should be raised as soon as possible (in writing), in any event not later than **Wednesday 20th November**.
- 8.5 All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.
- 8.6 Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any

explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

9.0 Continuation of the Procurement Process

9.1 The Council shall not be committed to any course of action as a result of:

- i) issuing this Invitation to Tender;
- ii) communicating with a Tenderer, a Tenderer's representative or agent in respect of this procurement exercise;
- iii) any other communication between the Council (whether directly or through its agents or representatives) and any other party.

9.2 The Council reserves the right at its absolute discretion to amend, add to or withdraw all, or any part of this Invitation to Tender at any time during the tendering stage of this procurement exercise.

9.3 At any time before the deadline for receipt of tender returns the Council may modify the Invitation to Tender by amendment. Any such amendment shall be numbered and dated and issued by the Council to all participating tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing its Tender return, the Council may in its sole discretion, extend the deadline for submission of the tender returns. The Council reserves the right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at its sole discretion.

10.0 Confidentiality

10.1 All information supplied by the Council in connection with or in these Tender Documents shall be regarded as confidential to the Council unless the information is already within the public domain or subject to the provisions of the Freedom of Information Act 2000.

10.2 The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.

10.3 Tenderers shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this ITT.

10.4 The contents of this Invitation to Tender are being made available by the Council on condition that:

10.4.1 Tenderers shall at all times treat the contents of the Invitation to tender and any related documents as confidential, save in so far as they are already in the public domain and Tenderers shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce, distribute or pass any of the contents of the Invitation to tender to any other person at any time or allow any of these things to happen;

10.4.2 Tenderers shall not use any of the information contained in this Invitation to tender for any purpose other than for the purposes of submitting (or deciding whether to submit) the tender; and

- 10.4.3** Tenderers shall not undertake any publicity activity within any section of the media.
- 10.5** Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:
- 10.5.1** this is done for the sole purpose of enabling an Invitation to tender to be submitted and the person receiving the Information undertakes in writing to keep the Invitation to Tender confidential on the same terms as if that person were the Tenderer; or
- 10.5.2** the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
- 10.5.3** the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or
- 10.5.4** the Tenderer is legally required to make such a disclosure.
- 10.6** The Council may disclose detailed information relating to the Invitation to Tender to its officers, employees, agents, professional advisors or Governmental organisations and the Council may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.

10.7 Transparency of Expenditure

Further to its obligations regarding transparency of expenditure, the Council may be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

11.0 Freedom of Information

- 11.1** Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.
- 11.2** In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.

- 11.3** If, at any stage of this tendering process, you provide any information to Shropshire Council in the expectation that it will be held in confidence, then you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as “commercial in confidence” will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.
- 11.4** Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.
- 11.5** In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

For guidance on this issue see: <http://www.ico.gov.uk>

12.0 Disqualification

- 12.1** The Council reserves the right to reject or disqualify a Tenderer’s Tender submission where:
- 12.1.1** The tenderer fails to comply fully with the requirements of this Invitation to tender or is in breach of clause 15 of the Council’s General Terms and Conditions relating to Bribery and Corruption or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required; or
- 12.1.2** The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.
- 12.1.3** The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.
- 12.1.4** The Tenderer :
- a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or
 - b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or
 - c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or

- d) Offers or agrees to pay or give or does pay or gives any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any Tender or proposed Tender for the services any act or omission.

12.2 Any disqualification will be without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract. The Non-Collusive Tendering Certificate must be completed and returned as instructed.

12.3 The Council reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control or financial stability of the Tenderer at any point in the process up to award of a contract and such change of control or financial stability has a materially adverse effect on the Tenderer's financial viability or ability to otherwise meet the requirements of the procurement process.

13.0 E-Procurement

As part of its procurement strategy Shropshire Council is committed to the use of technology that can improve the efficiency of procurement. Successful Tenderers may be required to send or receive documents electronically. This may include purchase orders, acknowledgements, invoices, payment advices, or other procurement documentation. These will normally be in the Council's standard formats, but may be varied under some circumstances so as not to disadvantage small and medium suppliers.

14.0 Award of Contract

14.1 Award Criteria

The Award Criteria has been set out within the Tender Response Document accompanying this invitation to tender. The Council is not bound to accept the lowest or any Tender.

14.2 Award Notice

The Council will publish the name and addresses of the successful Tenderers in the Official Journal of the European Union (OJEU) where appropriate. The Contracting Authority reserves the right to pass all information regarding the outcome of the Tendering process to the Office of Fair Trading to assist in the discharge of its duties. Additionally, the Council will adhere to the requirements of the Freedom of Information Act 2000 and Tenderers should note this statutory obligation.

14.3 Transparency of Expenditure

Further to its obligations regarding transparency of expenditure, the Council may also be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in

accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

15.0 Value of Contract

Shropshire Council cannot give any guarantee in relation to the value of this contract.

16.0 Acceptance

16.1 Tenders must be submitted strictly in accordance with the terms of the Council's Invitation to Tender documentation and acceptance of the tender shall be conditional on compliance with this Tender Condition.

16.2 The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract arrangement being 01st April 2014.

17.0 Payment Terms

Tenderers should particularly note that the principles governing public procurement require that, as far as is reasonably possible, payments for Goods, Works or Services are made after the provision. Therefore any indication of a pricing strategy within a Tender which provides for substantial payments at the outset of the Contract will be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Council such substantial payments appear excessive in relation to the requirements of the Contract the Council reserves, without prejudice to any other right to reject any Tender it may have, the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract.

18.0 Liability of Council

18.1 The Council does not bind himself to accept the lowest or any tender.

18.2 The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.

18.3 The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.

18.4 The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.

18.5 Whilst the Tender Documents have been prepared in good faith, they do not purport to be comprehensive nor to have been formally verified. Neither the Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.

19.0 Declaration

We, as acknowledged by the signature of our authorised representative, accept these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.

Signed (1) Status.....

Signed (2) Status.....

(For and on behalf of)

Date

DMC 009 - PROVISION OF COMMUNITY HIV PREVENTION
AND SUPPORT SERVICES FOR SHROPSHIRE AND
TELFORD AND WREKIN COUNCILS

Confidentiality Undertaking Regarding TUPE

[Date] 2013

[NAME]

Your ref: *

Our ref: *

Dear Procurement Team,

We have taken legal advice in this matter and anticipate preparing a tender on the basis that the Transfer of Undertakings Regulations (Protection of Employment) Regulations 2006 and the EC Acquired Rights Directive 23 of 2001 may apply to this Contract. We also understand that there is confidential information relating to employees which will be provided on receipt of this letter.

We now formally request from you full details of the current provider staff and conditions of employment.

We hereby acknowledge that this information is confidential. We undertake: -

1. To treat the information in the strictest confidence
2. That the information will be used solely for the purpose of preparing this Tender
3. That it will not be disclosed to any other party for any purpose whatsoever, except for the purpose of preparing this Tender and we will not make copies thereof

We acknowledge that all documents and other information received from the Council as detailed above shall remain the current provider's property and that we will hold them as bailee for the current provider, exercising reasonable care to keep them safe from access by unauthorised persons. We shall also return them to the Council forthwith on written request.

We acknowledge that we shall fully indemnify the current provider against all losses claims damages fines costs and other liabilities as a consequence of or arising from our failure to comply with our obligations to keep such information confidential.

DATED THIS DAY OF

Signature (as in Form of Tender)

Duly authorised to sign for and on behalf of the Tenderer (print full name and address of Tenderer)

Please return to procurement@shropshire.gov.uk.

Service Specification

Care Pathway/Service	HIV Prevention and Support Service
Commissioner Lead	Shropshire Council
Provider Lead	
Period	1 April 2014 – 31 March 2017

1. Purpose

This Service Specification identifies the requirements for the provision of a comprehensive, evidence-based and innovative HIV Prevention and Support Service. The Specification sets out the expectations of Shropshire Council (the Commissioner) and the processes for monitoring, evaluation and review of performance against the Specification.

1.1 Aim(s)

The aim of this Service Specification is to outline the Public Health outcomes of a HIV Prevention and Support Service that will be targeted at groups at increased vulnerability to the Human Immune Deficiency Virus (HIV) within Shropshire County. The key groups at increased vulnerability to HIV include, inter alia: men who have sex with men (MSM), Black African communities, sex workers and lesbian, gay, bisexual, transgender and questioning (LGBTQ) young people, and, lesbian, gay, bisexual, transgender (LGBT) adults.

1.2 Evidence Base

1.2.1 Policy Context

The objectives of the first National Strategy for Sexual Health and HIV (2001) were to:

- Reduce the transmission of Sexually Transmitted Infections (STIs) and HIV
- Reduce the prevalence of undiagnosed STIs and HIV
- Reduce unintended pregnancy rates
- Improve health and social care for people living with HIV
- Reduce the stigma associated with STIs and HIV
- 'Making It count' Framework (2003)
- Collaboration in HIV prevention and
- Local and national action

The Government White Paper on Public Health, '*Choosing Health: Making Healthier Choices Easier (2004)*' acknowledged that:

- Chlamydia, the most common STI, affects about one in ten sexually active young women and, left untreated, it leads to pelvic inflammatory disease, ectopic pregnancy and infertility.
- About a quarter of all pregnancies in England and Wales ended in abortion. Three in ten of these women had already had one or more previous abortions (repeat abortions).

A review of the first National Strategy for Sexual Health and HIV (2008) recommended that further action should be taken to:

- Reduce unintended pregnancy rates and improve care for women seeking abortion
- Reduce transmission of HIV and STIs
- Reduce prevalence of undiagnosed HIV and STIs
- Improve health and social care for people living with HIV
- Reduce stigma associated with HIV and other aspects of sexual health
- Improve sexual health and wellbeing

The Government White Paper on Public Health, '*Healthy lives, healthy people: our strategy for public health (2010)*' set out that:

- Sexual health, teenage pregnancy and contraception as public health priorities
- Local authorities (LAs) will be expected to commission open access sexual health services by 2013
- Sexual health services commissioned by LAs will include the prevention, testing and treatment of STIs and HIV

HIV Prevention England (HPE) is the new national HIV prevention programme for England. It will deliver a nationally coordinated programme of HIV prevention work with UK-based African people and with gay men/men who have sex with men (MSM) which will bring together campaigns, online services, local work and policy work. It will work closely with African and gay communities, faith communities, NHS clinics, the Health Protection Agency and, after April 2013, Public Health England.

HPE has established goals with the Government.

- To increase HIV testing to reduce undiagnosed and late diagnosed HIV in both communities
- To support sustained condom use, and other behaviours which prevent HIV infection in both communities

In addition, HPE will work to tackle stigma through its messaging, to increase the evidence base for effective HIV prevention and develop social marketing interventions using new information technologies

Improving Outcomes and Supporting Transparency, '*A public health outcomes framework for England, 2013-2016*', includes three sexual health indicators for LAs. The three sexual health indicators aim at reducing:

- Under 18 conceptions
- Chlamydia diagnoses (15-24 year olds)
- People presenting with HIV at a late stage of infection

1.2.2 Epidemiology

The Health Protection Agency (HPA) Report, '*HIV in the United Kingdom: 2011*', shows that there were about 92,000 people living with HIV in the United Kingdom (UK) by the end of 2010 and a quarter of them were unaware of their status. It is also estimated that there will be 100,000 people living with HIV in the UK by the end of 2012.

There were 6,660 new HIV diagnoses in England in 2010. 3,000 of the new HIV infections were in MSM and 3,660 were acquired heterosexually. 39% of all the new HIV diagnoses in MSM in 2010 were late (CD4 count <350 cells/mm³) and 18% were very late (CD4 count <200 cells/mm³). A late diagnosis increases the risk of death within a year 10-fold in comparison to prompt diagnosis.

National data for 2011 indicated that there were 115 people living with HIV infection in Shropshire. The cumulative rate of diagnosis of HIV infection locally is significantly lower than the average for the West Midlands. The prevalence of infections in the Local Authority is < 1 per 100,000 population. The figures refer to people living with diagnosed HIV only, and do not account for people who are not aware of their HIV infection. Nationally it is estimated that 24% of people living with HIV in the United Kingdom in 2011 remained undiagnosed and were therefore unaware of their infection.

Over 40% of those people diagnosed with HIV in Shropshire are diagnosed late in the disease. Late HIV diagnosis is defined as a CD4 count of less than 350 cells per mm³ of blood. Very late HIV diagnosis is a CD4 count of less than 200 cells per mm³ of blood at the time of diagnosis.

The majority of local people with HIV infection live within the most deprived communities and the majority are male. The majority of positive diagnoses record sex between men as the probable exposure route and figures locally have seen a steady rise over the last 5 years.

There is a lower than average uptake of HIV testing within the sexual health service (Level 3) within Shropshire, 76.8% uptake in 2011 compared to 80% England average and 85% within the West Midlands.

1.2.3 National Institute for Health and Clinical Excellence (NICE) Guidance

The NICE guidance PH3 (2007) is about one to one public health interventions to reduce the transmission of STIs and HIV, and to reduce the rate of under 18s conceptions, especially amongst vulnerable and at risk groups.

The NICE guidance PH33 (2011) is about public health interventions to increase the uptake of HIV testing, reduce undiagnosed infection and prevent transmission among black African communities living in England. The guidance is for commissioners, managers and practitioners who have a direct or indirect role in, and responsibility for, increasing the uptake of HIV testing among black Africans living in England.

The NICE guidance PH34 (2011) is about public health interventions to increase the uptake of HIV testing, reduce undiagnosed infection and prevent transmission among MSM. The guidance is for commissioners, managers and practitioners who have a direct or indirect role in, and responsibility for, increasing the uptake of HIV testing among MSM.

The NICE guidance PH9 (2008) is a public health intervention for community engagement to improve health. Community engagement refers to the process of getting communities involved in decisions that affect them. This includes the planning, development and management of services, as well as activities which aim to improve health or reduce health inequalities.

The NICE guidance CG89 (2009) advice in this guideline covers the alerting features in children and young people (under 18 years) of:

physical, sexual and emotional abuse
neglect
fabricated or induced illness.

This guidance provides a summary of the clinical features associated with maltreatment (alerting features) that may be observed when a child presents to healthcare professionals. Its purpose is to raise awareness and help healthcare professionals who are not specialists in child protection to identify children who may be being maltreated.

1.3 General Overview

HIV is one of the most important communicable diseases in the United Kingdom (UK). It has a significant impact on morbidity, mortality, lifestyle, relationships, work, health, wellbeing and life expectancy. The virus affects all members of society irrespective of age, disability, ethnicity, faith, gender, sexuality, marital status or civil partnership, status of residence or language spoken (speakers of other languages).

There has been a significant improvement in the quality of life for people living with HIV (PLWHIV) since the introduction of the Highly Active Antiretroviral Therapy (HAART) in 1995. HAART has reduced the incidence of the acquired immune deficiency syndrome (AIDS), reduced the rates of AIDS-related deaths and increased the life expectancy of PLWHIV.

1.4 Objectives

The objectives of the HIV Prevention and Support Service will contribute to:

- Increased awareness of STIs and HIV, routes of transmission, testing, treatment, post-exposure prophylaxis following sexual exposure (PEPSE), safer sex and locally accessible sexual health services (allied healthcare professionals, social workers, general public and social care)
- Increased access to free condoms, lubricants and other safer sex resources
- Increased access to STI and HIV testing and repeat testing in non-GUM settings
- Increased testing, repeat testing and treatment for Chlamydia in under 25s in non-GUM settings
- Increased awareness of Hepatitis B & C, testing, repeat testing and access to Hepatitis B vaccinations
- Increased access to STI and HIV treatment and management
- Increased access to other health and social care services
- Proactively reducing health outcomes
- Reducing health inequalities

1.5 Expected Outcomes including improving prevention

The expected outcomes of the HIV Prevention and Support Service will contribute to:

- Reduced rates of STIs and HIV
- Earlier diagnosis of HIV
- Reduced rates of Chlamydia diagnoses in under 25s
- Reduced rates of Hepatitis B & C
- Reduced stigma associated with HIV
- Reduced rates of unintended pregnancies

2. Scope

2.1 Service Description

The HIV Prevention and Support Service will provide:

- Advice, counselling and information on STIs and HIV, routes of transmission, treatment and adherence to treatment, post-exposure prophylaxis following sexual exposure (PEPSE), safer sex and locally accessible sexual health services
- Training on STIs and HIV, routes of transmission, safer sex, treatment and PEPSE
- Testing for HIV, Hepatitis B and Chlamydia in under 25s (with pre and post-test discussions) in locally accessible settings with referrals as appropriate
- Distribution of condoms (including Condom Distribution Scheme)
- Free condoms, lubricants and other safer sex resources
- Support people to access Hepatitis B immunisation in primary care

2.2 Accessibility/acceptability

The HIV Prevention and Support Service will be accessible to all members of the community resident within Shropshire irrespective of age, disability, ethnicity, faith, gender, sexuality, marital status or civil partnership, status of residence or language spoken (speakers of other languages) including:

- BME groups
- LGBT adults
- LGBTQ young people
- Migrant workers
- MSM
- Sex Workers

2.3 Whole System Relationships

The HIV Prevention and Support Service will establish partnerships or referral pathways with national and local NHS-led, non-NHS and Independent agencies that will include:

- Abortion services
- Counselling services
- HIV support services
- Primary care providers or general practitioners (GPs)
- Schools and school nursing teams
- Social Care Providers
- The Adult Safeguarding Team (Shropshire Council)
- The Children Safeguarding Team (Shropshire Council)
- The Drugs and Substance Misuse Team
- The Local Sexual Health Service
- The National African HIV Prevention Programme (NAHIP)

- The Sexual Assault Referral Centre (SARC)
- The Youth Service

2.4 Interdependencies

The HIV Prevention and Support Service will be fully registered with the Care Quality Commission (CQC) and expected to be compliant with national sexual health policy, guidelines and clinical procedures produced by the:

- British Association of Sexual Health and HIV (BASHH)
- British HIV Association (BHIVA)
- Care Quality Commission (CQC)
- Department of Health (DH)
- Medical Foundation for AIDS and Sexual Health (MedFASH)
- National AIDS Trust (NAT)
- National Institute of Health and Clinical Excellence (NICE)
- HIV Prevention England

2.5 Local Networks and Screening Programmes

The HIV Prevention and Support Service will establish partnerships with organisations and screening programmes that will include:

- The Community HIV/AIDS Prevention Strategy (CHAPS) Implementation Group
- The National African HIV Prevention Programme (NAHIP)
- The National Chlamydia Screening Programme (NCSP)
- The NHS Cervical Screening Programme (CSP)
- Local Sexual Health Network

3. Service Delivery

3.1 Service Model

The HIV Prevention and Support Service will be expected to deliver, in an innovative and culturally sensitive manner, the following:

3.1.1 Advice, counselling and information on STIs and HIV, routes of transmission, testing, treatment, post-exposure prophylaxis following sexual exposure (PEPSE), safer sex and locally accessible sexual health services by:

- The production and dissemination of public awareness resources (e.g. leaflets, posters, DVDs, websites, social media or public events, etc)
- Training on STI and HIV awareness, routes of transmission, treatment, PEPSE, safer sex (e.g. healthcare professionals, social care workers, the ambulance service, the police, etc)
- Maintaining an interactive service website and using other social media
- Establishing HIV prevention networks with other sexual health providers
- Providing a targeted counselling service for individuals at increased vulnerability to HIV

3.1.2 Increased access to free condoms, lubricants and other safer sex resources by:

- Demonstrations of good condom use to reduce the occurrences of condom failure
- Provision of free condoms, lubricants and other safer sex resources
- Participation in the free condom distribution scheme.

3.1.3 Increased access to STI and HIV testing and repeat testing in non-GUM settings by:

- Sexual health outreach in locally accessible settings and public sex environments (PSEs)

- Using the HIV Point of Care Tests (POCT) to increase the early identification and treatment of HIV
- Referrals to integrated sexual health providers in primary care including specialist HIV provision
- Support for partner notification, testing and treatment or referral
- Support, signposting and referral for those who have self tested for HIV
- Proactively encouraging annual repeat testing for HIV-negative people at increased vulnerability to HIV

3.1.4 Increased testing, repeat testing and treatment for Chlamydia in under 25s in a range of settings by:

- Opportunistically testing for Chlamydia in under 25s and older adults
- Referrals to integrate community sexual health providers with primary care
- Supporting partner notification, testing, treatment or referral

3.1.5 Increased awareness of Hepatitis B & C, testing, repeat testing and access to Hepatitis B vaccinations by:

- Advice and information on Hepatitis B and Hepatitis B vaccinations
- Opportunistically testing for Hepatitis in those most at risk
- Targeted outreach in locally accessible settings and public sex environments
- Support for partner notification, testing and treatment or referral
- Referrals to integrated sexual health providers in primary care including specialist HIV/Hepatitis provision

3.1.6 Increased access to STI and HIV treatment, health and social care services by:

- Encouraging and supporting people with STIs and HIV-positive service users to access STI and HIV treatment services
- Supporting service users, their partners, carers or families to access other services (e.g. health and social care support services)

3.1.8 Proactively reducing health inequalities

It is the responsibility of the Service Provider to proactively reduce health inequalities in supplying this service. Health inequalities are the result of a complex and wide-ranging network of factors. People who experience material disadvantage, poor housing, lower educational attainment, insecure employment or homelessness, are among those more likely to suffer poorer health and an earlier death, compared with the rest of the population. As part of the strategy to reduce health inequalities, the Service Provider must provide evidence of engagement and collaborative working practices with all relevant organisations, to promote and improve health equalities within the relevant population.

All partners are required to work in compliance with NICE guidelines PH 9 on Community Engagement, in order to deliver the legal obligations on the 'Duty to Involve' legislation. It is expected that all engagement processes are adequately resourced, long term and embedded within service delivery.

As a minimum, data returns submitted should include the broad nature of the service users encounter, actual age, gender, ethnicity and full postcode if feasible, using standard classification systems where possible. Equality monitoring for all Service Users, including referrals and those who did not attend (DNAs) where appropriate, should also be recorded and reported typically as monthly, but no less than quarterly. Equality monitoring should include physical, sensory or learning disabilities as appropriate and the Commissioner will agree specific data returns with the Service Provider in addition to those listed here.

The Service Provider shall not discriminate unlawfully within the meaning and scope of any law, enactment, order, regulation or similar instrument relating to discrimination (whether in relation to race, gender, disability, religion ?age (SJV) or otherwise) in employment or in relation to the performance of the services. The Service Provider will meet all its statutory responsibilities in this area.

The Service Provider will identify and implement continual improvements with evidence of progress against Standards for Better Health, also demonstrating an ability to adapt programmes to meet the requirements of local commissioners.

Every contact with a Service User provides an opportunity for a health promoting discussion and brief intervention. The Service Provider will ensure that staff are effectively trained and supported to ensure 'Every Contact Counts'.

3.2 Care Pathway(s)

The HIV Prevention and Support Service will establish clear referral mechanisms and protocols with locally accessible sexual health/HIV services.

3.3 Quality Standards

3.3.1 Registration and Assurance

The Service Provider must be able to demonstrate current registration with the Care Quality Commission (CQC) for the Service to be delivered where this is applicable to the Service or Service Provider. The Service Provider must notify the Commissioner of registration renewal dates and of any amendments, variations or applications. The Service Provider must also notify the Commissioner of any penalties imposed for non registration (services can no longer provide a service if not registered as this is a legal requirement), CQC inspections (planned or unannounced) and enforcements for delivery of poor quality. The Service Provider should make available all inspection reports, CQC periodic and special reviews, national audit reports, and national patient and staff surveys as applicable.

3.3.2 Care Quality Commission Registration Regulations, Requirements

The Service must be able to demonstrate compliance with all generic and service specific Registration Requirements, Regulations of the CQC. The regulations and outcomes ensure that the care people receive meets essential standards of quality and safety. Where CQC registration is not currently a requirement of the provider or service, the Service Provider should be able demonstrate compliance with them. The regulations and outcomes cover:

3.3.2.1 Involvement and Information

The Service Provider will ensure that service users and carers are involved in making decisions about their care, treatment and support. They will also ensure that the views of people who use services are taken into account when making decisions about how services are delivered and improved. Service Providers shall make information available so that people can make informed choices about their care, treatment and support.

3.3.2.2 Personalised Care, Treatment and Support

The Service Provider will ensure that people who use services receive effective, safe and appropriate care, treatment and support that meets their individual needs. Service Providers will assess health needs, develop care plans, take account of published research and best practice, cooperate with other agencies involved in the care, treatment and support of a person and share information in a confidential manner with all relevant services, teams or agencies.

3.3.2.3 Safeguarding and Safety

The Service Provider will ensure that people who use the service, workers and others who visit are as safe as they can be and that risks are managed. They will also ensure that the human rights and dignity of people who use services are respected and identify and respond when people are in vulnerable situations. Service Providers will ensure that the premises and equipment they use to provide care, treatment & support are safe and suitable. Service Providers will comply with guidance for safeguarding people who use services from abuse, cleanliness and infection control, management of medicines, safety & suitability of premises and safety and suitability of equipment.

All staff working with children, young people and vulnerable adults will have been recruited in line with Shropshire and Telford and Wrekin Local Safeguarding Board Standards for Safer Recruitment 2012 and will be subject to a Disclosure and Barring Service (DBS) check. (This is the new system that has replaced Enhanced CRB check)

The provider or any subcontractor will comply with the local inter-agency Safeguarding Children and Young People and Adults Procedures and Practice guidelines. These are available from Shropshire and Telford and Wrekin Local Safeguarding Children's Board LSCB websites. These guidelines relate to the protection of all children and young people and vulnerable adults residing within Shropshire and Telford and Wrekin. The Board definition of a vulnerable child is any child **under the age of 18** including the unborn baby. However some children are more vulnerable than others. These include:

- "Looked after" children already in the care system
- Children with disabilities
- Homeless children

- Teenage mothers
- Children in custodial settings
- Children who live with parental drug and alcohol abuse or domestic violence.

The broad definition of a "vulnerable adult", is a person (aged 18+) who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him/herself, or unable to protect him or herself against significant harm or exploitation.

3.3.2.4 Suitability of Staffing

The Service Provider will ensure that they have the right staff with the right skills, qualifications, experience and knowledge to support people. Service Providers will comply with guidance relating to staffing and supporting workers.

3.3.2.5 Quality and Management

The Service Provider will manage risk in order to ensure that essential standards of quality and safety are maintained and have systems in place to assess and monitor the quality of service provision. Service Providers will also take account of comments and complaints, investigations into poor practice and advice from and reports by the CQC. The Service Provider will improve the service by learning from adverse events, incidents, errors and near misses, the outcome from comments and complaints and the advice from expert bodies. The Service Provider will also notify the CQC about incidents that affect the health, safety and welfare of people who use services including injuries to people, making an application to deprive someone of their liberty, allegations of abuse and police investigations.

3.3.3 Quality Improvement

The Service Provider will identify, implement and demonstrate continuous improvements to the quality of the Service as part of their quality framework. Evidence of action plans, monitoring progress and improvements / outcomes achieved will be reported to the Commissioner at regular intervals. These reports will be reviewed as part of the monitoring of the Service.

3.3.4 Management & Monitoring of Quality

The Service Provider will provide an Annual Quality Report to give the Commissioner assurance that care is safe; clinically effective; and provides service users with the most positive service user experience. This report will be used to assure the Commissioner of the quality of the Service delivered.

3.3.5 Clinical Effectiveness

The Service Provider will ensure that care is compliant with all relevant NICE guidance and other sources of evidence based practice. The Service Provider will also provide care based on recommendations and guidance contained in relevant National Service Frameworks and other national programmes.

The Service Provider will demonstrate compliance with best practice and improved outcomes through undertaking relevant clinical audits as part of an annual audit programme.

4. Referral, Access and Acceptance Criteria

4.1 Geographic coverage/boundaries

The HIV Prevention and Support Service will be provided within the boundaries of Shropshire Council.

4.2 Location(s) of Service Delivery

The HIV Prevention and Support Service will be a targeted outreach service for communities at increased vulnerability to HIV and resident within the boundaries of Shropshire Council.

4.3 Days/Hours of operation

The service shall be provided from a variety of outreach locations targeting vulnerable communities across Shropshire County. A facility to signpost service users to other alternative providers 'out of hours' and during closures of planned service/clinics shall be in place at all times.

The HIV Prevention and Support Service will operate as follows:

- A minimum of 4 hours a day on weekdays (Mondays through Fridays)
- Flexibly in the evenings (on weekdays) and weekends i.e. the Service will operate to the requirements of Service Users

4.4 Referral criteria & sources

The HIV Prevention and Support Service will be an open-access service with no specific referral criteria. However, the Service Provider will ensure the Service has clear assessment and referral criteria for Service Users accessing counselling.

The HIV Prevention and Support Service will establish partnerships, referral mechanisms and protocols with other agencies as appropriate.

4.5 Onward referral routes

The HIV Prevention and Support Service will establish referral mechanisms and protocols with locally accessible sexual health services and they will include (but are not limited to :-)

- Abortion services
- Counselling services
- HIV support services
- Primary care providers or general practitioners (GPs)
- Schools and school nursing teams
- Social Care Providers
- The Adult Safeguarding Team (Shropshire Council)
- The Children Safeguarding Team (Shropshire Council)
- The Drugs and Substance Misuse Team
- Specialist HIV Provider
- The National African HIV Prevention Programme (NAHIP)
- The Sexual Assault Referral Centre (SARC)
- The Youth Service

4.6 Exclusion criteria

No exclusion criteria.

4.7 Response time & detail and prioritisation

The HIV Prevention and Support Service will be an open access service for all irrespective of age, disability, ethnicity, faith, gender, sexuality, marital status or civil partnership, status of residence or language spoken (speakers of other languages).

5. Discharge Criteria and Planning

The HIV Prevention and Support Service will be an open access service that will establish referral mechanisms and protocols with other agencies. There will be no discharge criteria.

6. Prevention, Self-Care and Patient and Carer Information

The HIV Prevention and Support Service will be expected to provide sexual health prevention interventions that will include:

- The production and dissemination of resources for public awareness raising about STIs and HIV (leaflets, posters,

DVDs, websites, social media, etc).

- Participate in media campaigns on STIs and HIV (e.g. World AIDS Day, PEPSE, etc).
- Training on STI and HIV awareness, routes of transmission, safer sex, treatment, PEPSE .
- An interactive service website about STIs and HIV and other social media.
- Any training required to support new innovations/advances and interventions ie home care tests

7. Continual Service Improvement/Innovation Plan

The Commissioner and Service Provider will meet on a regular basis to review the Service and agree the way forward in respect of service improvements. Service performance and review meetings will be arranged by the Commissioner.

8. Activity

8.1 Activity – these are indicative thresholds and will be subject to further negotiation with the successful provider

Activity Performance Indicators	Method of measurement	Baseline Target	Annual Threshold	Frequency of Monitoring
1. Total number of Service Users (people provided with advice, information, support and referral to other services)	Monitoring data recorded by age, disability, ethnicity, faith, gender, marital status, sexuality, residence, etc	100%	For review in year	Quarterly
2. Number of new Service Users	Recorded by the service accessed e.g. training, counselling, C-Card registration, etc	New service	600	Quarterly
3. Number of repeat Service Users	Monitoring data	New service	Not applicable	Quarterly
4. Number of STI/HIV awareness training sessions provided	Monitoring data	New service	8	Quarterly
5. Number of Service Users attending STI/HIV awareness training	Monitoring data	New service	24	Quarterly
6. Number of professionals attending STI/ HIV awareness training	Monitoring data	New service	10 participants per session	Quarterly
7. Number of counselling session delivered	Monitoring data	New service	50 sessions (1 hour in duration)	Quarterly
8. Number of Service Users attending counselling sessions	Monitoring data	New service	For review in year	Quarterly
9. Number of HIV Point Of Care Test	Monitoring data (record date of last test)	New service	100	Quarterly
10. Number of Service Users referred for Post Exposure Prophylaxis Sexual Exposure (PEPSE)	Monitoring Data	Any Service User deemed at risk	100%	Quarterly
11. Number of under 25s screened for Chlamydia	Monitor data	New service	Every eligible young person aged 15-14 years.	Quarterly
12. Number and percentage of service users assessed as at risk	Monitoring data	New service	100%	Quarterly

offered the Hep B Point Of Care Test				
13. Number and percentage of Hep B Point Of Care Test accepted	Monitoring data	New service	100%	Quarterly
14. Number and percentage of new service users assessed as at risk offered Hep C Point of Care Test	Monitoring data	New service	100%	Quarterly
15. Number and percentage of Hep C Point of Care Test accepted	Monitoring data	New service	100%	Quarterly
16. Number and percentage of under 25s registered with the C-Card Scheme	Monitoring data	New service	N/A	Quarterly
17. Number of condoms distributed by site	Monitoring data	New service	Reviewed in year	Quarterly
18. Number, dates, venues and time spent (hours) in targeted outreach sessions	Monitoring data	New service	80 sessions (min of 1hour in duration)	Quarterly
19. Number of service user contacts within the outreach sessions	Monitoring data	New service	In year review	Quarterly
20. Number and percentage of Service Users serving as volunteers	Monitoring data	New Service	Not applicable	Annually
21. Number of STI and HIV awareness campaigns supported	Monitoring data	New service	4	Annually
22. Number of visits made to the service website by service users (interactive)	Monitoring data	New service	Not applicable	Quarterly
23. Numbers of referrals made to other services e.g. Integrated sexual health service, HIV specialist service, hepatitis specialist service, social care etc,	Monitoring data	New service	Not applicable	Quarterly
24. Audit – Safeguarding Record Keeping Audit by Safeguarding Lead	Analyse data	New Service	Review & report findings to HGSCC	Annual
25. Number of safeguarding issues addressed	Monitoring data	New Service	NA	Annual
24. Safeguarding Training figures	Monitor data	New Service	Level 1 100% Level 2 90 - 100% Level 3 90 - 100%	Quarterly (ASR)
25. Representation and reporting to Shropshire and Telford & Wrekin Healthcare Governance Safeguarding Children Committee (HGSCC) using HGSCC template	Monitor data	New Service	100% Attendance	Quarterly (ASR)
26. Staff training – Brief interventions 'Making Every Contact Count'	Monitor data	New Service	100%	Quarterly

8.2 Activity Plan / Activity Management Plan

To be agreed.

8.3 Capacity Review

Shropshire Council as the Commissioner and the Service Provider will meet on a regular basis to review service capacity and agree the way forward in respect of service improvements.



DRAFT

SCHEDULE 1 Service Specification

Care Pathway/Service	HIV Prevention and Support Service
Commissioner Lead	Telford & Wrekin Council
Provider Lead	
Period	

1. Purpose

This Service Specification identifies the requirements for the provision of a comprehensive, evidence-based and innovative HIV Prevention and Support Service. The Specification sets out the expectations of Telford & Wrekin Council (the Commissioner) and the processes for monitoring, evaluation and review of performance against the Specification.

1.1 Aim(s)

The aim of this Service Specification is to outline the Public Health outcomes of a HIV Prevention and Support Service that will be targeted at groups at increased vulnerability to the Human Immune Deficiency Virus (HIV) within Telford & Wrekin. The key groups at increased vulnerability to HIV include, inter alia: men who have sex with men (MSM), Black African communities, sex workers and lesbian, gay, bisexual, transgender and questioning (LGBTQ) young people, and, lesbian, gay, bisexual, transgender (LGBT) adults.

1.2 Evidence Base

1.2.1 Policy Context

The objectives of the first National Strategy for Sexual Health and HIV (2001) were to:

- Reduce the transmission of Sexually Transmitted Infections (STIs) and HIV
- Reduce the prevalence of undiagnosed STIs and HIV
- Reduce unintended pregnancy rates
- Improve health and social care for people living with HIV
- Reduce the stigma associated with STIs and HIV
- 'Making It count' Framework (2003)
- Collaboration in HIV prevention and
- Local and national action

The Government White Paper on Public Health, '*Choosing Health: Making Healthier Choices Easier (2004)*' acknowledged that:

- Chlamydia, the most common STI, affects about one in ten sexually active young women and, left untreated, it leads to pelvic inflammatory disease, ectopic pregnancy and infertility.
- About a quarter of all pregnancies in England and Wales ended in abortion. Three in ten of these women had already had one or more previous abortions (repeat abortions).

A review of the first National Strategy for Sexual Health and HIV (2008) recommended that further action should be taken to:

- Reduce unintended pregnancy rates and improve care for women seeking abortion
- Reduce transmission of HIV and STIs
- Reduce prevalence of undiagnosed HIV and STIs
- Improve health and social care for people living with HIV
- Reduce stigma associated with HIV and other aspects of sexual health
- Improve sexual health and wellbeing

The Government White Paper on Public Health, '*Healthy lives, healthy people: our strategy for public health (2010)*' set out that:

- Sexual health, teenage pregnancy and contraception as public health priorities
- Local authorities (LAs) will be expected to commission open access sexual health services by 2013
- Sexual health services commissioned by LAs will include the prevention, testing and treatment of STIs and HIV

HIV Prevention England (HPE) is the new national HIV prevention programme for England. It will deliver a nationally coordinated programme of HIV prevention work with UK-based African people and with gay men/men who have sex with men (MSM) which will bring together campaigns, online services, local work and policy work. It will work closely with African and gay communities, faith communities, NHS clinics, the Health Protection Agency and, after April 2013, Public Health England.

HPE has established goals with the Government.

- To increase HIV testing to reduce undiagnosed and late diagnosed HIV in both communities
- To support sustained condom use, and other behaviours which prevent HIV infection in both communities

In addition, HPE will work to tackle stigma through its messaging, to increase the evidence base for effective HIV prevention and develop social marketing interventions using new information technologies

Improving Outcomes and Supporting Transparency, '*A public health outcomes framework for England, 2013-2016*', includes three sexual health indicators for LAs. The three sexual health indicators aim at reducing:

- Under 18 conceptions
- Chlamydia diagnoses (15-24 year olds)
- People presenting with HIV at a late stage of infection

1.2.2 Epidemiology

The Health Protection Agency (HPA) Report, '*HIV in the United Kingdom: 2011*', shows that there were about 92,000 people living with HIV in the United Kingdom (UK) by the end of 2010 and a quarter of them were unaware of their status. It is also estimated that there will be 100,000 people living with HIV in the UK by the end of 2012.

There were 6,660 new HIV diagnoses in England in 2010. 3,000 of the new HIV infections were in MSM and 3,660 were acquired heterosexually. 39% of all the new HIV diagnoses in MSM in 2010 were late (CD4 count <350 cells/mm³) and 18% were very late (CD4 count <200 cells/mm³). A late diagnosis increases the risk of death within a year 10-fold in comparison to prompt diagnosis.

National data for 2011 indicated that there were 104 people living with HIV infection in Telford & Wrekin. The cumulative rate of diagnosis of HIV infection locally is significantly lower than the average for the West

Midlands. The prevalence of infections in the Local Authority is < 1 per 100,000 population. The figures refer to people living with diagnosed HIV only, and do not account for people who are not aware of their HIV infection. Nationally it is estimated that 24% of people living with HIV in the United Kingdom in 2011 remained undiagnosed and were therefore unaware of their infection.

Over 45% of those people diagnosed with HIV in Telford & Wrekin are diagnosed late in the disease. Late HIV diagnosis is defined as a CD4 count of less than 350 cells per mm³ of blood. Very late HIV diagnosis is a CD4 count of less than 200 cells per mm³ of blood at the time of diagnosis.

The majority of local people with HIV infection live within the most deprived communities and the majority are male. The majority of positive diagnoses record sex between men as the probable exposure route and figures locally have seen a steady rise over the last 5 years.

There is a lower than average uptake of HIV testing within the sexual health service (Level 3) within Telford & Wrekin, 71% uptake in 2011 compared to 80 England average and 85% within the West Midlands.

1.2.3 National Institute for Health and Clinical Excellence (NICE) Guidance

The NICE guidance PH3 (2007) is about one to one public health interventions to reduce the transmission of STIs and HIV, and to reduce the rate of under 18s conceptions, especially amongst vulnerable and at risk groups.

The NICE guidance PH33 (2011) is about public health interventions to increase the uptake of HIV testing, reduce undiagnosed infection and prevent transmission among black African communities living in England. The guidance is for commissioners, managers and practitioners who have a direct or indirect role in, and responsibility for, increasing the uptake of HIV testing among black Africans living in England.

The NICE guidance PH34 (2011) is about public health interventions to increase the uptake of HIV testing, reduce undiagnosed infection and prevent transmission among MSM. The guidance is for commissioners, managers and practitioners who have a direct or indirect role in, and responsibility for, increasing the uptake of HIV testing among MSM.

The NICE guidance PH9 (2008) is a public health intervention for community engagement to improve health. Community engagement refers to the process of getting communities involved in decisions that affect them. This includes the planning, development and management of services, as well as activities which aim to improve health or reduce health inequalities.

The NICE guidance CG89 (2009) advice in this guideline covers the alerting features in children and young people (under 18 years) of: Physical, sexual and emotional abuse, neglect, fabricated or induced illness.

This guidance provides a summary of the clinical features associated with maltreatment (alerting features) that may be observed when a child presents to healthcare professionals. Its purpose is to raise awareness and help healthcare professionals who are not specialists in child protection to identify children who may be being maltreated.

1.3 General Overview

HIV is one of the most important communicable diseases in the United Kingdom (UK). It has a significant impact on morbidity, mortality, lifestyle, relationships, work, health, wellbeing and life expectancy. The virus affects all members of society irrespective of age, disability, ethnicity, faith, gender, sexuality, marital status or civil partnership, status of residence or language spoken (speakers of other languages).

There has been a significant improvement in the quality of life for people living with HIV (PLWHIV) since the introduction of the Highly Active Antiretroviral Therapy (HAART) in 1995. HAART has reduced the incidence of the acquired immune deficiency syndrome (AIDS), reduced the rates of AIDS-related deaths and increased the life expectancy of PLWHIV.

1.4 Objectives

The objectives of the HIV Prevention and Support Service will contribute to:

- Increased awareness of STIs and HIV, routes of transmission, testing, treatment, post-exposure prophylaxis following sexual exposure (PEPSE), safer sex and locally accessible sexual health services (allied healthcare professionals, social workers, general public and social care)
- Increased access to free condoms, lubricants and other safer sex resources
- Increased access to STI and HIV testing and repeat testing in non-GUM settings
- Increased testing, repeat testing and treatment for Chlamydia in under 25s in non-GUM settings
- Increased awareness of Hepatitis B & C, testing, repeat testing and access to Hepatitis B vaccinations
- Increased access to STI and HIV treatment and management
- Increased access to other health and social care services
- Proactively reducing health outcomes
- Reducing health inequalities

1.5 Expected Outcomes including improving prevention

The expected outcomes of the HIV Prevention and Support Service will contribute to:

- Reduced rates of STIs and HIV
- Earlier diagnosis of HIV
- Reduced rates of Chlamydia diagnoses in under 25s
- Reduced rates of Hepatitis B & C
- Reduced stigma associated with HIV
- Reduced rates of unintended pregnancies

2. Scope

2.1 Service Description

The HIV Prevention and Support Service will provide:

- Advice, counselling and information on STIs and HIV, routes of transmission, treatment and adherence to treatment, post-exposure prophylaxis following sexual exposure (PEPSE), safer sex and locally accessible sexual health services
- Training on STIs and HIV, routes of transmission, safer sex, treatment and PEPSE
- Testing for HIV, Hepatitis B and Chlamydia in under 25s (with pre and post-test discussions) in locally accessible settings with referrals as appropriate
- Distribution of condoms (including Condom Distribution Scheme)
- Free condoms, lubricants and other safer sex resources
- Support people to access Hepatitis B immunisation in primary care

2.2 Accessibility/acceptability

The HIV Prevention and Support Service will be accessible to all members of the community resident within Telford & Wrekin irrespective of age, disability, ethnicity, faith, gender, sexuality, marital status or civil partnership, status of residence or language spoken (speakers of other languages) including:

- BME groups
- LGBT adults
- LGBTQ young people
- Migrant workers
- MSM
- Sex Workers

2.3 Whole System Relationships

The HIV Prevention and Support Service will establish partnerships or referral pathways with national and local NHS-led, non-NHS and Independent agencies that will include:

- Abortion services
- Counselling services
- HIV support services
- Primary care providers or general practitioners (GPs)
- Schools and school nursing teams
- Social Care Providers
- The Adult Safeguarding Team (Telford & Wrekin Council)
- The Children Safeguarding Team (Telford & Wrekin Council)
- The Drugs and Substance Misuse Team
- The Local Sexual Health Service
- The National African HIV Prevention Programme (NAHIP)
- The Sexual Assault Referral Centre (SARC)
- The Youth Service

2.4 Interdependencies

The HIV Prevention and Support Service will be fully registered with the Care Quality Commission (CQC) and expected to be compliant with national sexual health policy, guidelines and clinical procedures produced by the:

- British Association of Sexual Health and HIV (BASHH)
- British HIV Association (BHIVA)
- Care Quality Commission (CQC)
- Department of Health (DH)
- Medical Foundation for AIDS and Sexual Health (MedFASH)
- National AIDS Trust (NAT)
- National Institute of Health and Clinical Excellence (NICE)
- HIV Prevention England

2.5 Local Networks and Screening Programmes

The HIV Prevention and Support Service will establish partnerships with organisations and screening programmes that will include:

- The Community HIV/AIDS Prevention Strategy (CHAPS) Implementation Group
- The National African HIV Prevention Programme (NAHIP)
- The National Chlamydia Screening Programme (NCSP)
- The NHS Cervical Screening Programme (CSP)
- Local Sexual Health Network

3. Service Delivery

3.1 Service Model

The HIV Prevention and Support Service will be expected to deliver, in an innovative and culturally sensitive manner, the following:

3.1.1 Advice, counselling and information on STIs and HIV, routes of transmission, testing, treatment, post-exposure prophylaxis following sexual exposure (PEPSE), safer sex and locally accessible sexual health services by:

- The production and dissemination of public awareness resources (e.g. leaflets, posters, DVDs, websites, social media or public events, etc)
- Training on STI and HIV awareness, routes of transmission, treatment, PEPSE, safer sex (e.g. healthcare professionals, social care workers, the ambulance service, the police, etc)
- Maintaining an interactive service website and using other social media
- Establishing HIV prevention networks with other sexual health providers
- Providing a targeted counselling service for individuals at increased vulnerability to HIV

3.1.2 Increased access to free condoms, lubricants and other safer sex resources by:

- Demonstrations of good condom use to reduce the occurrences of condom failure
- Provision of free condoms, lubricants and other safer sex resources
- Participation in local condom distribution scheme

3.1.3 Increased access to STI and HIV testing and repeat testing in non-GUM settings by:

- Sexual health outreach in locally accessible settings and public sex environments (PSEs)
- Using the HIV Point of Care Tests (POCT) to increase the early identification and treatment of HIV
- Referrals to integrated sexual health providers in primary care including specialist HIV provision
- Support for partner notification, testing and treatment or referral
- Support, signposting and referral for those who have self tested for HIV
- Proactively encouraging annual repeat testing for HIV-negative people at increased vulnerability to HIV

3.1.4 Increased testing, repeat testing and treatment for Chlamydia in under 25s in a range of settings by:

- Opportunistically testing for Chlamydia in under 25s and older adults
- Referrals to integrate community sexual health providers with primary care
- Supporting partner notification, testing, treatment or referral

3.1.5 Increased awareness of Hepatitis B & C, testing, repeat testing and access to Hepatitis B vaccinations by:

- Advice and information on Hepatitis B and Hepatitis B vaccinations
- Opportunistically testing for Hepatitis in those most at risk
- Targeted outreach in locally accessible settings and public sex environments
- Support for partner notification, testing and treatment or referral
- Referrals to integrated sexual health providers in primary care including specialist HIV/Hepatitis provision

3.1.6 Increased access to STI and HIV treatment, health and social care services by:

- Encouraging and supporting people with STIs and HIV-positive service users to access STI and HIV treatment services
- Supporting service users, their partners, carers or families to access other services (e.g. health and social care support services)

3.1.8 Proactively reducing health inequalities

It is the responsibility of the Service Provider to proactively reduce health inequalities in supplying this service. Health inequalities are the result of a complex and wide-ranging network of factors. People, who experience material disadvantage, poor housing, lower educational attainment, insecure employment or homelessness, are among those more likely to suffer poorer health and an earlier death, compared with the rest of the population. As part of the strategy to reduce health inequalities, the Service Provider must provide evidence of engagement and collaborative working practices with all relevant organisations, to promote and improve health equalities within the relevant population.

All partners are required to work in compliance with NICE guidelines PH 9 on Community Engagement, in order to deliver the legal obligations on the 'Duty to Involve' legislation. It is expected that all engagement processes are adequately resourced, long term and embedded within service delivery.

As a minimum, data returns submitted should include the broad nature of the service users encounter, actual age, gender, ethnicity and full postcode if feasible, using standard classification systems where possible. Equality monitoring for all Service Users, including referrals and those who did not attend (DNAs) where appropriate, should also be recorded and reported typically as monthly, but no less than quarterly. Equality monitoring should include physical, sensory or learning disabilities as appropriate and the Commissioner will agree specific data returns with the Service Provider in addition to those listed here.

The Service Provider shall not discriminate unlawfully within the meaning and scope of any law, enactment, order, regulation or similar instrument relating to discrimination (whether in relation to race, gender, disability, religion, age or otherwise) in employment or in relation to the performance of the services. The Service Provider will meet all its statutory responsibilities in this area.

The Service Provider will identify and implement continual improvements with evidence of progress against Standards for Better Health, also demonstrating an ability to adapt programmes to meet the requirements of local commissioners.

Every contact with a Service User provides an opportunity for a health promoting discussion and brief intervention. The Service Provider will ensure that staff are effectively trained and supported to ensure 'Every Contact Counts'.

3.2 Care Pathway(s)

The HIV Prevention and Support Service will establish clear referral mechanisms and protocols with locally accessible sexual health/HIV services.

3.3 Quality Standards

3.3.1 Registration and Assurance

The Service Provider must be able to demonstrate current registration with the Care Quality Commission (CQC) for the Service to be delivered where this is applicable to the Service or Service Provider. The Service Provider must notify the Commissioner of registration renewal dates and of any amendments, variations or applications. The Service Provider must also notify the Commissioner of any penalties imposed for non registration (services can no longer provide a service if not registered as this is a legal requirement), CQC inspections (planned or unannounced) and enforcements for delivery of poor quality. The Service Provider should make available all inspection reports, CQC periodic and special reviews, national audit reports, and national patient and staff surveys as applicable.

3.3.2 Care Quality Commission Registration Regulations, Requirements

The Service must be able to demonstrate compliance with all generic and service specific Registration Requirements, Regulations of the CQC. The regulations and outcomes ensure that the care people receive meets essential standards of quality and safety. Where CQC registration is not currently a requirement of the provider or service, the Service Provider should be able demonstrate compliance with them. The regulations and outcomes cover:

3.3.2.1 Involvement and Information

The Service Provider will ensure that service users and carers are involved in making decisions about their care, treatment and support. They will also ensure that the views of people who use services are taken into account when making decisions about how services are delivered and improved. Service Providers shall make information available so that people can make informed choices about their care, treatment and support.

3.3.2.2 Personalised Care, Treatment and Support

The Service Provider will ensure that people who use services receive effective, safe and appropriate care, treatment and support that meet their individual needs. Service Providers will assess health needs, develop care plans, take account of published research and best practice, cooperate with other agencies involved in the care, treatment and support of a person and share information in a confidential manner with all relevant services, teams or agencies

3.3.2.3 Safeguarding and Safety

The Service Provider will ensure that people who use the service, workers and others who visit are as safe as they can be and that risks are managed. They will also ensure that the human rights and dignity of people who use services are respected and identify and respond when people are in vulnerable situations. Service Providers will ensure that the premises and equipment they use to provide care, treatment & support are safe and suitable.

Service Providers will comply with guidance for safeguarding people who use services from abuse,

cleanliness and infection control, management of medicines, safety & suitability of premises and safety and suitability of equipment.

All staff working with children, young people and vulnerable adults will have been recruited in line with Shropshire and Telford and Wrekin Local Safeguarding Board Standards for Safer Recruitment 2012 and will be subject to a Disclosure and Barring Service (DBS) check. (This is the new system that has replaced Enhanced CRB check).

The provider or any subcontractor will comply with the local inter-agency Safeguarding Children and Young People and Adults Procedures and Practice guidelines. These are available from Shropshire and Telford and Wrekin Local Safeguarding Children's Board LSCB websites. These guidelines relate to the protection of all children and young people and vulnerable adults residing within Shropshire and Telford and Wrekin. The Board definition of a vulnerable child as any child under the age of 18 including the unborn baby.

These include (but are not limited to :-)

- "Looked after" children already in the care system
- Children with disabilities
- Homeless children
- Teenage mothers
- Children in custodial settings
- Children who live with parental drug and alcohol abuse or domestic violence.

The broad definition of a "vulnerable adult", is a person (aged 18+) who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him/herself, or unable to protect him or herself against significant harm or exploitation.

3.3.2.4 Suitability of Staffing

The Service Provider will ensure that they have the right staff with the right skills, qualifications, experience and knowledge to support people. Service Providers will comply with guidance relating to staffing and supporting workers.

3.3.2.5 Quality and Management

The Service Provider will manage risk in order to ensure that essential standards of quality and safety are maintained and have systems in place to assess and monitor the quality of service provision. Service Providers will also take account of comments and complaints, investigations into poor practice and advice from and reports by the CQC. The Service Provider will improve the service by learning from adverse events, incidents, errors and near misses, the outcome from comments and complaints and the advice from expert bodies. The Service Provider will also notify the CQC about incidents that affect the health, safety and welfare of people who use services including injuries to people, making an application to deprive someone of their liberty, allegations of abuse and police investigations.

3.3.3 Quality Improvement

The Service Provider will identify, implement and demonstrate continuous improvements to the quality of the Service as part of their quality framework. Evidence of action plans, monitoring progress and improvements / outcomes achieved will be reported to the Commissioner at regular intervals. These reports will be reviewed as part of the monitoring of the Service.

3.3.4 Management & Monitoring of Quality

The Service Provider will provide an Annual Quality Report to give the Commissioner assurance that care is safe; clinically effective; and provides service users with the most positive service user experience. This report will be used to assure the Commissioner of the quality of the Service delivered.

3.3.5 Clinical Effectiveness

The Service Provider will ensure that care is compliant with all relevant NICE guidance and other sources of evidence based practice. The Service Provider will also provide care based on recommendations and guidance contained in relevant National Service Frameworks and other national programmes.

The Service Provider will demonstrate compliance with best practice and improved outcomes through undertaking relevant clinical audits as part of an annual audit programme.

4. Referral, Access and Acceptance Criteria

4.1 Geographic coverage/boundaries

The HIV Prevention and Support Service will be provided within the boundaries of Telford & Wrekin.

4.2 Location(s) of Service Delivery

The HIV Prevention and Support Service will be a targeted outreach service for communities at increased vulnerability to HIV and resident within the boundaries of Telford & Wrekin.

4.3 Days/Hours of operation

The service shall be provided from a variety of outreach locations targeting vulnerable communities across Telford & Wrekin. A facility to signpost service users to other alternative providers 'out of hours' and during closures of planned service/clinics shall be in place at all times.

The HIV Prevention and Support Service will operate as follows:

- A minimum of 4 hours a day on weekdays (Mondays through Fridays)
- Flexibly in the evenings (on weekdays) and weekends i.e. the Service will operate to the requirements of Service Users

4.4 Referral criteria & sources

The HIV Prevention and Support Service will be an open-access service with no specific referral criteria. However, the Service Provider will ensure the Service has clear assessment and referral criteria for Service Users accessing counselling.

The HIV Prevention and Support Service will establish partnerships, referral mechanisms and protocols with other agencies as appropriate.

4.5 Onward referral routes

The HIV Prevention and Support Service will establish referral mechanisms and protocols with locally accessible sexual health services and they will include (but are not limited to :-)

- Abortion services
- Counselling services

- HIV support services
- Primary care providers or general practitioners (GPs)
- Schools and school nursing teams
- Social Care Providers
- The Adult Safeguarding Team (Telford & Wrekin Council)
- The Children Safeguarding Team (Telford & Wrekin Council)
- The Drugs and Substance Misuse Team
- Specialist HIV Provider
- The National African HIV Prevention Programme (NAHIP)
- The Sexual Assault Referral Centre (SARC)
- The Youth Service
- Maternity Services

4.6 Exclusion criteria

4.7 Response time & detail and prioritisation

The HIV Prevention and Support Service will be an open access service for all irrespective of age, disability, ethnicity, faith, gender, sexuality, marital status or civil partnership, status of residence or language spoken (speakers of other languages).

5. Discharge Criteria and Planning

The HIV Prevention and Support Service will be an open access service that will establish referral mechanisms and protocols with other agencies. There will be no discharge criteria.

6. Prevention, Self-Care and Patient and Carer Information

The HIV Prevention and Support Service will be expected to provide sexual health prevention interventions that will include:

- The production and dissemination of resources for public awareness raising about STIs and HIV (leaflets, posters, DVDs, websites, social media, etc).
- Participate in media campaigns on STIs and HIV (e.g. World AIDS Day, PEPSE, etc).
- Training on STI and HIV awareness, routes of transmission, safer sex, treatment, PEPSE.
- An interactive service website about STIs and HIV and other social media.
- Any training required to support new innovations/advances and interventions i.e. home care tests

7. Continual Service Improvement/Innovation Plan

The Commissioner and Service Provider will meet on a regular basis to review the Service and agree the way forward in respect of service improvements. Service performance and review meetings will be arranged by the commissioner.

8. Activity

8.1 Activity – these are indicative thresholds and will be subject to further negotiation with the successful provider.

Activity Performance Indicators	Method of measurement	Baseline Target	Annual Threshold	Frequency of Monitoring
1. Total number of Service Users (people provided with advice, information, support and referral to other services)	Monitoring data recorded by age, disability, ethnicity, faith, gender, marital status, sexuality, residence, etc	100%	For review in year	Quarterly
2. Number of new Service Users	Recorded by the service accessed e.g. training, counselling, C-Card registration, etc	New service	600	Quarterly
3. Number of repeat Service Users	Monitoring data	New service	Not applicable	Quarterly
4. Number of STI/HIV awareness training sessions provided	Monitoring data	New service	8	Quarterly
5. Number of Service Users attending STI/HIV awareness training	Monitoring data	New service	24	Quarterly
6. Number of professionals attending STI/ HIV awareness training	Monitoring data	New service	10 participants per session	Quarterly
7. Number of counselling session delivered	Monitoring data	New service	50 sessions (1 hour in duration)	Quarterly
8. Number of Service Users attending counselling sessions	Monitoring data	New service	For review in year	Quarterly
9. Number of HIV Point Of Care Test	Monitoring data (record date of last test)	New service	100	Quarterly
10. Number of Service Users referred for Post Exposure Prophylaxis Sexual Exposure (PEPSE)	Monitoring Data	Any Service User deemed at risk	100%	Quarterly
11. Number of under 25s screened for Chlamydia	Monitor data	New service	Every eligible young person aged 15-14 years.	Quarterly

12. Number and percentage of service users assessed as at risk offered the Hep B Point Of Care Test	Monitoring data	New service	100%	Quarterly
13. Number and percentage of Hep B Point Of Care Test accepted	Monitoring data	New service	100%	Quarterly
14. Number and percentage of new service users assessed as at risk offered Hep C Point of Care Test	Monitoring data	New service	100%	Quarterly
15. Number and percentage of Hep C Point of Care Test accepted	Monitoring data	New service	100%	Quarterly
16. Number and percentage of under 25s registered with the C-Card Scheme	Monitoring data	New service	N/A	Quarterly
17. Number of condoms distributed by site	Monitoring data	New service	Reviewed in year	Quarterly
18. Number, dates, venues and time spent (hours) in targeted outreach sessions	Monitoring data	New service	80 sessions (min of 1 hour in duration)	Quarterly
19. Number of service user contacts within the outreach sessions	Monitoring data	New service	In year review	Quarterly
20. Number and percentage of Service Users serving as volunteers	Monitoring data	New Service	Not applicable	Annually
21. Number of STI and HIV awareness campaigns supported	Monitoring data	New service	4	Annually
22. Number of visits made to the service website by service users (interactive)	Monitoring data	New service	Not applicable	Quarterly
23. Numbers of referrals made to other services e.g. Integrated sexual health service, HIV specialist service, hepatitis specialist service, social care etc,	Monitoring data	New service	Not applicable	Quarterly
24. Audit – Safeguarding Record Keeping Audit by Safeguarding Lead	Analyse data	New Service	Review & report findings to HGSCC	Annual

25. Number of safeguarding issues addressed	Monitoring data	New Service	NA	Annual
24. Safeguarding Training figures	Monitor data	New Service	Level 1 100% Level 2 90 - 100% Level 3 90 - 100%	Quarterly (ASR)
25. Representation and reporting to Shropshire and Telford & Wrekin Healthcare Governance Safeguarding Children Committee (HGSCC) using HGSCC template	Monitor data	New Service	100% Attendance	Quarterly (ASR)
26. Staff training – Brief interventions ‘Making Every Contact Count’	Monitor data	New Service	100%	Quarterly

8.2 Activity Plan / Activity Management Plan

To be agreed.

8.3 Capacity Review

Telford & Wrekin Council as the Commissioner and the Service Provider will meet on a regular basis to review service capacity and agree the way forward in respect of service improvements.

Financial Model

Areas to be costed as Part of the Tender Submission:

Category	Description	Year 1 Annual Service Budget Cost £	Year 2 Annual Service Budget Cost £	Year 3 Annual Service Budget Cost £	Grand Total (Exc VAT)
A	<u>Staff Costs</u> <ul style="list-style-type: none"> ○ Management staff ○ Operational staff, ○ Additional staff. ○ Recruitment costs 				
A1	<u>Other</u> (Please detail)				
	Total Staff costs				
B	<u>Overheads Linked to Staffing</u> <ul style="list-style-type: none"> ○ TUPE ○ Annual Leave ○ Sick Pay ○ Expenses ○ NI contributions ○ Pensions ○ Staff travel – Mileage ○ Staff training ○ Volunteer costs ○ Employers Liability Insurance 				
B1	<u>Other</u> (Please detail)				
	Total Overhead costs linked to staffing				

C	<u>Premises</u> <ul style="list-style-type: none"> ○ Rent & Service Charge ○ Venue hire ○ Repairs & Maintenance ○ Equipment 				
C1	<u>Other</u> (Please detail)				
	Total costs linked to premises				
D	<u>Utility Costs</u> <ul style="list-style-type: none"> ○ Gas, Electricity & Water 				
D1	<u>Other</u> (Please detail)				
	Total costs linked to Utilities				
E	<u>Office Costs</u> <ul style="list-style-type: none"> ○ Telephone lines ○ Stationery ○ Insurance ○ IT systems 				
E1	<u>Other</u> (Please detail)				
	Total costs linked to Office costs				
F	<u>Operating Costs</u> <ul style="list-style-type: none"> ○ Service user activities ○ Event costs ○ Merchandise/tools of engagement 				
F1	<u>Other</u> (Please detail)				
	Total costs linked to Operating Costs				

G	<u>Consumables, both Medical & Non Medical</u> <ul style="list-style-type: none"> ○ Condoms ○ Point of care testing kits ○ Hep B – point of care testing kit 				
G1	<u>Other</u> (Please detail)				
	Total Medical and Non Medical Costs				
Overall Total Cost					

Financial Model

Areas to be costed as Part of the Tender Submission:

Category	Description	Year 1 Annual Service Budget Cost £	Year 2 Annual Service Budget Cost £	Year 3 Annual Service Budget Cost £	Grand Total (Exc VAT)
A	<u>Staff Costs</u> <ul style="list-style-type: none"> ○ Management staff ○ Operational staff, ○ Additional staff. ○ Recruitment costs 				
A1	<u>Other</u> (Please detail)				
	Total Staff costs				
B	<u>Overheads Linked to Staffing</u> <ul style="list-style-type: none"> ○ TUPE ○ Annual Leave ○ Sick Pay ○ Expenses ○ NI contributions ○ Pensions ○ Staff travel – Mileage ○ Staff training ○ Volunteer costs ○ Employers Liability Insurance 				
B1	<u>Other</u> (Please detail)				
	Total Overhead costs linked to staffing				

C	<u>Premises</u> <ul style="list-style-type: none"> ○ Rent & Service Charge ○ Venue hire ○ Repairs & Maintenance ○ Equipment 				
C1	<u>Other</u> (Please detail)				
	Total costs linked to premises				
D	<u>Utility Costs</u> <ul style="list-style-type: none"> ○ Gas, Electricity & Water 				
D1	<u>Other</u> (Please detail)				
	Total costs linked to Utilities				
E	<u>Office Costs</u> <ul style="list-style-type: none"> ○ Telephone lines ○ Stationery ○ Insurance ○ IT systems 				
E1	<u>Other</u> (Please detail)				
	Total costs linked to Office costs				
F	<u>Operating Costs</u> <ul style="list-style-type: none"> ○ Service user activities ○ Event costs ○ Merchandise/tools of engagement 				
F1	<u>Other</u> (Please detail)				
	Total costs linked to Operating Costs				

G	<u>Consumables, both Medical & Non Medical</u> <ul style="list-style-type: none"> ○ Condoms ○ Point of care testing kits ○ Hep B – point of care testing kit 				
G1	<u>Other</u> (Please detail)				
	Total Medical and Non Medical Costs				
Overall Total Cost					

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[SHROPSHIRE COUNCIL] LOCAL AUTHORITY (1)

AS AUTHORITY

AND

[Insert Name] (2)

AS PROVIDER

CONTRACT FOR THE
PROVISION OF PUBLIC HEALTH SERVICES

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**SECTION A
THE PARTICULARS**

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This Contract is made on [insert date of the last signature to this Contract 20[]]

PARTIES

- (1) [Shropshire Council] of [Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND] (the **Authority**); and
- (2) [insert name of Provider] of [insert address] (the **Provider**).

BACKGROUND

- (A) The Authority must exercise a number of health service functions set out in section 2B of the NHS Act 2006 and the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations. In order to satisfy these obligations the Authority wishes to secure the provision of the Services and the Provider wishes to provide the Services.
- (B) The Parties have agreed for the Provider to provide the Services in accordance with the terms and conditions of this Contract.
- (C) [Further background may be inserted here if necessary, for instance, where it would be helpful to set out the procurement steps undertaken].

IT IS AGREED

A1. CONTRACT

A1.1. This Contract comprises of:

- a) these Particulars (Section A);
- b) the General Terms and Conditions (the **General Conditions**) (Section B); and
- c) the Special Terms and Conditions (the **Special Conditions**) (Section C), where any such terms have been agreed,

as completed and agreed by the Parties and as varied from time to time in accordance with clause B22 (*Variations*) of the General Conditions (this **Contract**).

A2. INTERPRETATION

A2.1. This Contract shall be interpreted in accordance with Appendix O (*Definitions and Interpretation*), unless the context requires otherwise.

A2.2. If there is any conflict or inconsistency between the provisions of this Contract, such conflict or inconsistency must be resolved according to the following order of priority:

- a) Section C;
- b) Section B; and
- c) Section A.

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A3. COMMENCEMENT AND DURATION

- A3.1. This Contract shall take effect on the date it is executed by or on behalf of the Parties (the **Commencement Date**).
- A3.2. The Provider shall, subject to having satisfied the Conditions Precedent where applicable, provide the Services from [insert date] (the **Service Commencement Date**).
- A3.3. This Contract shall expire automatically on [insert date] (the **Expiry Date**), unless it is extended or terminated earlier in accordance with the provisions of this Contract.

A4. REPRESENTATIVES

- A4.1. The person set out below is authorised from the Commencement Date to act on behalf of the Authority on all matters relating to this Contract (the **Authority Representative**).

Name: [insert name]
Title: [insert title]
Contact Details: [insert]

- A4.2. The person set out below is authorised from the Commencement Date to act on behalf of the Provider on all matters relating to this Contract (the **Provider Representative**).

Name: [insert name]
Title: [insert title]
Contact Details: [insert]

- A4.3. The Provider may replace the Provider Representative and the Authority may replace the Authority Representative at any time by giving written notice to the other Party.

A5. NOTICES

- A5.1. Any notices given under this Contract shall be in writing and shall be served by hand or post by sending the same to the address for the relevant Party set out in clause A5.3.

- A5.2. Notices:

- a) by post and correctly addressed shall be effective upon the earlier of actual receipt, or 5 Business Days after mailing; or
- b) by hand shall be effective upon delivery.

- A5.3. For the purposes of clause A5.2, the address for service of notices on each Party shall be as follows:

- a) For the Authority:
Address: [Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND]
For the attention of: [to be completed]
Tel: [to be completed]
- b) For the Provider:
Address: [to be completed]
For the attention of: [to be completed]
Tel: [to be completed]

- A5.4. Either Party may change its address for service by serving a notice in accordance with this clause A5.

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A6. ENTIRE CONTRACT

This Contract constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties relating to the subject matter of this Contract, except for any contract entered into between the Authority and the Provider which relates to the same or similar services to the Services and is designed to remain effective until the Services are provided under this Contract.

A7. COUNTERPARTS

This Contract may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument. No counterpart shall be effective until each Party has executed at least one counterpart.

IN WITNESS WHEREOF the Parties have signed this Contract on the date shown below

**SIGNED by [Insert Authorised
Signatory's Name]
for and on behalf of
the AUTHORITY**

.....
Signature

.....
Title

.....
Date

**SIGNED by [Insert Authorised
Signatory's Name]
for and on behalf of
the PROVIDER**

.....
Signature

.....
Title

.....
Date

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**SECTION B
GENERAL TERMS AND CONDITIONS**

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B1. SERVICES

- B1.1. The Provider shall provide the Services in accordance with the Service Specification(s) in Appendix A (*Service Specifications*), including any service limitations set out in them, and in accordance with the provisions of this Contract.
- B1.2. The Provider shall satisfy any Conditions Precedent set out in Appendix B (*Conditions Precedent*) prior to commencing provision of the Services.

B2. WITHHOLDING AND/OR DISCONTINUATION OF SERVICE

- B2.1. Except where required by the Law, the Provider shall not be required to provide or to continue to provide Services to any Service User:
- a) who in the reasonable professional opinion of the Provider is unsuitable to receive the relevant Service, for as long as such unsuitability remains;
 - b) who displays abusive, violent or threatening behaviour unacceptable to the Provider acting reasonably and taking into account the mental health of that Service User);
 - c) in that Service User's domiciliary care setting or circumstances (as applicable) where that environment poses a level of risk to the Staff engaged in the delivery of the relevant Service that the Provider reasonably considers to be unacceptable; or
 - d) where expressly instructed not to do so by an emergency service provider who has authority to give such instruction, for so long as that instruction applies.
- B2.2. If the Provider proposes not to provide or to stop providing a Service to any Service User under clause B2.1:
- a) where reasonably possible, the Provider must explain to the Service User, taking into account any communication or language needs, the action that it is taking, when that action takes effect, and the reasons for it (confirming that explanation in writing within 2 Business Days);
 - b) the Provider must tell the Service User of the right to challenge the Provider's decision through the Provider's complaints procedure and how to do so;
 - c) the Provider must inform the Authority in writing without delay and wherever possible in advance of taking such action;

provided that nothing in this clause B2.2 entitles the Provider not to provide or to stop providing the Services where to do so would be contrary to the Law.

B3. SERVICE AND QUALITY OUTCOMES INDICATORS

- B3.1. The Provider must carry out the Services in accordance with the Law and Good Clinical Practice and must, unless otherwise agreed (subject to the Law) with the Authority in writing:
- a) comply, where applicable, with the registration and regulatory compliance guidance of CQC and any other Regulatory Body;
 - b) respond, where applicable, to all requirements and enforcement actions issued from time to time by CQC or any other Regulatory Body;
 - c) consider and respond to the recommendations arising from any audit, death, Serious Incident report or Patient Safety Incident report;
 - d) comply with the recommendations issued from time to time by a Competent Body;

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- e) comply with the recommendations from time to time contained in guidance and appraisals issued by NICE;
- f) respond to any reports and recommendations made by Local HealthWatch; and
- g) comply with the Quality Outcomes Indicators set out in Appendix C (*Quality Outcomes Indicators*).

B4. SERVICE USER INVOLVEMENT

- B4.1. The Provider shall engage, liaise and communicate with Service Users, their Carers and Legal Guardians in an open and clear manner in accordance with the Law, Good Clinical Practice and their human rights.
- B4.2. As soon as reasonably practicable following any reasonable request from the Authority, the Provider must provide evidence to the Authority of the involvement of Service Users, Carers and Staff in the development of Services.
- B4.3. The Provider must carry out Service User surveys (and Carer surveys) and shall carry out any other surveys reasonably required by the Authority in relation to the Services. The form (if any), frequency and method of reporting such surveys must comply with the requirements set out in Appendix D (*Service User, Carer and Staff Surveys*) or as otherwise agreed between the Parties in writing from time to time.
- B4.4. The Provider must review and provide a written report to the Authority on the results of each survey carried out under clause B4.3 and identify any actions reasonably required to be taken by the Provider in response to the surveys. The Provider must implement such actions as soon as practicable. If required by the Authority, the Provider must publish the outcomes and actions taken in relation to such surveys.

B5. EQUITY OF ACCESS, EQUALITY AND NO DISCRIMINATION

- B5.1. The Parties must not discriminate between or against Service Users, on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation or any other non-medical characteristics except as permitted by the Law.
- B5.2. The Provider must provide appropriate assistance and make reasonable adjustments for Service Users, who do not speak, read or write English or who have communication difficulties (including without limitation hearing, oral or learning impairments).
- B5.3. In performing this Contract the Provider must comply with the Equality Act 2010 and have due regard to the obligations contemplated by section 149 of the Equality Act 2010 to:
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act 2010;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic (as defined in the Equality Act 2010) and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristic (as defined in the Equality Act 2010) and persons who do not share it,

and for the avoidance of doubt this obligation shall apply whether or not the Provider is a public authority for the purposes of section 149 of the Equality Act 2010.

- B5.4. As soon as reasonably practicable following any reasonable request from the Authority, the Provider must provide the Authority with a plan detailing how it will comply with its obligations under clause B5.3.

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B5.5. The Provider must provide to the Authority as soon as reasonably practicable, any information that the Authority reasonably requires to:

- a) monitor the equity of access to the Services; and
- b) fulfil their obligations under the Law.

B6. MANAGING ACTIVITY

B6.1. The Provider must manage Activity in accordance with any activity planning assumptions and any caseloads set out in a Service Specification and must comply with all reasonable requests of the Authority to assist it with understanding and managing the levels of Activity for the Services.

B7. STAFF

B7.1. At all times, the Provider must ensure that:

- a) each of the Staff is suitably qualified and experienced, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
- b) there is an adequate number of Staff to provide the Services properly in accordance with the provisions of the applicable Service Specification;
- c) where applicable, Staff are registered with the appropriate professional regulatory body; and
- d) Staff are aware of and respect equality and human rights of colleagues and Service Users.

B7.2. If requested by the Authority, the Provider shall as soon as practicable and by no later than 20 Business Days following receipt of that request, provide the Authority with evidence of the Provider's compliance with clause B7.1.

B7.3. 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:

- a) proper and sufficient continuous professional and personal development, training and instruction; and
- b) full and detailed appraisal (in terms of performance and on-going education and training),

each in accordance with Good Clinical Practice and the standards of any applicable relevant professional body.

B7.4. Where applicable under section 1(F)(1) of the NHS Act 2006, the Provider must co-operate with and provide support to the Local Education and Training Boards and/or Health Education England to help them secure an effective system for the planning and delivery of education and training.

B7.5. The Provider must carry out Staff surveys in relation to the Services at intervals and in the form set out in Appendix D (*Service User, Carer and Staff Surveys*) or as otherwise agreed in writing from time to time.

B7.6. Subject to clause B7.7, before the Provider engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Provider must without limitation, complete:

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- a) the Employment Checks; and
 - b) such other checks as required by the DBS.
- B7.7. Subject to clause B7.8, the Provider may engage a person in a Standard DBS Position or an Enhanced 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 the Authority.
- B7.8. Where clause B7.7 applies, the Provider will ensure that until the Standard DBS Check or Enhanced DBS Check or Enhanced DBS & Barred List Check (as appropriate) is obtained, the following safeguards will be put in place:
- a) an appropriately qualified and experienced member of Staff is appointed to supervise the new member of Staff; and
 - b) wherever it is possible, this supervisor is on duty at the same time as the new member of Staff, or is available to be consulted; and
 - c) the new member of Staff is accompanied at all times by another member of staff, preferably the appointed supervisor, whilst providing services under this Contract; and
 - d) any other reasonable requirement of the Authority.
- B7.9. Where the Authority has notified the Provider that it intends to tender or retender any of the Services, the Provider must on written request of the Authority and in any event within 20 Business Days of that request (unless otherwise agreed in writing), provide the Authority with all reasonably requested information on the Staff engaged in the provision of the relevant Services to be tendered or retendered that may be subject to TUPE.
- B7.10. The Provider shall indemnify and keep indemnified the Authority and any Successor Provider against any Losses incurred by the Authority and/or the Successor Provider in connection with any claim or demand by any transferring employee under TUPE.

B8. CHARGES AND PAYMENT

- B8.1. Subject to any provision of this Contract to the contrary (including without limitation those relating to withholding and/or retention), in consideration for the provision of the Services in accordance with the terms of this Contract, the Authority shall pay the Provider the Charges.
- B8.2. The Parties shall to the extent reasonably practicable agree the Charges in a transparent and equitable manner and the Charges shall be set out at Appendix E (*Charges*).
- B8.3. The Provider shall invoice the Authority for payment of the Charges at the end of each calendar month (or such other frequency agreed between the Parties in writing) which the Authority shall pay within 30 Business Days of receipt. Where the Provider is a voluntary organisation, the Authority shall pay the Charges to the Provider quarterly in advance in accordance with the amounts and dates in Appendix E (*Charges*).
- B8.4. The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.
- B8.5. In its performance of this Contract the Provider shall not provide or offer to a Service User any clinical or medical services for which any charges would be payable by the Service User (other than in accordance with this Contract, the Law and/or Guidance).

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- B8.6. If a Party, acting in good faith, contests all or any part of any payment calculated in accordance with this clause B8:
- a) the contesting Party shall within **5** Business Days notify the other Party, setting out in reasonable detail the reasons for contesting the requested payment, and in particular identifying which elements are contested and which are not contested;
 - b) any uncontested amount shall be paid in accordance with this Contract.
- B8.7. If a Party contests a payment under clause B8.6 and the Parties have not resolved the matter within **20** Business Days of the date of notification under clause B8.6, the contesting Party may refer the matter to dispute resolution under clause B30 (*Dispute Resolution*) and following the resolution of any dispute referred to dispute resolution, where applicable the relevant party shall pay any amount agreed or determined to be payable in accordance with clause B8.3.
- B8.8. Subject to any express provision of this Contract to the contrary each Party shall be entitled, without prejudice to any other right or remedy it has under this Contract, to receive interest at the Default Interest Rate on any payment not made from the day after the date on which payment was due up to and including the date of payment.
- B8.9. Each Party may retain or set off any sums owed to the other Party which have fallen due and payable against any sum due to the other Party under this Contract or any other agreement between the Parties.

B9. SERVICE IMPROVEMENTS AND BEST VALUE DUTY

- B9.1. The Provider must to the extent reasonably practicable co-operate with and assist the Authority in fulfilling its Best Value Duty.
- B9.2. In addition to the Provider's obligations under clause B9.1, where reasonably requested by the Authority, the Provider at its own cost shall participate in any relevant Best Value Duty reviews and/or benchmarking exercises (including without limitation providing information for such purposes) conducted by the Authority and shall assist the Authority with the preparation of any Best Value performance plans.
- B9.3. During the term of this Contract at the reasonable request of the Authority, the Provider must:
- a) demonstrate how it is going to secure continuous improvement in the way in which the Services are delivered having regard to a combination of economy, efficiency and effectiveness and the Parties may agree a continuous improvement plan for this purpose;
 - b) implement such improvements; and
 - c) where practicable following implementation of such improvements decrease the price to be paid by the Authority for the Services.
- B9.4. If requested by the Authority, the Provider must identify the improvements that have taken place in accordance with clause B9.3, by reference to any reasonable measurable criteria notified to the Provider by the Authority.

B10. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

- B10.1. The Provider shall adopt Safeguarding Policies and such policies shall comply with the Authority's safeguarding policy as amended from time to time and may be appended at Appendix F (*Safeguarding Policies*).

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B10.2. At the reasonable written request of the Authority and by no later than **10** Business Days following receipt of such request, the Provider must provide evidence to the Authority that it is addressing any safeguarding concerns.

B10.3. If requested by the Authority, the Provider shall participate in the development of any local multi-agency safeguarding quality indicators and/or plan.

B11. INCIDENTS REQUIRING REPORTING

B11.1. If the Provider is CQC registered it shall comply with the requirements and arrangements for notification of deaths and other incidents to CQC in accordance with CQC Regulations and if the Provider is not CQC registered it shall notify Serious Incidents to any Regulatory Body as applicable, in accordance with the Law.

B11.2. If the Provider gives a notification to the CQC or any other Regulatory Body under clause B11.1 which directly or indirectly concerns any Service User, the Provider must send a copy of it to the Authority within **5** Business Days or within the timescale set out in Appendix G (*Incidents Requiring Reporting Procedure*).

B11.3. The Parties must comply with the arrangements for reporting, investigating, implementing and sharing the Lessons Learned from Serious Incidents, Patient Safety Incidents and non-Service User safety incidents that are agreed between the Provider and the Authority and set out in Appendix G (*Incidents Requiring Reporting Procedure*).

B11.4. Subject to the Law, the Authority shall have complete discretion to use the information provided by the Provider under this clause B.11 and Appendix G (*Incidents Requiring Reporting Procedure*).

B12. CONSENT

B12.1. The Provider must publish, maintain and operate a Service User consent policy which complies with Good Clinical Practice and the Law.

B13. SERVICE USER HEALTH RECORDS

B13.1. The Provider must create, maintain, store and retain Service User health records for all Service Users. The Provider must retain Service User health records for the periods of time required by Law and securely destroy them thereafter in accordance with any applicable Guidance.

B13.2. The Provider must:

- a) use Service User health records solely for the execution of the Provider's obligations under this Contract; and
- b) give each Service User full and accurate information regarding his/her treatment and Services received.

B13.3. The Provider must at all times during the term of this Contract have a Caldicott Guardian and shall notify the Authority of their identity and contact details prior to the Service Commencement Date. If the Provider replaces its Caldicott Guardian at any time during the term of this Contract, it shall promptly notify the Authority of the identity and contact details of such replacements.

B13.4. Subject to Guidance and where appropriate, the Service User Health Records should include the Service User's verified NHS number.

B14. INFORMATION

B14.1. The Provider must provide the Authority the information specified in Appendix H (*Information Provision*) to measure the quality, quantity or otherwise of the Services.

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B14.2. The Provider must deliver the information required under clause B14.1 in the format, manner, frequency and timescales specified in Appendix H (*Information Provision*) and must ensure that the information is accurate and complete.

B14.3. If the Provider fails to comply with any of the obligations in this clause B14 and/or Appendix H (*Information Provision*), the Authority may (without prejudice to any other rights it may have under this Contract) exercise any consequence for failing to satisfy the relevant obligation specified in Appendix H (*Information Provision*).

B14.4. In addition to the information required under clause B14.1, the Authority may request from the Provider any other information it reasonably requires in relation to this Contract and the Provider must deliver such requested information in a timely manner.

B15. EQUIPMENT

B15.1. The Provider must provide and maintain at its own cost (unless otherwise agreed in writing) all Equipment necessary for the supply of the Services in accordance with any required Consents and must ensure that all Equipment is fit for the purpose of providing the applicable Services.

B16. TRANSFER OF AND DISCHARGE FROM CARE OBLIGATIONS

B16.1. The Provider must comply with any Transfer of and Discharge from Care Protocols agreed by the Parties set out in Appendix I (*Transfer of and Discharge from Care Protocols*).

B17. COMPLAINTS

B17.1. The Provider must at all times comply with the relevant regulations for complaints relating to the provision of the Services.

B17.2. If a complaint is received about the standard of the provision of the Services or about the manner in which any of the Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Provider's obligations under this Contract, then the Authority may take any steps it considers reasonable in relation to that complaint, including investigating the complaint and discussing the complaint with the Provider, CQC or/and any Regulatory Body. Without prejudice to any other rights the Authority may have under this Contract, the Authority may, in its sole discretion, uphold the complaint and take any action specified in clause B28 (*Default and Failure to Supply*).

B18. SERVICE REVIEW

B18.1. The Provider must each **quarter** of this Contract deliver to the Authority a Service Quality Performance Report against the factors set out in Appendix J (*Service Quality Performance Report*).

B18.2. The Provider must submit each Service Quality Performance Report in the form and manner specified in Appendix J (*Service Quality Performance Report*).

B19. REVIEW MEETINGS

B19.1. The Parties must review and discuss Service Quality Performance Reports and monitor performance of the Contract and consider any other matters reasonably required by either Party at Review Meetings which should be held in the form and intervals set out in Appendix K (*Details of Review Meetings*).

B19.2. Notwithstanding clause B19.1, if either the Authority or the Provider:

- a) reasonably considers a circumstance constitutes an emergency or otherwise requires immediate resolution; or

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- b) considers that a JI Report requires consideration sooner than the next scheduled Review Meeting,

that Party may by notice require that a Review Meeting be held as soon as practicable and in any event within **5** Business Days following that notice.

B20. CO-OPERATION

B20.1. The Parties must at all times act in good faith towards each other.

B20.2. The Provider must co-operate fully and liaise appropriately with:

- a) the Authority;
- b) any third party provider who the Service User may be transferred to or from the Provider;
- c) any third party provider which may be providing care to the Service User at the same time as the Provider's provision of the relevant Services to the Service User; and
- d) primary, secondary and social care services,

in order to:

- e) ensure that a consistently high standard of care for the Service User is at all times maintained;
- f) ensure a co-ordinated approach is taken to promoting the quality of Service User care across all pathways spanning more than one provider;
- g) achieve a continuation of the Services that avoids inconvenience to, or risk to the health and safety of, Service Users, employees of the Authority's or members of the public.

B21. WARRANTIES AND REPRESENTATIONS

B21.1. The Provider warrants and represents that:

- a) It has full capacity and authority to enter into this Contract and all necessary Consents have been obtained and are in full force and effect;
- b) its execution of this Contract does not and will not contravene or conflict with its constitution, any Law, or any agreement to which it is a party or which is binding on it or any of its assets;
- c) in entering this Contract it has not committed any Fraud;
- d) all reasonably material information supplied by it to the Authority during the award procedure leading to the execution of this Contract is, to its reasonable knowledge and belief, true and accurate and it is not aware of any material facts or circumstances which have not been disclosed to the Authority which would, if disclosed, be likely to have an adverse effect on a reasonable public sector entity's decision whether or not to contract with the Provider substantially on the terms of this Contract;

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- e) to the best of its knowledge, nothing will have, or is likely to have, a material adverse effect on its ability to perform its obligations under this Contract;
- f) it has the right to permit disclosure and use of Confidential Information for the purpose of this Contract;
- g) in the 3 years prior to the Commencement Date:
 - (i) It has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - (ii) It has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - (iii) It has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an on going business concern or its ability to fulfil its obligations under this Contract; and
- h) No proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge are threatened) for the winding up of the Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue.

B21.2. The Authority warrants and represents that:

- a) it has full power and authority to enter into this Contract and all necessary approvals and consents have been obtained and are in full force and effect;
- b) its execution of this Contract does not and will not contravene or conflict with its constitution, any Law, or any agreement to which it is a party or which is binding on it;
- c) it has the right to permit disclosure and use of Confidential Information for the purpose of this Contract; and
- d) to the best of its knowledge, nothing will have, or is likely to have, a material adverse effect on its ability to perform its obligations under this Contract.

B21.3. The warranties set out in this clause B21 are given on the Commencement Date and repeated on every day during the term of this Contract.

B22. VARIATIONS

B22.1. This Contract may not be amended or varied other than in accordance with this clause B22.

B22.2. Either Party may from time to time during the term of this Contract, by written notice to the other Party, request a Variation. A Variation Notice must set out in as much detail as is reasonably practicable the proposed Variation(s).

B22.3. If a Variation Notice is issued, the Authority and the Provider must enter into good faith negotiations for a period of not more than 30 Business Days from the date of that notice (unless such period is extended by the Parties in writing) with a view to reaching agreement on the proposed Variation, including on any adjustment to the Charges that, in all the circumstances, properly and fairly reflects the nature and extent of the proposed Variation. If the Parties are unable to agree a proposed Variation within such time period (or extended time period), the proposed Variation shall be deemed withdrawn and the Parties shall continue to perform their obligations under this Contract.

B22.4. No Variation to this Contract will be valid or of any effect unless agreed in writing by the

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Authority Representative (or his nominee) and the Provider Representative (or his nominee) in accordance with clause A5 (*Notices*). All agreed Variations shall form an addendum to this Contract and shall be recorded in Appendix L (*Agreed Variations*).

B23. ASSIGNMENT AND SUB-CONTRACTING

- B23.1. The Provider must not assign, delegate, transfer, sub-contract, charge or otherwise dispose of all or any of its rights or obligations under this Contract without the Authority in writing:
- a) consenting to the appointment of the Sub-contractor (such consent not to be unreasonably withheld or delayed); and
 - b) approving the Sub-contract arrangements (such approval not to be unreasonably withheld or delayed).
- B23.2. The Authority's consent to sub-contracting under clause B23.1 will not relieve the Provider of its liability to the Authority for the proper performance of any of its obligations under this Contract and the Provider shall be responsible for the acts, defaults or neglect of any Sub-contractor, or its employees or agents in all respects as if they were the acts, defaults or neglect of the Provider.
- B23.3. Any sub-contract submitted by the Provider to the Authority for approval of its terms, must impose obligations on the proposed sub-contractor in the same terms as those imposed on it pursuant to this Contract to the extent practicable.
- B23.4. The Authority may assign, transfer, novate or otherwise dispose of any or all of its rights and obligations under this Contract without the consent of the Provider.

B24. AUDIT AND INSPECTION

- B24.1. The Provider must comply with all reasonable written requests made by, CQC, the National Audit Office, any Authorised Person and the authorised representative of the Local HealthWatch for entry to the Provider's Premises and/or the premises of any Sub-contractor for the purposes of auditing, viewing, observing or inspecting such premises and/or the provision of the Services, and for information relating to the provision of the Services. The Provider may refuse such request to enter the Provider's Premises and/or the premises of any Sub-contractor where it would adversely affect the provision of the Services or, the privacy or dignity of a Service User.
- B24.2. Subject to Law and notwithstanding clause B24.1, an Authorised Person may enter the Provider's Premises and/or the premises of any Sub-contractor without notice for the purposes of auditing, viewing, observing or inspecting such premises and/or the provision of the Services. During such visits, subject to Law and Good Clinical Practice (also taking into consideration the nature of the Services and the effect of the visit on Service Users), the Provider must not restrict access and must give all reasonable assistance and provide all reasonable facilities to the Authorised Person.
- B24.3. Within **10** Business Days of the Authority's reasonable request, the Provider must send the Authority a verified copy of the results of any audit, evaluation, inspection, investigation or research in relation to the Services, or services of a similar nature to the Services delivered by the Provider, to which the Provider has access and which it can disclose in accordance with the Law.
- B24.4. The Authority shall use its reasonable endeavours to ensure that the conduct of any audit does not unreasonably disrupt the Provider or delay the provision of the Services.
- B24.5. During any audit undertaken under clause B24.1 or B24.2, the Provider must provide the Authority with all reasonable co-operation and assistance in relation to that audit, including:

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- a) all reasonable information requested within the scope of the audit;
- b) reasonable access to the Provider's Premises and/or the premises of any Sub-contractor; and
- c) access to the Staff.

B25. INDEMNITIES

B25.1. The Provider shall indemnify and keep indemnified the Authority against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever, whether arising in tort (including negligence), default or breach of this Contract, or breach of its statutory duty or breach of an obligation under the DPA, save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Contract or breach of statutory duty or breach of an obligation under the DPA by the Authority.

B26. LIMITATION OF LIABILITY

B26.1. Neither Party shall be liable to the other Party (as far as permitted by Law) for Indirect Losses in connection with this Contract.

B26.2. Each Party must at all times take all reasonable steps to minimise and mitigate any Losses for which it is entitled to be indemnified by or bring a claim against the other Party pursuant to this Contract.

B26.3. Nothing in this Contract will exclude or limit the liability of either Party for:

- a) death or personal injury caused by its negligence; or
- b) fraud or fraudulent misrepresentation.

B27. INSURANCE

B27.1. The Provider must at its own cost effect and maintain with a reputable insurance company the Required Insurances. The cover shall be in respect of all risks which may be incurred by the Provider, arising out of the Provider's performance of this Contract, including death or personal injury, loss of or damage to property or any other such loss. Such policies must include cover in respect of any financial loss arising from any advice given or omitted to be given by the Provider.

B27.2. The Provider must give the Authority, on request, a copy of or a broker's placement verification of the Required Insurances insurance, together with receipts or other evidence of payment of the latest premiums due under those policies.

B27.3. The provision of any insurance or the amount or limit of cover will not relieve or limit the Provider's liabilities under this Contract.

B28. DEFAULTS AND FAILURE TO SUPPLY

B28.1. In the event that the Authority is of the reasonable opinion that there has been a Default which is a material breach of this Contract by the Provider, then the Authority may, without prejudice to any other rights or remedies it may have under this Contract including under clause B29 (*Contract Management*), consult with the Provider and then do any of the following:

- a) require the Provider to submit a performance improvement plan detailing why the material breach has occurred and how it will be remedied within 10 Business Days or such other period of time as the Authority may direct;
- b) without terminating this Contract, suspend the affected Service in accordance with the process set out in clause B31 (*Suspension and Consequences of Suspension*);

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- c) without terminating the whole of this Contract, terminate this Contract in respect of the affected part of the Services only in accordance with clause B32 (*Termination*) (whereupon a corresponding reduction in the Charges shall be made) and thereafter the Authority may supply or procure a third party to supply such part of the Services.

B28.2. If the Authority exercises any of its rights under clause B28.1, the Provider must indemnify the Authority for any costs reasonably incurred (including reasonable professional costs and any reasonable administration costs) in respect of the supply of any part of the Services by the Authority or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Provider for such part of the Services and provided that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.

B29. CONTRACT MANAGEMENT

B29.1. If the Parties have agreed a consequence in relation to the Provider failing to meet a Quality Outcomes Indicator as set out in Appendix C (*Quality Outcomes Indicators*) and the Provider fails to meet the Quality Outcomes Indicator, the Authority may exercise the agreed consequence immediately and without issuing a Contract Query, irrespective of any other rights the Authority may have under this clause B29.

B29.2. The provisions of this clause B29 do not affect any other rights and obligations the Parties may have under this Contract.

B29.3. Clauses B29.19, B29.23, B29.24 and B29.26 will not apply if the Provider's failure to agree or comply with a Remedial Action Plan (as the case may be) is as a result of an act or omission or the unreasonableness of the Authority.

Contract Query

B29.4. If the Authority has a Contract Query it may issue a Contract Query Notice to the Provider.

B29.5. If the Provider has a Contract Query it may issue a Contract Query Notice to the Authority.

Excusing Notice

B29.6. The Receiving Party may issue an Excusing Notice to the Issuing Party within **5** Business Days of the date of the Contract Query Notice.

B29.7. If the Issuing Party accepts the explanation set out in the Excusing Notice, it must withdraw the Contract Query Notice in writing within **10** Business Days following the date of the Contract Query Notice.

Contract Management Meeting

B29.8. Unless the Contract Query Notice has been withdrawn, the Authority and the Provider must meet to discuss the Contract Query and any related Excusing Notice within **10** Business Days following the date of the Contract Query Notice.

B29.9. At the Contract Management Meeting the Authority and the Provider must agree either:

- a) that the Contract Query Notice is withdrawn; or
- b) to implement an appropriate Remedial Action Plan; or
- c) to conduct a Joint Investigation.

B29.10. If a Joint Investigation is to be undertaken:

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- a) the Authority and the Provider must agree the terms of reference and timescale for the Joint Investigation (being no longer than 4 weeks) and the appropriate clinical and/or non-clinical representatives from each Party to participate in the Joint Investigation.
- b) the Authority and the Provider may agree an Immediate Action Plan to be implemented concurrently with the Joint Investigation.

Joint Investigation

- B29.11 On completion of a Joint Investigation, the Authority and the Provider must produce and agree a JI Report. The JI Report must include (without limitation) a recommendation to be considered at the next Review Meeting that either:
- a) the Contract Query be closed; or
 - b) Remedial Action Plan be agreed and implemented.
- B29.12 Either the Authority or the Provider may require a Review Meeting to be held at short notice in accordance with the provisions of this Contract to consider a JI Report.

Remedial Action Plan

- B29.13 If a Remedial Action Plan is to be implemented, the Authority and the Provider must agree the contents of the Remedial Action Plan within:
- a) 5 Business Days following the Contract Management Meeting; or
 - b) 5 Business Days following the Review Meeting in the case of a Remedial Action Plan recommended under clause B29.11.
- B29.14 The Remedial Action Plan must set out:
- a) milestones for performance to be remedied;
 - b) the date by which each milestone must be completed; and
 - c) subject to the maximum sums identified in clause B29.23, the consequences for failing to meet each milestone by the specified date.
- B29.15 The Provider and the Authority must implement or meet the milestones applicable to it within the timescales set out in the Remedial Action Plan.
- B29.16 The Authority and the Provider must record progress made or developments under the Remedial Action Plan in accordance with its terms. The Authority and the Provider must review and consider that progress on an ongoing basis and in any event at the next Review Meeting.
- B29.17 If following implementation of a Remedial Action Plan:
- a) the matters that gave rise to the relevant Contract Query Notice have been resolved, it must be noted in the next Review Meeting that the Remedial Action Plan has been completed;
 - b) any matter that gave rise to the relevant Contract Query Notice remains in the reasonable opinion of the Authority or the Provider unresolved, either may issue a further Contract Query Notice in respect of that matter.

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Withholding Payment for Failure to Agree Remedial Action Plan

- B29.18 If the Authority and the Provider cannot agree a Remedial Action Plan within the relevant period specified in clause B29.13, they must jointly notify the Boards of Directors of both the Provider and the Authority.
- B29.19 If, **10** Business Days after notifying the Boards of Directors, the Authority and the Provider still cannot agree a Remedial Action Plan, the Authority may withhold up to **2**% of the monthly sums payable by it under clause B8 (*Charges and Payment*) for each further month the Remedial Action Plan is not agreed.
- B29.20 The Authority must pay the Provider any sums withheld under clause B29.19 within **10** Business Days of receiving the Provider's agreement to the Remedial Action Plan. Unless clause B29.25 applies, those sums are to be paid without interest.

Exception Reports

- B29.21 If a Party breaches a Remedial Action Plan and does not remedy the breach within **5** Business Days of its occurrence, the Provider or the Authority (as the case may be) may issue a First Exception Report to that Party's chief executive and/or Board of Directors. If the Party in breach is the Provider, the Authority may withhold payment from the Provider in accordance with clause B29.23.
- B29.22 If following issue of the First Exception Report, the breach of the Remedial Action Plan is not rectified within the timescales indicated in the First Exception Report, the Authority or the Provider (as the case may be) may issue a Second Exception Report to:
- a) the relevant Party's chief executive and/or Board of Directors; and/or;
 - b) CQC or any other Regulatory Body,
- in order that each of them may take whatever steps they think appropriate.

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

- B29.23 If the Provider breaches a Remedial Action Plan:
- a) the Authority may withhold, in respect of each milestone not met, up to **2**% of the aggregate monthly sums payable by the Authority under clause B8 (*Charges and Payment*), from the date of issuing the First Exception Report and for each month the Provider's breach continues, subject to a maximum monthly withholding of **10**% of the aggregate monthly sums payable by the Authority under clause B8 (*Charges and Payment*) in relation to each Remedial Action Plan;
 - b) the Authority must pay the Provider any sums withheld under clause B29.23(a) within **10** Business Days following the Authority's confirmation that the breach of the Remedial Action Plan has been rectified. Subject to clause B29.25, no interest will be payable on those sums.

Retention of Sums Withheld at Second Exception Report for Breach of Remedial Action Plan

- B29.24 If the Provider is in breach of a Remedial Action Plan the Authority may, when issuing any Second Exception Report retain permanently any sums withheld under clause B29.23.

Unjustified Withholding or Retention of Payment

- B29.25 If the Authority withholds sums under clause B29.19 or clause B29.23 or retain sums under clause B29.24, and within **20** Business Days of the date of that withholding or retention (as the case may be) the Provider produces evidence satisfactory to the Authority that the

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relevant sums were withheld or retained unjustifiably, the Authority must pay those sums to the Provider within **10** Business Days following the date of the Authority's acceptance of that evidence, together with interest at the Default Interest Rate for the period for which the sums were withheld or retained. If the Authority does not accept the Provider's evidence the Provider may refer the matter to Dispute Resolution.

Retention of Sums Withheld on Expiry or Termination of this Contract

B29.26 If the Provider does not agree a Remedial Action Plan:

B29.26.1 within 6 months following the expiry of the relevant time period set out in clause B29.13; or

B29.26.2 before the Expiry Date or earlier termination of this Contract,

whichever is the earlier, the Authority may retain permanently any sums withheld under clause B29.19.

B29.27 If the Provider does not rectify a breach of a Remedial Action Plan before the Expiry Date or earlier termination of this Contract, the Authority may retain permanently any sums withheld under clause B29.23.

B30. DISPUTE RESOLUTION

B30.1. If the Parties are in Dispute, they must seek in good faith to resolve the Dispute following the process set out in Appendix M (*Dispute Resolution*), unless the Parties agree and set out an alternative dispute resolution process in the Special Conditions in which case the process in the Special Conditions will prevail.

B31. SUSPENSION AND CONSEQUENCES OF SUSPENSION

B31.1. A suspension event shall have occurred if:

- a) the Authority reasonably considers that a breach by the Provider of any obligation under this Contract:
 - (i) may create an immediate and serious threat to the health or safety of any Service User; or
 - (ii) may result in a material interruption in the provision of any one or more of the Services; or
- b) clause B31.1 does not apply, but the Authority, acting reasonably, considers that the circumstances constitute an emergency, (which may include an event of Force Majeure) affecting provision of a Service or Services; or
- c) the Provider is prevented, or will be prevented, from providing a Service due to the termination, suspension, restriction or variation of any Consent,

(each a **Suspension Event**).

B31.2. Where a Suspension Event occurs the Authority:

- a) may by written notice to the Provider and with immediate effect suspend any affected Service, or the provision of any affected Service, until the Provider demonstrates to the reasonable satisfaction of the Authority that it is able to and will perform the suspended Service, to the required standard; and
- b) must where applicable promptly notify CQC and/or any relevant Regulatory Body of the suspension.

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- B31.3. During the suspension of any Service under clause B31.2, the Provider must comply with any steps the Authority reasonably specifies in order to remedy the Suspension Event, including where the Authority's decision to suspend pursuant to clause B31.2 has been referred to dispute resolution under clause B30 (*Dispute Resolution*).
- B31.4. During the suspension of any Service under clause B31.2, the Provider will not be entitled to claim or receive any payment for the suspended Service except in respect of:
- a) all or part of the suspended Service the delivery of which took place before the date on which the relevant suspension took effect in accordance with clause B31.2; and/or
 - b) all or part of the suspended Service which the Provider continues to deliver during the period of suspension in accordance with clause B31.5.
- B31.5. The Parties must use all reasonable endeavours to minimise any inconvenience caused or likely to be caused to Service Users as a result of the suspension of the Service.
- B31.6. Except where suspension occurs by reason of an event of Force Majeure, the Provider must indemnify the Authority in respect of any Losses directly and reasonably incurred by the Authority in respect of that suspension (including for the avoidance of doubt Losses incurred in commissioning the suspended Service).
- B31.7. Following suspension of a Service the Provider must at the reasonable request of the Authority and for a reasonable period:
- a) co-operate fully with the Authority and any Successor Provider of the suspended Service in order to ensure continuity and a smooth transfer of the suspended Service and to avoid any inconvenience to or risk to the health and safety of Service Users, employees of the Authority or members of the public; and
 - b) at the cost of the Provider:
 - (i) promptly provide all reasonable assistance and all information necessary to effect an orderly assumption of the suspended Service by an alternative Successor Provider; and
 - (ii) deliver to the Authority all materials, papers, documents and operating manuals owned by the Authority and used by the Provider in the provision of the suspended Service.
- B31.8. As part of its compliance with clause B31.7 the Provider may be required by the Authority to agree a transition plan with the Authority and/or any alternative Successor Provider.
- B31.9. If it is determined, pursuant to clause B30 (*Dispute Resolution*), that the Authority acted unreasonably in suspending a Service, the Authority must indemnify the Provider in respect of any Loss directly and reasonably incurred by the Provider in respect of that suspension.
- B31.10. During any suspension of a Service the Provider where applicable will implement the relevant parts of the Business Continuity Plan to ensure there is no interruption in the availability to the relevant Service.

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B32. TERMINATION

- B32.1. Either Party may voluntarily terminate this Contract or any Service by giving the other Party not less than 3 months' written notice at any time after the Service Commencement Date.
- B32.2. The Authority may terminate this Contract in whole or part with immediate effect by written notice to the Provider if:
- a) the Provider is in persistent or repetitive breach of the Quality Outcomes Indicators;
 - b) the Provider is in persistent breach of its obligations under this Contract;
 - c) the Provider:
 - (i) fails to obtain any Consent;
 - (ii) loses any Consent; or
 - (iii) has any Consent varied or restricted,
the effect of which might reasonably be considered by the Authority to have a material adverse effect on the provision of the Services;
 - d) the Provider has breached the terms of clause B39 (*Prohibited Acts*);
 - e) any of the Provider's necessary registrations are cancelled by the CQC or other Regulatory Body as applicable;
 - f) the Provider materially breaches its obligations in clause B37 (*Data Protection*);
 - g) two or more Second Exception Reports are issued to the Provider under clause B29.22 (*Contract Management*) within any rolling 6 month period which are not disputed by the Provider, or if disputed, are upheld under Dispute Resolution;
 - h) the Provider breaches the terms of clause B23 (*Assignment and Sub-contracting*);
 - i) a resolution is passed or an order is made for the winding up of the Provider (otherwise than for the purpose of solvent amalgamation or reconstruction) or the Provider becomes subject to an administration order or a receiver or administrative receiver is appointed over or an encumbrancer takes possession of any of the Provider's property or equipment;
 - j) the Provider ceases or threatens to cease to carry on business in the United Kingdom; or
 - k) the Provider has breached any of its obligations under this Contract and that breach materially and adversely affects the provision of the Services in accordance with this Contract, and the Provider has not remedied that breach within 14 Business Days following receipt of notice from the Authority identifying the breach.
- B32.3. Either Party may terminate this Contract or any Service by written notice, with immediate effect, if and to the extent that the Authority or the Provider suffers an event of Force Majeure and such event of Force Majeure persists for more than 30 Business Days without the Parties agreeing alternative arrangements.
- B32.4. The Provider may terminate this Contract or any Service with immediate effect by written notice to the Authority if the Authority is in material breach of any obligation under this Contract provided that if the breach is capable of remedy, the Provider may only terminate this Contract under this clause B32.4 if the Authority has failed to remedy such breach within 14 Business Days of receipt of notice from the Provider to do so.

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B33. CONSEQUENCE OF EXPIRY OR TERMINATION

- B33.1. Expiry or termination of this Contract, 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.
- B33.2. On the expiry or termination of this Contract or termination of any Service for any reason the Authority, the Provider, and if appropriate any successor provider, will agree a Succession Plan and the Parties will comply with the provisions of the Succession Plan.
- B33.3. On the expiry or termination of this Contract or termination of any Service the Provider must co-operate fully with the Authority to migrate the Services in an orderly manner to the successor provider.
- B33.4. In the event of termination or expiry of this Contract, the Provider must cease to use the Authority's Confidential Information and on the earlier of the receipt of the Authority's written instructions or 12 months after the date of expiry or termination, return all copies of the Confidential Information to the Authority.
- B33.5. If, as a result of termination of this Contract or of any Service in accordance with this Contract (except any termination under clauses B32.1 or B32.3 (*Termination*)), the Authority 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 the Authority, acting reasonably, will be entitled to recover from the Provider (in addition to any other sums payable by the Provider to the Authority in respect of that termination) the excess cost and all reasonable related professional and administration costs it incurs (in each case) for a period of 6 months following termination.
- B33.6. The provisions of clauses B7 (*Staff*), B8 (*Charges and Payment*), B11 (*Incidents Requiring Reporting*), B13 (*Service User Health Records*), B14 (*Information*), B23 (*Assignment and Sub-contracting*), B24 (*Audit and Inspection*), B33 (*Consequence of Expiry or Termination*), B36 (*Confidentiality*) and B38 (*Freedom of Information and Transparency*) will survive termination or expiry of this Contract.

B34. BUSINESS CONTINUITY

- B34.1. The Provider must comply with the Civil Contingencies Act 2004 and with any applicable national and local civil contingency plans.
- B34.2. The Provider must, unless otherwise agreed by the Parties in writing, maintain a Business Continuity Plan and must notify the Authority as soon as reasonably practicable of its activation and in any event no later than 5 Business Days from the date of such activation.

B35. COUNTER-FRAUD AND SECURITY MANAGEMENT

- B35.1. The Provider must put in place and maintain appropriate counter fraud and security management arrangements.
- B35.2. The Provider must take all reasonable steps, in accordance with good industry practice, to prevent Fraud by Staff and the Provider in connection with the receipt of monies from the Authority.
- B35.3. The Provider must notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- B35.4. If the Provider or its Staff commits Fraud in relation to this or any other contract with the Authority, the Authority may terminate this Contract by written notice to the Provider with immediate effect (and terminate any other contract the Provider has with the Authority) and recover from the Provider the amount of any Loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other

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arrangements for the supply of the Services for the remainder of the term of this Contract had it not been terminated.

B36. CONFIDENTIALITY

B36.1. Other than as allowed in this Contract, Confidential Information is owned by the Party that discloses it (the “**Disclosing Party**”) and the Party that receives it (the “**Receiving Party**”) has no right to use it.

B36.2. Subject to Clauses B36.3 and B36.4, the Receiving Party agrees:

- a) to use the Disclosing Party’s Confidential Information only in connection with the Receiving Party’s performance under this Contract;
- b) not to disclose the Disclosing Party’s Confidential Information to any third party or to use it to the detriment of the Disclosing Party; and
- c) to maintain the confidentiality of the Disclosing Party’s Confidential Information and to return it immediately on receipt of written demand from the Disclosing Party.

B36.3. The Receiving Party may disclose the Disclosing Party’s Confidential Information:

- a) in connection with any dispute resolution under clause B30 (*Dispute Resolution*);
- b) in connection with any litigation between the Parties;
- c) to comply with the Law;
- d) to its staff, consultants and sub-contractors, who shall in respect of such Confidential Information be under a duty no less onerous than the Receiving Party’s duty set out in clause B36.2;
- e) to comply with a regulatory bodies request.

B36.4. The obligations in clause B36.1 and clause B36.2 will not apply to any Confidential Information which:

- a) is in or comes into the public domain other than by breach of this Contract;
- b) the Receiving Party can show by its records was in its possession before it received it from the Disclosing Party; or
- c) the Receiving Party can prove that it obtained or was able to obtain from a source other than the Disclosing Party without breaching any obligation of confidence.

B36.5. The Receiving Party shall indemnify the Disclosing Party and shall keep the Disclosing Party indemnified against Losses and Indirect Losses suffered or incurred by the Disclosing Party as a result of any breach of this clause B36.

B36.6. The Parties acknowledge that damages would not be an adequate remedy for any breach of this clause B36 by the Receiving Party, and in addition to any right to damages the Disclosing Party shall be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of this clause B36.

B36.7. This clause B36 shall not limit the Public Interest Disclosure Act 1998 in any way whatsoever.

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B36.8. The obligations in clause B36.1 and clause B36.2 shall not apply where the Confidential Information is related to an item of business at a board meeting of the Authority or of any committee, sub-committee or joint committee of the Authority or is related to an executive decision of the Authority and it is not reasonably practicable for that item of business to be transacted or that executive decision to be made without reference to the Confidential Information, provided that the Confidential Information is exempt information within the meaning of Section 101 of the Local Government Act 1972 (as amended), the Authority shall consider properly whether or not to exercise its powers under Part V of that Act or (in the case of executive decisions) under the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as amended to prevent the disclosure of that Confidential Information and in doing so shall give due weight to the interests of the Provider and where reasonably practicable shall consider any representations made by the Provider.

B37. DATA PROTECTION

B37.1. The Parties acknowledge their respective duties under the DPA and shall give all reasonable assistance to each other where appropriate or necessary to comply with such duties.

B37.2. To the extent that the Provider is acting as a Data Processor on behalf of the Authority, the Provider shall, in particular, but without limitation:

- a) only process such Personal Data as is necessary to perform its obligations under this Contract, and only in accordance with any instruction given by the Authority under this Contract;
- b) put in place appropriate technical and organisational measures against any unauthorised or unlawful processing of such Personal Data, and against the accidental loss or destruction of or damage to such Personal Data having regard to the specific requirements in clause B37.3 below, the state of technical development and the level of harm that may be suffered by a Data Subject whose Personal Data is affected by such unauthorised or unlawful processing or by its loss, damage or destruction;
- c) take reasonable steps to ensure the reliability of Staff who will have access to such Personal Data, and ensure that such Staff are properly trained in protecting Personal Data;
- d) provide the Authority with such information as the Authority may reasonably require to satisfy itself that the Provider is complying with its obligations under the DPA;
- e) promptly notify the Authority of any requests for disclosure of or access to the Personal Data;
- f) Promptly notify the Authority of any breach of the security measures required to be put in place pursuant to this clause B37;
- g) ensure it does not knowingly or negligently do or omit to do anything which places the Authority in breach of the Authority's obligations under the DPA.

B37.3. To the extent that any Authority data is held and/or processed by the Provider, the Provider shall supply that Authority data to the Authority as requested by the Authority.

B37.4. The Provider and the Authority shall ensure that Personal Data is safeguarded at all times in accordance with the Law.

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B38. FREEDOM OF INFORMATION AND TRANSPARENCY

- B38.1. The Parties acknowledge their respective duties under the FOIA and must give all reasonable assistance to each other where appropriate or necessary to comply with such duties.
- B38.2. If the Provider is not a Public Authority, the Provider acknowledges that the Authority is subject to the requirements of the FOIA and will assist and co-operate with the Authority to enable the Authority to comply with its disclosure obligations under the FOIA. Accordingly the Provider agrees:
- a) that this Contract and any other recorded information held by the Provider on the Authority's behalf for the purposes of this Contract are subject to the obligations and commitments of the Authority under the FOIA;
 - b) that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA is a decision solely for the Authority;
 - c) that if the Provider receives a request for information under the FOIA, it will not respond to such request (unless directed to do so by the Authority) and will promptly (and in any event within **2** Business Days) transfer the request to the Authority;
 - d) that the Authority, acting in accordance with the codes of practice issued and revised from time to time under both section 45 of the FOIA, and regulation 16 of the Environmental Information Regulations 2004, may disclose information concerning the Provider and this Contract either without consulting with the Provider, or following consultation with the Provider and having taken its views into account; and
 - e) to assist the Authority in responding to a request for information, by processing information or environmental information (as the same are defined in the FOIA) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of the FOIA, and providing copies of all information requested by a Authority within **5** Business Days of such request and without charge.
- B38.3. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information.
- B38.4. Notwithstanding any other provision of this Contract, the Provider hereby consents to the publication of this Contract in its entirety including from time to time agreed changes to this Contract subject to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA.
- B38.5. In preparing a copy of this Contract for publication pursuant to clause B38.4 the Authority may consult with the Provider to inform its decision making regarding any redactions but the final decision in relation to the redaction of information shall be at the Authority's absolute discretion.
- B38.6. The Provider must assist and co-operate with the Authority to enable the Authority to publish this Contract.
- B38.7. In order to comply with the Government's policy on transparency in the areas of contracts and procurement the Authority will be disclosing information on its website in relation to monthly expenditure over £500 (five hundred pounds) in relation to this Contract. The information will include the Provider's name and the monthly Charges paid. The Parties acknowledge that this information is not Confidential Information or commercially sensitive information.

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B39. PROHIBITED ACTS

B39.1. Neither Party shall do any of the following:

- a) offer, give, or agree to give the other Party (or any of its 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 Contract or any other contract with the other Party, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the other Party; and
- b) in connection with this Contract, pay or agree 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 the other Party,

(together "**Prohibited Acts**").

B39.2. If either Party or its employees or agents (or anyone acting on its or their behalf) commits any Prohibited Act or commits any offence under the Bribery Act 2010 with or without the knowledge of the other Party in relation to this Contract, the non-defaulting Party shall be entitled:

- a) to exercise its right to terminate under clause B32.2 (*Termination*) and to recover from the defaulting Party the amount of any loss resulting from the termination; and
- b) to recover from the defaulting Party the amount or value of any gift, consideration or commission concerned; and
- c) to recover from the defaulting Party any loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence.

B39.3. Each Party must provide the other Party upon written request with all reasonable assistance to enable that Party to perform any activity required for the purposes of complying with the Bribery Act 2010. Should either Party request such assistance the Party requesting assistance must pay the reasonable expenses of the other Party arising as a result of such request.

B39.4. The Provider must have in place an anti bribery policy for the purposes of preventing any of its Staff from committing a prohibited act under the Bribery Act 2010. Such policy must be disclosed to the Authority within 5 Business Days of the Authority requesting it and enforced by the Provider where applicable.

B39.5. Should the Provider become aware of or suspect any breach of this clause B39, it will notify the Authority immediately. Following such notification, the Provider must respond promptly and fully to any enquiries of the Authority, co-operate with any investigation undertaken by the Authority and allow the Authority to audit any books, records and other relevant documentation.

B40. FORCE MAJEURE

B40.1. Where a Party is (or claims to be) affected by an event of Force Majeure, it must take all reasonable steps to mitigate the consequences of it, resume performance of its obligations under this Contract as soon as practicable and use its reasonable efforts to remedy its failure to perform its obligations under this Contract.

B40.2. Subject to clause B40.1, the Party claiming relief as a result of an event of Force Majeure will be relieved from liability under this Contract to the extent that because of the event of Force Majeure it is not able to perform its obligations under this Contract.

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- B40.3. The Party claiming relief as a result of an event of Force Majeure must serve an initial written notice on the other Party immediately it becomes aware of the event of Force Majeure. This initial notice shall give sufficient details to identify the particular event. The Party claiming relief must then serve a detailed written notice within a further 15 Business Days. This detailed notice shall contain all relevant available information relating to the failure to perform the relevant obligations under this Contract as is available, including the effect of the event of Force Majeure, the mitigating action being taken and an estimate of the period of time required to overcome it and resume full delivery of Services.
- B40.4. 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.
- B40.5. The Authority shall not be entitled to exercise its rights to withholdings and/or deduction of payments under this Contract, to the extent that the circumstances giving rise to such rights arise as a result of an event of Force Majeure.

B41. THIRD PARTY RIGHTS

- B41.1. No term of this Contract is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Contract.

B42. CAPACITY

- B42.1. Without prejudice to the contractual rights and/or remedies of the Provider expressly set out in this Contract, the obligations of the Authority under this Contract are obligations of the Authority in its capacity as a contracting counterparty and nothing in this Contract shall operate as an obligation upon the Authority or in any way fetter or constrain the Authority in any other capacity, nor shall the exercise by the Authority of its duties and powers in any other capacity lead to any liability on the part of the Authority under this Contract (howsoever arising) in any capacity other than as contracting counterparty.

B43. SEVERABILITY

- B43.1. If any provision or part of any provision of this Contract is declared invalid or otherwise unenforceable, the provision or part of the provision as applicable will be severed from this Contract and this will not affect the validity and/or enforceability of the remaining part of that provision or other provisions of this Contract.

B44. WAIVER

- B44.1. Any relaxation or delay by either Party in exercising any right under this Contract will not be taken as a waiver of that right and will not affect the ability of that Party subsequently to exercise that right.

B45. PUBLICITY

- B45.1. Without prejudice to clause B38 (*Freedom of Information and Transparency*), except with the written consent of the Authority, (such consent not to be unreasonably withheld or delayed), the Provider must not make any press announcements in relation to this Contract in any way.
- B45.2. The Provider must take all reasonable steps to ensure the observance of the provisions of clause B45.1 by all its staff, servants, agents, consultants and sub-contractors.

B46. EXCLUSION OF PARTNERSHIP, JOINT VENTURE OR AGENCY

- B46.1. Nothing in this Contract creates a partnership or joint venture or relationship of employer and employee or principal and agent between the Authority and the Provider.

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B47. GOVERNING LAW AND JURISDICTION

- B47.1. This Contract will be governed by and interpreted in accordance with English Law and will be subject to the exclusive jurisdiction of the Courts of England and Wales.
- B47.2. Subject to the provisions of clause B30 (*Dispute Resolution*), the Parties agree that the courts of England have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Contract.

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APPENDIX A
SERVICE SPECIFICATIONS

All subheadings for local determination and agreement.

Service Specification No.	
Service	
Authority Lead	
Provider Lead	
Period	
Date of Review	

1. Population Needs

1.1 National/local context and evidence base

2. Key Service Outcomes

2.1 Insert any locally agreed outcomes and quality requirements which are NOT Quality Outcomes Indicators which should be set out in Appendix C (*Quality Outcomes Indicators*)

3. Scope

3.1 Aims and objectives of service

3.2 Service description/pathway

3.3 Population covered

3.4 Any acceptance and exclusion criteria and thresholds

3.5 Interdependencies with other services

3.6 Any activity planning assumptions

4. Applicable Service Standards

4.1 Applicable national standards eg NICE

4.2 Applicable local standards

5. Location of Provider Premises

The Provider's Premises are located at:

[Insert address of Provider's Premises if applicable]

6. Required Insurances

6.1 If required, insert types of insurances and levels of cover required

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APPENDIX B

CONDITIONS PRECEDENT

1. Provide the Authority with a copy of the Provider's registration with the CQC where the Provider must be so registered under the Law

[Please insert any locally agreed conditions that must be satisfied prior to commencing service delivery – eg provide a copy of insurance certificate]

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APPENDIX C

QUALITY OUTCOMES INDICATORS

Quality Indicators	Outcomes	Threshold	Method of Measurement	Consequence of breach

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APPENDIX D

SERVICE USER, CARER AND STAFF SURVEYS

[Insert form, frequency and reporting process where required]

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APPENDIX E

CHARGES

[Please list the price(s) for the Services or set out the total charges to be paid]

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APPENDIX F

SAFEGUARDING POLICIES

[Please append safeguarding children and vulnerable adults policy of Provider]

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APPENDIX G

INCIDENTS REQUIRING REPORTING PROCEDURE

[Insert pursuant to clause B11 (Incidents Requiring Reporting) procedure for reporting, investigating, and implementing and sharing Lessons Learned from: (1) Serious Incidents (2) reportable Patient Safety Incidents; and (3) Non-Service User incidents]

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APPENDIX H

INFORMATION PROVISION

[Insert type, format, frequency and timescales and consequence for non-provision of required information]

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APPENDIX I

TRANSFER OF AND DISCHARGE FROM CARE PROTOCOLS

[Insert any locally agreed protocols including contents for discharge correspondence and relevant timescales for delivering such correspondence]

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APPENDIX J

SERVICE QUALITY PERFORMANCE REPORT

Insert format and manner of provision of the Service Quality Performance Report, together with the factors to be measured and reported on.

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APPENDIX K

DETAILS OF REVIEW MEETINGS

[Insert frequency and manner of Review Meetings]

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APPENDIX L
AGREED VARIATIONS

[*Insert agreed Variations*]

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APPENDIX M

DISPUTE RESOLUTION

Part 1 of Appendix M – Dispute Resolution Process

1. ESCALATED NEGOTIATION

1.1 Except to the extent that any injunction is sought relating to a matter arising out of clause B36 (*Confidentiality*), if any Dispute arises out of or in connection with this Contract, the Parties must first attempt to settle it by either of them making a written negotiation offer to the other, and during the 15 Business Days following receipt of the first such offer (the “**Negotiation Period**”) each of the Parties shall negotiate in good faith and be represented:

1.1.1 for the first 10 Business Days, by a senior person who where practicable has not had any direct day-to-day involvement in the matter that led to the Dispute and has authority to settle the Dispute; and

1.1.2 for the last 5 Business Days, by its chief executive, director, or board member who has authority to settle the Dispute,

provided that no Party in Dispute where practicable shall be represented by the same individual under paragraphs 1.1.1 and 1.1.2.

2. MEDIATION

2.1 If the Parties are unable to settle the Dispute by negotiation, they must within 5 Business 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 and set out in Part 2 of this Appendix M.

2.2 The Parties will keep confidential and not use for any collateral or ulterior purpose all information, whether given orally, in writing or otherwise, arising out of or in connection with any mediation, including the fact of any settlement and its terms, save for the fact that the mediation is to take place or has taken place.

2.3 All information, whether oral, in writing or otherwise, arising out of or in connection with any mediation will be without prejudice, privileged and not admissible as evidence or disclosable in any current or subsequent litigation or other proceedings whatsoever.

3. EXPERT DETERMINATION

3.1 If the Parties are unable to settle the Dispute through mediation, then either Party may give written notice to the other Party within 10 Business Days of closure of the failed mediation of its intention to refer the Dispute to expert determination. The Expert Determination Notice must include a brief statement of the issue or issues which it is desired to refer, the expertise required in the expert, and the solution sought.

3.2 If the Parties have agreed upon the identity of an expert and the expert has confirmed in writing his readiness and willingness to embark upon the expert determination, then that person shall be appointed as the Expert.

3.3 Where the Parties have not agreed upon an expert, or where that person has not confirmed his willingness to act, then either Party may apply to CEDR for the appointment of an expert. The request must be in writing, accompanied by a copy of the Expert Determination Notice and the appropriate fee and must be copied simultaneously to the other Party. The other Party may make representations to CEDR regarding the expertise required in the expert. The person nominated by CEDR will be appointed as the Expert.

3.4 The Party serving the Expert Determination Notice must send to the Expert and to the other Party within 5 Business Days of the appointment of the Expert a statement of its case

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including a copy of the Expert Determination Notice, the Contract, details of the circumstances giving rise to the Dispute, the reasons why it is entitled to the solution sought, and the evidence upon which it relies. The statement of case must be confined to the issues raised in the Expert Determination Notice.

- 3.5 The Party not serving the Expert Determination Notice must reply to the Expert and the other Party within **5** Business Days of receiving the statement of case, giving details of what is agreed and what is disputed in the statement of case and the reasons why.
- 3.6 The Expert must produce a written decision with reasons within **30** Business Days of receipt of the statement of case referred to in paragraph 1.9, or any longer period as is agreed by the Parties after the Dispute has been referred.
- 3.7 The Expert will have complete discretion as to how to conduct the expert determination, and will establish the procedure and timetable.
- 3.8 The Parties must comply with any request or direction of the Expert in relation to the expert determination.
- 3.9 The Expert must decide the matters set out in the Expert Determination Notice, together with any other matters which the Parties and the Expert agree are within the scope of the expert determination. The Expert must send his decision in writing simultaneously to the Parties. Within **5** Business Days following the date of the decision the Parties must provide the Expert and each other with any requests to correct minor clerical errors or ambiguities in the decision. The Expert must correct any minor clerical errors or ambiguities at his discretion within a further **5** Business Days and send any revised decision simultaneously to the Parties.
- 3.10 The Parties must bear their own costs and expenses incurred in the expert determination and are jointly liable for the costs of the Expert.
- 3.11 The decision of the Expert is final and binding, except in the case of fraud, collusion, bias, or material breach of instructions on the part of the Expert at which point a Party will be permitted to apply to Court for an Order that:
- 3.11.1 the Expert reconsider his decision (either all of it or part of it); or
- 3.11.2 the Expert's decision be set aside (either all of it or part of it).
- 3.12 If a Party does not abide by the Expert's decision the other Party may apply to Court to enforce it.
- 3.13 All information, whether oral, in writing or otherwise, arising out of or in connection with the expert determination will be inadmissible as evidence in any current or subsequent litigation or other proceedings whatsoever, with the exception of any information which would in any event have been admissible or disclosable in any such proceedings.
- 3.14 The Expert is not liable for anything done or omitted in the discharge or purported discharge of his functions, except in the case of fraud or bad faith, collusion, bias, or material breach of instructions on the part of the Expert.
- 3.15 The Expert is appointed to determine the Dispute or Disputes between the Parties and his decision may not be relied upon by third parties, to whom he shall have no duty of care.

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Part 2 of Appendix M - Nominated Mediation Body

[If other mediation body is agreed under paragraph 2.1 of Part 1 of Appendix M, insert details of body here]

If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-

- a) In the first instance a special meeting of both the Parties shall be arranged on 14 days written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute
- b) If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive and the Contractor or other authorised officer whose details have been notified to the Council, with notice of the dispute and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice
- c) If the dispute cannot be resolved in accordance with the preceding sub-clause then it shall be referred to a single arbitrator to be agreed between the Parties and failing such agreement within 14 days of the request of one Party to the other in writing that the matter be referred to arbitration such reference shall be to a single arbitrator appointed for that purpose on the written request of either Party by the President for the time being of the Law Society of England and Wales and any reference to arbitration under this clause shall be deemed to be a reference to arbitration within the meaning of the relevant Arbitration Acts and it is further agreed that if any matter is referred to arbitration then each Party will bear its own costs of such referral

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Part 3 of Appendix M - Recorded Dispute Resolutions

[insert]

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APPENDIX N
SUCCESSION PLAN

[Insert if one has been agreed]

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Appendix O

Definitions and Interpretation

1. The headings in this Contract shall not affect its interpretation.
2. References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.
3. References to a statutory provision shall include any subordinate legislation made from time to time under that provision.
4. References to Sections, clauses and Appendices are to the Sections, clauses and Appendices of this Contract, unless expressly stated otherwise.
5. References to any body, organisation or office shall include reference to its applicable successor from time to time.
6. Any references to this Contract or any other documents includes reference to this Contract or such other documents as varied, amended, supplemented, extended, restated and/or replaced from time to time.
7. Use of the singular includes the plural and vice versa.
8. The following terms shall have the following meanings:

Activity means any levels of clinical services and/or Service User flows set out in a Service Specification

Authorised Person means the Authority and any body or person concerned with the provision of the Service or care of a Service User

Authority Representative means the person identified in clause A4.1 (*Representatives*) or their replacement

Best Value Duty means the duty imposed by section 3 of the Local Government Act 1999 (the **LGA 1999**) as amended, and under which the Authority is under a statutory duty to continuously improve the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to any applicable guidance issued from time to time

Board of Directors means the executive board or committee of the relevant organisation

Business Continuity Plan means the Provider's plan referred to in Clause B34.2 (*Business Continuity*) relating to continuity of the Services, as agreed with the Authority and as may be amended from time to time

Business Day means a day (other than a Saturday or a Sunday) on which commercial banks are open for general business in London

Caldicott Guardian means the senior health professional responsible for safeguarding the confidentiality of patient information

Care Quality Commission or CQC means the care quality commission established under the Health and Social Care Act 2008

Carer means a family member or friend of the Service User who provides day-to-day support to the Service User without which the Service User could not manage

CEDR means the Centre for Effective Dispute Resolution

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Charges means the charges which shall become due and payable by the Authority to the Provider in respect of the provision of the Services in accordance with the provisions of this Contract, as such charges are set out in Appendix E (*Charges*)

Commencement Date means the date identified in clause A3.1 (*Commencement and Duration*)

Competent Body means any body that has authority to issue standards or recommendations with which either Party must comply

Conditions Precedent means the conditions precedent, if any, to commencement of service delivery referred to in clause A3.2 (*Commencement and Duration*) and set out in Appendix B (*Conditions Precedent*)

Confidential Information means 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, without limitation, financial information, or marketing or development or work force 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, pursuant to an FOIA request, or information which is published as a result of government policy in relation to transparency

Consents means:

- (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 Contract or for the provision by the Provider of the Services in accordance with this Contract

Contract has the meaning given to it in clause A1.1 (*Contract*)

Contract Query means:

- (i) a query on the part of the Authority in relation to the performance or non-performance by the Provider of any obligation on its part under this Contract; or
- (ii) a query on the part of the Provider in relation to the performance or non-performance by the Authority of any obligation on its part under this Contract,

as appropriate

Contract Query Notice means a notice setting out in reasonable detail the nature of a Contract Query

Contract Management Meeting means a meeting of the Authority and the Provider held in accordance with clause B29.8 (*Contract Management*)

CQC Regulations means the Care Quality Commission (Registration) Regulation 2009

Data Processor has the meaning set out in the DPA

Data Subject has the meaning set out in the DPA

DBS means the Disclosure and Barring Service established under the Protection of Freedoms Act 2012

Default means any breach of the obligations of the Provider (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement

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of the Provider or the Staff in connection with or in relation to the subject-matter of this Contract and in respect of which the Provider is liable to the Authority

Default Interest Rate means LIBOR plus 2% per annum

Disclosing Party means the Party disclosing Confidential Information

Dispute means a dispute, conflict or other disagreement between the Parties arising out of or in connection with this Contract

DPA means the Data Protection Act 1998

Employment Checks means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks, criminal record checks and occupational health checks

Enhanced DBS & Barred List Check means an Enhanced DBS & Barred List Check (child) or Enhanced DBS & Barred List Check (adult) or Enhanced DBS & Barred List Check (child & adult) (as appropriate)

Enhanced DBS & Barred List Check (child) means a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS children's barred list

Enhanced DBS & Barred List Check (adult) means a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS adult's barred list

Enhanced DBS & Barred List Check (child & adult) means a disclosure of information comprised in an Enhanced DBS Check together with information from the DBS children's and adult's barred list

Enhanced DBS Check means 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 means 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 Disclosure or an Enhanced DBS & Barred List Check (as appropriate) is permitted

Equipment means the Provider's equipment, plant, materials and such other items supplied and used by the Provider in the performance of its obligations under this Contract

Excusing Notice means a notice setting out in reasonable detail the Receiving Party's reasons for believing that a Contract Query is unfounded, or that the matters giving rise to the Contract Query are:

- (i) due wholly or partly to an act or omission by the Issuing Party; or
- (ii) a direct result of the Receiving Party following the instructions of the Issuing Party; or
- (iii) due to circumstances beyond the Receiving Party's reasonable control but which do not constitute an event of Force Majeure

Expert means the person designated to determine a Dispute by virtue of paragraphs 1.6 or 1.7 of Appendix M (*Dispute Resolution*)

Expert Determination Notice means a notice in writing showing an intention to refer Dispute for expert determination

Expiry Date means the date set out in clause A3.3 (*Commencement and Duration*)

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First Exception Report means a report issued in accordance with clause B29.21 (*Contract Management*) notifying the relevant Party's chief executive and/or Board of Directors of that Party's breach of a Remedial Action Plan and failure to remedy that breach

FOIA means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Authority or relevant government department in relation to such legislation and the Environmental Information Regulations 2004

Force Majeure means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:

- (i) any industrial action occurring within the Provider's or any Sub-contractor's organisation; or
- (ii) the failure by any Sub-contractor to perform its obligations under any Sub-contract

Fraud means any offence under the laws of the United Kingdom creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts or defrauding or attempting to defraud or conspiring to defraud the Authority

General Conditions has the meaning given to it in clause A1.1(b) (*Contract*)

Good Clinical Practice means using standards, practices, methods and procedures conforming to the Law and using that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, efficient and experienced clinical services provider, or a person providing services the same as or similar to the Services, at the time the Services are provided, as applicable

Guidance means any applicable local authority, health or social care guidance, direction or determination which the Authority and/or the Provider have a duty to have regard to including any document published under section 73B of the NHS Act 2006

Immediate Action Plan means a plan setting out immediate actions to be undertaken by the Provider to protect the safety of Services to Service Users, the public and/or Staff

Indirect Losses means loss of profits (other than profits directly and solely attributable to the 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

Issuing Party means the Party which has issued a Contract Query Notice

JI Report means a report detailing the findings and outcomes of a Joint Investigation

Joint Investigation means an investigation by the Issuing party and the Receiving Party into the matters referred to in a Contract Query Notice

Law means:

- (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) of the European Communities Act 1972;
- (iii) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;
- (iv) National Standards;

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(v) Guidance; and

(vi) any applicable industry code

in each case in force in England and Wales

Legal Guardian means an individual who, by legal appointment or by the effect of a written law, is given custody of both the property and the person of one who is unable to manage their own affairs

Lessons Learned means experience derived from provision of the Services, the sharing and implementation of which would be reasonably likely to lead to an improvement in the quality of the Provider's provision of the Services

LIBOR means the London Interbank Offered Rate for 6 months sterling deposits in the London market

Local HealthWatch means the local independent consumer champion for health and social care in England

Losses means 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, excluding Indirect Losses

National Institute for Health and Clinical Excellence or **NICE** means the special health authority responsible for providing national guidance on the promotion of good health and the prevention and treatment of ill health (or any successor body)

National Standards means those standards applicable to the Provider under the Law and/or Guidance as amended from time to time

Negotiation Period means the period of 15 Business Days following receipt of the first offer

NHS Act 2006 means the National Health Service Act 2006

Parties means the Authority and the Provider and "Party" means either one of them

Patient Safety Incident means any unintended or unexpected incident that occurs in respect of a Service User that could have led or did lead to, harm to that Service User

Personal Data has the meaning set out in the DPA

Prohibited Acts has the meaning given to it in clause B39.1 (*Prohibited Acts*)

Provider Representative means the person identified in clause A4.2 (*Representatives*) or their replacement

Provider's Premises means premises controlled or used by the Provider for any purposes connected with the provision of the Services which may be set out or identified in a Service Specification

Public Authority means as defined in section 3 of the FOIA

Quality Outcomes Indicators means the agreed key performance indicators and outcomes to be achieved as set out in Appendix C (*Quality Outcomes Indicators*)

Receiving Party means the Party which has received a Contract Query Notice or Confidential Information as applicable

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'Regulated Activity' in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

'Regulated Provider' as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006

Regulatory Body means any body other than CQC carrying out regulatory functions in relation to the Provider and/or the Services

Remedial Action Plan means a plan to rectify a breach of or performance failure under this Contract specifying targets and timescales within which those targets must be achieved

Required Insurances means the types of policy or policies providing levels of cover as specified in the Service Specification(s)

Restricted Person means any person: (i) other than an Institutional Investor who has a material interest in the production of tobacco products or alcoholic beverages; or (ii) whom the Co-ordinating Commissioner reasonably believes is inappropriate for public policy reasons to have a controlling interest in the Provider or in a Material Sub-contractor

Review Meeting means a meeting to be held in accordance with clause B19 (*Review Meetings*) or as otherwise requested in accordance with clause B19.2 (*Review Meetings*)

Safeguarding Policies means the Provider's written policies for safeguarding children and adults, as amended from time to time, and as may be appended at Appendix F (*Safeguarding Children and Vulnerable Adults*)

Second Exception Report means a report issued in accordance with clause B29.22 (*Contract Management*) notifying the recipients of a breach of a Remedial Action Plan and the continuing failure to remedy that breach

Serious Incident means an incident or accident or near-miss where a patient (whether or not a Service User), member of staff, or member of the public suffers serious injury, major permanent harm or unexpected death on the Provider's Premises or where the actions of the Provider, the Staff or the Authority are likely to be of significant public concern

Service Commencement Date means the date set out in clause A3.2 (*Commencement and Duration*)

Service Specification means each of the service specifications defined by the Authority and set out at Appendix A (*Service Specifications*)

Service User means the person directly receiving the Services provided by the Provider as specified in the Service Specifications and includes their Carer and Legal Guardian where appropriate

Service Quality Performance Report means a report as described in Appendix J (*Service Quality Performance Report*)

Services means 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 Contract

Special Conditions has the meaning given to it in clause A1.1(c) (*Contract*)

Staff means all persons employed by the Provider to perform its obligations under this Contract together with the Provider's servants, agents, suppliers and Sub-contractors used in the performance of its obligations under this Contract

Standard DBS Check means a disclosure of information which contains certain details of an individual's convictions, cautions, reprimands or warnings recorded on police central records and includes both 'spent' and 'unspent' convictions

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Standard DBS Position means 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

Sub-contract means a contract approved by the Authority between the Provider and a third party for the provision of part of the Services

Sub-contractor means any third party appointed by the Provider and approved by the Authority under clause B23.1 (*Assignment and Sub-contracting*) to deliver or assist with the delivery of part of the Services as defined in a Service Specification

Succession Plan means a plan agreed by the Parties to deal with transfer of the Services to an alternative provider following expiry or termination of this Contract as set out at Appendix N (*Succession Plan*)

Successor Provider means any provider to whom a member of Staff is transferred pursuant to TUPE in relation to the Services immediately on termination or expiry of this Contract

Transfer of and Discharge from Care Protocols means the protocols set out in Appendix I (*Transfer and Discharge from Care Protocols*)

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006

VAT means value added tax in accordance with the provisions of the Value Added Tax Act 1994

Variation means a variation to a provision or part of a provision of this Contract

Variation Notice means a notice to vary a provision or part of a provision of this Contract issued under clause B22.2 (*Variations*).

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**SECTION C
SPECIAL TERMS AND CONDITIONS**

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[PLEASE INSERT ANY LOCALLY AGREED CLAUSES EITHER FROM THE CONTRACT GUIDANCE OR OTHERWISE INTO THIS SECTION. ANY PROVISIONS INSERTED INTO THIS SECTION WILL PREVAIL OVER THE PROVISIONS IN SECTIONS A AND B]

C1. INSURANCE

- C1.1. The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of this Agreement, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum of £5,000,000 (FIVE MILLION POUNDS) cover. In respect of death or personal injury due to negligence will be unlimited
- C1.2. If appropriate and requested in Writing, the Contractor may also be required to provide Product Liability insurance of at least £2,000,000 (TWO MILLION POUNDS) cover for any one claim
- C1.3. Where the Contractor is providing Services of a professional nature, or the Council otherwise specifies that professional indemnity insurance is required, the Contractor shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover. To comply with its obligations under this clause, and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than £1,000,000 (ONE MILLION POUNDS) for any occurrences arising out of each and every event. Such insurance shall be maintained for a minimum of six years following the expiration or earlier termination of the agreement.
- C1.4. The Contractor warrants that it has complied with this clause C3 and shall provide the Council with certified copies of the relevant policies upon request together with receipts or other evidence of payment of the latest premiums due under those policies.
- C1.5. If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the agreement the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- C1.6. Clause B27.1 (INSURANCE) will not apply to this Contract.

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C2. PREVENTION OF BRIBERY

C2.1. The Contractor:

- a) shall not, and shall procure that all Contractor Personnel shall not, in connection with this Agreement commit a Prohibited Act
- b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement

C2.2. The Contractor shall:

- a) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- b) the Contractor shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Contractor) the Contractor's compliance with this clause C3 and provide such supporting evidence of compliance with this clause C3 by the Contractor as the Council may reasonably request.

C2.3. If any breach of clause C3.1 is suspected or known, the Contractor must notify the Council immediately

C2.4. If the Contractor notifies the Council that it suspects or knows that there may be a breach of clause C3.1, the Contractor must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Agreement.

C2.5. The Council may terminate this Agreement by written notice with immediate effect, and recover from the Contractor the amount of any loss directly resulting from the cancellation, if the Contractor or Contractor Personnel (in all cases whether or not acting with the Contractor's knowledge) breaches clause C3.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause C3.5, the Council shall give consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or supplier not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:

- a) with the authority; or,
- b) with the actual knowledge of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or
- c) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had knowledge

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- C2.6. Any notice of termination under clause C3.5 must specify
- a) the nature of the Prohibited Act;
 - b) the identity of the party whom the Council believes has committed the Prohibited Act;
and
 - c) the date on which this Agreement will terminate.
- C2.7. Despite clause B30 (DISPUTE RESOLUTION), any dispute relating to:
- a) the interpretation of clause 15; or
 - b) the amount or value of any gift, consideration or commission,
shall be determined by the Council and its decision shall be final and conclusive
- C2.8. Any termination under clause C3.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.
- C2.9. This clause C2 is an addition to B39 (PROHIBITED ACTS)

C3. FORCE MAJEURE

- C3.1. Neither the Council nor the Contractor shall be in breach of this Agreement nor liable for any failure or delay in performing their obligations under this Agreement where it is directly caused, arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("Force Majeure Event"), provided that:-
- a) any delay by a sub-contractor or supplier of the Party who is delayed will not relieve that Party from liability for delay except where the delay is beyond the reasonable control of the sub-contractor or supplier concerned; and
 - b) staff or material shortages or strikes or industrial action affecting only the Party who is delayed will not relieve that Party from liability for delay.
- C3.2. If the Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-
- a) it promptly notified the Council in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and
 - b) it has used its reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible

in which case the performance of that Party's obligations will be suspended during the period that those circumstances persist and that Party will be granted a reasonable extension of time for performance up to a maximum equivalent to the period of the delay.

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C3.3. Save where that delay is caused by the act or failure to act of the other Party (in which event the rights, remedies and liabilities of the Parties will be those conferred by the other terms of this Agreement and by law):-

- a) any costs arising from that delay will be borne by the Party incurring the same; and
- b) either Party may, if that delay continues for more than 5 weeks, terminate this Agreement immediately on giving notice in writing to the other. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

C3.4. Clause B40 (Force Majeure) will not apply to this Contract

C4. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

C4.1. The parties acknowledge that the Service Provider is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006.

C4.2. The Service Provider must fulfil its commitment to safeguard and promote the welfare of vulnerable adults and children and shall have the following in place:

- a) Clear priorities for safeguarding and protecting vulnerable adults and children explicitly stated in strategic policy documents;
- b) A clear commitment by senior management of the organisation to the importance of safeguarding and protecting vulnerable adults and children
- c) A clear line of accountability within the organisation for overseeing safeguarding and protecting vulnerable adults and children and that roles and accountability for taking action and reporting internally and in accordance with the Council's Multi Agency Adult Protection Policy and Procedure and Shropshire Safeguarding Children's Board Procedures and is properly defined and understood by those involved.
- d) Recruitment and human resources management procedures to take account of the need to safeguard and protect vulnerable adults including safe recruitment policies and practices and enhanced Disclosure and Barring Service (DBS) checks for all Staff including agency staff students and volunteers working with vulnerable adults and children.
- e) Procedures for instigating the Council's Multi Agency Adult Protection Policy and Shropshire Safeguarding Children's Board Procedures and for dealing with allegations of abuse against members of Staff and volunteers.
- f) Arrangements to ensure that all Staff receive supervision and undertake training in respect of safeguarding in order to equip them to carry out their safeguarding responsibilities effectively. Refresher training must be provided at regular intervals and all Staff including temporary Staff and volunteers who work with vulnerable adults and children must be made aware of the organisations arrangements for protecting vulnerable adults and children.
- g) Policies to safeguard and protect vulnerable adults and children and procedures that are in accordance with the Council's Multi Agency Protection Policy and Shropshire Safeguarding Children's Board Procedures.
- h) Arrangements to work effectively with other organisations involved in the delivery of services to vulnerable adults and children in order to protect vulnerable adults and children including arrangements for sharing information.
- i) A culture of listening to and engaging in dialogue with vulnerable adults and children in ways appropriate to their understanding and seeking their views and taking account of those views both in individual decisions and the establishment or development of services.

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Ensuring appropriate whistle blowing procedures are in place and there is a culture that enables issues about safeguarding and protecting vulnerable adults and children to be raised. A copy of the Council's Speaking Up About Wrongdoing "Whistleblowing" Policy can be found on the Council's website at www.shropshire.gov.uk.

- C4.3. The Service Provider shall ensure that all policies required by the Council are implemented in respect of the Services.
- C4.4. Where the Service or activity being undertaken in this Contract is a Regulated Activity the Service Provider shall:
- a) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
 - b) monitor the level and validity of the checks under this clause C5.4 for each member of the Service Provider's Staff.
- C4.5. The Service Provider warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Service Provider in the provision of a Service or activity that is a Regulated Activity is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- C4.6. The Service Provider shall immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause have been met.
- C4.7. The Service Provider shall refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Service Users, children or vulnerable adults.
- C4.8. The Service Provider shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service Users.
- C4.9. Where the service requirement or specification specifies that the Service or activity to be provided under this Contract involves a Regulated Activity, or the Council otherwise notifies the Service Provider, acting reasonably, that the Service Provider's Staff are required to be subject to a Disclosure and Barring Service check, the Service Provider shall comply with clause C5.4 above.

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C5. DISPUTES

- C5.1. If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-
- a. In the first instance a special meeting of both the Parties shall be arranged on 14 days written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute
 - b. If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive and the Contractor or other authorised officer whose details have been notified to the Council, with notice of the dispute and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice
 - c. If the dispute cannot be resolved in accordance with the preceding sub-clause then it shall be referred to a single arbitrator to be agreed between the Parties and failing such agreement within 14 days of the request of one Party to the other in writing that the matter be referred to arbitration such reference shall be to a single arbitrator appointed for that purpose on the written request of either Party by the President for the time being of the Law Society of England and Wales and any reference to arbitration under this clause shall be deemed to be a reference to arbitration within the meaning of the relevant Arbitration Acts and it is further agreed that if any matter is referred to arbitration then each Party will bear its own costs of such referral
- C5.2. This clause replaces B30.1 and Part 1 of Appendix M

C6. NON-COMPLIANCE

- C6.1. If the Council identifies areas of the Services which do not comply with the requirements of this Agreement (including any Schedules to this Agreement) it may send the Contractor a non-compliance notice detailing:
- a) the areas of non-compliance;
 - b) the action to be taken; and
 - c) the date by which the action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).
- C6.2. If the Contractor fails to take any or all of the necessary action by the date given in the non-compliance notice, the Council may send the Contractor a final non-compliance notice detailing:
- a) the areas of non-compliance;
 - b) the action to be taken; and
 - c) the date by which the action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).
- C6.3. If, in the reasonable opinion of the Council, the Contractor fails to undertake all of the remedial actions in the final non-compliance notice by the due date the Council shall be entitled to take either of the following steps depending on the seriousness of the non-compliance (which in the event of dispute shall be determined in accordance with clause C6):
- a) to make arrangements to take its own corrective action either itself or through the appointment of another Contractor and to either:
 - (i) deduct all costs in connection therewith from any sums due or to become due to the Contractor under the terms of this Agreement; or
 - (ii) to recover such sums from the Contractor as a debt;
 - b) to terminate the Agreement in accordance with clause B32

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C6.4. This clause replaces Clauses B29.18 - B29.27

C7. CHANGE IN CONTROL

- C7.1. Notwithstanding any other provision of this Agreement, the Provider shall not at any time permit a Restricted Person to hold five (5) per cent or more of the total value of any Security
- a) in it or in its holding company or any of its subsidiaries (as defined in the Companies Act 2006); or
 - b) in a Material Sub-contractor or in any holding company or any of the subsidiaries (as defined in the Companies Act 2006) of a Material Sub-contractor.



Tender Response Document

DMC 009 - PROVISION OF COMMUNITY HIV
PREVENTION AND SUPPORT SERVICES FOR
SHROPSHIRE AND TELFORD AND WREKIN
COUNCILS

Name of TENDERING
ORGANISATION
(please insert)

Terrence Higgins Trust

Shropshire Council Tender Response Document

Contract Description:

Shropshire Council on behalf of Shropshire Council and Telford & Wrekin Council are seeking Provider/(s) to deliver a service which aims to positively impact on and improve the health of the local populations of Shropshire County and Telford & Wrekin through provision of community HIV Prevention and Support Services. These will be linked to local and Health Protection England campaigns, and will provide face to face support to help people reduce their risk taking, as well as increasing access to community HIV testing.

The two Local Authorities will procure one organisation to provide the relevant services but will individually enter into separate contracts with the successful bidder. In addition, there are separate specifications for both contracts

The two contracts are for an initial period of 12 months with the option to extend for a further 2 years. They will commence on 01st April 2014, expiring on 31st March 2017.

Instructions for the completion of this document

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section and require further clarification, please contact: Nigel Denton, Procurement Manager via email quoting the contract reference to procurement@shropshire.gov.uk.
2. Please refer to the instructions for tendering document forming part of this Invitation to tender for the conditions applying to all tenderers before completing this document.
3. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
 - a. Where the tenderer is an individual, by that individual;
 - b. Where the tenderer is a partnership, by two duly authorised partners;
 - c. Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
4. All questions require specific responses from you relating to the organisation named in the PQQ Section B Question 1.1. All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
5. Where copies of certificates and other details are requested **a copy must accompany the hard copy** of your Tender Response Document.

Contents

Section	Description	Page
A1	Form of Tender	5
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A3	Non-Collusive Tendering Certificate	7
A4	Declaration of Connection with Officers or Elected Members of the Council	8
You must sign all 4 certificates in sections A1 to A4		
B	Tender Schedule	9

Award Criteria

Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up of 'Quality' and 'Price' and shows how each criteria is to be weighted against each other.

Section / Question No.	Award Criteria	Weighting / Max Marks Available
Price 10% (125 marks)		
Section B / Q 1	Price	10% / 125 max marks
Total for price		10% / 125 max marks
Quality 90% (1125 marks)		
Section B / Q 2A	Service Delivery	20 / 200 max marks
Section B / Q 2B	Access	10 / 100 max marks
Section B / Q 2C	Involvement & Engagement	5 / 50 max marks
Section B / Q 3A	Clinical Governance	10 / 100 max marks
Section B / Q 3B1	Positive result pathway	10 / 50 max marks
Section B / Q 3B2	Home testing pathway	5 / 50 max marks
Section B / Q 3C	Clinical Risk	10 / 50 max marks
Section B / Q 4A	Staffing Structure	5 / 25 max marks
Section B / Q 4B	Workforce Experience / Qualifications	10 / 25 max marks
Section B / Q 4C	Workforce Plan	5 / 25 max marks
Section B / Q 4D	Implementation Plan	10 / 100 max marks
Section B / Q 5A	Awareness Raising	5 / 50 max marks
Section B / Q 6A	Collaborative Working	5 / 50 max marks
Section B / Q 7A	Safeguarding	5 / 50 max marks
Section B / Q 8A	Quality	10 / 100 max marks
Section B / Q 8B	Outcomes	10 / 100 max marks
Total for quality		90% / 1125 max marks

Quality Questions/ Scoring Scheme

Questions within the quality sections shown above will be scored using the following scoring scheme. Each answer from the questions identified below will be given a mark between 0 and 10 with the following meanings

Assessment	Mark	Interpretation
Excellent	10	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	9	
Good	8	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	7	
Acceptable	6	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	5	
Minor Reservations	4	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	3	
Serious Reservations	2	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	1	
Unacceptable	0	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.

The tender receiving the highest mark for each category will receive the full 1125 marks available for quality. Other tenders will receive a % that reflects the difference in the marks between those tenders and the tender receiving the highest mark for quality.

Price Evaluation

A final price will be arrived at by adding together the total overall cost for the 3 years for both Shropshire's Pricing Schedule and Telford & Wrekin's Pricing Schedule. The most competitively priced tender will receive the maximum mark for price being **125. Less competitive tenders** will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender.

Tenderers may be invited to interview following evaluation to present their tenders in more detail and clarify any questions relating to their tender.

Section A: 1. Form of Tender

Form of Tender

Shropshire Council

Tender for – Provision of Community HIV Prevention and Support Services for Shropshire and Telford & Wrekin Councils

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the provision of Community HIV Prevention and Support Services for Shropshire and Telford & Wrekin Councils at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the General Terms and Conditions, copies of which we have received.

Signed ... 

Name...  ..

Date ...22nd November 2013.....

Designation ...Director of New Business.....

Company Terrence Higgins Trust.....

Address 314 – 320 Grays' Inn Road, London.....

..... Post Code WC1X 8DP.....

Tel No 0207 812 1600..... Fax No

E-mail address 

Web address www.tht.org.uk.....

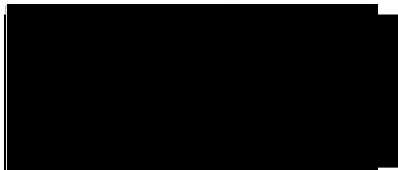
Section A:
2. Non-Canvassing Certificate

Non-Canvassing Certificate

To: Shropshire Council (hereinafter called “the Council”)

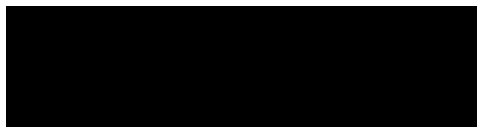
I/We hereby certify that I/We have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf has done any such act.

I/We further hereby undertake that I/We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf will do any such act.



Signed (1)

Status.....Acting Chief Executive.....



Signed (2)

Status...Director.....

(For and on behalf of Terrence Higgins Trust.....)

Date22nd November 2013.....

Section A:
3. Non-Collusive Tendering Certificate

Non-collusive Tendering Certificate

To: Shropshire Council (hereinafter called "the Council")


The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

- (a) communicating to a person other than the Council the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- (b) entering into any agreement or arrangement with any other person that he shall refrain from Tendering or as to the amount of any Tender to be submitted; or
- (c) offering or agreeing to pay or give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender for the Services any act or omission.


Signed (1)
Status.....Acting Chief Executive.....


Signed (2)
Status...Director.....

(For and on behalf of Terrence Higgins Trust.....)

Date ...22nd November 2013.....

Section A:
4. Declaration of Connection with Officers or Elected Members of the Council

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

No


If yes, please give details:

Name	Relationship

Please note:

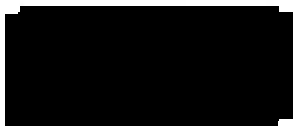
This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.

Signed (1)



Status.....Director.....

Signed (2)



Status.....Acting Chief Executive.....





For and on behalf of Terrence Higgins Trust.....)


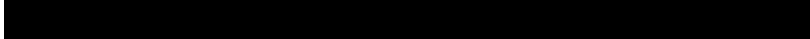







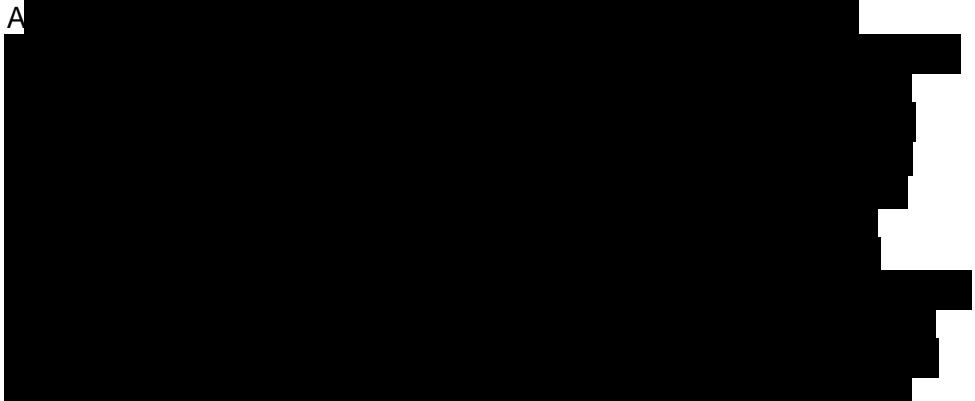
Date ...22nd November 2013.....

Section B: Tender Schedule

1.	Pricing	
1A	<p>Please complete the Pricing Schedules for both Shropshire Council and Telford & Wrekin Council.</p> <p>Shropshire Council's budget per annum is £54,500 pa</p> <p>Telford & Wrekin Council's budget per annum is £54,500 pa</p> <p>If you annual price figures exceed the budgets above your response will not be considered for evaluation.</p>	<p>Max Marks: 125</p>

2.	Service Requirements	
2A	<p>Please give a detailed proposal demonstrating how your organisation intends to deliver the key elements of the HIV prevention and support service acknowledging the geographic and demographic difference in Shropshire and Telford.</p> <p>Your response should demonstrate:</p> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 10px;"></div> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 10px;"></div> <div style="background-color: black; width: 100%; height: 20px; margin-bottom: 10px;"></div> <div style="background-color: black; width: 100%; height: 20px;"></div>	<p>Weight: 20 Max Marks: 200</p>

	  (Please keep your answer within 1000 words max)	
2B.	<p><u>Access</u></p> <p>Please describe how you intend to deliver services that encourage, enable, and help and support people especially those most vulnerable to poor sexual health, to access the service and use them.</p> <p>Please include details of how your approach in supplying this service will proactively reduce health inequalities taking into account the geographical difference in Telford & Shropshire and the importance of an accessible service.</p>  	Weight: 10 Max Marks: 100

	 <ul style="list-style-type: none">■ ■ ■ ■ ■ ■ ■  <p></p> <p>(Please keep your answer within 500 words max)</p>	
<p>2C.</p>	<p><u>Involvement & Engagement</u></p> <p>How will you ensure that service users and carers are involved in making decisions about their care, treatment and support?</p> <p>How will you ensure that there will be service user and carer involvement in the development of the service?</p> <p>A </p>	<p>Weight: 5 Max Marks: 50</p>

	<div style="background-color: black; height: 100px; width: 100%;"></div> <div style="background-color: black; height: 80px; width: 100%;"></div> <ul style="list-style-type: none"> ■ <div style="background-color: black; height: 100px; width: 100%;"></div> ■ <div style="background-color: black; height: 100px; width: 100%;"></div> ■ <div style="background-color: black; height: 100px; width: 100%;"></div> ■ <div style="background-color: black; height: 100px; width: 100%;"></div> ■ <div style="background-color: black; height: 100px; width: 100%;"></div> ■ <div style="background-color: black; height: 100px; width: 100%;"></div> <div style="background-color: black; height: 60px; width: 100%;"></div> <div style="background-color: black; height: 20px; width: 20%;"></div> <p>(Please keep your answer within 500 words max)</p>	
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3.	Clinical Factors	
3A.	<p><u>Clinical Governance</u></p> <p>Please detail a proposed clinical governance framework as assurance your organisation is committed to continual service improvement, quality and safety. Your plan should make direct reference to the following:</p>	<p>Weight: 10 Max Marks: 100</p>

- Clinical leadership and accountability
- Risk assessment
- Clinical audit
- Clinical effectiveness
- Staff development, training and supervision
- Reporting of and response to untoward incidents
- Identification and action in relation to staff conduct and performance issues
- The transfer of data following transition of services/service providers
- Patient Complaints

Clinical Governance

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- Clinical leadership and accountability
- Risk assessment
- Clinical audit
- Clinical effectiveness
- Staff development, training and supervision
- Reporting of and response to untoward incidents
- Identification and action in relation to staff conduct and performance issues
- The transfer of data following transition of services/service providers
- Patient Complaints


[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

	 <p>(Please keep your answer within 500 words max)</p>	
3B 1	Please give diagrams and appropriate narrative illustrating proposed pathways for a service user receiving a positive result following an HIV point of care test. The pathway should reflect the service requirements set out in the service specification and should reference the following:	Weight: 5 Max Marks:

- The process for informing service users of the result
- The pathway for referral into the specialist HIV care provider
- Any interim care and support, including the identification of any psychological support, information, signposting and supportive communication needs.

[Redacted]

• [Redacted]

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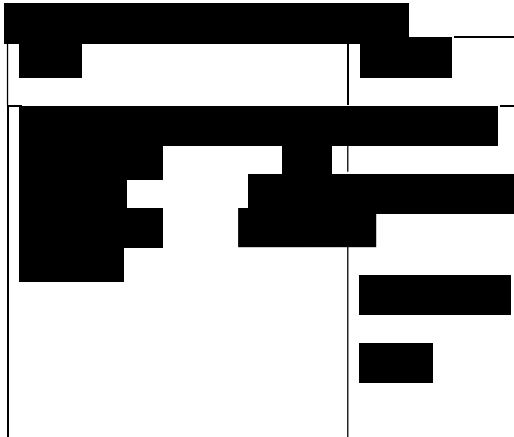
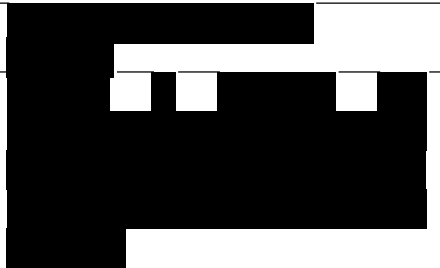





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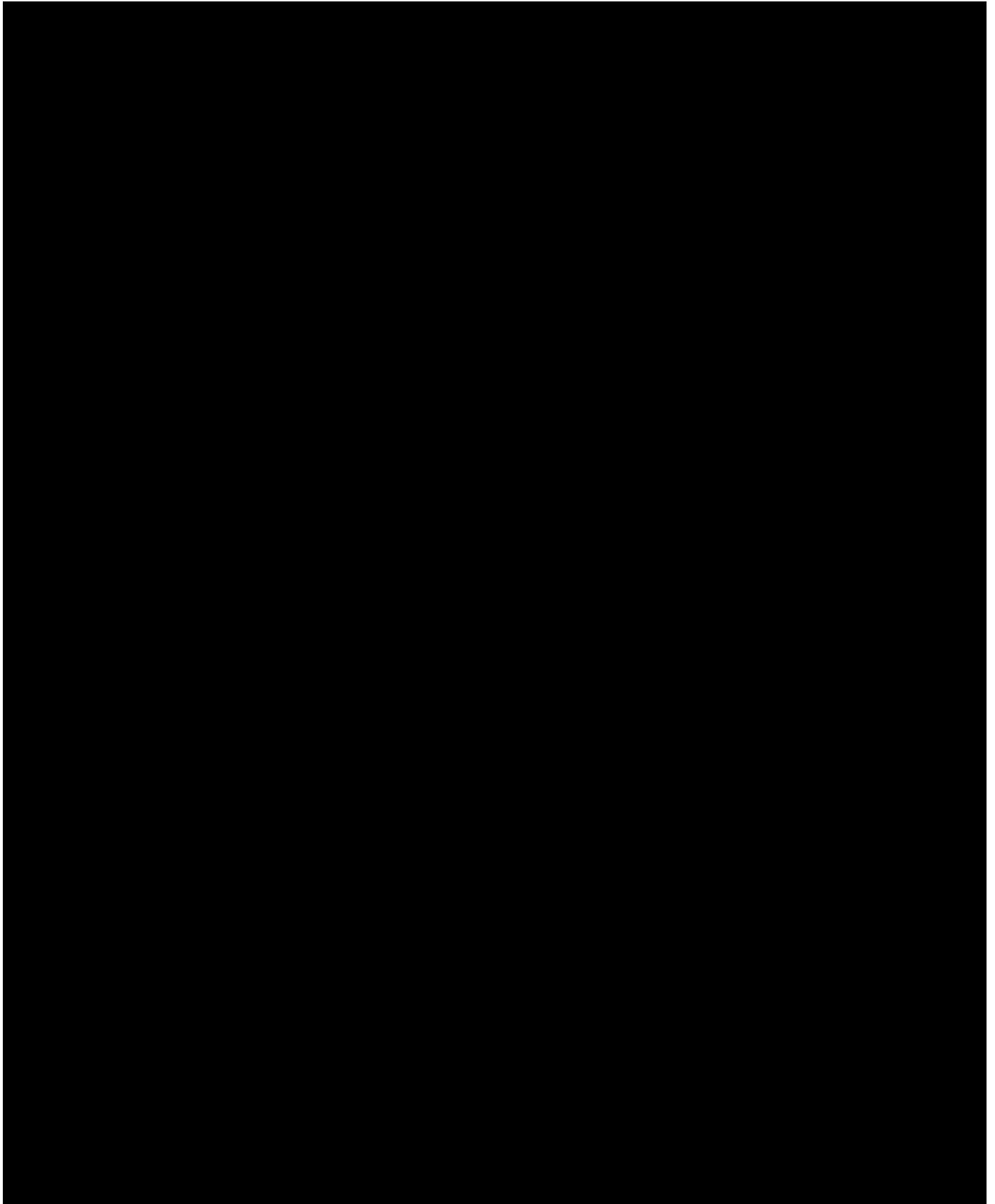
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>(Please keep your answer within 300 words max)</p>	
<p>3B 2</p>	<p>How you propose to provide support, signposting and referral to people who have undertaken an HIV test at home which has given a positive HIV result.</p> <p>[REDACTED]</p> <ul style="list-style-type: none"> ■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED] ■ [REDACTED] <p>[REDACTED]</p> <p>(Please keep your answer within 300 words max)</p>	<p>Weight: 5 Max Marks: 50</p>
<p>3C.</p>	<p><u>Clinical Risk</u></p> <p>What do you consider to be the main areas of clinical risk in the proposed service? Please provide an example of how you would manage one of</p>	<p>Weight: 5 Max Marks:</p>

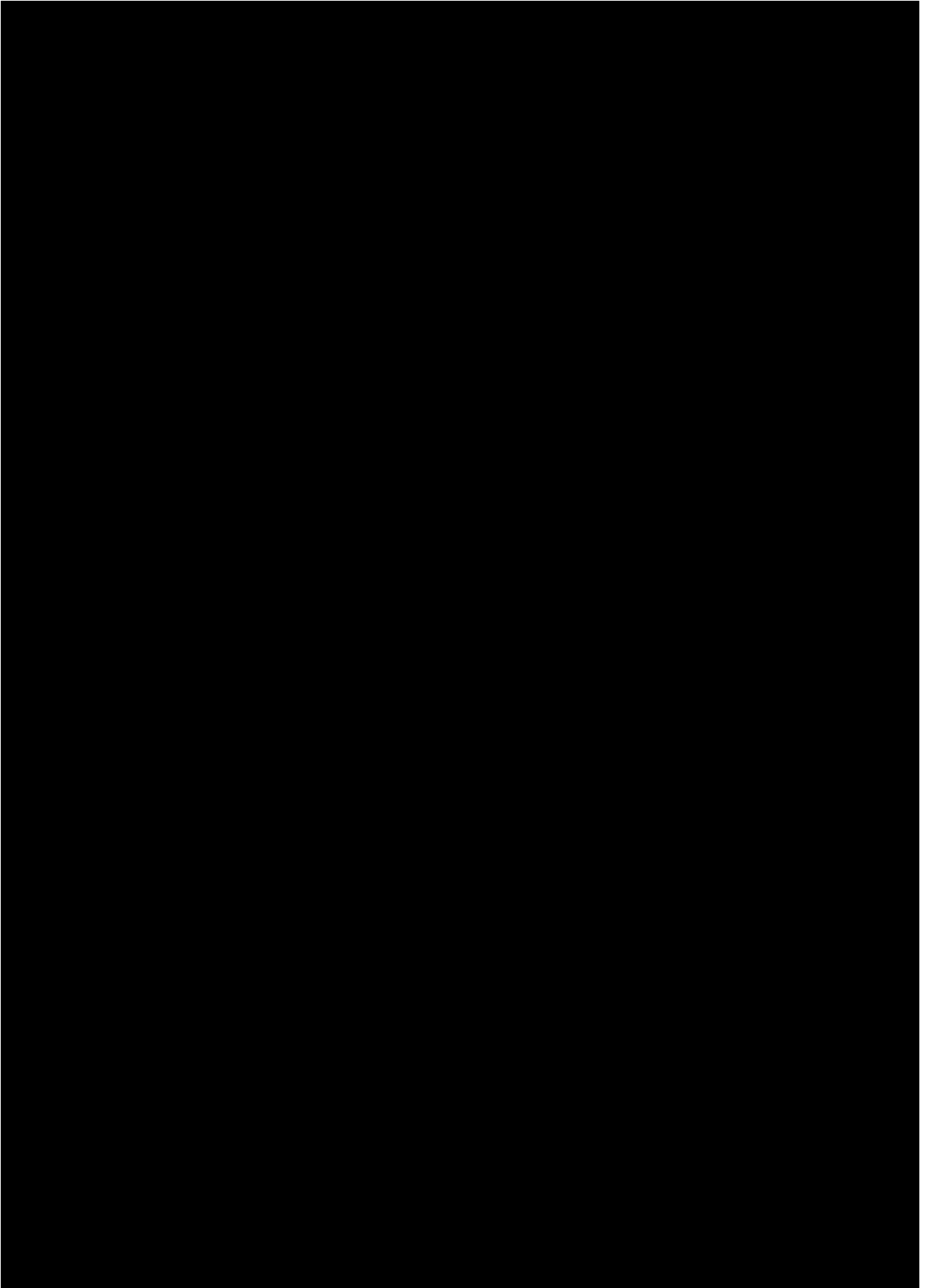
	 <p>(Please keep your answer within 300 words max)</p>	
4D.	<p><u>Implementation plan</u></p> <p>Please provide an implementation plan which demonstrates the timescale required to facilitate the full execution of the service, giving details of incremental milestones, responsible leads. The implementation plan must include a risk register aligned to the incremental milestones.</p> 	Weight: 10 Max Marks: 100

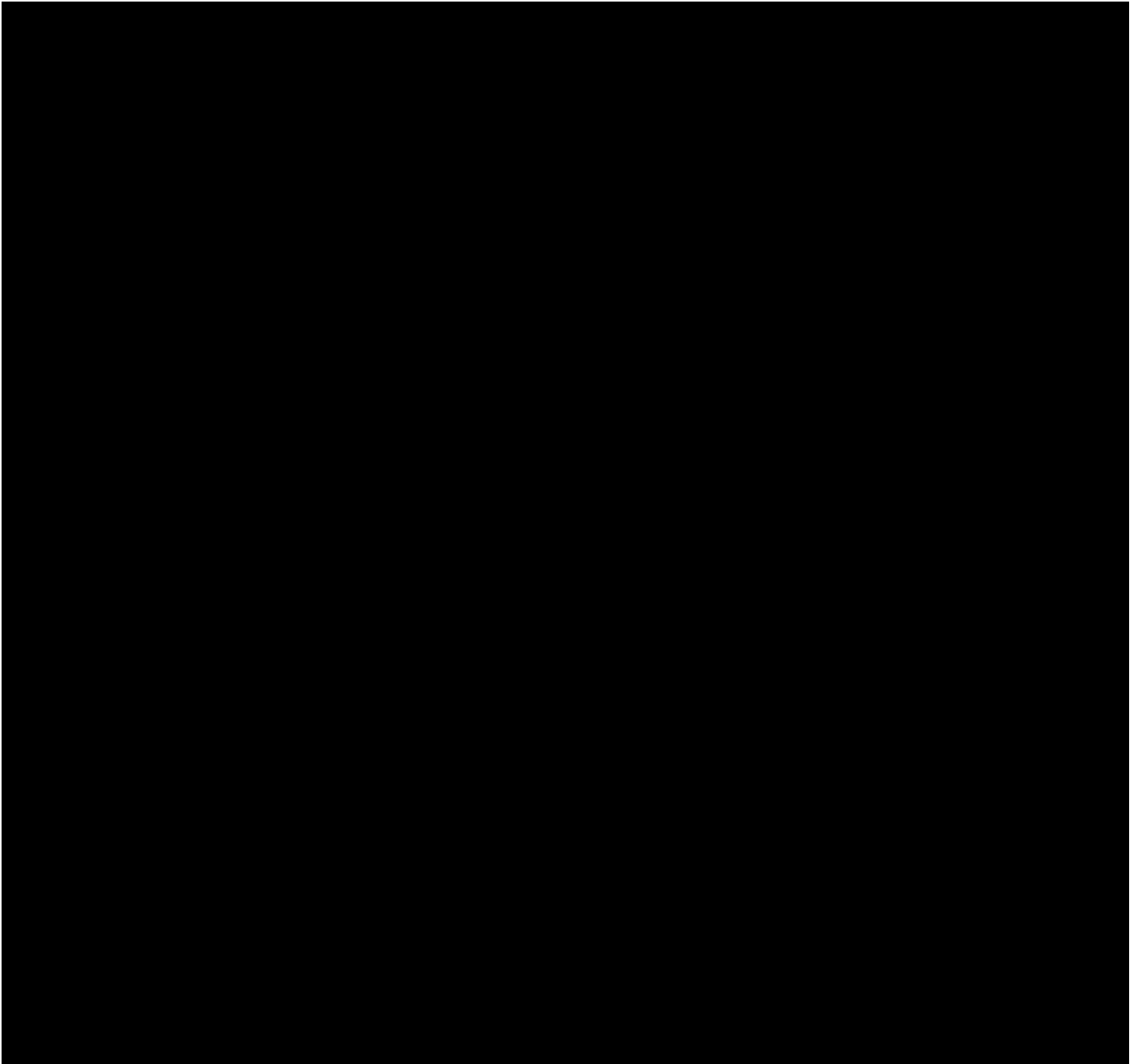
			
			
			
	<p></p> <p>NB – If your organisation is not currently providing the existing service please set out in detail your proposal regarding the transfer of Service from the current Service Provider and the timescale required to facilitate the full transfer of the Service.</p>		


5.	Awareness Raising	
5A.	<p>What are your plans for marketing and advertising the HIV Prevention & Support service to service users, potential service users, other professionals/colleagues and the wider community, including primary and secondary care providers, local Authority partners and interdependent agencies</p> 	<p>Weight: 5 Max Marks: 50</p>

	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	







6.	Collaborative working	
6A.	<p>How do you propose to work in collaboration with other health and social care services / organisations as detailed in the Service Specifications (section 2)</p> 	Weight: 5 Max Marks: 50



personal info

Terrence Higgins Trust
314 – 320 Grays' Inn Road
London
WC1X 8DP

Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

Date: 25
February 2014

Dear Sir

DMC 009 - PROVISION OF COMMUNITY HIV PREVENTION AND SUPPORT SERVICES FOR SHROPSHIRE AND TELFORD AND WREKIN COUNCILS SHROPSHIRE COUNCIL FOR AN INITIAL PERIOD OF 12 MONTHS COMMENCING ON THE 1ST APRIL 2014 WITH THE OPTION TO EXTEND FOR TWO FURTHER PERIODS OF 12 MONTHS

SUBJECT TO CONTRACT

This is an Award Decision Notice pursuant to Regulation 32 of The Public Contracts Regulations 2006 (the "Regulations").

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes subject to your final assumption pricing schedules and clarifications dated 7, 28, January and 20, 24 February 2014 to accept your offer of the above contract as set out in your recent tender.

However, this letter is not, at this stage, a communication of Shropshire Council's formal acceptance of your offer. A mandatory "standstill" period is now in force pursuant to Regulation 32A of the Regulations; this period will end at midnight on 7 March 2014.

Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award of the contract and after the expiry of the standstill period.

The contract will be for an initial period of 12 months with the option exercisable by Shropshire and Telford & Wrekin Councils to extend for 2 further periods of 12 months.

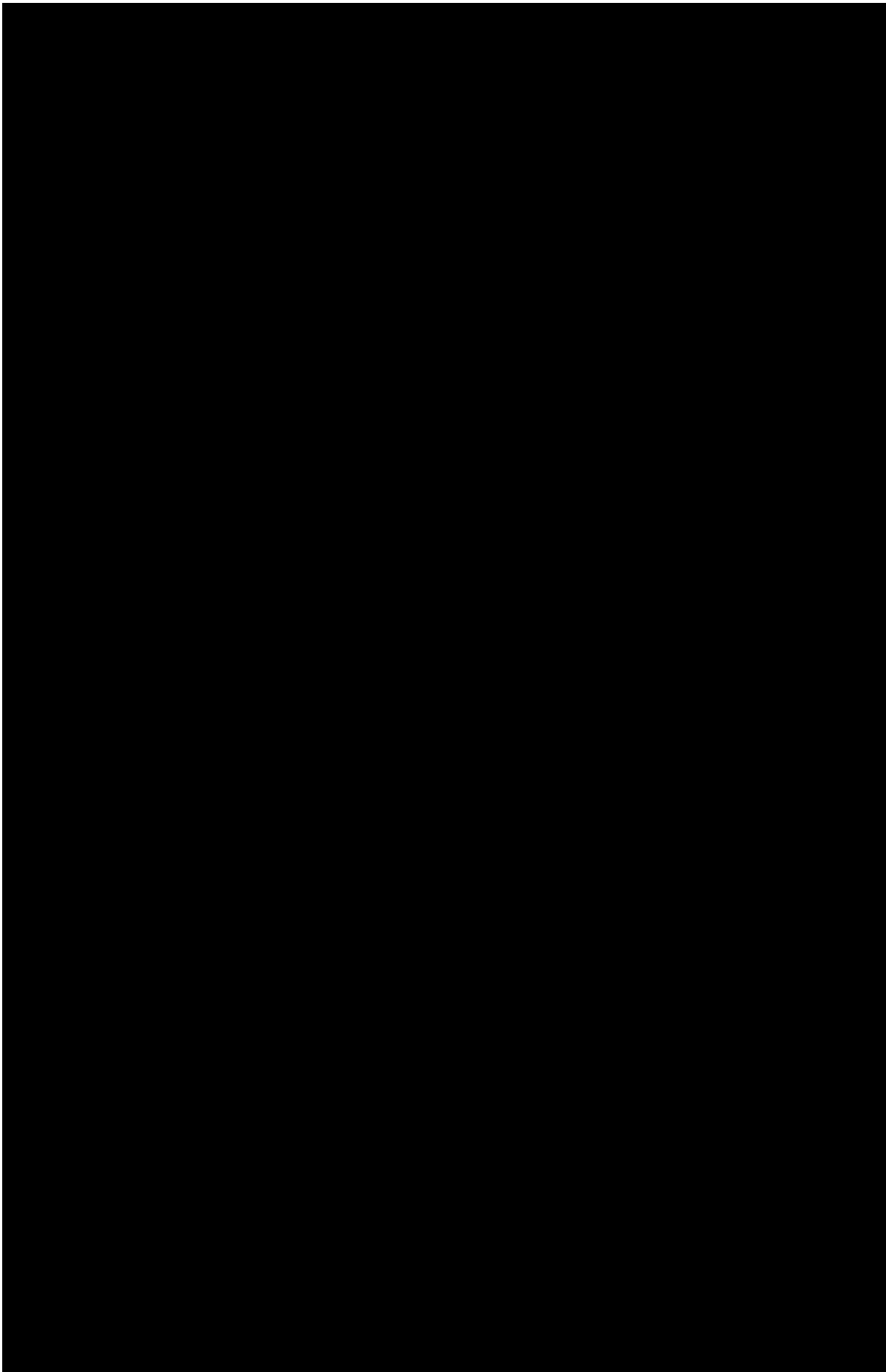
The award criteria for this contract was set out in full in Invitation to Tender with quality accounting for 90% and price for 10% of the total marks.

We can confirm that your tender received the following scores and ranking:-

commercial info

Criteria	Your Weighted Score	Your Rank (out of all tenders received)
Price (out of 125 marks)		
Quality (out of 1125 marks)		
Overall		

Please find details of the marks allocated to you for Quality and reasoning behind the Quality marks as follows:-



personal info

We will be in touch with you again at the end of the standstill period.

Yours faithfully


Shropshire Council


Shropshire Council


Telford & Wrekin Council