Department of Health

Local Pharmaceutical Services

Model Contract

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LOCAL PHARMACEUTICAL SERVICES MODEL CONTRACT

The text of the Local Pharmaceutical Services Model Contract has been prepared and approved by the Department of Health.

The Local Pharmaceutical Services Model Contract contains clauses required by the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006 (the Regulations) and other relevant legislation. These clauses or parts (which are marked with an asterisk) are mandatory, and any Local Pharmaceutical Services Contract (LPS contract) entered into pursuant to the Regulations must contain these terms. The model contract also contains clauses not required by the Regulations which may be included if desired by the parties.

Parties to LPS contracts should note that this model contract is offered by the Department of Health as a template. Apart from the mandatory clauses required by the Regulations referred to above, parties are free to negotiate and agree such other clauses as they wish, provided such clauses comply with any relevant legislation and take account of any relevant guidance issued by the Department of Health. Parties to LPS contracts are strongly advised to take independent legal advice in relation to any negotiated terms and conditions prior to entering the agreement.

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THIS CONTRACT is made this day of

BETWEEN

The Primary Care Trust whose name and address appears at Schedule 1 to this Contract called "the PCT" and
The Contractor(s) whose name(s) appear(s) at Schedule 1 to this Contract called ("the Contractor").

RECITALS

A. The PCT is a statutory body established by orders made pursuant to section 18 of the National Health Service Act 2006.

B. The PCT is empowered by the National Health Service Act 2006 and the regulations made under that Act(**a**), to establish LPS schemes and to enter into a local pharmaceutical services contract (the Contract).

C. The PCT and the Contractor wish to enter into a local pharmaceutical services contract under which the Contractor is to provide local pharmaceutical services in accordance with the provisions of this contract.

D. *This Contract relates to the provision of local pharmaceutical services as defined by regulation 2(2) of *the Regulations*(**b**) under an LPS Scheme and is for the provision of pharmaceutical and/or other services in accordance with the provisions of this Contract. LPS Schemes must comply with the requirements of regulation 14 of *the Regulations.*

E. Some terms of this Contract are prescribed by primary and subordinate legislation, and NHS Directions. The remainder specify the obligations of the PCT and the Contractor and are included for reasons of business efficacy. Both

(**a**) See schedule 12 the National Health Service Act 2006.
(**b**) S.I. 2006/552.

parties are also required when fulfilling their obligations under this Contract to comply with all guidance issued, from time to time, by the Secretary of State/NHS to PCTs and licensing and regulatory bodies on matters relevant to this Contract and local pharmaceutical services.

F. All contractors are required to comply with the obligations concerning dispensing services. Those who have agreed to provide other services in addition to dispensing services are required to comply with the obligations specific to those services.

PART 1

DEFINITIONS AND INTERPRETATIONS

1. The following terms and phrases shall have the following meanings for the purposes of the Contract.

"*the Act*" means the National Health Service Act 2006(**a**);

"*the 1977 Act*" means the National Health Service Act 1977(**b**);

"*the 1990 Act"* means the National Health Service and Community Care Act 1990(**c**);

"*2001 Act*" means the Health and Social Care Act 2001(**d**);

"*adjudicator*" means the Secretary of State or a person or persons appointed by the Secretary of State under section 4(3) of the 1990 Act (NHS contracts) or paragraph 21(1) of Schedule 2 (NHS Dispute Resolution Procedure) to *the Regulations*.

"*appliance"* means an appliance which is included in a list for the time being approved by the Secretary of State for the purposes of section 80 of *the Act* (arrangements for pharmaceutical services);

(**a**) 2006 c.41.
(**b**) 1977 c 49.
(**c**) 1990 c.19.
(**d**) 2001 c.15. See footnote (c) on page 11.

"*appropriate non-proprietary name*" means a non-proprietary name which is not mentioned in Schedule 1 to the *Prescription of Drugs Regulations* (drugs, medicines and other substances not to be ordered under a general medical services contract) or, except where the conditions in paragraph 42(2) of Schedule 6 to the *GMS Contracts Regulations* are satisfied, in Schedule 2 to the *Prescription of Drugs Regulations* (drugs, medicines and other substances that may be ordered only in certain circumstances);

"*associated batch issue*" means, in relation to a non-electronic repeatable prescription, one of the batch issues relating to that prescription and containing the same date as that prescription;

"auxiliary aid" has the same meaning as in the Disability Discrimination Act 1995(**a**) as amended;

"*batch issue*" means a form provided by a Primary Care Trust or other health body and issued by a *repeatable prescriber* at the same time as a *non-electronic repeatable prescription* which enables a Contractor to receive payment for the provision of repeat dispensing services, which is in the format required by the *NHS Business Services Authority*, and which—

(a) is generated by a computer and not signed by a repeatable prescriber;

(b) relates to a particular non-electronic repeatable prescription and contains the same date as that prescription;

(c) is issued as one of a sequence of forms, the number of which is equal to the number of occasions on which the drugs or appliances ordered on the *non-electronic repeatable* prescription may be provided; and

(d) specifies a number denoting its place in the sequence referred to in sub-paragraph (c);

(**a**) 1995 c.50.

"*the Charges Regulations*" means the National Health Service (Charges for Drugs and Appliances) Regulations 2000 (S.I. 2000/620) as amended;

"*chemical reagent*" means a chemical reagent included in a list for the time being approved by the Secretary of State for the purposes of section 126 of *the Act*;

"*contractor*" means the party or parties to an LPS scheme which is not or are not the Primary Care Trust;

"*dentist*" means a dentist registered in the dentists register maintained under section 14 of the Dentists Act 1984(**a**);

"*doctor*" means a registered medical practitioner;

"*drugs*" includes medicines;

"*Drug Tariff*" has the meaning given in regulation 56 of the *Pharmaceutical Services Regulations* (standards of, and payments for, drugs and appliances);

"*electronic communication*" has the same meaning given in section 15 of the Electronic Communications Act 2000(**b**) (general interpretation);

"*electronic prescription*" means an electronic prescription form or an electronic repeatable prescription;

"*electronic prescription form*" means a prescription which falls within paragraph (b) of the definition of "*prescription form";*

"*electronic repeatable prescription*" means a prescription which consists of data that are created in an electronic form, signed with a repeatable prescriber's advanced signature and transmitted as an electronic communication to a nominated dispensing contractor;

(**a**) 1984 c.24.
(**b**) 2000 c.7.

"*electronic signature"* means an electronic signature which is—

(a) uniquely linked to the signatory;

(b) capable of identifying the signatory;

(c) created using means that the signatory can maintain under his sole control; and

(d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;

"*EPS service*" means the electronic prescription service which forms part of the NHS Care Record Service;

"equivalent body" means—

(a) a Local Health Board in Wales;

(b) a Health Board or NHS trust in Scotland;

(c) a Health and Social Services Board in Northern Ireland; or

(d) in relation to any time prior to 1st October 2002, a Health Authority in England;

"*FHSAA*" means the Family Health Services Appeal Authority constituted under section 49S of *the 1977 Act*;

"*the GMS Contracts Regulations*" means the National Health Service (General Medical Services Contracts) Regulations 2004 (2004/291);

"*health service body*" has the meaning given to it in section 4(2) of *the 1990 Act*;

"*Health and Social Services Board*" means a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972 (No. 1265 (N.I.14));

"*Health Board*" means a Health Board established under section 2 of the National Health Service (Scotland) Act 1978(**a**);

"independent nurse prescriber" means a person—

(a) who is registered in the *Nursing and Midwifery Register*; and

(b) in respect of whom is recorded in that register an annotation signifying that he is qualified to order *drugs* and *appliances*—

(i) as an independent nurse prescriber, or

(ii) as a community practitioner nurse prescriber;

"*licensing or regulatory body*" means a body that licenses or regulates any profession of which a person is or has been a member, and includes any body which licenses or regulates such a profession in a country other than the United Kingdom;

"*listed appliance*" means an appliance which is listed from time to time in Parts IXA, IXB, IXC or X of the Drug Tariff;

"*local involvement network*" means a person who, in pursuance of arrangements made under section 221(1) of the Local Government and Public Involvement in Health Act 2007(**b**), is to carry on section 221 activities;

(**a**) 1978 c.29.
(**b**) 2007 c.28.

"*Local Medical Committee*" means a committee recognised under section 97 of *the Act* (Local Medical Committees);

"*Local Pharmaceutical Committee*" means a committee recognised under section 167 of *the Act* (which relates to recognition of Local Pharmaceutical Committees);

"*local pharmaceutical services*" means services of a kind which may be provided under section 126 of *the Act*, or by virtue of section 127 of that Act (arrangements for providing additional pharmaceutical services), other than practitioner dispensing services;

"*national disqualification*" has the meaning given in section 159 of *the Act*;

"*National Health Service Counter Fraud and Security Management Service*" means the Special Health Authority of that name with responsibility for policy and operational matters relating to the prevention, detection and investigation of fraud or corruption and the management of security in the National Health Service, which was replaced on 1st April 2006 by the *NHS Business Services Authority*;

"*NHS Business Services Authority*" is an independent Division of the NHS Business Services Authority and has responsibility for policy and operational matters relating to the prevention, detection and investigation of fraud or corruption and the management of security in the National Health Service;

"*NHS Care Record*" means the records relating to an individual patient held by the NHS Care Record Service;

"*NHS Care Record Service*" means information technology systems procured by the Department of Health and used by the health service to hold medical records relating to patients;

"*NHS contract*" has the meaning assigned to it in section 4(1) of the *1990 Act*;

"*NHS dispute resolution procedure*" means the procedure for disputes specified in Part 12 of the Contract;

"*Natural person*" means an individual or partners in partnership;

"*nominated dispensing contractor*" means—

(a) a contractor;

(b) a person included in a *pharmaceutical list*;

(c) a party to a general medical services contract other than a Primary Care Trust; or

(d) a party to section 28C of *the 1977 Act* arrangements other than a Primary Care Trust or a Strategic Health Authority,

whom a patient has nominated in his NHS Care Record to dispense his electronic prescriptions;

"*notice*" means a notice in writing (including electronic) and "notify" shall be construed accordingly;

"*non-electronic prescription form*" means a form provided by a Health Board, a Health and Social Services Board, a Local Health Board, a Primary Care Trust, an NHS Trust or NHS Foundation Trust, and issued by a *prescriber*;

"*Non-electronic repeatable prescription"* has the same meaning as in the *Pharmaceutical Services Regulations;*

"*Nursing and Midwifery Register*" means the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001(2002/253);

"*pharmaceutical list*" shall be construed in accordance with regulation 4 of the *Pharmaceutical Services Regulations* (pharmaceutical lists);

"*pharmacist independent prescriber*" means a person—

(a) who is registered in the Register of Pharmaceutical Chemists maintained in pursuance of Article 10 of the Pharmacists and Pharmacy Technicians Order 2007 (S.I.2007/289) or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976 (No.1213 (NI.22)); and

(b) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and appliances as a pharmacist independent prescriber;

"*Pharmaceutical Services Regulations*" means the National Health Service (Pharmaceutical Services) Regulations 2005(2006/641);

"*pharmacist*" means a registered pharmacist or a person lawfully conducting a retail *pharmacy* business in accordance with section 69 of the Medicines Act 1968;

"*pharmacy*" has the meaning given in the *Pharmaceutical Services Regulations*;

"*prescriber*" means a doctor, dentist, independent nurse prescriber, independent optometrist prescriber(**a**), a pharmacist independent prescriber or a supplementary prescriber or such other persons who may be authorised under the Medicines Act 1968(**b**) or regulations made under it to prescribe prescription only medicines;

"*prescription form*" means—

(**a**) The *Regulations* do not currently take account of independent optometrist prescribers, but will be amended to do so in due course.
(**b**) 1968 c.67.

(a) a form provided by a Health Board, a Health and Social Services Board, a Local Health Board, a Primary Care Trust, an NHS Trust or an NHS Foundation Trust, and issued by a prescriber; or

(b) data that are created in an electronic form, signed with a prescriber's advanced electronic signature and transmitted as an electronic communication to a nominated dispensing Contractor by the ETP service, to enable a person to obtain pharmaceutical services or local pharmaceutical services, and does not include a repeatable prescription;

"*Prescription of Drugs Regulations*" means the National Health Service (General Medical Services Contracts) (Prescription of Drugs etc.) Regulations 2004 (2004/629);

"*primary care list*" means—

(a) a list of persons performing primary medical or dental services under sections 91 (persons performing primary medical services), 106 (persons performing primary dental services) or 123 (persons performing primary ophthalmic services)(**a**) of *the Act;*

(b) a list of persons undertaking to provide general ophthalmic services or as the case may be, pharmaceutical services prepared in accordance with regulations made under sections 39, 42 or 43 of *the 1977 Act* (which relate to regulations as to ophthalmic services, pharmaceutical services and persons authorised to provide pharmaceutical services;

(c) a list of persons who undertook to provide general medical services or general dental services prepared in accordance with regulations made under section 29 or 35 of *the 1977 Act* (which related to regulations as to general medical services and general dental services);

(**a**) S.I. 2004/585 has been amended by S.I. 2008/1187 to include providers of primary ophthalmic services into the definition of "relevant performers list" in that instrument. *The Regulations* will be amended to reflect this amendment in due course.

(d) a list of persons approved for the purposes of assisting in the provision of services mentioned in paragraph (b) or (c) prepared in accordance with regulations made under section 43D of *the 1977 Act* (supplementary lists);

(e) a services list that fell within the meaning of section 8ZA of the National Health Service (Primary Care) Act 1997(**a**) (lists of persons who may perform personal medical services or personal dental services);

(f) a list corresponding to a services list prepared by virtue of regulations made under section 41 of *the 2001 Act(**b**)* (corresponding provision and application of enactments); or

(g) a list corresponding to any of the above lists in Scotland, Wales or Northern Ireland;

"*professional conduct*" includes matters relating both to professional conduct and professional performance;

"*relevant home Primary Care Trust*" shall, as the context requires, be construed in accordance with regulation 17(5), or paragraph 17(2) of Schedule 2 to, *the Regulations*;

"*Remission of Charges Regulations*" means the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (2003/2382)(**c**);

"*repeat dispensing services*" means local pharmaceutical services which involve the provision of drugs or appliances by a Contractor in accordance with a repeatable prescription;

(**a**) 1997 c.46.
(**b**) 2001 c.15 was repealed by the National Health Service (Consequential Provisions) Act 2006. Corresponding provisions were made in section 145 of the National Health Service Act 2006 (c.41).
(**c**) S.I. 2003/2382. amended by 2004/663 and 936.

"*repeatable prescriber*" has the same meaning as in the *Pharmaceutical Services Regulations*;

"*repeatable prescription*" means a prescription which—

(a) either—

(i) is contained in a form provided by a Primary Care Trust and issued by a *repeatable prescriber* which is in the format required by the *NHS Business Services Authority*, and which is generated by a computer and signed in ink by a *repeatable prescriber*, or

(ii) consists of data that are created in an electronic form, signed with a *repeatable prescriber's advanced electronic signature* and transmitted as an electronic communication to a nominated dispensing Contractor by the *EPS service;*

(b) is issued or created to enable a person to obtain *pharmaceutical services* or *local pharmaceutical services*; and

(c) indicates that the *drugs* or *appliances* ordered on that prescription may be provided more than once, and specifies the number of occasions on which they may be provided;

"*restricted availability appliance*" means an appliance which is approved for particular categories of persons or particular purposes only;

"*Scheduled drug*" means a drug or other substance specified in Schedule 1 to the *Prescription of Drugs Regulations* or except where the conditions in paragraph 42(2) of Schedule 6 to the National Health Service (General Medical Services Contracts) Regulations 2004 are satisfied, Schedule 2 to the *Prescription of Drugs Regulations;*

"*Superintendent responsible pharmacist*" has the same meaning as it has in section 71 of the Medicines Act 1968(**a**) as amended;

"*supplementary prescriber*" means a person—

(a) whose name is registered in—

(i) the Nursing and Midwifery Register,

(ii) the Register of Pharmacists maintained in pursuance of Article 10 of the Pharmacists and Pharmacy Technicians Order (2007/289),

(iii) the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976 (1213 (NI. 22)),

(iv) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health Professions Order 2001(2002/254) relating to—

(aa) chiropodists and podiatrists,

(bb) physiotherapists, or

(cc) diagnostic or therapeutic radiographers, or

(v) the register of optometrists maintained by the General Optical Council in pursuance of section 7 of the Opticians Act 1989(**b**); and

(b) against whose name is recorded in the relevant register an annotation signifying that he is qualified to order *drugs* and appliances as a supplementary prescriber;

"*suspended*" means—

(**a**) 1968 c.69.
(**b**) 1989 c.44.

(a) suspended by a Primary Care Trust or equivalent body under—

(i) sections 49I (suspension) or 49J (suspension pending appeal) of *the 1977 Act*;

(ii) regulations made under section 28DA (lists of persons who may perform personal medical services or personal dental services) or 43D (supplementary lists) of *the 1977 Act*; or

(iii) section [8ZA] (lists of persons who may perform personal medical services or personal dental services) of the National Health Service (Primary Care) Act 1997; or

(b) in relation to Scotland or Northern Ireland, suspended under provisions in force corresponding to those in or made under sections 28DA, 43D, 49I or 49J of *the 1977 Act* or under section 8ZA of the National Health Service (Primary Care) Act 1977,

and shall be treated as including a case where a person is treated as suspended by a Primary Care Trust or, prior to 1st October 2002, by a Health Authority by virtue of regulation 6(2) of the Abolition of the Tribunal Regulations, or, in Wales, by a Local Health Board, or prior to 1st April 2003, by a Health Authority by virtue of regulation 6(2) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002(2002/1920), and "suspends" and "suspension" shall be construed accordingly;

"*the Regulations*" means the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006 (S.I. 2006/552);

"*Tribunal*" means the Tribunal constituted under section 46 of the National Health Service Act 1977(**a**) (the NHS tribunal) for England and Wales, and which, except for prescribed cases, had effect in relation to England only until 14th December 2001.

(**a**) Section 46 of the National Health Service Act 1977 was repealed by the Health and Social Care Act 2001, section 67, Schedule 5.

2. In this Contract unless the context otherwise requires—

2.1. Defined terms and phrases appear in italics, except for the term "Contract";

2.2. Words denoting any gender include all genders and words denoting the singular include the plural.

2.3. Reference to any person may include a reference to a company or a corporation

2.4. Reference to "day", "week", "month" or "year" means a calendar day, week, month or year, as appropriate, and reference to a working day means any day except Saturday, Sunday, Good Friday, Christmas Day and any *bank holiday*.

2.5. The headings in this Contract are inserted for convenience only and do not affect the construction or interpretation of this Contract.

2.6. The schedules to this Contract are and shall be construed as being part of this Contract.

2.7. Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated (whether before or after the date of this Contract), and all statutory instruments or orders made pursuant to it.

2.8. Any obligation relating to the completion and submission of any form that the Contractor is required to complete and submit to the PCT includes the obligation to complete and submit the form in such a format or formats (electronic, paper or otherwise) as agreed between the parties to this Contract.

2.9. Any obligation on the Contractor to have systems, procedures or controls includes the obligation to operate them effectively.

2.10. Where this Contract imposes an obligation on the Contractor, the Contractor must comply with it and must take all reasonable steps to ensure that its personnel and Contractors comply with it. Similarly, where this Contract imposes an obligation on the PCT, the PCT must comply with it and must take all reasonable steps to ensure that its personnel and Contractors (save for the Contractor) comply with it.

2.11. Where there is any dispute as to the interpretation of a particular term in the Contract, the parties shall, so far as is possible, interpret the provisions of the Contract consistently with the European Convention on Human Rights, EC law, *the Regulations*, any other relevant regulations or orders made under *the Act.*

2.12. Where the parties have indicated in writing that a clause in the Contract is reserved, that clause is not relevant and has no application to the Contract

[*This provision has been included so that if, in relation to a particular contract, a particular clause number or numbers are not relevant (for example, because that clause or those clauses only need to be included in contracts with a partnership and the Contractor concerned is an individual registered pharmacist) the words of that clause can be deleted and the word 'reserved' can be inserted next to that clause number: this is to avoid renumbering the clauses or cross-references in the Contract*].

2.13. Where a particular clause is included in the Contract but is not relevant to the Contractor because that clause relates to matters which do not apply to the Contractor that clause is not relevant and has no application to the Contract.

PART 2

[Clauses marked with an asterisk are required by the Regulations]

RELATIONSHIP BETWEEN THE PARTIES

3. (a) In consideration of the remuneration and other payments specified in Part 7 and Schedules 4 and 5 to be made by the PCT to the Contractor, on the basis specified in Part 8 of this Contract, the Contractor agrees to provide the services specified in Schedule 2 in accordance with the terms of this Contract.

(b) During the period of this contract the Contractor will not be entitled to receive any remuneration or re-imbursement pursuant to the LPS Regulations except as specified in Part 7 and Schedules 4 and 5 to the Contract.

(c) In Schedule 2, the general obligations on the Contractor are specified in Part 1 (General Obligations) of the schedule. The specific obligations on the Contractor which include the hours of service and where appropriate key performance indicators are specified in Part 2 (Specific Obligations) of the schedule.

(d) The Contractor specifically acknowledges that any technical specifications specified in the contract documents by the PCT are crucial to the delivery of the services which the contractor has agreed to provide and that any unjustifiable material failure on the part of the Contractor in respect of technical specifications may result in such sanctions as are agreed within the terms of the Contract.

4. The PCT does not by entering into this Contract, and shall not as a result of anything done by the Contractor in connection with the performance of this Contract, incur any contractual liability to any other person.

5. *This Contract does not create any right enforceable by any person not a party to it. [*This clause is required by paragraph 32 of Schedule 2 to the Regulations].*

6. In complying with this Contract, in exercising its rights under the Contract, and in performing its obligations under the Contract, the Contractor must act reasonably and in good faith.

7. In complying with this Contract, and in exercising its rights under the Contract, the PCT must act reasonably and in good faith and as a responsible public body required to discharge its functions under the Act.

8. Clauses 6 and 7 above do not relieve either party from the requirement to comply with the express provisions of this Contract and the parties are subject to all such express provisions.

9. The Contractor shall not give, sell, assign or otherwise dispose of the benefit of any of its rights under this Contract, save in accordance with the Contract. The Contractor may only sub-contract where such sub-contracting is expressly permitted by this Contract.

10. The PCT may give, sell, assign or otherwise dispose of the benefit of its rights under this Contract to another Primary Care Trust.

PART 3

LEGAL NATURE OF RELATIONSHIPS

[Clause 11.(a) is required by regulation 10 of the Regulations]

11.*(a)The contractor will be treated as an NHS body from the date it enters into the Contract unless the contractor has opted out in accordance with regulations 10 of *the Regulations*.

(b) This is a Contract for the provision of pharmaceutical services and other services. The Contractor is an independent provider of services and is not an employee, partner or agent of the PCT. The Contractor must not represent or

conduct its activities so as to give the impression that it is the employee, partner or agent of the PCT.

PART 4

COMMENCEMENT AND DURATION OF THE CONTRACT

12. This Contract shall commence on [*insert date*].

13. *The Contract shall subsist until [*insert date*] unless it is varied or terminated in accordance with the terms of this Contract or the general law. *[This paragraph is required by paragraphs 26 to 31 of Schedule 2 to the Regulations.]*

PART 5

WARRANTIES

14. Each of the parties warrants that it has power to enter into this Contract and has obtained the necessary approvals to do so.

15. The Contractor warrants that:—

(a) all the information in writing provided to the PCT in seeking to become a party to this Contract, was when given, true and accurate in all material respects, and in particular that the Contractor satisfied the conditions set out in regulation 7 of *the Regulations*;

(b) no information has been omitted which would make the information that was provided to the PCT materially misleading or inaccurate;

(c) no circumstances have arisen which materially affect the truth and accuracy of such information;

(d) it is not aware as at the date of this Contract of anything within its reasonable control which may or will materially adversely affect its ability to fulfil its obligations under this Contract.

16. The PCT warrants that:—

(a) all information in writing which it provided to the Contractor specifically to assist the Contractor to become a party to this Contract was when given, true and accurate in all material respects;

(b) no information has been omitted which would make the information that was provided to the Contractor materially misleading or inaccurate;

(c) no circumstances have arisen which materially affect the truth and accuracy of such information.

17. The PCT and the Contractor have relied on, and are entitled to rely on, information provided by one party to the other in the course of negotiating the Contract.

***PART 6**

[This part is required by paragraphs 11 and 14 of Schedule 2 to the Regulations respectively]

INFORMATION TO BE PROVIDED FOR THE PCT'S LISTS

18. A Contractor must ensure that it provides to its PCT, an up to date record of—

18.1 the services that it provides; and

18.2 the days on which and times at which these services are provided.

PROFESSIONAL STANDARDS

19. The Contractor shall carry out his obligations under the Contract and exercise any professional judgment in connection with the provision of local pharmaceutical services in conformity with the standards generally accepted in the pharmaceutical profession.

PART 7

REMUNERATION GENERAL

20. Remuneration for services under this Contract ("the contract price") shall, unless other arrangements are negotiated, be paid in line with the Payment Schedule set out in Schedule 5. The PCT will instruct the Prescription Pricing Division to make payments to the contractor in line with the Payment Schedule.

21. Reimbursement under this Contract for the cost of medicines and appliances supplied in the course of local pharmaceutical service provision shall be paid at the times and by the method (if any) specified in the *Drug Tariff*. Reimbursement will be in line with prevailing rates in the Drug Tariff.

CONTRACT PRICE

22. (a) The contract price for local pharmaceutical services provided by the Contractor to the PCT is [*insert total price*].

(b) The contract price referred to in clause 22.(a) above is to be paid in accordance with clauses 23 - 27 of the Contract and the monthly [*other period*] Payment Schedule set out in Schedule 5 to the Contract.

(c) The contract price referred to in clause 22.(a) excludes reimbursement for the cost of medicines and appliances supplied in the course of local pharmaceutical service provision. Payments relating to such reimbursement will be paid in accordance with clause 21 and Schedule 4 to the Contract, and any amount paid to the Contractor by way of reimbursement is completely separate from the amount know as the "contract price".

(d) The contract price referred to in clause 22(a) may be reviewed if both parties are agreeable in line with the arrangements for the monitoring and reviewing of this contract set out in clause 81.

***PART 8**

[Part 8 is required by paragraph 19 of Schedule 2 to the Regulations and section 94(4) of the Act.]

PAYMENT UNDER THE CONTRACT

23. The PCT shall make payments to the Contractor under the Contract—

23.1 promptly;

23.2 in accordance with the terms of the Contract and any other conditions relating to payment contained in *the Regulations* or directions under section 8(1) of, or paragraph 3(3)(j) of Schedule 12 to, *the Act ("the Payment Directions");*

23.3 subject to clauses 25 and 26; and

23.4 *subject to* any relevant conditions to be met by the Contractor in relation to such payments set out in Schedule 5 to this Contract. *[It is recommended that any relevant details and any relevant conditions in respect of payments to the Contractor should be set out in Schedule 5]*

.**24**. Where the Contract requires a fee, allowance, or other item of remuneration to be made in accordance with the Drug Tariff and the Drug Tariff provides that the fee, allowance or other item of remuneration is to be determined by the PCT, that fee, allowance or other item of remuneration shall be determined by the PCT.

25. The PCT may in accordance with the terms of the Contract and any Payment Directions recover any payment made to the contractor which should not have been made; and any such recovery of an overpayment shall be without prejudice to any investigation of any alleged breach of the Contract.

26. The arrangements for remuneration under this Contract are subject to any right the PCT may have to set off against any amount payable to the Contractor any amount —

26.1 owed by the Contractor to it, or

26.2 which it is entitled to withhold under the terms of the Contract (including any terms of the Drug Tariff applied by the Contract).

27. Where overpayments have been made by the PCT pursuant to this contract or pursuant to the Payment Directions and it has not been possible for the PCT to recover the money by way of deducting an equivalent amount from any payment payable pursuant to the Contract, the Contractor must promptly pay to the PCT that equivalent amount.

*PART 9

[This part is required by paragraphs 12 and 13 of Schedule 2 to the Regulations]

CLINICAL GOVERNANCE

28. The Contractor shall participate, in the manner reasonably required by the PCT, in an acceptable system of clinical governance.

29. For the purposes of this part "system of clinical governance" means a framework through which the contractor endeavours to improve continuously the quality of its services and safeguards high standards of care by creating an environment in which clinical excellence can flourish.

*PART 10

[This Part is required by paragraph 1 of Schedule 2 to the Regulations]

COMPLIANCE WITH LEGISLATION AND GUIDANCE

30. The Contractor shall comply with;

30.1 all relevant legislation including;

30.1.1. the provisions of the *Regulations*; and

30.1.2. regulation 3 of the Local Involvement Networks (duty of Services-Providers to Allow Entry) Regulations 2008(**a**) in so far as it applies to the Contractor;

30.2 the relevant provisions of the Drug Tariff;

30.3 all relevant guidance issued by;

30.3.1 the Primary Care Trust,

(**a**) 2008/915

30.3.2 the relevant Strategic Health Authority; or

30.3.3 the Secretary of State

for the attention of the Contractor.

31. To the extent that the terms of the Contract impose a requirement on the Contractor in respect of an activity which could only, or would normally, be undertaken by a natural person, if the Contractor is a registered pharmacist, that registered pharmacist must comply with that requirement.

32. Where the terms of the Contract impose a requirement on the Contractor in respect of an activity which could only, or would normally, be undertaken by a natural person, and the Contractor employs or engages a registered pharmacist in connection with the provision of services under the Contract, the Contractor must either comply with that requirement or secure compliance with that requirement by the registered pharmacist it employs or engages.

33. Where the terms of the Contract impose a requirement on the Contractor and the Contractor is not a natural person, it shall secure compliance with that requirement by the registered pharmacists it employs or engages.

*PART 11

[This part is required by paragraph 25 of Schedule 2 to the Regulations]

COMPLAINTS

34. The Contractor must have in place—

34.1 arrangements which are essentially the same as those set out in Part 2 of the National Health Service (Complaints) Regulations 2004, for the handling and consideration of any complaints—

34.1.1 which were made on or before 31st March 2009; and

34.1.2 in respect of which the complaints process has not yet been concluded; and

34.2 arrangements which comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009([a]), for the handling and consideration of any complaints made on or after 1st April 2009.

35. The reference in clause 34(a) to the National Health Service (Complaints) Regulations 2004 is a reference to those Regulations as they had effect on 31st March 2009 and as if they had not been revoked.

36. In this part, "complaint" means a complaint about a matter connected with the provision of local pharmaceutical services by the Contractor.

*PART 12

[This Part is required by paragraphs 20 to 24 of Schedule 2 to the Regulations]

DISPUTE RESOLUTION

Local resolution of Contract disputes

37. In the case of any dispute arising out of, or in connection with, the Contract, the Contractor and the PCT must make every reasonable effort to communicate and co-operate with each other with a view to resolving the dispute, before referring the dispute for determination in accordance with the *NHS dispute resolution procedure* (or, where applicable, before commencing court proceedings).

Dispute resolution: non-NHS Contracts

([a]) S.I. 2009/309

[These clauses are mandatory terms only if the Contract is not an NHS contract. Otherwise, the clauses should not be included in the Contract.]

38. In the case of a Contract which is not an *NHS* contract, any dispute arising out of or in connection with the Contract, except disputes about matters dealt with under the complaints procedure pursuant to Part 11 of this Contract, may be referred for consideration and determination to *the Secretary of State*, if:—

(a) the PCT so wishes and the Contractor has agreed in writing; or

(b) the Contractor so wishes (even if the PCT does not agree).

39. In the case of a dispute referred to the *Secretary of State* under clause 38, the procedure to be followed is the *NHS dispute resolution procedure*, and the parties agree to be bound by any determination made by the *adjudicator*.

NHS dispute resolution procedure

40. The *NHS dispute resolution procedure* applies in the case of any dispute arising out of or in connection with the Contract which is referred to *the Secretary of State* in accordance with [section 4(3) of the *1990 Act* / clause 38], *[If the contract is an NHS contract, the parties must select the phrase ["section 4(3) of the 1990 Act"]. If the Contract is not an NHS contract, the parties must select the phrase ["clause 38"]* and the PCT and the Contractor shall participate in the *NHS dispute resolution procedure* as set out in paragraphs 22 to 24 of Schedule 2 to *the Regulations*.

41. Any party wishing to refer a dispute as mentioned in clause 38 shall send to *the Secretary of State* a written request for dispute resolution which shall include or be accompanied by—

(a) the names and addresses of the parties to the dispute;

(b) a copy of the Contract; and

(c) a brief statement describing the nature and circumstances of the dispute.

42. Any party wishing to refer a dispute as mentioned in clause 41 must send the request under that clause within a period of three years beginning with the date on which the matter giving rise to the dispute happened or should reasonably have come to the attention of the party wishing to refer the dispute.

43. For the purposes of this part reference to "any dispute arising out of, or in connection with, the Contract" includes any dispute arising out of, or in connection with, the termination of the Contract.

44. This part shall survive the expiry or termination of the Contract.

*PART 13

[This part is required by paragraph 16 of Schedule 2 to the Regulations]

DUTY TO PROVIDE INFORMATION ABOUT FITNESS TO PRACTISE MATTERS AS THEY ARISE

45. Subject to clauses 64-65, the Contractor must within 7 days of its occurrence supply in writing information to the PCT as to whether he (in the case of an individual who is a contractor), or in the case of a partnership, any partner in the partnership, or where the contractor is a body corporate, any of its directors, its chief executive, its company secretary or its superintendent pharmacist—

(a) has any criminal convictions in the United Kingdom;

(b) has accepted a police caution in the United Kingdom;

(c) has, in summary proceedings in Scotland in respect of an offence, been the subject of an order discharging him absolutely (without proceeding to conviction);

(d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995(**a**) (fixed penalty; conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992(**b**) (penalty as alternative to prosecution);

(e) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;

(f) has been charged with an offence and is currently the subject of any proceedings which might lead to a conviction, which have not yet been notified to the PCT;

(g) has been subject to any investigation into his professional conduct by any licensing or regulatory body; where the outcome was adverse;

(h) is currently subject to any investigation into his professional conduct by any licensing or regulatory body;

(i) is to his knowledge, or has been where the outcome was adverse, the subject of any investigation by the National Health Service Counter Fraud and Security Management Service or NHS Business Services Authority in relation to fraud;

(j) is the subject of any investigation by another Primary Care Trust or equivalent body, which might lead to his removal from any primary care list;

(k) is, or has been where the outcome was adverse, subject to an investigation into his professional conduct in respect of any current or previous employment;

(l) either—

(**a**) 1995 c.46.
(**b**) 1992 c.5; section 115A was inserted by section 15 of the Social Security Administration (Fraud) Act 1997 (c.47).

(i) has been removed or contingently removed from, refused admission to, or conditionally included in, any primary care list kept by another Primary Care Trust or equivalent body, or

(ii) has been suspended from such a list,

on fitness to practise grounds, and if so, why and the name of that Primary Care Trust or equivalent body; or

(m) is the subject of a national disqualification.

and if so, he must give details of any investigation or proceedings which are being or were undertaken or brought, including the nature of that investigation or proceedings, where and approximately when that investigation or those proceedings commenced, and any outcome.

46. A person to whom clause 45 applies must consent to a request being made by the PCT to any employer or former employer or licensing or regulatory body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse.

*PART 14

[This Part is required by paragraphs 26-31 of Schedule 2 to the Regulations (apart from clauses 58(c) and 59)]

VARIATION AND TERMINATION OF THE CONTRACT

Variation of the Contract: general

47. No amendment or variation shall have effect unless it is in writing and signed by or on behalf of the PCT and the Contractor.

48. The PCT may vary the Contract without the Contractor's consent where it—

(a) is reasonably satisfied that it is necessary to vary the Contract so as to comply with *the Act,* any regulations made under *the Act*, or any direction given by the Secretary of State under *the Act*; and

(b) notifies the Contractor in writing of the wording of the proposed variation and the date upon which that variation is to take effect.

49. Where it is reasonably practicable to do so, the date that the proposed variation is to take effect shall be not less than 14 days after the date on which the notice under clause 48(b) is served on the Contractor.

Termination by Agreement

50. The PCT and the Contractor may agree in writing to terminate the Contract, and if the parties so agree, they shall agree the date upon which that termination should take effect and any further terms upon which the Contract should be terminated.

Termination by Notice

51. The Contractor or PCT may terminate the Contract by serving notice of not less than six months in writing on the other party at any time.

52. Where the Contractor or PCT serves notice pursuant to clause 51, the Contract shall terminate on the expiry of the notice period.

Termination by the PCT on grounds of suitability etc.

53. The PCT may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if—

(a) in the case of a Contract with an individual, that individual; or

(b) in the case of a Contract with more than one individual (whether or not practising in partnership), any of those individuals;

falls within clause 55 during the existence of the Contract.

54. The PCT may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if in the case of a Contract with a body corporate, the body corporate, any director, chief executive or secretary of that body, falls within clause 55 during the existence of the Contract.

55. A person falls within clause 55 if—

(a) that person is the subject of a *national disqualification*;

(b) subject to clause 56, that person is disqualified or suspended (other than by an interim suspension order or direction pending an investigation) from practising by any *licensing or regulatory body* anywhere in the world;

(c) that person is removed from, or refused admission to, a *primary care list* by reason of inefficiency, fraud or unsuitability (within the meaning of section 49F(2), (3) and (4) of *the 1977 Act*) unless that person's name has subsequently been included in such a list;

(d) that person has been convicted in the United Kingdom of—

(i) murder; or

(ii) a criminal offence other than murder, committed on or after 1st April 2006, and has been sentenced to a term of imprisonment of over six months;

(e) subject to clause 57 that person has been convicted outside the United Kingdom of an offence—

(i) which would, if committed in England and Wales, constitute murder, or

(ii) committed on or after 1st April 2006, which would if committed in England and Wales, constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;

(f) that person has been convicted of an offence referred to in Schedule 1 to the Children and Young Persons Act 1933(**a**) (offences against children and young persons with respect to which special provision of this Act apply) or Schedule 1 to the Criminal Procedure (Scotland) Act 1995(**b**) (offences against children under the age of 17 years to which special provision apply) committed on or after 1st April 2006;

(g) that person has been convicted of an offence under Part 2 of the Sexual Offences Act 2003(**c**) committed on or after 1st April 2006.

(h) that person has—

(i) been adjudged bankrupt or sequestration of that person's estate has been awarded unless (in either case) that person has been discharged or the bankruptcy order has been annulled;

(**a**) 1933 c.12.
(**b**) 1995 c.46.
(**c**) 2003 c.42.

(ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(**a**), unless that order has ceased to have effect or has been annulled;

(iii) made a composition or arrangement with, or granted a trust deed for, that person's or its creditors unless that person has been discharged in respect of it; or

(iv) been wound up under Part IV of the Insolvency Act 1986;

(i) there is—

(i) an administrator, administrative receiver or receiver appointed in respect of that person; or

(ii) an administration order made in respect of that person under Schedule B1 to the Insolvency Act 1986;

(j) that person has been—

(i) removed from the office of *charity trustee* or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which that person was responsible or to which that person was privy, or which that person by the person's conduct contributed to or facilitated; or

(ii) removed under section 7 of the Law Reform (Miscellaneous Provisions (Scotland) Act 1990 from being concerned in the management or control of any body(**b**);

(**a**) 1986 c.45.

(**b**) Section 7 of the Law Reform (Miscellaneous Provision) (Scotland) Act 1990 has been repealed by the Charities and Trustee Investment (Scotland) Act 2005 section 104, schedule 4 part 1 paragraph 7(b). Similar provisions were included in the Charities and Trustee Investment (Scotland) Act 2005(asp) and these will be reflected in the *Regulations* in due course.

(k) that person is subject to a disqualification order under the Company Directors Disqualification Act 1986(**a**), the Companies (Northern Ireland) Order 1986(**b**) or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under a county court administration order); or

(l) that person (in the case of an individual) has refused to comply with a request by the PCT to be medically examined on the grounds that it is concerned that the person is incapable of adequately providing services under the Contract;

(m) it comes to the attention of the PCT that information provided to it pursuant to regulation 12 or 17 of *the Regulations*, or in accordance with a term of the Contract required by paragraph 16 of *the Regulations,* was when given, untrue or inaccurate in a material respect.

56. The PCT shall not terminate the Contract pursuant to clause 55.(b) where the PCT is satisfied that the disqualification or suspension imposed by a *licensing body or a regulatory body* outside the United Kingdom does not make the person unsuitable to be—

(a) a Contractor; or

(b) in the case of a Contract with a body corporate, a director, chief executive, superintendent or company secretary of the body corporate.

57. The PCT shall not terminate the Contract pursuant to clause 55.(e)(i) and 55.(e)(ii) where the PCT is satisfied that the conviction does not make the person unsuitable to be—

(a) a Contractor; or

(**a**) 1986 c.46, as amended by the Insolvency Act 2000 (c.39).
(**b**) S.I.1986/1032 (N.I.6).

(b) in the case of a Contract with a body corporate, a director, chief executive superintendent or company secretary of a contractor.

Termination by the PCT: patient safety and material financial loss [and material failure in respect of technical specifications]

58. The PCT may serve notice in writing on the Contractor terminating the Contract with immediate effect or with effect from such date as may be specified in the notice if—

(a) the Contractor has breached the Contract and as a result of that breach, the safety of the Contractor's patients is at serious risk if the Contract is not terminated; or

(b) the Contractor's financial situation is such that the PCT considers that the PCT is at risk of material financial loss; or

(c) the Contractor has unjustifiably failed to a material degree to achieve a key performance indicator.

Consequences of termination

[This section is not required by the Regulations but may be inserted if desired]

59. (a) The termination of the Contract, for whatever reason, is without prejudice to the accrued rights of either party under the Contract.

(b) On the termination of the Contract for any reason, the Contractor shall—

(i) subject to the requirements of this clause, cease performing any work or carrying out any obligations under the Contract;

(ii) co-operate with the PCT to enable any outstanding matters under the Contract to be dealt with or concluded in a satisfactory manner; and

(iii) co-operate with the PCT to enable the Contractor's patients to be transferred to one or more other contractors, which includes providing reasonable information about individual patients to such other appropriate person or persons as the PCT specifies;

[If the PCT has lent any property such as computer hardware and software, drugs or, appliances which may be in the Contractor's possession or control, the contract may include provision for the return of such property here];

(c) Subject to paragraphs (d) to (f) the PCT's obligation to make payments to the Contractor in accordance with the Contract shall cease on the date of termination of the Contract.

(d) On termination of the Contract or termination of any obligations under the Contract for any reason, the PCT shall perform a reconciliation of the payments made by the PCT to the Contractor and the value of the work undertaken by the Contractor under the Contract. The PCT shall serve the Contractor with written details of the reconciliation as soon as reasonably practicable, and in any event no later than three months after the termination of the Contract.

(e) If the Contractor disputes the accuracy of the reconciliation, the Contractor may refer the dispute to the NHS *dispute resolution procedure* in accordance with the terms of the Contract with written details of the reconciliation. The parties shall be bound by the determination of the dispute.

(f) If after [*insert period*] of the date on which the reconciliation referred to in (e) above is served on the Contractor beginning on the day the PCT served the reconciliation, the Contractor has not disputed the reconciliation, that reconciliation will be the amount either payable to the contractor or recoverable from the contractor, whether or not, if the reconciliation statement had been disputed, that would have led to an amended reconciliation.

(g) Subject to (f) above each party shall pay the other any monies due within three months of the date on which the PCT served the Contractor with written details of the reconciliation, or the conclusion of the *NHS dispute resolution procedure;* as the case may be;

(h) The obligations contained in clauses (d) to (f) shall continue to apply notwithstanding the termination of the Contract.

***PART 15**

[This part is required by the Regulations]

CHARGES FOR DRUGS AND REFUNDS

[This clause is required by paragraph 18 of Schedule 2 to the Regulations]

60. (a) Subject to regulations made under section 77 of *the 1977 Act* (charges for drugs, medicines or appliances, or pharmaceutical services), all drugs, containers and appliances provided under the Contract shall be provided free of charge.

(b) Where the Contractor supplies a container in response to an order for drugs signed by a prescriber, other than equipment specified in the Drug Tariff as not returnable to the Contractor, the container and equipment shall remain the property of the Contractor.

(c) Where any person who is entitled to a repayment of any charge paid under the Charges Regulations presents the Contractor with a valid claim for the repayment within three months of the date on which the charge was paid, the Contractor shall make the repayment.

(d) For the purposes of paragraph (c), a claim for repayment is only valid if duly made on form FP57 0405 or form PF 57 0403, available from the PCT.

INDUCEMENTS ETC

[These clauses are required by paragraph 15 of Schedule 2 to the Regulations]

61. A Contractor or its staff shall not give, promise or offer to any person any gift or reward (whether by way of a share of or dividend on the profits of the business or by way of discount or rebate or otherwise) as inducement to or in consideration of that person presenting an Order for drugs or appliances on a non-electronic prescription form or non-electronic repeatable prescription.

62. A Contractor or its staff shall not give, promise or offer to any person any gift or reward (whether by way of a share of or dividend on the profits of the business or by way of discount or rebate or otherwise) as inducement to or in consideration of that person nominating the Contractor as his dispensing Contractor (or one of them) in his NHS Care Record.

63. Promising, offering or providing an auxiliary aid in relation to the supply of drugs or a home delivery service is not a gift or reward for the purpose of clauses 61 and 62.

HOME PRIMARY CARE TRUSTS OF BODIES CORPORATE

[These clauses are required by paragraph 17 to Schedule 2 to the Regulations]

64. Where a Contractor is a body corporate with a registered office in England, the information to be provided under clause 45 may be provided instead to the relevant home PCT, if the Contractor also provides the relevant home PCT with details of other PCTs:—

(a) with which it has entered or applied to enter into a Contract for local pharmaceutical services; or

(b) which has included it or to which it has applied to be in a pharmaceutical list.

65. For the purposes of this part, the “relevant home PCT” means the PCT in which the registered office of the Contractor is located.

PART 16

ENTIRE AGREEMENT

66. This Contract constitutes the entire agreement between the parties with respect to its subject matter.

67. The Contract supersedes any prior agreements, negotiations, promises, conditions or representations, whether written or oral, and the parties confirm that they did not enter into the Contract on the basis of any representations that are not expressly incorporated into the Contract. However, nothing in this Contract purports to exclude liability on the part of either party for fraudulent misrepresentation.

NON-SURVIVAL OF TERMS

68. Unless expressly provided, no term of this Contract shall survive expiry or termination to this Contract. Express provision is made in relation to:—

(i) Part 11 – Complaints
(ii) Part 12 – Dispute resolution
(iii) Clause 59 – Consequences of Termination
(iv) Clauses 69 – 70 – Governing Law and Jurisdiction
(v) *[insert any other terms]*

GOVERNING LAW AND JURISDICTION

69. This Contract shall be governed by and construed in accordance with English law.

70. Without prejudice to the dispute resolution procedures contained in this Contract, in relation to any legal action or proceedings to enforce this Contract or arising out of or in connection with this Contract, each party agrees to submit to the exclusive jurisdiction of the courts of England.

71. Clauses 69 and 70 shall continue to apply notwithstanding the termination of the Contract.

WAIVER, DELAY OR FAILURE TO EXERCISE RIGHTS

72. The failure or delay by either party to enforce any one or more of the terms or conditions of this Contract shall not operate as a waiver of them, or of the right at any time subsequently to enforce all terms and conditions of this Contract.

FORCE MAJEURE

73. Neither party shall be responsible to the other for any failure or delay in performance of its obligations and duties under this Contract which is caused by circumstances or events beyond the reasonable control of a party. However, the affected party must promptly on the occurrence of such circumstances or events:—

(a) inform the other party in writing of such circumstances or events and of what obligation or duty they have delayed or prevented being performed; and

(b) take all action within its power to comply with the terms of this Contract as fully and promptly as possible.

74. Unless the affected party takes such steps, clause 73 shall not have the effect of absolving it from its obligations under this Contract. For the avoidance of doubt, any actions or omissions of either party's personnel or any failures of either party's systems, procedures, premises or equipment shall not be deemed to be circumstances or events beyond the reasonable control of the relevant party for the purposes of this clause, unless the cause of failure was beyond reasonable control.

75. If the affected party is delayed or prevented from performing its obligations and duties under the Contract for a continuous period of 3 months, then either party may terminate this Contract by *notice* in writing within such period as is reasonable in the circumstances (which shall be no shorter than six months).

76. The termination shall not take effect at the end of the *notice* period if the affected party is able to resume performance of its obligations and duties under the Contract within the period of *notice* specified in accordance with clause 75, or if the other party otherwise consents.

SEVERANCE

77. Subject to clauses 78 and 79, if any term of this Contract is held to be invalid, illegal or unenforceable by any court, tribunal or other competent authority, such term shall, to the extent required, be deemed to be deleted from this Contract and shall not affect the validity, lawfulness or enforceability of any other terms of the Contract.

78. If, in the reasonable opinion of either party, the effect of such a deletion is to undermine the purpose of the Contract or materially prejudice the position of either party, the parties shall negotiate in good faith in order to agree a suitable alternative term to replace the deleted term or a suitable amendment to the Contract.

79. If the parties are unable to reach agreement as to the suitable alternative term or amendment within a reasonable period of commencement of the negotiations, then the parties may refer the dispute for determination in accordance with the dispute resolution procedure set out in Part 12 of this Contract.

SERVICE OF NOTICE

80. (a) Save as otherwise specified in this Contract or where the context otherwise requires, any notice or other information required or authorised by this contract to be given by either party to the other party must be in writing and may be served:—

(i) personally;

(ii) by post, or where specified in the contract or the Regulations by registered or recorded delivery post;

(iii) by telex or facsimile transmission (in the latter case) confirmed telex or post

(iv) electronic mail; or

(v) by any other means which the PCT specifies by notice to the Contractor.

(b) Any notice or other information shall be sent to the address specified in the Contract or such other address as the PCT or the Contractor has notified to the other.

(c) Any notice or other information shall be deemed to have been served or given

(i) if it was served personally, at the time of service;

(ii) if it was served by post, two working days after it was posted;

(iii) if it was served by telex, electronic mail or facsimile transmission and if sent outside normal business hours then on the following working day.

(d) Where notice or other information is not given or sent in accordance with this clause such notice or other information is invalid unless the person receiving it elects, in writing, to treat it as valid.

MONITORING AND REVIEW

81. This contract will be monitored by the PCT every [insert period] and will be reviewed by the parties on [insert date], and thereafter on [insert date] [and so on].

SIGNATUREs

Signed by

For and on behalf of the PCT

Signed by

In the presence of

[The Contract must be signed by all persons with power to bind the Contractor.]

SCHEDULE 1 (INDIVIDUAL)

[Please use this form if the contractor is an individual]

Part 1

The PCT whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is an individual providing services from a *pharmacy* whose name, address, telephone number, fax number (if any) and email address (if any) is: [Please provide the address to which official correspondence and *notice* should be sent.]

If there is any change to the addresses and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give *notice* in writing to the other party as soon as is reasonably practicable.

Part 3

The pharmacy address is:

SCHEDULE 1 (PARTNERSHIP)

[Please use this form if the contractor is a general or limited partnership]

Part 1

The PCT whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is a [limited] partnership providing services from a *pharmacy* whose name and registered office is:

The address to which official correspondence and *notice*s may be sent is, and the contact telephone number, fax number (if any) and email address (if any) is:

If there is any change to the address and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give *notice* in writing to the other party as soon as is reasonably practicable.

Part 3

The pharmacy address is:

The names of the partners at the date of signature of this Contract are:

SCHEDULE 1 (CORPORATE BODY)

[Please use this form if the contractor is a corporate body]

Part 1

The PCT whose name, address, telephone number, fax number and email address (if any) is:

Part 2

The Contractor is a corporate body providing services from a *pharmacy* whose name and registered office is:

The address to which official correspondence and *notice*s may be sent is, and the contact telephone number, fax number (if any) and email address (if any) is:

If there is any change to the address and contact details specified in Part 1 or Part 2 of this Schedule, the party whose details have changed must give *notice* in writing to the other party as soon as is reasonably practicable.

Part 3

The pharmacy address is:

SCHEDULE 2

DISPENSING SERVICES

*PART 1 – GENERAL OBLIGATIONS

[*Part 1 is required by paragraphs 2 to 26 of Schedule 2 to the Regulations apart from paragraph 1]*

1. The Contractor shall, to the extent that paragraphs 2 to 26 requires and in the manner described in those paragraphs, provide proper and sufficient drugs and appliances to persons presenting prescriptions for drugs or appliances; subject to the restrictions set out in paragraph 2.

RESTRICTIONS ON THE SUPPLY OF DRUGS AND APPLIANCES

2. Where a Contract is limited to the provision of specified drugs or appliances, as specified in sub-paragraphs *[insert sub-paragraph numbers]*, the Contractor must not provide other drugs or appliances at the premises from which he has undertaken to provide local pharmaceutical services under that scheme.

3. Where the services to be provided under the Contract include the supply of appliances—

3.1 the only appliances that may be supplied are listed appliances; and

3.2. those appliances must be supplied in accordance with the provisions of the Notes, and the List of Technical Specifications, which appear at the beginning of Part 1X of the Drug Tariff, which apply at the time of supply.

4. Where the services to be provided under the Contract include the supply of chemical reagents, the only chemical reagents which may be supplied are those listed from time to time in Part 1XR of the Drug Tariff.

5. Where the provision of services under the Contract is limited to—

5.1 a specified class of persons (for example persons who require the provision of local pharmaceutical services for the treatment of a specified disease or condition); or

5.2 persons residing in a particular place (for example persons in a specified residential home;

the Contractor must not provide services under this Contract to persons other than those so specified.

6. [ ] *[Insert any other restrictions on the supply of drugs and appliances imposed by the Contract here. The restrictions imposed must comply with the requirements set out in paragraph 2 of Schedule 2 to the Regulations.]*

[ ]

[ ]

[ ]

DISPENSING OF DRUGS AND APPLIANCES

7. Subject to paragraphs 2 to 6**,** where any person presents a *non-electronic prescription form* which
contains—

7.1 an order for drugs, not being *Scheduled drugs*, or for an appliance, not being a *restricted availability appliance*, signed by a *prescriber*,

7.2 an order for a drug specified in Schedule 2 to the *Prescription of Drugs Regulations*, signed by a *prescriber* and including the reference “SLS”, or

7.3 an order for a *restricted availability appliance*, signed by a *prescriber* and including the reference “SLS”;

the Contractor shall, with reasonable promptness, provide the drugs so ordered, and such of the appliances so ordered as it supplies in the normal course of its business.

8. Subject to paragraphs 2-6 where the Contractor receives from the *ETP Service* an electronic prescription form which contains an order of a kind specified in paragraphs 7.1 to 7.3, and

8.1 any person requests the provision of drugs or appliances in accordance with that prescription, or

8.2 the Contractor has previously arranged with the patient that he will dispense that prescription on receipt,

the Contractor shall with reasonable promptness provide the drugs so ordered, and such of the appliances so ordered as it supplies in the normal course of its business.

9. Subject to paragraphs 2-6, and the following provisions of this schedule, where the Contract includes the provision of repeat dispensing services, and where any person presents a non-electronic repeatable prescription which contains—

9.1 an order for drugs, not being a *Scheduled drug* or a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001, signed by a repeatable *prescriber*,

9.2 an order for a drug specified in Schedule 2 to the *Prescription of Drugs Regulations*, not being a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001, signed by a repeatable *prescriber* and including the reference “SLS”,

9.3 an order for an appliance, not being a *restricted availability appliance*, signed by a repeatable *prescriber*, or

9.4 an order for a *restricted availability appliance*, signed by a repeatable *prescriber*, and including the reference “SLS”,

and also presents an associated batch issue; the Contractor shall, with reasonable promptness, provide the *drugs* so ordered, and such of the *appliances* so ordered as it supplies in the normal course of its business.

10. Subject to paragraphs 2-6, and the following provisions of this schedule, where the Contractor receives from the *ETP Service* an electronic repeatable prescription which contains an order of a kind specified in paragraphs 9.1 to 9.4 and any person requests the provision of a d*rug* or an *appliance* in accordance with that *repeatable prescription* the Contractor shall, with reasonable promptness, provide the *drugs* so ordered, and such of the *appliances* so ordered as it supplies in the normal course of its business.

11 Subject to paragraphs 2-6, and the following provisions of this schedule, where the Contractor receives from the *ETP Service* an electronic repeatable prescription which contains an order of a kind specified in paragraphs 9.1 to 9.4 and the Contractor has previously arranged with the patient that it will dispense that *repeatable prescription* on receipt, the Contractor shall, with reasonable promptness, provide the *drugs* so ordered, and such of the *appliances* so ordered as it supplies in the normal course of its business.

12. The Contractor shall not provide under an *electronic prescription form* a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulation 2001.

13. For the purposes of paragraphs 7 to 13, a *non-electronic repeatable prescription* for *drugs* or *appliances* shall be taken to be presented even if the person who wishes to obtain the *drug* or *appliance* does not present that *prescription*, where—

13.1 the Contractor has that *prescription* in its possession, and

13.2 that person presents, or the Contractor has in its possession, an *associated batch issue*.

URGENT SUPPLY WITHOUT A PRESCRIPTION

14. Where, in a case of urgency, a *prescriber* personally known to the Contractor requests it to provide a drug, the Contractor may provide that drug (where it would otherwise be able to provide the drug in accordance with the Contract) before receiving a *prescription form* or a *repeatable prescription*, provided that—

14.1 that drug is not a *Scheduled drug*;

14.2 that drug is not a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001 and;

14.3 the *prescriber* undertakes to—

14.3.1 give the Contractor a *non-electronic prescription form* or *non-electronic repeatable prescription* in respect of the drug within 72 hours, or

14.3.2 transmit to the *ETP service* within 72 hours an electronic prescription.

PRELIMINARY MATTERS BEFORE PROVIDING ORDERED DRUGS OR APPLIANCES

15. If a person specified in paragraph 16 asks the Contractor to do so −

15.1 the Contractor shall give an estimate of the time when the *drugs* or *appliances* will be ready; and

15.2 if they are not ready by then, the Contractor shall give a revised estimate of the time when they will be ready (and so on).

16. A person referred to in paragraph 15 is a person—

16.1 presenting a non-*electronic prescription form* or *non-electronic repeatable prescription*; or

16.2 requesting the provision of *drugs* or *appliances* in accordance with an *electronic prescription form* or a *repeatable prescription*.

17. Before providing any *drugs* or *appliances* in accordance with a *prescription form* or a *repeatable prescription* the Contractor shall ask any person who makes a declaration that the person named on the *prescription form* or the *repeatable prescription* does not have to pay the charges specified in Regulation 3(1) or (1A) of the *Charges Regulations* by virtue of either—

17.1 entitlement to exemption under regulation 7(1) of the *Charges Regulations*; or

17.2 entitlement to remission of charges under Regulation 5 of the *Remission of Charges Regulations,*

to produce satisfactory evidence of such entitlement, unless the declaration is in respect of entitlement to exemption by virtue of sub-paragraph (a), (c), (d), (e), (f), or (g) of regulation 7(1) of the *Charges Regulations* or in respect of entitlement to remission by virtue of regulation 5(1)(e) or (2) of the *Remission of Charges Regulations*, and at the time of the declaration the Contractor already has such evidence available to it.

18. If in the case of a *non-electronic prescription form* or a non-electronic repeatable prescription no satisfactory evidence is produced to the Contractor, as required by paragraph 17, the Contractor shall endorse the form on which the declaration is made to that effect.

19. In the case of an *electronic prescription*, the Contractor shall transmit to the *ETP service*—

19.1 in a case where exemption from or remission of charges is claimed for all or some of the items included in the prescription, a record of—

19.1.1 the exemption category specified in regulation 7(1) of the *Charges Regulations* or the ground for remission under regulation 5 of the *Remission of Charges Regulations* which it claimed applies to the case, and

19.1.2 whether or not satisfactory evidence was produced to it as required by paragraph 17;

19.2 in any case where a charge is due, confirmation that the relevant charge was paid; and

19.3 in a case of a prescription for or including contraceptive substances, confirmation that no charge was payable in respect of those substances.

PROVIDING ORDERED DRUGS OR APPLIANCES

20. Where the Contractor is presented with, or receives from the *ETP service*, a *prescription form* or a *repeatable prescription*, the Contractor shall only provide *drugs* or *appliances* so ordered—

20.1 if the *prescription form* or *repeatable prescription* is duly signed and completed as described in paragraph 7 or 9; and

20.2 in accordance with the order on the *prescription form* or *repeatable prescription*,

subject to any regulations in force under the Weights and Measures Act 1985(**a**) and the following provisions of this Schedule.

a 1985 c72.

21. If the order is for an appliance of a type requiring measuring and fitting by the Contractor (for example a truss), the Contractor shall make all necessary arrangements for—

21.1 measuring the person named on the *prescription form* or *repeatable prescription* for the *appliance*; and

21.2 fitting the *appliance*.

22. If the order is for a drug or appliance included in the *Drug Tariff* the British National Formulary (including any appendix published as part of that Formulary), the Dental Practitioners Formulary, the European Pharmacopoeia or the British Pharmaceutical Codex, the drug or *appliance* provided shall comply with the standard or formula specified therein.

23. If the order—

23.1 is an order for a drug; but

23.2 is not an order for a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001,

and does not prescribe its quantity, strength or dosage, the Contractor may provide the drug in such strength and dosage as in the exercise of its professional skill, knowledge and care it considers to be appropriate, and subject to paragraph 24, in such quantity as it considers to be appropriate for a course of treatment for a period not exceeding 5 days.

24. Where an order to which paragraph 23 applies is for—

24.1 an oral contraceptive substance;

24.2 a drug, which is available for supply as part of *local pharmaceutical services* only together with one or more other drugs; or

24.3 an antibiotic in a liquid form for oral administration in respect of which pharmaceutical considerations require its provision in an unopened package,

which is not available for provision as part of *local pharmaceutical services* except in such packages that the minimum size available contains a quantity appropriate to a course of treatment for a period of more than 5 days the Contractor may provide the minimum size available package.

25. Where any drug to which this paragraph applies (that is, a drug that is not one to which the Misuse of Drugs Act 1971 applies, unless it is a drug for the time being specified in Schedule 5 to the Misuse of Drugs Regulations 2001), ordered by a *prescriber* on a *prescription form* or a *repeatable prescription*, is available for provision by the Contractor in a pack in a quantity which is different to the quantity which has been so ordered, and that drug is—

25.1 sterile;

25.2 effervescent or hygroscopic;

25.3 a liquid preparation for addition to bath water;

25.4 a coal tar preparation;

25.5 a viscous preparation; or

25.6 packed at the time of its manufacture in a calendar pack or a special container, and

25.6.1 for the purposes of paragraphs 20 to 30—

(i) "calendar pack" means a blister or strip pack showing the days of the week or month against each of the several units in the pack; and

(ii) "special container" means any container with an integral means of application or from which it is not practicable to dispense an exact quantity,

the Contractor shall, subject to paragraph 26, provide the drug in the pack whose quantity is nearest to the quantity which has been so ordered.

26. The Contractor shall not provide, pursuant to paragraph 25, a drug in a calendar pack where, in its opinion, it was the intention of the *prescriber* who ordered the drug that it should be provided only in the exact quantity ordered.

27. Except as provided in paragraph 28, the Contractor shall not provide a *Scheduled drug* in response to an order by name, formula or other description on a *prescription form* or *repeatable prescription*.

28. Where a drug has an appropriate *non-proprietary name* and it is ordered on a *prescription form* or *repeatable prescription* either by that name or by its formula, the Contractor may provide a drug which has the same specification notwithstanding that it is a *Scheduled drug*, provided that where a *Scheduled drug* is in a pack which consists of a drug in more than one strength, such provision does not involve the supply of part only of the pack.

29. Where a drug which is ordered as specified in paragraph 28 combines more than one drug, that paragraph shall apply only if the combination has an appropriate *non-proprietary name*, whether the individual *drugs* which it combines do so or not.

30. The Contractor shall provide any drug, which he is required to provide under paragraphs 7 to 13 in a suitable container.

REFUSAL TO PROVIDE DRUGS OR APPLIANCES ORDERED

31. The Contractor may refuse to provide drugs or appliances ordered on a prescription form or repeatable prescription where—

31.1 the Contractor reasonably believes that it is not a genuine order for the person named on the *prescription form* or the *repeatable prescription* (for example because it reasonably believes it has been stolen or forged);

31.2 it appears to the Contractor that there is an error on the *prescription form* or on the *repeatable prescription* or, in the case of a *non-electronic repeatable prescription*, its *associated batch issue* (including a clinical error made by the *prescriber*) or that, in the circumstances, providing the *drugs* or *appliances* would be contrary to the Contractor's clinical judgment;

31.3 the Contractor or other persons on the premises are subjected to or threatened with violence by the person presenting the *prescription form* or *repeatable prescription* or requesting the provision of *drugs* or *appliances* in accordance with an *electronic prescription form* or a *repeatable prescription*, or by any person accompanying that person; or

31.4 the person presenting the *prescription form* or *repeatable prescription* or requesting the provision of *drugs* or *appliances* in accordance with an *electronic prescription form* or a *repeatable prescription*, or any other person accompanying that person, commits or threatens to commit a criminal offence.

32. The Contractor shall refuse to provide a drug ordered on a *prescription form* or a *repeatable prescription* where the order is for a prescription only medicine which the *prescriber* was not entitled to prescribe.

33. The Contractor shall refuse to provide *drugs* or *appliances* ordered on a *repeatable prescription* where—

33.1 it has no record of that prescription;

33.2 it does not, in the case of a *non-electronic repeatable prescription*, have any *associated batch issue* and it is not presented to it;

33.3 it is not signed by a repeatable *prescriber;*

33.4 to do so would not be in accordance with any intervals specified in the prescription;

33.5 it would be the first time a drug or *appliance* had been provided pursuant to the prescription and the prescription was signed (whether electronically or otherwise) more than 6 months previously;

33.6 the *repeatable prescription* was signed (whether electronically or otherwise) more than one year previously;

33.7 the expiry date on the *repeatable prescription* has passed; or

33.8 where it has been informed by the repeatable *prescribe*r that the prescription is no longer required.

34. Where a patient requests the supply of *drugs* or *appliances* ordered on a *repeatable prescription* (other than on the first occasion that it makes such a request), the Contractor shall only provide *drugs* or *appliances* ordered if it is satisfied—

34.1 that the patient to whom the prescription relates—

34.1.1 is taking or using, and is likely to continue to take or use, the drug or appliance appropriately, and

34.1.2 is not suffering from any side effects of the treatment which indicates the need or desirability of reviewing the patient's treatment;

34.2 that the medication regimen of the patient to whom the prescription relates has not altered in a way which indicates the need or desirability of reviewing the patient's treatment; and

34.3 there have been no changes to the health of the patient to whom the prescription relates which indicates the need or desirability of reviewing the patient's treatment.

FURTHER ACTIVITIES TO BE CARRIED OUT IN CONNECTION WITH THE PROVISION OF DISPENSING SERVICES

35. In connection with the services provided under paragraphs 7 to 34, the Contractor shall—

35.1 ensure that appropriate advice is given to patients about any *drugs* or *appliances* provided to them—

35.1.1 to enable them to utilise the *drugs* or *appliances* appropriately, and

35.1.2 to meet the patient's reasonable needs for general information about the *drugs* or *appliances*;

35.2 provide appropriate advice to patients to whom they provide *drugs* or *appliances* on—

35.2.1 the safe keeping of the *drugs* or *appliances*, and

35.2.2 returning unwanted *drugs* or *appliances* to the pharmacy for safe destruction;

35.3 provide a patient with a written note of any drug or appliance which is owed, and inform the patient when it is expected that the drug or appliance will become available;

35.4 keep and maintain records—

35.4.1 of *drugs* and appliances provided, in order to facilitate the continued care of the patient;

35.4.2 in appropriate cases, of advice given and any interventions or referrals made (including clinically significant interventions in cases involving repeatable prescriptions); and

35.4.3 of notes provided under paragraph 35.3;

35.5 if it provides a drug or *appliance* under an *electronic prescription*, provide the patient, if that patient so requests, with a written record of the *drugs* or appliances ordered on that prescription and, in the case of an *electronic repeatable prescription* of the number of occasions on which it can be dispensed; and

35.6 ensure that where a person is refused *drugs* or *appliances* pursuant to paragraphs 31.2, 32, 33 or 34, the patient is referred back to the *prescriber* for further advice.

ADDITIONAL REQUIREMENTS IN RELATION TO ELECTRONIC PRESCRIBING

36. The Contractor shall, if requested to do so by any person—

36.1 explain to the person the *ETP service*, whether or not it is a service which is available through its *pharmacy*; and

36.2 where the *ETP service* is not available through its *pharmacy* provide the person with contact details of at least two pharmacies in the person's area through which the service is available, if these details are known to the Contractor.

37. Where the *ETP service* is available through its *pharmacy*, the Contractor shall, if requested to do so by any person, enter in that persons *NHS Care Record*—

37.1 where a person does not have a nominated dispensing Contractor, the dispensing Contractor chosen by that person; and

37.2 where the person does have a *nominated dispensing Contractor*—

37.2.1 a replacement dispensing Contractor, or

37.2.2 a further dispensing Contractor,

chosen by that person; provided the number of nominated dispensing contractors for that person would not exceed the maximum number permitted by the ETP service.

FURTHER ACTIVITIES IN CONNECTION WITH THE PROVISION OF DISPENSING SERVICES UNDER A REPEATABLE PRESCRIPTION AND BATCH ISSUES

38. In connection with the services provided under paragraphs 7 to 34, a Contractor must—

38.1 provide appropriate advice to patients to whom it provides *drugs* or *appliances* in accordance with a *repeatable prescription*, in particular on the importance of only requesting those items which they actually need;

38.2 undertake appropriate training in respect of repeat dispensing, having regard to any recommendations in respect of such training set out in the *Drug Tariff*;

38.3 if it takes possession of a *non-electronic repeatable prescription* or an *associated batch issue*, securely store that *repeatable prescription* or *associated batch issue*;

38.4 maintain records of *repeatable prescriptions* in such a form as to provide a clear audit trail of supplies under the *repeatable prescription* (including dates and quantities supplied);

38.5 destroy any surplus batch issues relating to *drugs* or *appliances*—

38.5.1 which are not required, or

38.5.2 where a patient is refused the *drugs* or *appliances* pursuant to paragraphs 31-34;

38.6 where a patient is provided with *drugs* or *appliances* under a *repeatable prescription*, notify the prescriber of any clinically significant issues arising in connection with the prescription and keep a record of that notification; and

38.7 notify the prescriber of any refusal to provide *drugs* or *appliances* pursuant to paragraph 32.

INDEPENDENT PRESCRIBING SERVICE

[These clauses are required by paragraph 3(5) and (6) of Schedule 2 to the Regulations where the Contractor has contracted to provide an Independent Prescribing Service under the Contract]

39. Where a Contractor has made arrangements with the PCT to provide an Independent Prescribing Service under the Contract, and a pharmacist independent prescriber is authorised or required both to prescribe and to dispense a drug or appliance to a person under those arrangements, the pharmacist independent prescriber shall provide an Independent Prescribing Service and shall—

39.1 do so in accordance with paragraphs 15 to 19, and 31 to 34 (as applicable);

39.2 in connection with doing so, act in accordance with paragraphs 35 to 37;

39.3 record the order on a *prescription form*;

39.4 provide the drug or *appliance* in a suitable container;

39.5 only provide a drug specified in Schedule 2 to the Prescription of Drugs Regulations where the conditions specified in paragraph 42(2) of Schedule 6 to the *GMS Contracts Regulations* are satisfied; and

39.6 only provide a *restricted availability appliance* if the patient is a person, or it is for a purpose, specified in the *Drug Tariff;*

but the Contractor must not provide drugs or appliances ordered by a pharmacist independent prescriber under the Contract unless it has made such arrangements.

40. The Contractor must only provide *drugs* and *appliances* ordered on a *prescription form* or a *repeatable prescription*, or by it or on its behalf by a pharmacist independent prescriber, in circumstances where the supervising pharmacist (whether or not the supervising pharmacist is the Contractor) is not someone—

40.1 who is *suspended* from a *primary care list*;

40.2 who is subject to a *national disqualification*; or

40.3 who—

40.3.1 has been disqualified under section 46(**a**)(2)(b) of the *1977 Act* (or under any corresponding provision in Scotland or Northern Ireland) from inclusion in the pharmaceutical list of a Primary Care Trust (or Local Health Board, Health Board or Health and Social Services Board), and

40.3.2 is the subject of a declaration under section 46(2)(c) of the *1977 Act* (or any corresponding provision in Scotland or Northern Ireland)

(**a**) Section 46 was repealed by the 2001 Act, Schedule 5, paragraph 5, and Schedule 6 , Part 1.

that he is not fit to be engaged in any capacity in the provision of pharmaceutical services.

SCHEDULE 2

PART 2 SPECIFIC OBLIGATIONS

[details of type of service]

[Insert times at which services to be provided]

[Insert title of relevant guidance]

SCHEDULE 3

PHARMACY HOURS

1. The Contractor shall provide at all times, an up to date record of the days on which and times at which it has agreed with the PCT to provide *local pharmaceutical services* and/or other services.

2. Where the Contract so provides, the Contractor may change the days on which, or times at which, services are to be provided at premises from which he has undertaken to provide services provided it supplies the PCT with a return informing it of the change by giving notice of not less than [*days*] in writing to the PCT.

SCHEDULE 4

REIMBURSEMENT

1. The PCT shall reimburse the Contractor in accordance with the following paragraphs of this Schedule.

Unless otherwise agreed, the Contractor is to be reimbursed in the following manner—

2.1 reimbursement for the provision of drugs is to be made in accordance with the rates and conditions specified in Parts VIII of the *Drug Tariff* from time to time;

2.2 reimbursement for the provision of appliances is to be made in accordance with the rates and conditions specified in Part IXA, IXB and IXC of the *Drug Tariff* from time to time;

2.3 reimbursement for the provision of chemical reagents is to be made in accordance with the rates and conditions specified in Part IXR of the *Drug Tariff* from time to time; and

2.4 reimbursement for the provision of containers is to be made in accordance with the rates and conditions specified in Part IV of the *Drug Tariff* from time to time.

2. The amount paid by way of reimbursement to the Contractor is to be reduced by an amount calculated in accordance with the prices and rates specified in Part V of the *Drug Tariff* at the time of payment, but no deduction shall be made in respect of prescriptions for items specified at that time in Zero Discount Lists A and B of Part II of the *Drug Tariff* for which the Contractor has not been able to obtain discount.

3. The total of prices specified in Part V of the *Drug Tariff* is the total of the prices of items specified in paragraphs 2.1, 2.2 and 2.3, calculated in accordance with the provisions of the *Drug Tariff* specified in those paragraphs.

4. The PCT shall reimburse the Contractor in accordance with this Schedule subject to any deductions required to be made by regulations made under Section 164 of *the Act.*

5. The prices payable for drugs, appliances and chemical reagents shall be calculated in accordance with the following provisions of the *Drug Tariff*, as they apply at the time of payment—

6.1 clauses 7, 8, 10, 12 and 13 of Part II; and

6.2 Part VII.

SCHEDULE 5

PAYMENT SCHEDULE

1. PAYMENT SCHEDULE

[*insert payment schedule*]

2. DETAILS IN RESPECT OF PAYMENTS TO THE CONTRACTOR *[see part 7]*

[*insert any details of payments*]

3. CONDITIONS RELATING TO PAYMENTS *[See part 7]*

[insert any conditions relating to payments]