

THIS AGREEMENT is made

BETWEEN:

(1) **WORCESTERSHIRE COUNTY COUNCIL** of County Hall, Spetchley Road,
Worcester WR5 2NP ("the Council"); and

(2) [name] of [address] ("the `Pharmacy")

Commented [KK1]: Mail merge field 1- name and address of pharmacy

Whereas:

- (a) The Council wishes to put arrangements in place to enable members of the public to deposit filled Sharps bins of various sizes with local Pharmacies for safe disposal; and
- (b) The Pharmacy is willing to participate in such a scheme on the terms and conditions set out below

IT IS AGREED as follows:

1. Appointment

Subject to the terms and conditions set out in this Agreement the Council hereby appoints the Pharmacy to provide the services set out in Schedule 1 ("the Services") and the Pharmacy hereby agrees to provide the Services upon the terms and conditions of this Agreement

2. Period of Agreement

- 2.1 This Agreement will commence on 1 July 2023 and subject to its extension in accordance with Clause 2.2 and to the provisions for earlier termination in Clause 12 will continue until 30 June 2028.
- 2.2 The Council may extend the duration of the Agreement for a further period of up to five years. The Council shall give the Pharmacy not less than six months' notice in writing before the end of the term if it wishes to extend the Agreement. The clauses in the Agreement will apply throughout any such extended period unless otherwise stated to the contrary.

- 2.3 In the event of the Council exercising the right of extension set out in 2.2 the Pharmacy shall notify the Council whether it agrees to extend the Agreement by no later than one month before expiry.

3. Pharmacy's Obligation to Provide the Services

- 3.1 The Pharmacy shall provide and complete the Services with that degree of care and skill ordinarily exercised under similar circumstances at the same time by professionals engaged in the same or similar field as the Pharmacy performing substantially similar services at the same or similar locality in accordance with the agreed scheme of work specified in Schedule 1.
- 3.2 The Pharmacy shall not be entitled to sub-contract any of the Services or assign this Agreement to a third party without the express prior consent in writing of the Council which shall be at the Council's absolute discretion.

4. Payment

- 4.1 In consideration of the Services to be provided by the Pharmacy the Council shall make payments to the Pharmacy as specified in Schedule 2.

5. Reporting and Record Keeping

The Pharmacy shall complete the Annual Data Collection form and submit to the Council as set out in Schedule 4 by no later than 31 July in each calendar year

6. Not used

7. Protection of Information – Definitions

- 7.1. In this Agreement unless the context otherwise requires the following terms shall have the meanings given to them below:

"Applicable Privacy Law" means all applicable laws which relates to privacy, data protection, the processing of personal data and/or electronic communications and are in force from time to time including, but not limited to, the GDPR, the Data Protection Act 2018 and UK GDPR;

"Confidential Information" means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including

information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either Party, all personal data and sensitive personal data within the meaning of the Data Protection Act 2018

"EIR" means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner's Office or relevant Government Department in relation to such regulations;.

"FOIA" means the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to the Freedom of Information Act 2000.

"GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), or any national law of a member state of the European Economic Area (other than a member state of the European Union) which implements that Regulation

"Information" has the meaning given under Section 84 of the Freedom of Information Act 2000.

"Requests for Information" shall have the meaning set out in FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term 'request' shall apply).

"UK GDPR" means the United Kingdom General Data Protection Regulation, as it forms part of the law of the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018;

"Working Day" means a day on which the banks are open for business in the City of London

7.3 The expiry or earlier termination of this Agreement shall not affect the continuing rights and obligations of the Pharmacy and the Council under clauses 8, 9 and 10.

8. Confidentiality

8.1 Each party:-

- (a) shall treat all Confidential Information belonging to the other party as confidential and safeguard it accordingly; and
- (b) shall not disclose any Confidential Information belonging to the other party to any other person without the prior written consent of the other party, except to such persons and to such extent as may be necessary for the performance of the Contract or except where disclosure is otherwise expressly permitted by the provisions of this Contract.

8.2 The Pharmacy shall take all necessary precautions to ensure that all Confidential Information obtained from the Council under or in connection with the Agreement:-

- (a) is given only to such of its staff and professional advisors engaged to advise it in connection with the Agreement as is strictly necessary for the performance of the Agreement and only to the extent necessary for the performance of the Agreement;
- (b) is treated as confidential and not disclosed (without prior approval) or used by such staff or professional advisors otherwise than for the purposes of the Agreement.

8.3 The Pharmacy shall not use any Confidential Information received otherwise than for the purposes of the Agreement.

8.4 The provisions of Clauses 8.2 to 8.3 shall not apply to any Confidential Information received by one party from the other:-

- (a) which is or becomes public knowledge (otherwise than by breach of this Clause);

- (b) which was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
- (c) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- (d) is independently developed without access to the Confidential Information; or
- (e) which must be disclosed pursuant to a statutory, legal or Parliamentary obligation placed upon the Party making the disclosure, including but not limited to any requirements for disclosure under the FOIA, or the EIR.

8.6 Nothing in this Clause shall prevent the Council:-

- (a) disclosing any Confidential Information for the purpose of:-
 - (i) the examination and certification of the Council's accounts; or
 - (ii) any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness of which the Council has used its resources; or
- (b) disclosing any Confidential Information obtained from the Pharmacy:-
 - (i) to any other Public Authority; or
 - (ii) to any person engaged in providing any services to the Council for any purpose relating to or ancillary to the Agreement;

provided that in disclosing information under sub-paragraph (b) (i) or (ii) the Council discloses only the information which is necessary for the purpose concerned and requires that the Information is treated in confidence and that a confidentiality undertaking is given where appropriate.

8.7 Nothing in this Clause shall prevent either party from using any techniques ideas or know-how gained during the performance of the Agreement in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of intellectual property rights.

8.8 The Pharmacy shall immediately notify the Council of any breach of security in relation to Confidential Information and all data obtained in the performance of the Agreement and will keep a record of such breaches. The Pharmacy will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Pharmacy will co-operate with the Council in any investigation that the Council considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.

8.9 In the event that the Pharmacy fails to comply with this Clause 9 the Council reserves the right to terminate the Agreement by notice in writing with immediate effect.

9. Freedom of Information

9.1 The Pharmacy acknowledges that the Council is subject to the requirements of the FOIA and the EIR and shall assist and co-operate with the Council (at the Pharmacy's expense) to enable the Council to comply with these information disclosure requirements.

9.2 The Pharmacy shall:-

- (a) transfer the Request for Information to the Council as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;
- (b) provide the Council with a copy of all information in its possession or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council requesting that information; and
- (c) provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in the FOIA or the EIR.

9.3 The Pharmacy acknowledges that the Council may, acting in accordance with the FOIA or the EIR, be obliged to disclose information:-

- (a) without consulting with the Pharmacy, or
- (b) following consultation with the Pharmacy and having taken its views into account.

9.4 The Pharmacy shall ensure that information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.

9.6 The Pharmacy acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with Clause 9.3.

10. Data Protection

10.1 Both parties will comply with all applicable requirements of the Applicable Privacy Law. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Applicable Privacy Law.

11. Insurance and Indemnity

11.1 The Pharmacy shall fully indemnify the Council against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of, or in any way arising out of the provision of the Services by the Pharmacy in relation to the injury to, or death of, any person and loss of, or damage to, any property except and to the extent that it arises out of the negligence of the Council.

11.2 The Pharmacy shall effect and maintain with a reputable insurance company public liability insurance in a minimum sum of two million pounds (£2,000,000) in respect of each and every claim or series of claims

- 11.3 Neither Party excludes or limits liability to the other party for death or personal injury caused by its negligence or for any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.
- 11.4 Subject always to clause 11.3, in no event shall either party be liable to the other for:
- (a) loss of profits, business, revenue or goodwill;
 - (b) loss of savings (whether anticipated or otherwise); and/ or
 - (c) indirect or consequential loss or damage.
- 11.5 The Pharmacy shall hold employer's liability insurance in respect of Staff in accordance with any legal requirement for the time being in force.
- 11.6 The Pharmacy shall produce to the Council on request copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

12. Default and Termination

Non-Compliance Notice

- 12.1 Where the Council believes that the Pharmacy has failed to comply with its obligations under the Contract it shall be entitled to serve a non-compliance notice ("Non-Compliance Notice") on the Pharmacy.
- 12.2 A Non-Compliance Notice may result from any one or more of the following:
- i) monitoring undertaken by the Council;
 - ii) any other circumstance whereby the Council has reason to believe that the performance of the Pharmacy fails to meet the requirements of this Contract

- iii) the failure to comply presents a serious risk to any service user of the Council; and/or
- iv) it materially disadvantages the Council or places at risk the continuance of the Contract.

12.3 A Non-Compliance Notice shall specify:

- i) which obligation under the Contract has not been met;
- ii) the remedial action needed to meet the obligation;
- iii) the date by which the remedial action must have been satisfactorily completed, which date shall be not less than five Working Days after the date of issue of the Non-Compliance Notice; and
- iv) the Council officer to whom all further communication about the Non-Compliance Notice should be addressed.

12.4 A Non-Compliance Notice may also require:

- i) that a meeting will be held with the Pharmacy to discuss the non-compliance and agree the remedial actions and timetable which the Pharmacy shall take; or
- ii) the Pharmacy to submit a remedial action plan and timetable which must be approved by the Council.

12.5 If in the Council's opinion the substantive requirements of a Non-Compliance Notice have been satisfactorily completed by the required date, or by any extension of the date which has agreed between the parties, the Council shall notify the Pharmacy in writing that the requirements have been met.

12.6 If in the Council's opinion the Pharmacy has failed to comply with the substantive requirements of the Non-Compliance Notice by the deadline then the Council reserves the right to:

- i) re-issue the Non Compliance Notice setting out the information described in clause 12.3; or
- ii) extend the date by which the requirement of the Non Compliance Notice must be met; or
- iii) terminate the Contract forthwith in accordance with Clause 12.8.

Termination

12.8 Without prejudice to any accrued rights or remedies under this Agreement, the Council shall be entitled to terminate this Agreement forthwith by giving the Pharmacy notice in writing upon the occurrence of any of the following events, but not otherwise:

- (a) the Pharmacy has not remedied the Default to the satisfaction of the Council within twenty (20) Working Days, or such other period as may be specified by the Council, after issue of a Non-Compliance Notice; or
- (b) the Pharmacy has committed persistent Defaults; or
- (c) the Default is a material breach of the Contract.
- (d) the Pharmacy's failure to comply with any deadline, subject to any agreed extension under Clause 2.2; or
- (e) the Pharmacy's failure to remedy any breach of the terms of this Agreement within 30 days following notice in writing given by the Council; or
- (f) the Pharmacy becoming bankrupt or insolvent or entering into an arrangement for the benefit of his/their creditors; or
- (g) the Pharmacy, or any person employed by him or acting on his behalf, commits an offence under the Bribery Act 2010;

13. Notices

Any notice required by this Agreement to be given by either party to the other shall be in writing and shall be served by email to the address set out in Schedule 2 or to such other email address as that party shall have notified in writing to the other party as their address for service and if so sent shall, subject to proof to the contrary be deemed to have been received by the addressee on the next business day after the date of successful transmission, .

14. Not used.

15. Contracts (Rights of Third Parties) Act 1999

The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

16. Severability

Each of the provisions of the Agreement is distinct and severable from the others and if at any time any one or more of such provisions is or becomes invalid, unlawful or unenforceable (whether wholly or to any extent), the validity, lawfulness and enforceability of the remaining provisions (or the same provision to any other extent) of the conditions shall not in any way be affected or impaired and the Parties agree that they will substitute provisions in a form as similar to the offending provision as is possible without thereby rendering them invalid, unlawful or unenforceable.

17. Variations

A variation of the Agreement is valid only if it is in writing and signed by or on behalf of each party.

18. Entire Agreement

The terms of this Agreement and its Schedules shall constitute the entire understanding between the parties and supersedes all prior agreements or representations, express or implied, oral or written.

19. Law

This Agreement shall be governed by and construed in accordance with the laws of England and the parties hereto irrevocably submit to the exclusive jurisdiction of the English courts.

20. Disclosure and Barring Service

21.1 If the Services that are being provided involve contact with the general public or individual service users then the Supplier shall have in place and operate a policy and procedures for safeguarding adults with care and support needs and children which is consistent with the "Safeguarding Adults: Multi-agency Policy and Procedures for the West Midlands", which can be accessed via Safeguarding Worcestershire website:

<https://www.safeguardingworcestershire.org.uk/wsab/policies-procedures-a/>

and Worcestershire Children Safeguarding Partnership (WSCP) Inter-Agency Child Protection Procedures for Safeguarding Children and Worcestershire Council for Voluntary Youth Services Guidance both of which can be accessed via the Safeguarding Worcestershire website at:

<https://www.safeguardingworcestershire.org.uk/wscb/professionals/>

21.2 For all paid staff, unpaid staff and/or volunteers providing Services prior to their undertaking any role which involves carrying out a regulated activity as described in the Protection of Freedoms Act 2012 (link as below) the Pharmacy shall have carried out, and been satisfied by the results of a standard or enhanced Disclosure and Barring Service (DBS) check and a check of the DBS barred list, as appropriate,

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

21.3 The Pharmacy will make appropriate referrals to the Disclosure and Barring Service as required.

SIGNED by the duly authorised representative of the Council and the Pharmacy the day and year first before written

Signed on behalf of the Pharmacy

Name:

Designation:

Signature:

Date:

Signed on behalf of the Council

Name:

Designation:

Signature:

Date: