

DATED 01st April 2024

(1) CAMBRIDGESHIRE COUNTY COUNCIL

and

(2) [PHARMACY PRACTICE]

AGREEMENT FOR
THE PROVISION OF PHARMACY PRACTICE SERVICES - 2024/2027



Pathfinder Legal Services Ltd
3rd Floor Pathfinder House,
St Mary's Street,
Huntingdon,
PE29 3TN
REF: CCC700/092

BETWEEN

- (1) **CAMBRIDGESHIRE COUNTY COUNCIL** of New Shire Hall, Emery Crescent, Enterprise Campus, Alconbury Weald, Huntingdon, PE28 4YE (the "**Council**"); and
- (2) **[XXX]** whose registered office is at **[XXX]** (the "**Pharmacy Practice**").

BACKGROUND:

- (A) In reliance upon the skill, knowledge and experience of the Pharmacy Practice the Council has appointed the Pharmacy Practice to provide the Services.
- (B) The Pharmacy Practice agrees to accept the appointment in accordance with the terms and conditions of this Agreement.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement unless the context otherwise requires the definitions set out below shall apply.

"Administrator"	the Council officer responsible for the monitoring and management of this Agreement whose details are set out in Schedule 4, or such other person as the Council may otherwise advise in writing;
"Agreement"	this agreement, its terms and conditions, schedules and any other document attached;
"Bribery Act"	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;
"Commencement Date"	01 st April 2024;
"Commercially Sensitive Information"	the information listed in Schedule 5 comprising the information of a commercially sensitive nature relating to the Pharmacy Practice, its intellectual property rights or its business or which the Pharmacy Practice has indicated to the Council that, if disclosed by the Council, would cause the Pharmacy Practice significant commercial disadvantage or material financial loss;
"Confidential Information"	all confidential information (however recorded or preserved) disclosed by a party or its representatives to the other party and that party's representatives in connection with this Agreement, including but not limited to:

- a. any information that would be regarded as confidential by a reasonable business person relating to: (i) the business, affairs, customers, Pharmacy Practices or plans of the disclosing party; and (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party;
- b. any information developed by the parties in the course of carrying out this Agreement;
- c. Personal Data;
- d. any Commercially Sensitive Information.

“Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer”	the same meaning as set out in the UK GDPR;
“Data Protection Legislation”	(i) all applicable UK law relating to the processing of personal data and privacy, including but not limited to the UK GDPR, and the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and (ii) (to the extent that it may be applicable) the EU GDPR). The UK GDPR and EU GDPR are defined in section 3 of the Data Protection Act 2018;
“Data Loss Event”	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;
“Data Subject”	the same meaning as set out in the UK GDPR;
“Data Subject Request”	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to Data Protection Legislation to access their Personal Data.
“DPA 2018”	Data Protection Act 2018;
“Environmental”	the Council's Net Zero Cambridgeshire 2045 Mandatory Policy, committed to the prevention of pollution, reduction of CO2 emissions, and the minimisation of environmental impacts associated with all Council activities, products and services in accordance with the Environment Act 2021 (Commencement No. 3) Regulations 2022;
“EU GDPR”	the General Data Protection Regulation (EU) 2016/679);
“Expiry Date”	31 st March 2027;

“Fees”	the fees payable to the Pharmacy Practice by the Council under the Agreement for the full and proper performance by the Pharmacy Practice of its obligations under this Agreement, as set out in Schedule 3;
“Force Majeure Event”	any cause materially affecting the performance of the Services under the Agreement arising from any act, events, omissions, happenings or non-happenings beyond the parties reasonable control including, without limitation, acts of God, war, riot, fire, flood or any disaster affecting either of the parties but will not mean any labour dispute between the Pharmacy Practice and the Pharmacy Practice’s employees, agents or sub-contractors;
“Good Industry Practice”	standards, practices, methods and procedures conforming to the Laws and with all due skill and care, diligence, prudence and foresight which would be expected from a skilled and appropriately experienced, qualified and trained person or body engaged in a similar type of undertaking under the same or similar circumstances;
“Guidance”	any applicable health or social care guidance, guidelines, direction or determination, framework, code of practice, standard or requirement to which the Pharmacy Practice has a duty to have regard (and whether specifically mentioned in this Agreement or not), to the extent that the same are published and publicly available or the existence or contents of them have been notified by any relevant Regulatory Body;
“Initial Term”	the period of 3 years commencing on the Commencement Date and ending on the Expiry Date;
“Joint Controller”	takes the meaning given in Article 26 of the UK GDPR;
“Laws”	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply;
“NHS Employment Check Standards”	the pre-appointment checks that are required by Law, those that are mandated by any Regulatory Body policy, and those that are required for access to Service User Health Records: http://www.nhsemployers.org/your-workforce/recruit/employment-checks
“Personal Data”	the same meaning as set out in the UK GDPR;
“Pharmacy Practice’s Representative”	the representative appointed by the Pharmacy Practice in relation to this Agreement, whose details are set out

in Schedule 4, or such other person as the Pharmacy Practice may otherwise advise in writing;

“Processor Personnel”

means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement;

“Prohibited Act”

(a) offering, promising or agreeing to give to any servant of the Council any gift or consideration of any kind as an inducement or reward:

- (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other agreement with the Council; or
- (ii) for showing favour or disfavour to any person in relation to this Agreement or any other agreement with the Council;

(b) committing any offence:

- (i) under the Bribery Act and or the UK Data Protection Legislation; or
- (ii) under legislation creating offences in respect of fraudulent acts; or
- (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other agreement with the Council; or
- (iv) defrauding or attempting to defraud or conspiring to defraud the Council;
- (v) any action that may reasonably be considered to be to the detriment of the Council and or its end user’s welfare, either by positive action or by omission. Such action shall include but is not limited to; breach of the law, related to health, safety and or care, safeguarding, abuse, sexual allegations and or misconduct; financial malpractice or business continuity failure;

“Protective Measures”

appropriate technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation and this Agreement, which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule 6.

“Regulated Activity”	in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Regulated Activity: Groups Act 2006.
“Regulatory Body”	<p>any statutory or other body having authority to issue guidance, standards or recommendations with which the Pharmacy Practice must comply or to which it or they must have regard, including:</p> <ul style="list-style-type: none"> (i) CQC; (ii) NHS Improvement; (iii) NHS England; (iv) the Department of Health and Social Care; (v) NICE; (vi) Healthwatch England and Local Healthwatch; (vii) Office of Health Improvements and Disparities; (viii) the General Pharmaceutical Council; (ix) the Healthcare Safety Investigation Branch; (x) the Information Commissioner; and (xi) the European Data Protection Board
“Safety Legislation”	the Health and Safety at Work Act 1974 and the Consumer Protection Act 1987 together with all regulations made under them including, but not limited to, the General Product Safety Regulations 1994, the Control of Substances Hazardous to Health Regulations 1999 and all other legislation, codes of practice and guidance from time to time amended (including subordinate legislation and European Community legislation to the effect that it has direct effect on member states) imposing legal requirements with respect to health and safety at work and/or the safety of any goods and equipment used in the performance of the Services and the health and safety of the users of such equipment;
“Schedules”	the schedules attached to this Agreement;
“Services”	the services to be provided to the Council by the Pharmacy Practice and its Staff, as specified in Schedule 1 and 2;
“Service User”	a patient or service user for whom a Pharmacy Practice has statutory responsibility and who receives Services under this Agreement;
“Social Value”	the requirements of the Public Services (Social Value) Act 2012 in relation to economic, social and environmental wellbeing in connection with public service contracts;

“Staff”	all persons employed by the Pharmacy Practice to perform its obligations under the Agreement together with the Pharmacy Practice’s servants, agents, Pharmacy Practices and sub-contractors used in the performance of its obligations under the Agreement;
“Sub-processor”	any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement;
“Term”	the period of the Initial Term as may be varied by: <ul style="list-style-type: none"> (a) any extensions to this Agreement which are agreed pursuant to clause 2; or (b) the earlier termination of this Agreement in accordance with its terms;
“UK Data Protection Legislation”	any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation including UK GDPR;
“UK GDPR”	the UK General Data Protection Regulation;
“Working Day”	Monday to Friday, excluding public holidays in England and Wales, unless otherwise authorised by the Council.

1.2 The interpretation and construction of the Agreement shall be subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (e) references to any party shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (f) the words “include”, “included”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”;

- (g) headings are included in the Agreement for ease of reference only and shall not affect the interpretation or construction of the Agreement; and
- (h) in cases of conflict the following order of precedence shall apply:
 - 1. the clauses of this Agreement;
 - 2. Schedule 1 - The Council's Requirements;
 - 3. Schedule 2 and 3;
 - 4. Any other Schedule.

2. TERM

- 2.1 This Agreement shall take effect on the Commencement Date and shall continue for the Term, subject always to review or such lesser period as a result of the Agreement being terminated earlier in accordance with the provisions of this Agreement.
- 2.2 The Council may extend this Agreement beyond the Initial Term for up to a further period of 12 months (the "Extended Period") and a further period of 12 months (the "2nd Extended Period") if both parties agree in writing to such an extension or extensions. The same terms and conditions as those contained within this Agreement shall apply to any Extended Period.
- 2.3 If the Council does not wish to extend this Agreement beyond the Initial Term this Agreement shall expire on the expiry of the Initial Term.

3. DUE DILIGENCE, PHARMACY PRACTICE'S WARRANTY AND THE SERVICE STANDARD

- 3.1 The Pharmacy Practice acknowledges and confirms that:
 - (a) the Council has delivered or made available to the Pharmacy Practice all of the information and documents that the Pharmacy Practice considers necessary or relevant for the performance of its obligations under this Agreement;
 - (b) it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied or made available to it by or on behalf of the Council pursuant to clause 3.1(a);
 - (c) it has satisfied itself (whether by inspection or having raised all relevant due diligence questions with the Council before the Commencement Date) of all relevant details relating to the performance of its obligations under this Agreement; and
 - (d) it has entered into this Agreement in reliance on its own due diligence.
- 3.2 Save as provided in this Agreement, no representations, warranties or conditions are given or assumed by the Council in respect of any information which is provided to the Pharmacy Practice by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.
- 3.3 The Pharmacy Practice:
 - (a) warrants and represents that all information and statements made by the Pharmacy Practice as a part of the procurement process, including without

limitation the Pharmacy Practice's tender or response to any pre-qualification questionnaire (if applicable), remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Agreement; and

- (b) shall promptly notify the Council in writing if it becomes aware during the performance of this Agreement of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services or meet any performance target or KPIs.
- 3.4 The Pharmacy Practice shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Council by the Pharmacy Practice in accordance with clause 3.3(b), save where such additional costs or adverse effect on performance have been caused by the Pharmacy Practice having been provided with fundamentally misleading information by or on behalf of the Council and the Pharmacy Practice could not reasonably have known that the information was incorrect or misleading at the time such information was provided. If this exception applies, the Pharmacy Practice shall be entitled to recover such reasonable additional costs from the Council or shall be relieved from performance of certain obligations as shall be determined by the clause 31 - Variation.
- 3.5 Nothing in these clauses 3.1, 3.2, 3.3 and 3.4 shall limit or exclude the liability of the Authority for fraud or fraudulent misrepresentation.
- 3.6 In performing the Services, the Pharmacy Practice shall ensure, throughout the Term of this Agreement, that it:
 - 3.6.1 complies with the terms of this Agreement and completes the Services in accordance with the requirements set out in Schedules attached in all material respects ensuring that, except with the consent of the Council, the Services are carried out exclusively by the persons named in the Pharmacy Practice's tender;
 - 3.6.2 operates in accordance with Good Industry Practice and in compliance and conformance with all applicable Laws;
 - 3.6.3 notifies the Council in writing immediately on learning of any relationship or potential conflict of interest that might influence or be perceived to influence the provision of the Services;
 - 3.6.4 co-operates with the Council in all matters relating to the Services;
 - 3.6.5 co-operates, and procures that its Staff co-operates, with the Council in carrying out any performance monitoring, at no additional charge to the Council; and
 - 3.6.6 uses its best endeavours to promote the interests of the Council.
- 3.7 The Council shall use its reasonable endeavours to provide, in a timely manner, such information as the Pharmacy Practice may reasonably require, and ensure that it is accurate in all material respects.

4. FEES AND PAYMENT

- 4.1 In consideration of the performance of the Pharmacy Practice's obligation under the Agreement, the Council shall pay the Fees set out in Schedule 3 within thirty (30) days of the data being received from PharmOutcomes. No extra charges shall be effective unless agreed in writing and signed by the Council.
- 4.2 If required, all invoices shall be directed to the Administrator.
- 4.3 The Council shall pay the Pharmacy Practice in accordance with the payment arrangements set out in Schedule 3, to a bank account nominated in writing by the Pharmacy Practice.
- 4.4 The Council may reduce payment in respect of any Services which the Pharmacy Practice has either failed to provide or has, in the Council's reasonable opinion, provided inadequately.
- 4.5 All amounts payable by the Council under the Agreement are exclusive of amounts in respect of valued added tax chargeable from time to time (the "VAT"). Where any taxable supply for VAT purposes is made under the Agreement by the Pharmacy Practice to the Council, the Council shall, pay to the Pharmacy Practice such additional amounts in respect of VAT as are chargeable on the performance of the Services at the same time as payment is due for the performance of the Services.
- 4.6 If the Council fails to pay any amount properly due and payable by it under the Agreement, the Pharmacy Practice shall have the right to charge interest on the overdue amount at the rate of two (2) per cent per annum above the base rate for the time being of the Bank of England, accruing on a daily basis from the due date up to the date of actual payment. This clause shall not apply to payments that the Council disputes in good faith.
- 4.7 The Pharmacy Practice shall maintain complete and accurate records of the time spent and materials used by the Pharmacy Practice in the performance of the Services, and the Pharmacy Practice shall allow the Council to inspect such records at all reasonable times on request.
- 4.8 Payment by the Council shall be without prejudice to any claims or rights which the Council may have against the Pharmacy Practice and shall not constitute any admission by the Council as to the performance by the Pharmacy Practice of its obligation hereunder.
- 4.9 The Council may at any time, without notice to the Pharmacy Practice, set off any liability of the Pharmacy Practice to the Council against any liability of the Council to the Pharmacy Practice, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. Any exercise by the Council of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise.
- 4.10 Where the Pharmacy Practice enters into a Sub-Contract, the Pharmacy Practice shall include in that Sub-Contract;
 - (a) provisions having the same effect as clauses 4.3 - 4.4 of this Agreement; and

- (b) a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clauses 4.3 - 4.4 of this Agreement.
 - (c) in this clause 4.10, "Sub-Contract" means a contract between two or more Pharmacy Practices, at any stage of remoteness from the Council in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
- 4.11 The Pharmacy Practice shall maintain up-to-date personnel records on its Staff engaged in the provision of the Services and shall provide information to the Council as the Council reasonably requests on the Pharmacy Practice's Staff. The Pharmacy Practice shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Legislation.

5. STATUTORY RIGHTS

- 5.1 Nothing in these conditions shall affect in any way the statutory rights of the Council under the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982 or any subsequent amending or consolidating legislation.
- 5.2 A party who is not a party to this Agreement is not entitled to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 except where this Agreement expressly provides otherwise.
- 5.3 The Pharmacy Practice shall at its own expense, comply in all respects with the Laws and all applicable rules and regulations in all matters arising in the performance of or in connection with the Agreement.

6. MONITORING

- 6.1 The Pharmacy Practice's performance of the Services shall be monitored by the Administrator, who shall be entitled to make recommendations to the Pharmacy Practice for improving the standard of the Pharmacy Practice's performance in undertaking the Services.
- 6.2 The Pharmacy Practice's Representative will meet regularly with the Administrator upon receiving a request to do so, to discuss the Services being provided by the Pharmacy Practice and to provide the Council with progress reports and or information.
- 6.3 At the meetings the Administrator and the Pharmacy Practice's Representative will review, among other things, the Pharmacy Practice's performance, key performance indicators where applicable, progress-to-date on provision of the Services, and any issues relating to the performance of the Services.
- 6.4 The Administrator shall keep minutes of all meetings in relation to monitoring of the Agreement.
- 6.5 The Administrator shall review the Pharmacy Practice's compliance with the Data Protection Legislation, the FOIA, in accordance with clause 10 (Data Protection) and clause 11 (Freedom of Information) and any other Laws applicable to the Services;

- 6.6 The Council may terminate the Agreement by written notice with immediate effect if the Pharmacy Practice fails to perform the Services in accordance with the Agreement

7. ANTI-BRIBERY AND MODERN SLAVERY ACT REQUIRMENTS

- 7.1 The Pharmacy Practice shall:

- (a) comply with all applicable anti-bribery, anti-corruption and anti-slavery legislation including, without limitation, the Bribery Act and Modern Slavery Act 2015;
- (b) maintain and enforce its own policies and procedures, including adequate procedures under the Bribery Act, to ensure compliance with all applicable anti-bribery and anti-corruption legislation;
- (c) use reasonable endeavours to ensure that all persons associated with the Pharmacy Practice (as defined by section 8 of the Bribery Act) including any sub-contractors and Pharmacy Practices comply with this clause;
- (d) implement due diligence procedures for its own Pharmacy Practices, sub-contractors and other participants in its supply chain, to ensure that there is no slavery or human trafficking in its supply chain;
- (e) use reasonable endeavours not to purchase any raw materials, resources or products from any country that has been sourced from producers or manufacturers using forced labour in its operations or practice.

8. EQUALITIES

- 8.1 The Pharmacy Practice shall (and shall procure that its Staff shall) not unlawfully discriminate within the meaning and scope of any Law, enactment, order or regulation relating to discrimination in employment including but not limited to the Equality Act 2010, and shall (and shall procure that its Staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of the Services.

9. SAFEGUARDING

- 9.1 Where it is clear or otherwise reasonably likely that the performance of the Agreement will require the Pharmacy Practice (or any of its staff, agents, sub-contractors or advisors) to carry out a Regulated Activity the Pharmacy Practice shall:

- (i) comply at all times with the provisions of the Safeguarding Vulnerable Groups Act 2006 ("SVGA 2006);
- (ii) ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service (DBS); and
- (iii) monitor the level and validity of the checks under this clause 9.4 for each member of staff;

- (iv) not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service Users, children or vulnerable adults;
 - (v) comply with the NHS Employment Check Standards;
 - (vi) other checks as required by the DBS or which are to be undertaken in accordance with current and future national guidelines and policies.
- 9.2 The Pharmacy Practice warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Pharmacy Practice in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 9.3 The Pharmacy Practice shall immediately notify the Administrator and or the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 9 have been met.
- 9.4 The Pharmacy Practice shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to the Service Users and or children and or vulnerable adults.

10. DATA PROTECTION

- 10.1 The parties agree that the provisions of Schedule 6 shall apply to this Agreement.

11. FREEDOM OF INFORMATION

- 11.1 The Pharmacy Practice recognises that the Council has information disclosure obligations under the Freedom of Information Act 2010 ("FOIA") and the Environmental Information Regulations ("EIR"). The Pharmacy Practice agrees to provide such assistance and support as may be requested from time to time by the Council for the purposes of enabling or assisting the Council to comply with these information disclosure obligations in respect of matters relating to or arising out of this Agreement.
- 11.2 In the event that a request made to the Council for access to information under the FOI or the EIR, or any notice, recommendation or complaint is made to or against the Council in relation to its obligations under the FOIA or EIR, the Pharmacy Practice will within five (5) Working Days of the date of a request from the Council provide to the Council, any details in its possession relating to this Agreement or to the Pharmacy Practice as the Council may require to deal with such access request or deal with such notice, recommendation or complaint.
- 11.3 The Pharmacy Practice acknowledges the Council may be obliged under the FOIA or EIR to disclose information to third parties, including information relating to the appointment of the Pharmacy Practice to provide the Services under this Agreement, and the terms of this Agreement, subject to certain exemptions. The Pharmacy Practice further acknowledges and accepts that the decision to disclose information and the application of any such exemptions under the FOIA or EIR will be at the

Council's sole discretion PROVIDED THAT the Council shall act reasonably and proportionately in determining whether any exemptions under the FOIA or EIR may apply to protect the Pharmacy Practice's legitimate commercial interests trade secrets.

12. TRANSPARENCY

- 12.1 The Pharmacy Practice acknowledges that the Council has information publication obligations the Local Government Transparency Code 2015, and agrees that this Agreement (including the Schedules), and any documentation including but not limited to requests for quotes, advertisement issued by the Council seeking expressions of interest, the pre-qualification questionnaire and the tender documents (the "Procurement Documents") issued by the Council in relation to this Agreement are not Confidential Information, and may be published by the Council, save where in the reasonable opinion of the Council the contents of the Agreement or the Procurement Documents are exempt from disclosure under the FOIA or EIR in which case, the Pharmacy Practice consents to the Agreement or Procurement Documents being redacted by the Council to the extent necessary to remove or obscure the exempt content, and to publication subject to those redactions.

13. CONFIDENTIALITY AND COUNCIL'S PROPERTY

- 13.1 Subject to clause 10 (Data Protection), clause 11 (Freedom of Information) and Clause 12 (Transparency), the Pharmacy Practice shall not, without the prior written consent of the Council, publish or disclose to any person, or permit any such disclosure by any of its employees or representatives, any Confidential Information.
- 13.2 The restriction in clause 13.1 does not apply to:
- (a) any information required to be disclosed by an order of court or other tribunal or required to be disclosed in accordance with any law, statute, proclamation, by-law, directive, decision, regulation, rule, order, notice, rule of court, delegated or subordinate legislation; or
 - (b) any information which is already in, or comes into, the public domain otherwise than through unauthorised disclosure by the Pharmacy Practice; or
 - (c) any disclosure authorised by the Council.
- 13.3 All documents, manuals, hardware and software provided by the Council to the Pharmacy Practice, and any data or documents (including copies) produced, maintained or stored on the Council's computer systems or other electronic equipment (including mobile phones, if provided by the Council) in relation to this Agreement, remain the property of the Council.
- 13.4 All intellectual property rights and proprietary rights including copyright and all other rights of a like nature conferred under the laws of the United Kingdom (and all other countries of the World) in any works conceived originated or made by the Pharmacy Practice pursuant to the Services ("Intellectual Property") shall automatically vest in the Council and the Pharmacy Practice hereby assigns to the Council by way of future assignment the copyright and all other intellectual property rights in the Intellectual Property for the full term during which the said rights and any renewals or extensions shall subsist.

- 13.5 The Pharmacy Practice warrants and represents that the Intellectual Property will not infringe any intellectual property rights of which a third party is the proprietor. The Pharmacy Practice agrees to indemnify the Council against any and all liability, loss, damages, costs and expenses which the Council or a third party may incur or suffer as a result of any dispute or contractual, tortious or other claims or proceedings brought against the Council by a third party alleging infringement of its intellectual property rights by reason of the use or exploitation of the Intellectual Property.

14. INDEMNITY

- 14.1 Without prejudice to any other provision of this Agreement, the Pharmacy Practice will fully indemnify the Council against any claims made against it as a result of any failure by the Pharmacy Practice to comply with any statutory provision to be observed or performed in connection with the provision of the Services.
- 14.2 The Pharmacy Practice's liability to indemnify the Council arising under clause 14.1 will be without prejudice to any other right or remedy of the Council arising under this Agreement.

15. INSURANCE

- 15.1 Throughout the Term the Pharmacy Practice shall at its own cost effect and maintain with a reputable insurance company within the UK such policies of insurance as are necessary to cover any liability of the Pharmacy Practice in respect of loss of or damage to property and personal injury to, or death of, any person arising out of or in the course of or caused by the Pharmacy Practice carrying out or failing to carry out its obligations under the Agreement or for which it may become liable to the Council under clause 14, including:
- (i) employers' liability insurance in the minimum sum of £5,000,000.00 (five million pounds) in respect of one incident and the number of incidents covered shall be unlimited;
 - (ii) public liability insurance cover in the minimum sum of £5,000,000.00 (five million pounds) in respect of any one incident and the number of incidents covered shall be unlimited and should be adequate to cover all risks in the performance of the Services;
 - (iii) professional indemnity insurance against the risk of professional negligence on the part of the Pharmacy Practice or its Staff in the minimum sum of £5,000,000.00 (five million pounds) in respect of each and every claim or series of claims arising from any one event;
 - (iv) clinical negligence insurance with a limit of indemnity of not less than £2,000,000 (two million pounds) in relation to any one claim or series of claims and shall ensure that all professional consultants and sub-contractors involved in the provision of the Services hold and maintain appropriate cover.
- 15.2 The Pharmacy Practice shall continue to maintain the above policies of insurance for a 6-year period following the termination of the Agreement.

- 15.3 Upon request, the Pharmacy Practice will provide the Council with details of the policies of insurance (by way of insurer's certificate) effected in accordance with clause 15.1, so as to demonstrate that clause 15.1 is being complied with.
- 15.4 The Pharmacy Practice will immediately inform the Council of any failure or inability to maintain insurance in accordance with clause 15.1 and of any circumstances likely to render such insurance void or voidable in order that the Pharmacy Practice and the Council can discuss the means of best protecting their respective positions in the absence of such insurance.

16. TERMINATION OF AGREEMENT

16.1 In the event of:

- 16.1.1 the passing by the Pharmacy Practice of a resolution for its winding-up or the making by a court of competent jurisdiction of an order for the winding-up of the Pharmacy Practice or the dissolution of the Pharmacy Practice; or
- 16.1.2 the making of an administration order in relation to the Pharmacy Practice or the appointment of a receiver over, or the taking possession or sale by an encumbrancer of, any of the Pharmacy Practice's assets; or
- 16.1.3 the Pharmacy Practice making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally,

the Council may, without prejudice to any other power of termination or to any rights or remedies it may have, terminate the Agreement forthwith by notice and the Pharmacy Practice shall indemnify the Council against all costs, expenses and damages for which the Council becomes liable arising from such termination.

16.2 Without prejudice to the Parties other rights and remedies, either party may forthwith terminate the Agreement by notice if the other:

- 16.2.1 commits or attempts a Prohibited Act;
- 16.2.2 fails to comply with Good Industry Practice, UK Data Protection Legislation, Safety Legislation and or the Laws;
- 16.2.3 commits any material breach of the terms of this Agreement and fails to remedy such breach within seven (7) days of being given written notice to do so by the other; or

16.2.4 fails to perform its obligations under the Agreement with due diligence,

the termination shall be at no loss or cost to the Council and the Pharmacy Practice hereby indemnifies the Council against all costs, expenses and damages for which the Council may suffer as a result of any such termination.

16.3 Notwithstanding the generality of this clause 16 the Council shall have the right to terminate the Agreement, or to terminate the provision of any part of the Agreement at any time by giving one month's written notice to the Pharmacy Practice.

17. ASSIGNMENT AND SUB-CONTRACTING

- 17.1 The Pharmacy Practice shall not assign or sub-contract the Services under this Agreement, or any part thereof, without the permission of the Council in writing. Assignment or sub-contracting any part of the Services shall not relieve the Pharmacy Practice of any obligation or duty attributable to the Pharmacy Practice under this Agreement.
- 17.2 The Pharmacy Practice shall be responsible for the acts and omissions of its assignees and sub-contractors as though they were its own. Where the Council has consented to the placing of an assignment or sub-contracts, copies of each contract of assignment or sub-contract shall be provided by the Pharmacy Practice to the Council within two (2) Working Days of issue.
- 17.3 The Council shall be freely entitled to assign, novate or otherwise transfer its rights and obligations under this Agreement to;
- (i) a government body; or
 - (ii) any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Council,

where the Council is a public authority and any change in the legal status of the Council which means that it ceases to be a public authority; and/or in the event of the establishment of a unitary authority or another legal structure.

18. DISPUTES

- 18.1 If the Council reasonably believes that the Services are deficient, the Pharmacy Practice shall be formally notified in writing by the Council, inviting the Pharmacy Practice at the earliest possible opportunity to discuss the matter and giving clear indications as to how the Services have not been satisfactory.
- 18.2 After such discussions, the Pharmacy Practice shall remedy any agreed faults within an agreed, reasonable timescale. Once the Council has formally notified the Pharmacy Practice of any such deficiencies, it shall be entitled to withhold payment of any invoices which the Pharmacy Practice has submitted (or may submit) for the Services, or part pay any such invoices as it sees fit until such time as the agreed faults have been remedied.
- 18.3 If the Pharmacy Practice is unable or unwilling to remedy the above faults, the Council may terminate this Agreement in accordance with clause 16.2.3; if the Pharmacy Practice feels that the Services are not deficient or that the Council has been unfair in its judgment of the quality of the Services, and the parties are unable to come to an agreement on the matter amicably between them, the matter may be resolved by reference to an independent mediator who is acceptable to both parties, and whose decision both parties agree shall be final. Both parties shall share the cost of mediation.

19. NOTICES

- 19.1 Any notice, request, demand, consent or approval given under or in connection with this Agreement must be given in writing. Any such notice, request, demand, consent or approval shall in the case of the Council be sent to the Administrator at the

Council's address as set out at the beginning of this Agreement and in the case of the Pharmacy Practice, to the Pharmacy Practice's Representative at the Pharmacy Practice's registered office address as set out at the beginning of this Agreement.

- 19.2 Notices may be delivered by hand or sent by post. If sent by post, a notice shall be deemed to have been received on the second Working Day following the date of posting. If sent by registered post or recorded delivery, it shall be deemed to have been received on the date and time receipt was acknowledged.

20. NO WAIVER

- 20.1 No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Agreement.
- 20.2 A waiver of any right or remedy under this Agreement or by Law is only effective if it is given in writing and shall not be deemed a waiver of any subsequent right or remedy.

21. FORCE MAJEURE

- 21.1 Neither party shall be liable for delay in performing or failing to perform its obligations under this Agreement if the delay or failure results from Force Majeure. Such delay or failure shall not constitute a breach of this Agreement and the time for performance shall be extended by a period equivalent to that during which performance is prevented provided that if such delay or failure persists for more than one month nothing in this clause shall be taken to limit or prevent the exercise of the right to terminate under clause 16.

22. SOCIAL VALUE

- 22.1 The Public Services (Social Value) Act 2012 requires public authorities to have regard to economic, social and environmental wellbeing in connection with public service contracts.
- 22.2. Bidders should take this opportunity to consider what other value can they bring to this contract over and above the requirements in the Specification. This may include providing awareness training on the wider determinants of health and health inequity to local VCSE organisations, offering free access to training materials to Cambridgeshire residents, or helping us to protect our environment by committing to travel by bike or public transport, or to plant trees in the local area.

23. ENVIRONMENTAL

The Pharmacy Practice shall:

- 23.1 when carrying out the Services and/or working on Establishments where the Services are being provided, perform this Agreement in accordance with the Council's Net Zero Cambridgeshire 2045 Mandatory Policy, which is committed to the prevention of pollution, reduction of our CO2 emissions, and the minimisation of the environmental impacts associated with all activities, products and services of the Council's business.

23.2 follow a sound environmental management policy so that its activities comply with all applicable environmental legislation and regulations and that the Services are procured, and delivered in ways that are appropriate from an environmental protection perspective and;

23.3 comply with all applicable environmental legislation and other requirements as appropriate to the Services, which may apply in the performance of this Agreement.

24. LIMITATION OF LIABILITY

24.1 Save that this clause 22.1 is not intended to exclude or limit liability for personal injury or death attributable to the Pharmacy Practice's negligence, the Pharmacy Practice's liability under this Agreement shall be limited to the amount of the Council's actual loss provided that the Council shall first have taken all reasonable steps to recoup any such loss.

25. ACCRUED RIGHTS AND REMEDIES

25.1 The termination of the Agreement will not prejudice or affect any claim, right, action or remedy that will have accrued or will thereafter accrue to either party.

26. RIGHTS AND DUTIES RESERVED

26.1 All rights, duties and powers which the Council has as a local authority or which the Council's officers have as local authority officers are expressly reserved.

27. SURVIVAL OF TERMS

27.1 The terms of the Agreement will (except in respect of any obligations fully performed prior to or at the completion of the Services) continue in force and effect after the completion of the Services by the Pharmacy Practice.

28. PUBLICITY AND BRANDING

28.1 The Pharmacy Practice shall not:

(a) make any press announcements or publicise this Agreement or its contents in any way; or

(b) use the Council's name or brand in any promotion or marketing or announcement of orders,

without the prior written consent of the Administrator.

29. AUTHORITY TO ENTER INTO THE AGREEMENT

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

30. ENTIRE AGREEMENT

30.1 This Agreement contains the whole agreement between the parties and neither party has relied upon any oral or written representations made to it by the other or the other parties employees, representatives or agents and supersedes and extinguishes

all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- 30.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

31. COUNTERPARTS

- 31.1 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement.

32. NO PARTNERSHIP OR AGENCY

- 32.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to bind or make or enter into any commitments for or on behalf of any other party.
- 32.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

33. VARIATION

- 33.1 No variation of this Agreement shall be effective unless it is in writing and signed by the parties.
- 33.2 Always subject to clause 31.1, in the event of increased costs and or charges in the way the Services are provided the parties will work together to apportion costs.
- 33.3 The Pharmacy Practice shall not be entitled to recover any additional costs from the Council unless agreed in writing.

34. GOVERNING LAW

- 34.1 This Agreement shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

IN WITNESS of which this Agreement has been entered into on the date stated at the beginning of it.

Signed on behalf of **CAMBRIDGESHIRE
COUNTY COUNCIL** by:

.....
Authorised Signatory

Signed on behalf of the **[XXX]** by:

.....
Director

.....
Director/ Company Secretary

SCHEDULE 1

THE COUNCIL'S REQUIREMENTS

The individual service specifications will be sent as a separate .PDF file, along with the contract.

The updated service specifications are as follows:

Pharmacy EHC Specifications Cambs 24.25

Pharmacy NRT Voucher Cambs 24.25

The Council advise that any amendments to the above specification within the 2024/25 year will be circulated as an updated version.

SCHEDULE 2

THE PHARMACY PRACTICES'S RESPONSE

Not used.

SCHEDULE 3

PHARMACY PRACTICE'S FEES

The pricing for each service is detailed in the individual service specifications.

A summary of the pricing fees by activity is below.

Activity	Price	Price
Emergency Hormonal Contraception	Per consultation	£16.00
	Per chlamydia kit issued	£2.50
NRT voucher scheme	Per NRT product dispensed	£2.50

SCHEDULE 4

DETAILS OF CONTACTS

Council's Representative:

Name:	Val Thomas
Address:	New Shire Hall, Emery Crescent, Enterprise Campus, Alconbury Weald, Huntingdon, PE28 4YE
Telephone number:	07884 183374
E-mail address:	Val.Thomas@cambridgeshire.gov.uk

Pharmacy Practice's Representative

Name:

Address:

Telephone number:

E-mail address:

SCHEDULE 5

COMMERCIALLY SENSITIVE INFORMATION

None.

SCHEDULE 6

DATA PROCESSING

Status of the Controller

1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Agreement dictates the status of each party under the DPA 2018. A Party may act as:
 - (a) “Controller” in respect of the other Party who is “Processor”;
 - (b) “Processor” in respect of the other Party who is “Controller”;
 - (c) “Joint Controller” with the other Party;
 - (d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

Where one Party is Controller and the other Party its Processor

2. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.
3. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
4. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
 - (a) a systematic description of the envisaged Processing and the purpose of the Processing;
 - (b) an assessment of the necessity and proportionality of the Processing in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
5. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
 - (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, including in the case of the Pharmacy Practice the measures set out in Clause 14.3 of the Core Terms, which

the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:

- (i) nature of the data to be protected;
 - (ii) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that:
 - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Schedule 6;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
 - (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
 - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
6. Subject to paragraph 7 of this Schedule, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);

- (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Personal Data Breach.
7. The Processor's obligation to notify under paragraph 6 of this Schedule 6 shall include the provision of further information to the Controller, as details become available.
8. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Schedule 6 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Personal Data Breach; and/or
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
9. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 6. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;
 - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
10. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
11. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
12. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:

- (a) notify the Controller in writing of the intended Subprocessor and Processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Schedule 6 such that they apply to the Subprocessor; and
 - (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
13. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
14. The Council may, at any time on not less than 30 Working Days' notice, revise this Schedule 6 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
15. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may on not less than 30 Working Days' notice to the Pharmacy Practice amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Where the Parties are Joint Controllers of Personal Data

16. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with GDPR Article 26 based on the terms set out in Annex 2 to this Schedule 6 (*Data Processing*).

Independent Controllers of Personal Data

17. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
18. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
19. Where a Party has provided Personal Data to the other Party in accordance with paragraph 7 of this Schedule 6 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
20. The Parties shall be responsible for their own compliance with Articles 13 and 14 GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
21. The Parties shall only provide Personal Data to each other:
- (a) to the extent necessary to perform their respective obligations under the Contract;
 - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the GDPR); and

- (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
22. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.
23. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 GDPR and shall make the record available to the other Party upon reasonable request.
24. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
- (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
 - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
25. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
- (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
 - (b) implement any measures necessary to restore the security of any compromised Personal Data;
 - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.

26. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
27. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
28. Notwithstanding the general application of paragraphs 2 to 15 of this Schedule 6 to Personal Data, where the Pharmacy Practice is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data

Annex 1 - Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Council at its absolute discretion.

1.1 The contact details of the Council's Data Protection Officer are: ben.stevenson@peterborough.gov.uk

1.2 The contact details of the Pharmacies Data Protection Officer are: [XXX]

1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.

1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	The Parties are Independent Controllers of Personal Data The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:
Duration of the Processing	
Nature and purposes of the processing	

Type of Personal Data being Processed	
Categories of Data Subject	
International transfers and legal gateway	

Annex 2 - Joint Controller Agreement

1. Joint Controller Status and Allocation of Responsibilities

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of paragraphs 2-15 of Schedule 6 (Where one Party is Controller and the other Party is Processor) and paragraphs 7-27 of Schedule 6 (Independent Controllers of Personal Data).

Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that **[Pharmacy Practice]** and the Council:

- (a) is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the GDPR regarding the exercise by Data Subjects of their rights under the GDPR;
- (b) shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
- (c) is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the GDPR;
- (d) is responsible for obtaining the informed consent of Data Subjects, in accordance with the GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing; and
- (e) shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in Pharmacy Practice and the Council's privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of clause 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

1. Undertakings of both Parties

1.1 The Pharmacy Practice and the Council each undertake that they shall:

- (a) report to the other Party every 3 months on:
 - (i) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
 - (ii) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
 - (iii) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
 - (iv) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
 - (v) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of the Contract during that period;

- (b) notify each other immediately if it receives any request, complaint or communication made as referred to in Clauses 2.1(a)(i) to (v);
- (c) provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Clauses 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- (d) not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) ensure consent has been obtained from the Data Subject prior to disclosing or transferring the Personal Data to the third party. For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- (e) request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information;
- (f) ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;
- (g) take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
 - (i) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information
 - (ii) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so;
 - (iii) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- (h) ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
 - (i) nature of the data to be protected;
 - (i) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;

- (i) ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that it holds; and
- (i) ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations

3. Data Protection Breach

3.1 Without prejudice to clause 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the Council and its advisors with:

- (a) sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation;
- (b) all reasonable assistance, including:
 - (i) co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
 - (ii) co-operation with the other Party including taking such reasonable steps as are directed by the Council to assist in the investigation, mitigation and remediation of a Personal Data Breach;
 - (iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
 - (iv) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Clause 3.2.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:

- (a) the nature of the Personal Data Breach;

- (b) the nature of Personal Data affected;
- (c) the categories and number of Data Subjects concerned;
- (d) the name and contact details of the Pharmacy Practice's Data Protection Officer or other relevant contact from whom more information may be obtained;
- (e) measures taken or proposed to be taken to address the Personal Data Breach; and
- (f) describe the likely consequences of the Personal Data Breach.

4. Audit

4.1 The Pharmacy Practice shall permit:

- (a) the Council, or a third-party auditor acting under the Council's direction, to conduct, at the Council's cost, data privacy and security audits, assessments and inspections concerning the Pharmacy Practice's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or
- (b) the Council, or a third-party auditor acting under the Council's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 GDPR by the Pharmacy Practice so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Pharmacy Practice to assist in the provision of the Services.

4.2 The Council may, in its sole discretion, require the Pharmacy Practice to provide evidence of the Pharmacy Practice's compliance with Clause 4.1 in lieu of conducting such an audit, assessment or inspection.

5. Impact Assessments

5.1 The Parties shall:

- (a) provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
- (b) maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 GDPR.

6. ICO Guidance

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Council may on not less than thirty (30) Working Days' notice to the Pharmacy Practice amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

7. Liabilities for Data Protection Breach

7.1 If financial penalties are imposed by the Information Commissioner on either the Council or the Pharmacy Practice for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:

- (a) if in the view of the Information Commissioner, the Council is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Council, its employees, agents, contractors (other than the Pharmacy Practice) or systems and procedures controlled by the Council, then the Council shall be responsible for the payment of such Financial Penalties. In this case, the Council will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Pharmacy Practice shall provide to the Council and its third party investigators and auditors, on request and at the Pharmacy Practice's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;
- (b) if in the view of the Information Commissioner, the Pharmacy Practice is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Council is responsible for, then the Pharmacy Practice shall be responsible for the payment of these Financial Penalties. The Pharmacy Practice will provide to the Council and its auditors, on request and at the Pharmacy Practice's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
- (c) if no view as to responsibility is expressed by the Information Commissioner, then the Council and the Pharmacy Practice shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms (*Resolving disputes*).

7.2 If either the Council or the Pharmacy Practice is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.

7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):

- (a) if the Council is responsible for the relevant Personal Data Breach, then the Council shall be responsible for the Claim Losses;
- (b) if the Pharmacy Practice is responsible for the relevant Personal Data Breach, then the Pharmacy Practice shall be responsible for the Claim Losses: and
- (c) if responsibility for the relevant Personal Data Breach is unclear, then the Council and the Pharmacy Practice shall be responsible for the Claim Losses equally.

7.4 Nothing in either clause 7.2 or clause 7.3 shall preclude the Council and the Pharmacy Practice reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Council.

8. Termination

If the Pharmacy Practice is in material Default under any of its obligations under this Annex 2 (*Joint Controller Agreement*), the Council shall be entitled to terminate the Contract by issuing a Termination Notice to the Pharmacy Practice in accordance with Clause 10 of the Core Terms (*Ending the contract*).

9. Sub-Processing

10.1 In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

- (a) carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
- (b) ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

10. Data Retention

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the a Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.