**SUPPLY OF SERVICES SUB-CONTRACT**

**SECTION A - SUB-CONTRACT DETAILS**

**DATE:** [DATE]

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| --- | --- |
| **Primary Provider:** | North 51 Limited (trading as Quit 51) |
| **Primary Provider’s trading address:** | Bio City, Pennyfoot Street, Nottingham NG1 1GF |
| **Primary Provider’s registered address:** | The Boardwalk, Mercia Marina, Findern Lane, Willington, Derbyshire DE65 6DW |
| **Primary Provider’s****Representative:** | Name: Title: [TITLE]Email: [EMAIL]Telephone: [NUMBER] |
| **Sub-Contract Provider:** | [COMPANY NAME/PRACTICE NAME] |
| **Sub-Contract Provider's trading/practice address:** | [ADDRESS] |
| **Sub-Contract Provider’s registered address (if any):** | [ADDRESS] |
| **Sub-Contract Provider's Representative:** | Name: [NAME]Title: [TITLE]Email: [EMAIL]Telephone: [NUMBER] |
| **Commissioning Authority** | Leeds Beckett University Enterprises Limited |
| **Primary Service** | Quit 51 Stop Smoking Service, as described at Section B below |
| **Primary Contract** | The contract between the Commissioning Authority and the Primary Provider for the Primary Service |
| **Sub-Contract Services** | The services to be provided by the Sub-Contract Provider to the Primary Contractor, pursuant to this Agreement, as described in Section 3 - Schedule 1. |
| **Sub-Contract Services Start Date:** | [[DATE] **OR** The date this Agreement is entered into by the parties.] |
| **Charges:** | The charges to be paid by the Primary Provider to the Sub-Contract Provider for the Sub-Contract Services, as set out at Section C -Schedule 2 to this Agreement. |
| **Schedules:** | Section C - Schedule 1: Sub-Contract ServicesSection C – Schedule 2: ChargesSection C – Schedule 3: Mandatory Policies including Operational Guidelines (as applicable at the Sub-Contract Services Start Date) |

1. This Agreement is made up of the following:

(a) Section A - The Sub-Contract Details

(b) Section B - The Background and Conditions

(c) Section C – The Schedules specified in the Sub-Contract Details

2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document lower in the list shall have priority over one contained in a document higher in the list.

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

|  |  |
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| Signed by [NORTH 51 SIGNATORY]for and on behalf of NORTH 51 LIMITED | ................................... |
| Signed by [ DIRECTOR NAME ]for and on behalf of [NAME OF SUB-CONTRACT PROVIDER]**SECTION B – BACKGROUND AND CONDITIONS** | ................................... |

 **BACKGROUND**

1. The Primary Service is a smoking cessation service, devised and delivered by the Primary Provider to the Commissioning Authority under the Primary Contract, which comprises an evidence-based, specialist stop smoking support programme to smokers within the geographical area covered by the Commissioning Authority who want to quit smoking. The Primary Service places emphasis on the needs of disadvantaged smokers and hard-to-reach groups, including smokers with mental health issues, pregnant women and their families, along with Routine and Manual Workers and BME communities (both as defined in the documents described at paragraph (b) below).
2. The Primary Service is compliant with relevant NICE guidelines (PH10 - 2008) and Local Stop Smoking Service Monitoring Guidance (PHE - 2014) in effect from time to time, and relevant elements of the current versions of these documents have been integrated into this Agreement (within the Mandatory Policies including the Operational Guidelines (as defined below)).
3. To assist it in providing the Primary Service to the Commissioning Authority, the Primary Provider wishes to contract with the Sub-Contract Provider to provide the Sub-Contract Services, and the Sub-Contract Provider wishes to contract with the Primary Provider for this purpose on the following terms and conditions.

**AGREED TERMS**

**1. INTERPRETATION**

1.1 **Definitions**:

The terms set out in bold type in the left hand column of the table set out in Section A – Sub-Contract Details shall have the meanings ascribed to them in the corresponding section of the right hand column of the same table. The further terms set out in bold type below shall have the meanings ascribed to them set out below.

**Agreement:** the contract between the Primary Provider and the Sub-Contract Provider for the supply of the Sub-Contract Services in accordance with Section A - Sub-Contract Details, Section B – these Conditions, and Section C – the Schedules.

**Applicable Law:** means any statute, statutory instrument, by‑law, order, directive, treaty, decree or law including any common law, judgment, demand, order or decision of any court, regulator or tribunal; any legally bindingrule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or legally bindingindustry code of conduct or guideline, which relates to this Agreement.

**Best Value Duty:** means the duty imposed by section 3 of the Local Government Act 1999 as amended, and under which Commissioning Authorities are under a statutory duty to continuously improve the way their functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to any applicable guidance issued from time to time.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Competent Body:** means any entity that has authority to issue rules, standards or recommendations with which the Primary Provider and/or the Sub-Contract Provider must comply;

**Conditions:** these terms and conditions set out in clause 1 to clause 14 of this Section B of the Agreement.

**Confidential Information:** all information in the possession or control of one party (Party 1) disclosed to Party 1 by (or relating to) the other party (Party 2), including information concerning Party 2’s business, affairs, customers, clients (including the Commissioning Authority), suppliers, Service Users or prospective Service Users, and all Service User data.

**Control:** shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **Change of Control** shall be construed accordingly.

**DPA**: the Data Protection Act 1998 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 Commissioner or relevant government department in relation to such legislation.

**Environmental Information Regulations:** the Environmental Information Regulations 2004 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 Commissioner or relevant government department in relation to such legislation.

**FOIA:** 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 Commissioner or relevant government department in relation to such legislation.

**Good Clinical Practice**: means standards, practices, methods and procedures conforming to the Applicable Law, NICE guidelines, and guidance and standards set by Competent Bodies, conforming with the best practices prevailing in the relevant industry sector (as practised in the United Kingdom) and exercising 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, manager, operator or other person (as the case may be) providing services the same as or similar to the Services, at the time the Services are provided, as applicable

**Group:** in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Local HealthWatch:** means the local independent consumer champion for health and social care in England.

**Mandatory Policies:** the Primary Provider's (or where applicable, the Commissioning Authority’s) mandatory policies set out or referred to in Section C - Schedule 3, including the Operational Guidelines, all as amended by notification by the Primary Provider to the Sub-Contract Provider from time to time.

**NICE:** means **the** National Institute for Health and Clinical Excellencebeing the UK’s 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);

**Operational Guidelines:** the Primary Provider’s written instructions governing the Primary Services and the Sub-Contract Services set out or referred to in Section C - Schedule 3 as amended by notification by the Primary Provider to the Sub-Contract Provider from time to time.

**Primary Provider Materials:** all materials, equipment and tools, drawings, specifications, software (including QM) and data supplied by the Primary Provider to the Sub-Contract Provider for the purposes of the delivery of the Sub-Contract Services.

**Primary Service**: is as described at the ‘Background’ section of this Agreement above.

**QM or Quit Manager**: the Primary Provider’s web-based smoking cessation service management software product known as Quit Manager.

**Serious Incident:** means an incident or accident or near-miss where a patient (whether or not a Service User), member of staff (including Staff), or member of the public suffers serious injury, major permanent harm or unexpected death on the Sub-Contract Provider’s premises or where the actions of the Sub-Contract Provider or its staff (including Staff) are likely to be of significant public concern.

**Service Users**: those smokers who utilise the Sub-Contract Services.

**Staff:** the personnel employed or otherwise engaged by the Sub-Contract Provider who are involved in delivery of the Sub-Contract Services.

**Staff Vetting Procedures and Employment Checks:** are those staff vetting procedures and employment checks that are set out in the Mandatory Policies (including the Operational Guidelines) at Section C – Schedule 3.

**TUPE:** the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any subordinate legislation made under them from time to time.

1.2 **Interpretation**:

(a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

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

(c) A reference to **writing** or **written** includes email.

**2. COMMENCEMENT AND TERM**

This Agreement shall commence on the Sub-Contract Services Start Date and shall continue, unless terminated earlier in accordance with its terms, until either party terminates the Agreement by giving to the other not less than one month’s written notice, or until termination of the Primary Contract, whichever occurs earliest.

**3. SUPPLY OF SERVICES**

3.1 The Sub-Contract Provider shall supply the Sub-Contract Services to the Primary Provider from the Sub-Contract Services Start Date in accordance with this Agreement.

3.2 The Sub-Contract Provider shall, and shall procure that the Staff shall, at all times:

(a) perform the Sub-Contract Services in accordance with Good Clinical Practice;

(b) ensure that the Sub-Contract Services conform in all respects with the Sub-Contract Services description set out at Section C – Schedule 1 and the Mandatory Policies (including the Operational Guidelines) set out at Section C – Schedule 3;

(c) co-operate fully with the Primary Provider in all matters relating to the Sub-Contract Services, and comply with all instructions of the Primary Provider, including by complying with the Mandatory Policies (including the Operational Guidelines), and any changes thereto notified to the Sub-Contract Provider by the Primary Provider;

(d) only use Staff who are suitably skilled and experienced to properly perform the tasks assigned to them in relation to the Sub-Contract Services, and in particular, shall only use Staff who:

i) are fully aware of and trained in delivering smoking cessation services in accordance with the Mandatory Policies (including the Operational Guidelines); and

ii) have achieved certification from the National Centre for Smoking Cessation and Training (NCSCT) (whether achieved via attending the Primary Provider’s two day training programme, by online training or otherwise), which training includes brief intervention skills, offering intensive advice and support on smoking in pregnancy, awareness and use of service protocols and completion of records/documentation;

(e) participate in regular and appropriate clinical supervision sessions;

(f) hold all Primary Provider Materials in safe custody at its own risk, use the Primary Provider Materials appropriately and in accordance with the Operational Guidelines and any other Primary Provider instructions, maintain the Primary Provider Materials in good condition until returned to the Primary Provider, and not dispose of or use the Primary Provider Materials other than in accordance with the Primary Provider's written instructions or authorisation;

(g) make all necessary arrangements to, and shall, ensure compliance with all laws relevant to the duty to safeguard and promote the welfare of children and vulnerable adults in the delivery of all aspects of the Sub-Contract Services including but not limited to the Section 11 of the Children Act 2004, Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012) and The Mental Health Act 1983; and

(h) comply with the following at all times: DPA; Caldicott Guidelines 1997; Access to Health Records 1998 and Confidentiality Code of Practice 1998;

(i) ensure continuity of service for Service Users including but not limited to, by taking account of annual leave and providing cover for sickness and annual leave of Staff members. Should this prove difficult for the Sub-Contract Provider to achieve, the Sub-Contract Provider shall contact the Primary Provider at its earliest opportunity, and shall fully co-operate with the Primary Provider and permit access to the Primary Provider should the Primary Provider wish to provide its own personnel to cover such Service User care.

**4. SUB-CONTRACT PROVIDER’S FURTHER OBLIGATIONS**

**4.1 STAFF PROTECTIONS**

4.1 (a) Except where required by Applicable Law, the Sub-Contract Provider shall not provide or continue to provide Sub-Contract Services to any Service User:

1. who in the reasonable professional opinion of the Sub-Contract Provider is unsuitable to receive the Sub-Contract Services, for as long as such unsuitability remains;
2. who displays abusive, violent or threatening behaviour unacceptable to the Sub-Contract Provider (acting reasonably and taking into account the mental health of that Service User); or
3. in circumstances where a level of risk to the Staff is such that the Sub-Contract Provider (acting reasonably) considers unacceptable; or
4. 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; or
5. where expressly instructed not to do so by the Primary Provider.

4.1 (b) If the Sub-Contract Provider proposes not to provide or to stop providing Sub-Contract Services to any Service User under clause 4.1 (a) above:

1. where reasonably practicable, the Sub-Contract Provider shall explain to the Service User, taking into account any communication or language needs, the action that it is taking, when that action takes effect, and the reasons for it (confirming that explanation in writing within two (2) Business Days);
2. The Sub-Contract Provider shall inform the Service User of the right to challenge the decision through the Primary Provider’s complaints procedure and how to do so; and
3. In respect of clauses 4.1(a) (i) to (iv) above, the Sub-Contract Provider shall inform the Primary Provider in writing without delay of the situation, wherever reasonably practicable in advance of taking such action.

**4.2 PROVISION OF ASSISTANCE TO THE PRIMARY PROVIDER IN MEETING THE COMMISSIONING AUTHORITY’S OBLIGATIONS**

The Sub-Contract Provider shall, when requested by the Primary Contractor, fully co-operate with the Primary Contractor to assist the Primary Contractor in meeting its obligations to the Commissioning Authority. In particular Sub-Contract Provider shall:

1. Promptly comply with all requests by the Primary Provider to provide information as to Sub-Contract Provider’s performance of the Services;
2. Ensure that (and when requested, promptly provide clear and accurate information to the Primary Provider relating to the same in any format reasonably required by the Primary Provider):
3. In accordance with Clause 3d) above, each of the Staff is suitably qualified, experienced and skilled, adequately trained and capable of delivering the Sub-Contract Services in accordance with Good Clinical Practice (and should at any time the Primary Provider be of the opinion (acting reasonably) that a member of the Staff is not suitable to deliver Sub-Contract Services, it shall have the right to require Sub-Contract Provider to remove that person from delivery of the Sub-Contract Services);
4. There is an adequate number of Staff to provide the Sub-Contract Services at all relevant times;
5. Where applicable, Staff are registered with the appropriate professional regulatory body;
6. Service Users are given full and accurate information regarding their treatment and the Sub-Contract Services received;
7. Relevant matters are immediately notified to the Primary Provider’s Caldicott Guardian;
8. Staff are aware of and respect quality and human rights of colleagues and Service Users;
9. It has promptly, fully and professionally carried out the Staff Vetting Procedures and Employment Checks (with satisfactory results) prior to commencement of Sub-Contract Service delivery by each Staff member, and can provide a clear DBS Certificate (of the relevant type as required by the Primary Provider) for each of the Staff, has in place appropriate procedures for ongoing DBS monitoring, and shall immediately inform the Primary Provider if a Staff member receives a relevant conviction, caution, reprimand or warning or if previous relevant convictions, cautions, reprimands or warnings become known to the Sub-Contract Provider;
10. All Staff are trained to use, and use, QM properly, accurately and in a timely manner in order to properly record interactions with Service Users, using Service Users’ verified NHS numbers where appropriate;
11. All Staff comply with all Service User consent requirements notified to it by the Primary Provider, including in relation to use of QM;
12. It and the Staff shall use Service User information solely for the execution of Sub-Contract Provider’ obligations under this Agreement and in accordance with DPA and the Mandatory Policies (including the Operational Guidelines);
13. It (and its Staff) do not do or permit or allow anything to be done in relation to this Agreement which is incompatible with the Human Rights Act 1998;
14. Staff receive proper and sufficient continuous professional and personal development, training and instruction;
15. Full and detailed appraisals, including performance and ongoing education and training, and covering delivery of the Sub-Contract Services, are carried out regularly by the Sub-Contract Provider, and recorded in writing, for all Staff;
16. It and the Staff shall fully assist the Primary Provider in carrying out staff surveys in relation to the Sub-Contract Services at intervals and in the form required by the Primary Provider;
17. Promptly on request, it shall provide the Primary Provider with all reasonably requested information relating to the Staff, in particular prior to and in contemplation of any potential re-tendering of the Primary Services by the Commissioning Authority (and the Sub-Contract Provider acknowledges that such information may be disclosed to the relevant Commissioning Authority and any prospective tenderer);
18. In relation to the Sub-Contract Services, no Service User is offered any clinical or medical services for which any charges are required from the Service User (other than in accordance with this Agreement);
19. On request, and at its own cost, the Sub-Contract Provider shall co-operate with and assist the Primary Provider in discharging its obligations to the Commissioning Authority in relation to the Commissioning Authority’s Best Value Duty (in relation to the Sub-Contract Services), which may include participating in best value reviews and/or benchmarking exercises, and in demonstrating secure continuous improvement in service delivery with regard to economy, efficiency and effectiveness, and assisting the Primary Provider in implementing identified improvements;
20. In accordance with Clause 3g) above, it adopts and adheres to safeguarding policies and procedures as required by the Primary Provider and Applicable Law, providing evidence to the Primary Provider on request as to how it is addressing any safeguarding concerns, and participating in the development of any local multi-agency safeguarding plan;
21. If CQC registered, it complies with requirements to notify deaths and other incidents to CQC, and if not CQC registered, it notifies Serious Incidents to any Competent Body as applicable (and shall in all cases promptly notify the Primary Provider promptly of any such incident providing a copy of the incident notification), and shall also comply with any arrangements for reporting, investigation, implementing and sharing the lessons learned from Serious Incidents and other Service User safety incidents relating to the Sub-Contract Services, as required by the Primary Provider (and the Sub-Contract Provider consents to such information being disclosed to the relevant Commissioning Authority);
22. It acts at all times in good faith towards and co-operates and liaises appropriately with the Primary Provider, the Commissioning Authority, and any third party the Service User may be referred to or who is involved in providing care to the Service User, in order to ensure that a high standard of care is maintained for the Service User;
23. It has in place (and supplies to the Primary Provider on request) an appropriate disaster recovery/business continuity plan, and complies with it and any business continuity plan of the Primary Provider notified to the Sub-Contract Provider, when applicable;
24. It has in place and maintains appropriate counter fraud and security management arrangements, and takes reasonable steps to prevent fraud in its organisation, in particular in connection with receipt of monies from the Primary Provider, and shall immediately notify the Primary Provider if it is aware of or has reason to suspect fraud is likely to occur in its organisation (and the Sub-Contract Provider acknowledges that this Agreement may be terminated forthwith should such a fraud event occur, and if so the Primary Provider shall be entitled to recover any losses suffered by it or the Commissioning Authority as a result of such termination);
25. It assists the Primary Provider, when requested, in respect of any dispute resolution procedure that takes effect between the Primary Provider and a relevant Commissioning Authority;
26. In accordance with Clause 3f) above, it uses any equipment and Primary Provider Materials provided to the Sub-Contract Provider properly, uses such for the purposes of the Sub-Contract Services only, and uses no other equipment, materials or software in delivery of the Sub-Contract Services unless agreed in writing between the parties (and acknowledges that all damage to, faults in operation of, or loss of such equipment and Service Provider Materials shall be reported immediately to the Service Provider);
27. It complies, where applicable, with the registration and regulatory compliance guidance of CQC and any other Competent Body, responds and assists the Primary Provider to respond, appropriately and where applicable, to all requirements and enforcement actions issued from time to time by CQC or any other Competent Body, responds, and assists the Primary Provider to respond, appropriately to recommendations arising from any audit, death, Serious Incident report or Service User safety incident report, complies with the recommendations issued from time to time by a Competent Body, complies with the recommendations from time to time contained in guidance and appraisals issued by NICE, responds appropriately, and assists the Primary Provider to respond appropriately, to any applicable reports and recommendations made by Local HealthWatch, and in all such cases the Sub-Contract Provider shall immediately inform, consult and co-operate with the Primary Provider in such matters relevant to the Sub-Contract Services;
28. It complies with all requests made by the Primary Provider, the relevant Commissioning Authority, CQC, the National Audit Office, the General Pharmaceutical Council, Local HealthWatch and any other Competent Body for entry to the Sub-Contract Provider’ premises for the purposes of auditing, viewing, observing or inspecting such premises and/or the provision of the Sub-Contract Services, and makes available information relating to the provision of the Sub-Contract Services (including financial information) (and the Sub-Contract Provider shall not restrict such access and shall give all reasonable assistance and provide all reasonable facilities to the relevant requester, including disclosing information and providing access to Staff, and a copy of the results of any such audit or inspection shall be provided by the Sub-Contract Provider to the Primary Provider promptly on receipt);
29. It engages, liaises and communicates with Service Users in an open and clear manner in accordance with Applicable Law, Good Clinical Practice and their human rights;
30. It ensures that it does 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 Applicable Law (and furthermore, the Sub-Contract Provider shall 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), and shall comply with the Equality Act 2010 in all respects), and when requested to do so by the Primary Provider, the Sub-Contract Provider shall promptly provide the Primary Provider with details of how it complies with its obligations under this sub-clause, including details of how it monitors the equity of access of Service Users to the Sub-Contract Services;
31. It assists the Primary Provider in meeting its obligations to provide evidence to the Commissioning Authority of the involvement of Service Users and Staff in the development of services relating to the Sub-Contract Services, and assists the Primary Provider in carrying out Service User surveys;
32. It shall comply with the requirements of the Health and Safety at Work Act 1974 and any other Applicable Law relating to health and safety in relation to the provision of the Sub-Contract Services (and the Sub-Contract Provider shall promptly notify the Primary Provider of any health and safety hazards or incidents which arise in connection with the performance of this Agreement);
33. Immediately on becoming aware of any conflict of interest which is likely to have an adverse effect on the Primary Provider’s decision whether or not to contract or continue to contract substantially on the terms of this Agreement, the Sub-Contract Provider shall declare this to the Primary Provider and the Primary Provider may then take whatever action it deems necessary, including immediate termination on notice of this Agreement;
34. It and its Staff shall not commit any offence under the Bribery Act 2010 in relation to this Agreement, the Sub-Contract Services or otherwise, and it shall have in effect at all times and shall adhere at all times to a fully implemented anti-bribery policy, which shall be supplied to the Primary Provider on request (and should the Sub-Contract Provider become aware of, or suspect, a breach of this sub-clause it shall promptly notify the Primary Provider, who may disclose such to the relevant Commissioning Authority), and the Sub-Contract Provider shall respond fully and promptly to any further enquiries of the Primary Provider or the relevant Commissioning Authority and shall co-operate fully with any investigation undertaken by the Commissioning Authority or the Primary Provider in relation to such, and shall implement any corrective or preventative actions required by the Primary Provider or the Commissioning Authority (and the Sub-Contract Provider acknowledges that any breach of this sub-clause shall entitle the Primary Provider to terminate this Agreement forthwith on notice);
35. Except with the written consent of the Primary Provider, it shall not make any press announcements in relation to this Agreement or the Sub-Contract Services, nor publicise the same in any way; and
36. It complies with any other requirement the Primary Provider may bring to its attention which the Primary Provider deems necessary to ensure that the Primary Provider is in a position to comply with its obligations to the relevant Commissioning Authority.

**4.3 FURTHER ASSURANCES**

a) The Sub-Contract Provider shall, in relation to its or its Staff’s performance or non-performance of this Agreement or the Sub-Contract Services, indemnify and keep indemnified the Primary Provider against all claims and liabilities whatsoever, whether arising in tort (including negligence), default or breach of this Agreement, or breach of its statutory duty or breach of an obligation under Applicable Law, save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Agreement, breach of statutory duty or breach of an obligation under the Applicable Law, by the Primary Provider.

1. If the Sub-Contract Provider undergoes, or anticipates undergoing, a Change of Control, it shall inform the Primary Provider in writing immediately on becoming aware of such an event or prospective event of the particulars of the change or prospective change, and the Primary Provider shall be entitled to disclose this information to the relevant Commissioning Authority. Should the relevant Commissioning Authority or the Primary Provider believe that as a result of the Change in Control there is, or is likely to be, an adverse effect on the ability of Sub-Contract Provider to provide the Sub-Contract Services, then the Primary Provider may terminate this Agreement forthwith on notice to the Sub-Contract Provider. In such an event, the Sub-Contract Provider shall co-operate with and assist the Primary Provider fully in migration of the Sub-Contract Services to a successor provider, bearing the interests of the Service Users in mind.
2. The Sub-Contract Provider warrants that no contracts of employment shall transfer to it pursuant to the Transfer of Undertakings (protection of Employment) Regulations 2006 (**TUPE**) on commencement of the Sub-Contract Services or any part of the Sub-Contract Services, and that no contracts of employment shall transfer from the Sub-Contract Provider pursuant to TUPE at termination of the Sub-Contract Services or any part of the Sub-Contract Services.

During the 6 months immediately preceding the expiry of this Agreement or at any time following a notice of termination of a contract between the Commissioning Authority and the Primary Provider for the Primary Services, this Agreement or of any of the Sub-Contract Services, the Sub-Contract Provider shall not, without the prior written consent of the Primary Provider, in relation to any Staff:

1. terminate or give notice to terminate the employment of any Staff (other than for gross misconduct);
2. increase or reduce the total number of Staff by more than 5% (except in the ordinary course of business);
3. propose, make or promise to make any material change to the remuneration or other terms and conditions of employment of any Staff;
4. replace or relocate any Staff or reassign any of them to duties unconnected with the Sub-Contract Services; and/or
5. assign or redeploy to the Sub-Contract Services any person who was not previously a Staff member.

d) The Sub-Contract Provider shall indemnify and keep indemnified the Primary Provider, the Commissioning Authority or any new provider who provides any services equivalent to the Sub-Contract Services or any of them after expiry or termination of this Agreement or cessation of any Sub-Contract Services, against any claims or liabilities in respect of the Staff (or any other person employed or engaged by the Sub-Contract Provider whose contract of employment is alleged to or is found to have transferred pursuant to TUPE to the Primary Provider or any third party as a result of such cessation of Sub-Contract Services) and in relation to any failure by Sub-Contract Provider to comply with its obligations under TUPE or Clause 4.3c) above.

**5. PRIMARY PROVIDER’S OBLIGATIONS**

The Primary Provider shall:

(a) co-operate with the Sub-Contract Provider, where applicable, in all matters relating to the Sub-Contract Services; and

(b) provide such information and Primary Provider Materials as the Sub-Contract Provider may reasonably request in order to perform the Sub-Contract Services in a timely manner, including appropriate access to and use of QM.

**6. INTELLECTUAL PROPERTY**

6.1 The Primary Provider and its licensors shall retain ownership of all Intellectual Property Rights in the Primary Provider Materials, including in QM.

6.2 The Primary Provider grants to the Sub-Contract Provider a non-exclusive, royalty-free, non-transferable licence to use the Primary Provider Materials, including QM, for the term of this Agreement, solely for the purpose of supplying the Sub-Contract Services in accordance with this Agreement.

**7. CHARGES AND PAYMENT**

7.1 In consideration for the provision of the Sub-Contract Services, the Primary Provider shall pay the Sub-Contract Provider the Charges in accordance with this Clause 7 and Section C – Schedule 2.

7.2 All amounts payable by the Primary Provider exclude amounts in respect of VAT which the Primary Provider shall additionally be liable to pay to the Sub-Contract Provider at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

7.3 Invoices for the Charges for the Sub-Contract Services shall be raised by the Primary Provider using the information input by the Sub-Contract Provider into QM, unless agreed otherwise in writing between the parties, at the intervals specified in Section C – Schedule 2. To facilitate this process, it is a condition of this Agreement that accurate and timely input of appropriate data into QM is carried out by the Sub-Contract Provider and its Staff.

7.4 The Primary Provider shall pay each undisputed invoice which is properly due within 30 days of date of invoice, to a bank account nominated in writing by the Sub-Contract Provider as set out at Section C – Schedule 2.

**8. STAFF**

8.1 The Primary Provider may require the Sub-Contract Provider to remove any member of Staff from delivery of the Sub-Contract Services whom the Primary Provider considers, in its reasonable opinion, to be unsatisfactory for any reason which has a material impact on the quality or management of the delivery of Sub-Contract Services.

8.2 Upon receipt of a complaint against a member of Staff in relation to the Sub-Contract Services, the Primary Provider may, to the extent reasonably necessary to protect the standards and reputation of the Primary Provider and/or the Commissioning Authority, in consultation with the Sub-Contract Provider, request that the Sub-Contract Provider promptly investigates the complaint in accordance with the Sub-Contract Provider’s own internal policy and procedures and Good Clinical Practice, and promptly provides the Primary Provider with all requested information in relation to such investigation. Alternatively, the Sub-Contract Provider shall if requested to do so, consent to such investigation being carried out either by the Primary Provider or the Commissioning Authority, and if so, shall fully co-operate with such investigator, including by permitting access to the relevant Staff member(s) and information.

8.3 In the event of industrial disputes or action by any of the Staff (unless such dispute or action is caused by the act or omission of the Primary Provider), it remains the Sub-Contract Provider’s responsibility to meet the requirements of this Agreement. The Sub-Contract Provider shall inform the Primary Provider immediately of impending or actual industrial disputes or action which may affect the Sub-Contract Provider’s ability to deliver the Sub-Contract Services and of the Sub-Contract Provider’s contingency/business continuity plans for dealing with such disputes or action.

8.4 In accordance with Clause 4.2b) vii), the Sub-Contract Provider shall comply with the Staff Vetting Procedures and Employment Checks in respect of all Staff. The Sub-Contract Provider confirms that all Staff have been, or prior to appointment shall be, properly vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures and Employment Checks. The Sub-Contract Provider also confirms that it shall not utilise any personnel in provision of the Sub-Contract Services whom it has reason to believe is not or may not be suitable or appropriate to provide Sub-Contract Services. If the Primary Provider reasonably believes that the Sub-Contract Provider has or is likely to breach this Clause 8.4, then the Primary Provider may terminate this Agreement with immediate effect.

**9 COMPLAINTS**

9.1 In addition to the provisions of Clause 8.2, all complaints received by the Sub-Contract Provider relating to the Sub-Contract Services shall immediately be reported to the Primary Provider (who may report such to the Commissioning Authority and any relevant Competent Body).

9.2 The Sub-Contract Provider shall maintain an up to date, comprehensive and detailed written record of all complaints it receives regarding the Sub-Contract Services which shall be available to the Primary Provider (who may disclose it to the Commissioning Authority and any Competent Body) upon request from time to time and as soon as practicable or in any event within three (3) Business Days of such request by the Primary Provider. Such records shall contain all relevant details of the complaint including the following details:

(a) the member of Staff or other person to whom the complaint was made and the name and job title of that person;

(b) the name and address (if known) of the person making the complaint and in what capacity the complaint was made;

(c) the nature and extent of the default of which complaint was made;

(d) the date and time of complaint; and

(e) any action taken to remedy the complaint, and if no action is to be taken, the reasons why no action is to be taken.

9.3 The Sub-Contract Provider shall promptly, competently and in accordance with Applicable Law and this Agreement, investigate all such complaints, and shall take reasonable preventative and corrective actions in respect of such.

9.4 The Sub-Contract Provider shall inform and consult the Primary Provider (and the Primary Provider may inform the Commissioning Authority or any relevant Competent Authority) in relation to all aspects of its investigation of such a complaint. The Primary Provider (and the Commissioning Authority or any Competent Body) may at their discretion take over the investigation of or further investigate such or other complaint relating to the Sub-Contract Services, and the Sub-Contract Provider shall ensure that all corrective and preventative actions as the Primary Provider (or Commissioning Authority or Competent Body) deems necessary (acting reasonably) are promptly and competently taken. The Sub-Contract Provider shall promptly provide such documentation, information and assistance (including access to Staff) as the Primary Provider (or the Commissioning Authority, or Competent Body) may reasonably require in order to enable the Primary Provider (or the Commissioning Authority or the Competent Body) to investigate and deal with such a complaint**.**

**10. LIABILITIES, INDEMNITY AND INSURANCE**

10.1 The Sub-Contract Provider shall indemnify the Primary Provider (and the Commissioning Authority) and keep the Primary Provider (and the Commissioning Authority) indemnified fully against all losses and liabilities which may arise out of, or in consequence of, the supply or failure to supply the Sub-Contract Services or the performance or non-performance by the Sub-Contract Provider of its obligations under this Agreement.

10.2 The Sub-Contract Provider shall have and maintain in effect appropriate insurances to cover all of its obligations and activities in respect of this Agreement.

10.3 The Sub-Contract Provider shall procure that all Staff have and maintain in effect professional indemnity insurance.

**11. TERMINATION**

11.1 Without affecting any other right or remedy available to it, the Primary Provider may terminate this Agreement with immediate effect by giving written notice to the Sub-Contract Provider if:

(a) there is a Change of Control of the Sub-Contract Provider; or

(b) the Sub-Contract Provider commits a breach of any term or terms of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 10 Business Days after being notified in writing to do so; or

(c) the Sub-Contract Provider commits material or repeated breaches of any term or terms of this Agreement.

11.2 Termination of the Agreement shall not affect either of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination.

11.3 Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

**12. EXIT ARRANGEMENTS**

On termination of this Agreement for whatever reason:

(a) the Sub-Contract Provider shall immediately deliver to the Primary Provider all Primary Provider Materials in good condition. If the Sub-Contract Provider fails to do so, then the Primary Provider may enter the Sub-Contract Provider's premises and take possession of them. Until they have been delivered or returned, the Sub-Contract Provider shall be solely responsible for their safe keeping and will not use them for any purpose not permitted under this Agreement;

(b) in particular, the Sub-Contract Provider shall cease using any Primary Provider Materials held or accessed electronically (including QM) for any purpose not connected with this Agreement. Where applicable, the Sub-Contract Provider shall be permitted to retain one secure copy of Primary Provider Materials (that are in document form) as are necessary to be retained for its records;

(c) the Sub-Contract Provider shall, if so requested by the Primary Provider, provide all assistance required by the Primary Provider to facilitate the smooth transition of the Services to the Primary Provider, or to any replacement sub-contract provider appointed by it or by the Commissioning Authority, or to the Commissioning Authority or its replacement provider (as applicable) including the assistance set out in Section C, if any, and shall in all cases ensure that the best interests of Service Users, the Primary Provider and the Commissioning Authority are met during such transition period; and

(d) the Sub-Contract Provider shall use its best endeavours to finalise and resolve all matters relating to the Charges as quickly as reasonably practicable, and on resolution of such, shall cease using QM.

**13. CONFIDENTIALITY, DATA PROTECTION, SERVICE USER DATA AND FOIA**

13.1 Each party undertakes that it shall:

(a) treat Confidential Information as confidential and shall safeguard it accordingly; and

(b) not at any time disclose to any person (save to the party to whom the Confidential Information belongs) any Confidential Information except as permitted by Clause 13.2.

13.2 Each party may disclose Confidential Information:

(a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses Confidential Information comply with this Clause 13, the DPA and all Good Clinical Practice in relation to consent, confidentiality and data protection; and

(b) as may be required by law (including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations), a court of competent jurisdiction or any governmental or regulatory authority.

13.3 Neither party shall use Confidential information for any purpose other than to perform its obligations under this Agreement, save that the Primary Provider may supply such Confidential Information where appropriate to the Commissioning Authority, and the Primary Provider may use anonymised Service User data for research purposes.

13.4 At the written request of the Primary Provider, the Sub-Contract Provider shall procure that Staff sign a confidentiality undertaking prior to commencing delivery of Sub-Contract Services.

13.5 The Sub-Contract Provider acknowledges that the Primary Provider and the Commissioning Authority are subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Primary Provider and (where applicable) the Commissioning Authority to enable them to comply with their applicable information disclosure obligations. The Sub-Contract Provider shall transfer to the Primary Provider all requests for relevant information that it receives as soon as practicable and in any event within 1 Business Day of receiving such request. The Sub-Contract Provider shall provide the Primary Provider with a copy of all relevant information in its possession or power in the form the Primary Provider reasonably requires within three (3) Business Days of the Primary Provider’s request, and shall provide all assistance as reasonably requested by the Primary Provider to enable the Primary Provider (or the Commissioning Authority) to respond to a relevant request for information within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations. The Primary Provider shall be responsible for determining (acting reasonably) whether such information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations. In no event shall the Sub-Contract Provider respond directly to a request for information of this type relating to the Sub-Contract Services unless expressly authorised in writing by the Primary Provider or the Commissioning Authority to do so.

13.6 The Sub-Contract Provider acknowledges that the Commissioning Authority 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 FOIA, be obliged under the FOIA, or the Environmental Information Regulations, to disclose information concerning the Sub-Contract Provider or the Sub-Contract Services in certain circumstances without consulting the Sub-Contract Provider, or after consultation with the Sub-Contract Provider. In such a case, the Primary Provider shall take reasonable steps, where appropriate, to give the Sub-Contract Provider advance notice, or failing that, to draw the disclosure to the Sub-Contract Provider’s attention at or after disclosure.

13.7 The Sub-Contract Provider shall comply with the provisions set out in the Information Sharing Framework, as set out at Section C – Schedule 3.

13.8 Failure by the Sub-Contract Provider to comply with this Clause 13 shall constitute a material and irremediable breach of this Agreement.

13.9 In the event that through a failure by the Sub-Contract Provider to comply with its obligations under this Agreement, the Primary Provider or the Commissioning Authority is served with a monetary penalty notice under Section 55 A-E of the DPA by the Information Commissioner’s Office, then either the Primary Provider or the Commissioning Authority (as applicable) shall be entitled to recover such losses from the Sub-Contract Provider.

13.10 The Sub-Contract Provider shall comply with, and shall ensure that the Staff comply with the provisions of (where applicable) the Official Secrets Acts 1911 to 1989 and Section 182 of the Finance Act 1989. Failure to comply with this Clause 13.10 shall entitle the Primary Provider to terminate this Agreement with immediate effect on written notice to the Sub-Contract Provider.

**14. GENERAL**

14.1 **Force majeure.** Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 3 months, the party not affected may terminate this Agreement by giving 10 Business Days’ written notice to the affected party.

14.2 **Subcontracting.** The Sub-Contract Provider may not subcontract any or all of its rights or obligations under this Agreement without the prior written consent of the Primary Provider. The Sub-Contract Provider shall remain responsible for all acts and omissions of its subcontractors as if they were its own.

14.3 **Independent Contractor.** At all times during the continuation of this Agreement the Sub-Contract Provider shall be an independent contractor and nothing in this Agreement 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 this Agreement.

14.4 **Conflicts of interest.** The Sub-Contract Provider shall take appropriate steps to ensure that neither the Sub-Contract Provider nor any of the Staff are placed in a position where, in the reasonable opinion of the Primary Provider, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Sub-Contract Provider or Staff member and the duties owed to the Primary Provider under the provisions of this Agreement. The Sub-Contract Provider shall disclose to the Primary Provider full particulars of any such conflict of interest which may arise.

14.5 **Publicity, Media and Official Enquiries.** The Sub-Contract Provider shall not, and shall procure that the Staff shall not, make any press announcement or publicise this Agreement or any part thereof in any way, except with the written consent of the Primary Provider.

14.6 **Equality and anti-discrimination**

(a) The Sub-Contract Provider shall not, and shall procure that its staff (including the Staff) shall not, unlawfully discriminate (within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in age, race, gender, religion, disability, sexual orientation or otherwise) (**Equality Legislation**) in relation to the employment of staff (including Staff) or the treatment of Service Users or prospective Service Users.

(b) The Sub-Contract Provider shall notify the Primary Provider forthwith in writing as soon as it becomes aware of any investigation of or proceedings brought against the Sub-Contract Provider in relation to its staff (including Staff) or Service Users or prospective Service Users.

(c) Where any investigation is conducted or proceedings are brought under Equality Legislation or other any law, enactment, order or regulation relating to discrimination which arises directly or indirectly out of any act or omission of the Sub-Contract Provider, the Sub-Contract Provider shall indemnify the Primary Provider and the Commissioning Authority with respect to all losses of whatever type arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment the Primary Provider or the Commissioning Authority may be ordered or required to pay to a third party.

(d) The Sub-Contract Provider acknowledges that either the Primary Provider or the Commissioning Authority may carry out an impact analysis as defined under the Equality Act 2010 in respect of any aspect of the provision of the Sub-Contract Services and the Sub-Contract Provider shall provide all assistance and information to the Primary Provider and/or the Commissioning Authority as may be reasonably required in relation to such. The Sub-Contract Provider shall implement any changes or adjustments that are reasonably required as a result of, or in connection with, the outcome of the impact analysis undertaken by the Primary Provider or the Commissioning Authority.

14.7 **Right to audit**

The Primary Provider (and the Commissioning Authority) shall be entitled to audit the Sub-Contractor (including its premises, its records and all aspects of the Sub-Contractor Services) at all times during the continuance of this Agreement (and in relation to records, until 12 years thereafter). On request, the Sub-Contract Provider shall afford the Primary Provider or the Commissioning Authority free of charge during business hours and on reasonable notice such access to the Sub-Contract Provider, its Staff and its records as may be reasonably requested. Such audits may be carried out for the purposes of assessing compliance with all of the terms and conditions of this Agreement, in order to assess compliance by the Primary Provider with the Primary Contract, in order to assess the economy, efficiency and effectiveness with which the Sub-Contract Provider has delivered the Sub-Contract Services, and in order to inform the longer term planning of enhanced services for smoking cessation. The Sub-Contract Provider shall provide such explanations as are reasonably required for these purposes. In exercising this right, the Primary Provider and the Commissioning Authority shall endeavour to cause as little disruption to the Supplier as reasonably practicable.

14.8 **Entire agreement.** This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

14.9 **Variation.** No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

14.10 **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

(a) waive that or any other right or remedy; or

(b) prevent or restrict the further exercise of that or any other right or remedy.

14.11 **Severance.** If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 14.11 shall not affect the validity and enforceability of the rest of this Agreement.

14.12 **Notices.**(a) Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 14.12 (a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

14.13 **Third party rights.** No one other than a party to this Agreement shall have any right to enforce any of its terms.

14.14 **Governing law.** This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

14.15 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

**SECTION C - SCHEDULE 1**

**SUB-CONTRACT SERVICES**

**1 The Sub-Contract Services**

The Sub-Contract Services shall be as follows:

1. For the duration of the Agreement, the Sub-Contract Provider shall deliver smoking cessation support services to Service Users in accordance with this Agreement, and in compliance with the Mandatory Policies (including the Operational Guidelines).
2. The Sub-Contract Provider shall procure that it, and its Staff, shall in delivering the Sub-Contract Services achieve or exceed the service levels (whether related to service quality, outcomes, timescales, reporting or otherwise) set out in this Agreement (including the Mandatory Policies, which include the Operational Guidelines).

**2** **Data recording and collection**

1. The Primary Provider shall provide the Sub-Contract Provider with access (including log-on details) to QM, along with a non-transferable licence (as described above) to use QM for the purposes of recording the Sub-Contract Services only.
2. The Sub-Contract Provider shall, and shall procure that its Staff shall, use QM in accordance with the instructions of the Primary Provider, and for no other purpose than to fulfil its obligations under this Agreement, and in doing so shall ensure that all requirements relating to Service User consent and confidentiality are achieved.
3. The Sub-Contract Provider shall, and shall procure that its Staff shall, record the Sub-Contract Services in QM in accordance with the requirements of QM as follows:
* Staff shall input relevant Service User information into QM contemporaneously with each and every Service User interaction. Staff shall not record Service User information in any other form.
* Staff shall ensure that the Service User monitoring form available within QM (**Service User Monitoring Form**) is filled out completely and accurately for each Service User at each interaction, leaving no blanks, ‘Not Applicables’ or ‘Service User declined to provide information’.
* Staff shall comply with the requirements of QM to ensure that all Service User Monitoring Forms are either physically signed by the Service User to indicate appropriate agreement and consent, or that appropriate verbal agreement and consent has been given by the Service User and that the verbal consent is accurately and promptly recorded on QM. Such Service User consent shall include consent to receive the Sub-Contract Services, to information relating to it to be passed to the Service User’s GP, to follow-up with the Service User by appropriate third parties, and to the anonymisation of the Service User data for research use by the Primary Provider.
* As referred to above, Staff shall complete Service User Monitoring Forms and other relevant forms on QM to record session outcomes at each point of contact with a Service User, whether that be face to face or telephone/text. Data input should in all cases include details of each stage of treatment as well as client motivation and quit history.
* Staff shall submit all such Service User Monitoring Forms or other relevant forms promptly to the Primary Provider via QM. Staff shall keep no separate Service User records relating to the Sub-Contract Services.
* Promptly on completing each Service User four-week review (as defined in the Operational Guidelines), Staff shall enter full and accurate Service User monitoring information into QM in accordance with the requirements of QM, and in no circumstances shall this data be input into QM later than 6 weeks after the end of the Quarter (as defined within QM) in which the activity occurred.
* All Service User and other records created by the Sub-Contract Provider in the supply of the Sub-Contract Services shall be created in accordance with Applicable Law, the DPA and Good Clinical Practice and as reasonably directed by the Primary Provider from time to time.

**SECTION C - SCHEDULE 2**

**CHARGES**

**1. CHARGES FOR THE SERVICES**

During the term of this Agreement, and thereafter in relation to Service Users with Quit Dates (as defined in the Operational Guidelines) prior to termination of this Agreement, the Primary Provider will pay the Sub-Contract Provider for the Sub-Contract Services on a results-only basis, as follows:

* **£5.00** for each and every Service User who agrees a Quit Date under the terms of the Operational Guidelines, for which appropriate and accurate data is promptly recorded in QM
* **£10.00** for each and every Service User who does not quit under the terms of the Operational Guidelines, where there is evidence of a minimum of 3 support sessions, to include the initial 30-minute support session.
* **£25.00** for each and every Service User who achieves a validated (i.e. carbon monoxide monitored) 4 week quit smoking status under the terms of the Operational Guidelines or **£15.00** for such Service Users with non-validated status (i.e. self-reported and not carbon monoxide monitored) under the terms of the Operational Guidelines.
* **£50.00** foreach and every Service User who achieves a validated (i.e. carbon monoxide monitored) 12 week quit smoking status under the terms of the Operational Guidelines or **£25.00** for a non-validated (i.e. self-reported and not carbon monoxide monitored) under the terms of the Operational Guidelines.

**2. INVOICING ARRANGEMENTS**

Invoices shall be raised by the Primary Provider using the information input by the Sub-Contract Provider into QM, and shall be payable as set out at Section B Clause 7 above.

Invoices shall be raised at the intervals and in the format as set out in QM.

The Primary Provider shall make payment of the Sub-Contract Provider’s undisputed invoices by electronic payment to the following bank account:

Bank name: [ ]

Bank address: [ ]

Account name: [ ]

Account number: [ ]

Sort code: [ ]

**SECTION C - SCHEDULE 3**

**MANDATORY POLICIES AND PROCEDURES**

The following, as updated from time to time, are the Mandatory Policies which the Sub-Contract Provider shall, and shall procure that the Staff shall, comply with at all times:

* Operational Guidelines
* Anti-bribery and Anti-corruption Policy
* Anti-discrimination and Equality Policy
* Data protection, Consent and Confidentiality Policy
* Information Sharing Framework
* Safeguarding Policy
* Staff Vetting Procedures and Employment Checks