

**DATED**

-----

**COOPERATION AGREEMENT**

between

**The Metropolitan Borough Council of Stockport**

and

**Stockport NHS Foundation Trust**

# CONTENTS

---

## CLAUSE

|  |                                     |
|--|-------------------------------------|
| 1. Interpretation.....                                       | 3                                   |
| 2. Commencement and duration .....                           | 5                                   |
| 3. Collaboration and co-operation .....                      | 5                                   |
| 4. Public service duties and objectives of the parties ..... | 6                                   |
| 5. Existing arrangements .....                               | 7                                   |
| 6. Initial Services, Proposals and Services.....             | 7                                   |
| 7. Information flow, service management and governance.....  | 9                                   |
| 8. Funding.....  | 11                                  |
| 9. Invoicing and payment .....                               | 13                                  |
| 10. Set-off .....  | 13                                  |
| 11. Confidentiality .....                                    | 13                                  |
| 12. Announcements .....                                      | 15                                  |
| 13. Data protection .....                                    | 15                                  |
| 14. Warranties.....  | 16                                  |
| 15. Insurance .....  | 16                                  |
| 16. Limitation and exclusion of liability.....               | 16                                  |
| 17. Termination of Services .....                            | 16                                  |
| 18. Termination of agreement.....                            | 17                                  |
| 19. Survival .....   | 18                                  |
| 20. Consequences of termination .....                        | 18                                  |
| 21. Assignment and other dealings .....                      | 18                                  |
| 22. Entire agreement.....                                    | 19                                  |
| 23. Variation .....  | 19                                  |
| 24. Notices .....  | 19                                  |
| 25. Severance .....  | 20                                  |
| 26. Waiver .....   | 20                                  |
| 27. Counterparts .....                                       | 20                                  |
| 28. Third party rights .....                                 | 20                                  |
| 29. Costs.....   | 20                                  |
| 30. Mediation.....   | <b>Error! Bookmark not defined.</b> |
| 31. Governing law .....                                      | 21                                  |
| 32. Jurisdiction .....                                       | 21                                  |

## **SCHEDULE**

|            |  |    |
|------------|--|----|
| Schedule 1 | Service Schedule template [NOTE: TO COMPLETE ONE PER INITIAL SERVICE (HV, SN and FNP)] ..... | 22 |
| Part 1     | Background.....  | 22 |
| Part 2     | Service provisions.....  | 22 |
| 1.         | Structure .....  | 22 |
| 2.         | Description of Service .....   | 22 |
| 3.         | Term .....   | 22 |
| 4.         | Inputs.....  | 22 |
| 5.         | Additional terms .....   | 23 |
| Schedule 2 | Initial Services Costs for Financial Year 2022-2023.....                                     | 24 |

This agreement is dated

2022

## Parties

- (1) The **Metropolitan Borough Council of Stockport** whose principal place of business is at Town Hall, Edward Street, Stockport SK1 3XE (**Council**); and
- (2) [**Stockport NHS Foundation Trust**] whose principal place of business is at [ADDRESS] (**Trust**)

## BACKGROUND

- (A) The parties to this agreement wish to establish a framework to govern their respective rights and obligations in relation to particular Services in respect of which they wish to co-operate, where such Services fall within the Focus of this agreement.
- (B) The aim of the co-operation is to ensure that the public services within the Focus of this agreement are provided with a view to objectives which the parties have in common.
- (C) This agreement sets out the terms and conditions upon which the parties have agreed that such Services may be specified and delivered.

## Agreed terms

### 1. Interpretation

- 1.1 The following definitions and rules of interpretation apply in this agreement.

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

**Change:** means a change in legislation, regulations, guidance or code of practice which specifically refers to services the same as or similar to the Services and with which either party may be required to comply.

**Charges:** the charges payable by a party to the other in relation to a Service (if any), as set out in each case in a Service Schedule.

**Commencement Date:** has the meaning given in clause 2 (Commencement and duration).

**Data Protection Legislation:** means all legislation and regulatory requirements in force from time to time in the UK relating to the use of personal data and the privacy of electronic communications, including (i) the Data Protection Act 2018 and any successor UK legislation, (ii) the retained EU law version of General Data Protection Regulation

((EU) 2016/679) (**UK GDPR**), and (iii) the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party

**Financial Year:** the period of twelve months beginning on 1 April each year.

**Focus:** [the provision of public health [nursing] services in relation to young people between the ages of 0 to 19 within the Metropolitan Borough of Stockport for the benefit of young people, their families, the workforce and communities, within the Stockport Family framework].

**Initial Service:** has the meaning given in clause

**Input:** in relation to a party, the services, resources, workforce or other tangibles or intangibles that such party provides in accordance with this agreement in relation to a Service, as set out in a Service Schedule.

**month:** a calendar month

**Service:** any Initial Service and any Service agreed by the parties in accordance with clause 6 (Proposals and Services) in relation to which the parties will collaborate in accordance with this agreement, as further described in a particular Service Schedule.

**Service Period:** subject to earlier termination in accordance with this agreement, the period from the start date to the end date for a Service, as set out in a Service Schedule.

**Service Schedule:** a document specifying particulars in relation to a particular Service, agreed by the parties in accordance with clause 6 (Proposals and Services).

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 The Schedule forms part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedule and any Service Schedule agreed in accordance with clause 6 (Proposals and Services).
- 1.4 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the Schedule.
- 1.5 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) [and that person's personal representatives, successors and permitted assigns].
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 1.8 This agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.9 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.10 A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time.
- 1.11 A reference to **writing** or **written** includes email.
- 1.12 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.13 A reference to **this agreement** or to any other agreement or document referred to in this agreement is a reference to this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.
- 1.14 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Any reference to this agreement terminating shall, where the context requires, include a reference to this agreement terminating by expiry.

## **2. Commencement and duration**

- 2.1 This agreement shall commence on [1 April 2022].
- 2.2 This agreement shall continue, unless terminated earlier in accordance with clause 18, (Termination of agreement), until [31 March 2027] when it shall terminate automatically without notice.

## **3. Collaboration and co-operation**

- 3.1 The UK Government White Paper *Integration and Innovation* sets out legislative proposals to integrate provision of services to deliver better health and wellbeing for everyone using all of the resources of the NHS, local authorities and the voluntary sector.

- 3.2 In order to pursue the public service benefits which are the object of integration, the parties have decided to co-operate within the Focus of this agreement in relation to certain Services.
- 3.3 The parties shall collaborate in relation to Service Schedules agreed in accordance with clause 6 (Proposals and Services).
- 3.4 The parties shall, in relation to all matters concerning the Focus, have regard to:
- (a) the national Healthy Child Programme;
  - (b) the One Stockport Borough Plan;
  - (c) the Stockport Early Help Strategy;
  - (d) the Start Well Strategy;
  - (e) the Stockport One Health and Care Plan;
  - (f) the Health Needs Assessment;
  - (g) [GM Early Years Model – to be confirmed reference];
  - (h) [SEND reference Joint Commissioning Plan / Joint Strategic NA – to be confirmed if any additional references]
  - (i) the 7 Outcomes for Children framework;
  - (j) the need to reduce inequalities between people within the borough of Stockport with respect to the benefits available through the Services provided under this Agreement; and
  - (k) Co-production values and behaviours.

***[To be confirmed by both parties that this is full list of relevant publications]***

- 3.5 In addition, and as a separate objective to the public service objectives, the Council and Trust intend that in implementing this collaboration, the people of the borough of Stockport will further benefit from the local expenditure of public funds allocated to the local authority and NHS bodies within Stockport.

#### **4. Public service duties and objectives of the parties**

- 4.1 Pursuant to section 12 of the Health and Social Care Act 2012 and section 2B of the National Health Service Act 2006, and the Local Authorities' (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013, the Council is under statutory duty to take such measures it considers appropriate for improving the health of the people in its area.
- 4.2 Amongst other matters, the Council is required to provide for:

- (a) public health services for children aged 0-19;
  - (b) nursing within schools maintained by the Council;
  - (c) health visiting services,
- within the borough of Stockport.

4.3 **[Trust to provide overview of public health duties it holds]**

*Public Service Objectives*

- 4.4 In entering in to this agreement to collaborate and co-operate in relation to the Focus, the parties have the following common public service objectives:
- (a) co-operating to ensure that both parties are in improved position to satisfy their public service duties in relation to the Focus;
  - (b) providing services which benefit from, and are improved by, depth of understanding of local needs;
  - (c) precisely tailoring service provision to identified needs within the borough of Stockport;
  - (d) achieving value for money; and
  - (e) maintaining expertise and relationships by promoting workforce stability
- 4.5 Each of the Council and the Trust considers that the collaboration contemplated in this agreement shall best advance the pursuit of the common public service duties and objectives set out in clauses [4.1 to 4.4] and undertakes to perform its governance obligations and decision making in a manner that is intended to fulfil those public service objectives and shall be governed solely by considerations relating to the public interest.

**5. Existing arrangements**

- 5.1 Nothing in this agreement shall restrict either party's right to continue to conduct its activities or arrangements that existed on the Commencement Date or that otherwise come into being outside the scope of this agreement.
- 5.2 However, as the parties will be working together in relation to Services where each party may have access to information of the other, each party acknowledges that the other party will need to protect such information in accordance with clause 11 (Confidentiality).

**6. Initial Services, Proposals and Services**

- 6.1 Prior to the Commencement Date, the following services were previously provided by the Trust to the Council under a contract for services originally dated 1 April 2015 and



made between National Health Service Commissioning Board (**NHS England**) and the Trust and novated to the Council with effect from 1 October 2015 (**Original Agreement**):

- (a) Health Visiting;
  - (b) School Nursing;
  - (c) Family Nursing Partnership,
- (together the **Initial Services**).

- 6.2 With effect from the Commencement Date, the Initial Services shall be provided pursuant to respective Service Schedules under this agreement in replacement of and substitution for the Original Agreement.
- 6.3 The parties agree that the terms of this agreement shall apply when either party (**proposing party**) wishes to propose to the other party (**receiving party**) a Service falling within the scope of the Focus.
- 6.4 A proposing party may submit a proposal for a proposed Service falling within the scope of the Focus to the receiving party at any time. The proposal shall contain high level details of the proposed Service, including an indication of the parties' likely respective Inputs and any Charges the proposing party intends to make for its own Inputs (if applicable).
- 6.5 On receipt of a proposal, the receiving party shall consider it, provide the proposing party with its comments and the parties shall then discuss whether they wish to formalise the proposal so that it becomes a Service. If either party reasonably declines to agree to formalise a proposal into a Service, then it shall provide the other with its reasons. The proposing party may resubmit its proposals having taken due account of the receiving party's objections.
- 6.6 In order to formalise a proposal into a Service:
- (a) either party may submit to the other a draft Service Schedule. Such document shall be based substantially on the template Service Schedule set out in **Schedule 1**, but it may include additional matters or exclude matters contained in the template that are not relevant to the particular Service;
  - (b) each party may sign the Service Schedule or decline to do so. A Service Schedule shall not have operative effect under this agreement unless it is signed by both parties. Once signed by both parties, a Service Schedule becomes part of the agreement.
- 6.7 Each party shall in relation to the obligations allocated to it in a Service Schedule agreed in accordance with this clause:

- (a) perform such obligations, including by providing the Inputs in accordance with timeframes or milestones (if any) specified in the Service Schedule;
- (b) use reasonable care and skill in performing such obligations;
- (c) comply with good industry practice;
- (d) comply with all laws applicable to it;
- (e) obtain and maintain consents, licences and permissions (statutory, regulatory, contractual or otherwise) that are necessary to enable it to comply with such obligations;
- (f) ensure that the Inputs it provides conform with descriptions and specifications (if any) set out in the applicable Service Schedule; and
- (g) if on the other party's premises, comply with that party's health and safety and site regulations made known to it.

6.8 Each party shall ensure that it uses employees in performing its obligations under a Service Schedule who are suitably qualified and experienced.

## **7. Information flow, service management and governance**

### *General*

- 7.1 To enable the parties to maximise the benefits of their collaboration, each party shall:
- (a) engage the other in planning discussions in relation to the Focus from time to time;
  - (b) keep the other party informed as to any issues or difficulties it faces in relation to the Services or the Focus;
  - (c) keep the other party informed about its own progress in relation to each Service; and
  - (d) facilitate regular discussions between appropriate members of its personnel and those of the other party in relation to each Service, including in relation to:
    - (i) performance and issues of concern in relation to each Service;
    - (ii) new developments and resource requirements;
    - (iii) compliance with deadlines; and
    - (iv) such other matters as may be agreed between the parties from time to time,

in each case, such that each party is addressing the common public service objectives set out in this Agreement.

7.2 Each party shall:

- (a) supply to the other party information and assistance reasonably requested by it relating to a Service as is necessary to enable that other party to perform its own obligations in relation to the Service; and
- (b) review documentation, including draft specifications or service descriptions or other technical documentation, for use when performing its obligations in relation to a Service (if any), as soon as reasonably practicable at the request of the other party, and notify it of any errors or incorrect assumptions made in any such documents so far as it is aware.

*Governance*

7.3 In particular, in addition to the budget setting meeting required pursuant to clause [8.5], the parties shall meet [once per quarter] in order to review:

- (a) performance of the Services against the relevant national specification and agreed performance indicators;
- (b) expenditure in relation to the Services in a form that enables the Council to report its Revenue Outturn to the Ministry of Housing Communities and Local Government in the form required;
- (c) any specific incidents, cases, complaints, service failures;
- (d) [list out any other matters].

***[STILL TO BE CONSIDERED IN THE GOVERNANCE STRUCTURE:***

1. ***CLINICAL GOVERNANCE AND REPORTING***
2. ***WHERE DOES THIS SIT IN RELATION TO HWB AND OTHER GOVERNANCE STRUCTURES]***

*Change*

7.4 If at any time after the Commencement Date a Change occurs then the party becoming aware of the Change shall notify the other and the parties shall review:

- (a) whether the Change is a required change which must be implemented or a recommended change which may or may not be implemented;
- (b) the relevant Service(s) affected by the Change;
- (c) the resources available to comply with or satisfy such Change;
- (d) any additional sources of funding that may be available on recurrent or non-recurrent basis to implement the Change; and

- (e) the overall benefit related to the common public service objectives addressed under this Agreement.

7.5 If, following consideration of a Change pursuant to clause 7.4, the parties agree to implement a Change, then the necessary amendments to the relevant Service Schedule shall be made in writing and signed by both parties in order to take effect.

## **8. Funding**

8.1 The Council shall make available a budget from the Public Health ring-fenced grant each Financial Year in order to contribute to the cost of the Services provided by the Trust. The Council shall notify the Trust of the available budget no later than [31 October] in each year of the amount it expects to be able to make available for the following Financial Year.

8.2 In the first Financial Year the amount of Public Health grant available shall be [£5,300,000 – to be confirmed].

8.3 The Trust shall notify the Council of the anticipated costs (including any agreed uplift to employee costs) of providing the Initial Services and any new agreed Services no later than [31 October] each year. The Trust shall provide such information and financial information as the Council may reasonably require on a transparent open book basis to support its analysis of its costs.

8.4 In the first Financial Year the Trust's anticipated costs of providing the Initial Services are set out in Schedule 2.

8.5 The parties shall meet no later than [31 December] each year in order to finalise the costs of the Services and the Council's available budget. The parties shall be represented in such meeting by:

(a) for the Council: Deputy Chief Executive and s151 Officer

Director of Public Health

(b) for the Trust: [to be confirmed]

8.6 If, in respect of any Financial Year, the Trust costs identified under clause 8.3 or clause 8.4 exceed the Public Health grant identified by the Council under clause 8.1 or 8.2 (**Budget Shortfall**), then the parties shall use all reasonable endeavours:

(a) to identify additional or alternative sources of funding which may be applied to reduce the Budget Shortfall;

(b) to identify savings (on recurrent or non-recurrent basis) that may reduce the Budget Shortfall;

- (c) [any other specific measures]

in order to agree a budget within a period of [30 days] from identifying a Budget Shortfall.

- 8.7 In conducting the process set out in this clause 8, the parties shall aim to ensure that the Services are provided to the public with a view to achieving their common public service objectives set out in clause 4.
- 8.8 The Council shall notify the Trust of a confirmed budget as soon as reasonably possible following the process set out in this clause 8 that it can apply to the Services **(Confirmed Budget)**.
- 8.9 With effect from 1 April in each Financial Year, the Council shall pay the Confirmed Budget to the Trust in [monthly / quarterly] instalments on receipt of a properly prepared invoice from the Trust in accordance with clause 9.

**[NOTE: IS VAT APPLICABLE?]**

- 8.10 The Trust acknowledges that the Council is in receipt of ring fenced public health grant from the Department for Health and Social Care (**DHSC**) and reports its revenue outturn against that grant to the Ministry of Housing Communities and Local Government (**MHCLG**) and accordingly shall:
- (a) keep reliable, accessible and up to date records of expenditure funded under this Agreement;
  - (b) maintain sufficient internal financial controls to identify expenditure of monies made available by the Council under this Agreement as eligible expenditure within the meaning of the MHCLG public health grant;
  - (c) allow, at no additional cost to the Council, such access to records as may reasonably be required by the Council to satisfy MHCLG or its appointed audit representatives
- 8.11 The Trust shall continue to perform the Initial Services until the relevant Service Schedule or this Agreement is terminated.
- 8.12 Except as provided for in clause 8.13.9 or clause 8.13, each party shall:
- (a) not be entitled to charge the other party for the provision of anything (including Inputs) it provides in connection with each Service and this agreement; and
  - (b) be otherwise responsible for its own costs incurred in connection with each Service and this agreement, including all Inputs it provides.

- 8.13 If a Service Schedule provides that a party is responsible for paying the other party any Charges, such Charges shall be invoiced and paid for in the currency specified in the Service Schedule in accordance with clause 9 (Invoicing and payment).

## **9. Invoicing and payment**

- 9.1 Where this Agreement or a Service Schedule provides that a party will pay the other party any Charges, the other party may issue invoices for such Charges:
- (a) in accordance with the invoicing procedure (if any) provided for in the Service Schedule; or
  - (b) if no invoicing procedure is provided for in the Service Schedule, at the end of each [month / quarter].
- 9.2 [Unless otherwise provided in a Service Schedule, the Charges specified in a Service Schedule are exclusive of VAT, which shall be included in invoices and payable, if applicable, in addition to the Charges.] [**Check VAT**]
- 9.3 A party shall pay an invoice issued to it in accordance with this agreement within [30] days of [the date of receiving the invoice].
- 9.4 If a party fails to make a payment due to the other Party under this agreement by the due date, then, without limiting the other party's remedies under clause 17 (Termination of Services) or clause 18 (Termination of agreement), the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment.
- 9.5 Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 9.6 In relation to payments disputed in good faith, interest under this clause is payable only after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.

## **10. Set-off**

All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **11. Confidentiality**

- 11.1 **Confidential Information** means all confidential information (however recorded or preserved) disclosed by a party or its Representatives to the other party and that party's

Representatives whether before or after the date of this agreement in connection with the Focus or any Service, including:

- (a) the terms of this agreement or any agreement entered into in connection with the Focus or a Service;
- (b) any information that would be regarded as confidential by a reasonable person relating to:
  - (i) the assets, affairs, service users, suppliers of the disclosing party; and
  - (ii) the operations, processes or know-how of the disclosing party;
- (c) any information that is developed by the parties in the course of carrying out this agreement or any Service; and
- (d) is specified as confidential in any Service Schedule.

**Representatives** means, in relation to a party, its employees, officers, contractors, subcontractors, representatives and advisers.

11.2 The provisions of this clause shall not apply to any Confidential Information that:

- (a) is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause);
- (b) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party; or
- (c) the parties agree in writing is not confidential or may be disclosed.

11.3 Each party shall keep the other party's Confidential Information confidential and shall not:

- (a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this agreement in relation to the Focus and any Service (**Permitted Purpose**); or
- (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause.

11.4 A party may disclose the other party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:

- (a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
- (b) at all times, it is responsible for such Representatives' compliance with the confidentiality obligations set out in this clause.

- 11.5 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible.
- 11.6 On termination of this agreement, unless such things are needed by it to perform its obligations under a Service Schedule (and only until the end of such time), each party shall:
- (a) destroy or return to the other party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information;
  - (b) erase all the other party's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable); and
  - (c) certify in writing to the other party that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority. The provisions of this clause shall continue to apply to any such documents and materials retained by a recipient party.
- 11.7 The provisions of this clause 11 shall survive for a period of five years from termination of this agreement.

## 12. Announcements

- 12.1 Neither party shall make, or permit any person to make, any public announcement, communication or circular (**announcement**) concerning the existence, subject matter or terms of this agreement, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed). The parties shall consult together on the timing, contents and manner of release of any announcement.

## 13. Data protection

Each party shall, at its own expense, ensure that it complies with and assists the other party to comply with the requirements of Data Protection Legislation.

**[Drafting note: do we need to do more detailed provisions as to data sharing?]**



## **14. Warranties**

### **14.1** Each party warrants that:

- (a) it has full power and authority to carry out the actions contemplated under this agreement; and
- (b) its entry into and performance under the terms of this agreement will not cause it to be in breach of any obligations to a third party; and
- (c) so far as it is aware, all information, data and materials provided by it under this agreement will be accurate and complete in all material respects, and it is entitled to provide the same to the other without recourse to any third party.

### **14.2** Except as expressly provided in this agreement, there are no conditions, warranties or other terms binding on the parties with respect to the actions contemplated by this agreement. Any condition, warranty or other term in this regard that might otherwise be implied or incorporated into this agreement, whether by statute, common law or otherwise, is, to the extent that it is lawful to do so, excluded by this agreement.

## **15. Insurance**

[During the term of this agreement [and for a period of [PERIOD] years thereafter], each party shall maintain in force, with a reputable insurance company, public liability insurance in an amount not less than £[AMOUNT] for claims arising from a single event or series of related events in a single calendar year, and shall, on the other party's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium.]

## **16. Limitation and exclusion of liability**

### **16.1** Nothing in this clause shall limit a party's payment obligations to the other under this agreement.

### **16.2** Nothing in this agreement limits any liability that cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence; or
- (b) fraud or fraudulent misrepresentation.

## **17. Termination of Services**

### **17.1** The grounds and procedures for terminating the agreement as a whole specified in clause 18 (Termination of agreement) apply *mutatis mutandis* to a Service Schedule, and either party to a Service Schedule may terminate it in accordance with such clause.

17.2 [For the purposes of this clause, in relation to a Service Schedule, a **material breach** means a breach of any of the obligations set out in clause 6.7]

17.3 [A party may terminate a Service Schedule on giving not less than [twelve] months' written notice to the other party.]

17.4 Termination of a Service Schedule in accordance with this clause shall have the effect that:

- (a) the terminated Service Schedule shall be severed from the agreement, which shall otherwise remain in full force and effect; and
- (b) the provisions of clause 20 (Consequences of termination) shall otherwise apply (*mutatis mutandis*) in relation to the Service Schedule.

## 18. Termination of agreement

18.1 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than [60] days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any [other] term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of [NUMBER] days after being notified in writing to do so;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party;
- (e) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given;
- (f) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 18.1(c) to **Error! Bookmark not defined.**18.1(e) (inclusive);
- (g) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

18.2 For the purposes of clause 18.1(b), a **material breach** means a breach of any of the obligations set out in clause 6.7

- 18.3 Without affecting any other right or remedy available to it, either party may terminate this agreement on giving not less than [12] months' written notice to the other party.

## **19. Survival**

- 19.1 On termination of this agreement, the following clauses shall continue in force:

- (a) clause 1 (Interpretation);
- (b) clause 9 (Invoicing and payment);
- (c) clause 11 (Confidentiality);
- (d) clause 13 (Data protection);
- (e) clause 15 (Insurance);

- 19.2 Termination of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

- 19.3 On termination of this agreement, each Service Schedule then in force at the date of such termination shall continue in full force and effect for the remainder of the applicable Service Period, unless earlier terminated in accordance with the terms of this agreement.

## **20. Consequences of termination**

- 20.1 On termination of this agreement, unless such things are needed by it to perform its obligations under a Service Schedule (and only until the end of such time), each party shall, and shall use all reasonable endeavours to procure that its Representatives shall, as soon as reasonably practicable after termination of this agreement return or destroy (as directed in writing by the other party) any documents, handbooks, or other information or data provided to it by the other party for the purposes of this agreement. If reasonably required by the other party, it shall provide written evidence (in the form of a letter signed by it) that these have been destroyed and that it has not retained any copies of them.

## **21. Assignment and other dealings**

- 21.1 Neither party shall assign, transfer, subcontract or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the other party.

## **22. Entire agreement**

- 22.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 22.2 Each party agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in this agreement. No party shall have any claim for innocent or negligent misrepresentation based on any statement in this agreement.

## **23. Variation**

- 23.1 No variation of this agreement shall be effective unless it is in writing and signed by the parties.
- 23.2 Any variation of this agreement agreed by the parties in accordance with clause 23.1 shall be deemed to apply to all future Service Schedules entered into after the date of such variation, but shall not apply to Service Schedules already in force at that date unless such variation specifically so provides.

## **24. Notices**

- 24.1 A notice given to a party under or in connection with this agreement shall be in writing and sent to the party at the address [or email address] given in this agreement or as otherwise notified in writing to other party.
- 24.2 This clause 24.2 sets out the delivery methods for sending a notice to a party under this agreement and, for each delivery method, the date and time when the notice is deemed to have been received (provided that all other requirements of this clause have been satisfied, and subject to the provisions of clause 24.3):
- (a) if delivered by hand, at the time the notice is left at the address; [or]
  - (b) if sent by [pre-paid first class post or other] next working day delivery service[ providing proof of [postage **OR** delivery]], at 9.00am on the [second] Business Day after posting; [or]
  - (c) [if sent by email, at the time of transmission.]
- 24.3 If deemed receipt under clause 24.2 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause, **business hours** means 9.00 am to 5.00 pm Monday to Friday on a day that is not a public holiday in the place of receipt.

24.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24.5 [A notice given under this agreement is not valid if sent by email.]

## **25. Severance**

25.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement and the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **26. Waiver**

26.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

26.2 A failure or delay by a party to exercise any right or remedy shall not prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## **27. Counterparts**

27.1 This agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

27.2 No counterpart shall be effective until each party has executed at least one counterpart.

## **28. Third party rights**

28.1 This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

## **29. Costs**

Subject to **Error! Bookmark not defined.****Error! Reference source not found.**, each party shall pay its own costs incurred in connection with the negotiation, preparation, and execution of this agreement.

### **30. Dispute Resolution**

- 30.1 If any dispute arises in connection with this agreement, then a party may notify the other in writing of the dispute. Within ten (10) Business Days of service of such notice, Senior Representatives of the two parties shall meet in order to resolve the dispute.
- 30.2 If within ten Business Days of the meeting referred to in clause 30.1 the dispute is not resolved, the parties agree to enter into mediation in good faith to settle such a dispute and will do so in accordance with [the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure]. Unless otherwise agreed between the parties within 14 [working] days of notice of the dispute, the mediator will be nominated by [CEDR]. To initiate the mediation a party must give notice in writing (**ADR notice**) to the other party, referring the dispute to mediation. [A copy of the referral should be sent to [CEDR **OR** OTHER PROVIDER].]
- 30.3 Unless otherwise agreed, the mediation will start not later than [28 **OR** OTHER NUMBER] [working] days after the date of the ADR notice. The commencement of a mediation will not prevent the parties commencing or continuing [court proceedings **OR** an arbitration].

### **31. Governing law**

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

### **32. Jurisdiction**

Subject to clause 39 [Mediation] each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

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

**Schedule 1 Service Schedule template [NOTE: TO COMPLETE ONE PER INITIAL SERVICE (HV, SN and FNP)]**

**Part 1 Background**

(A) The parties have entered into a collaboration agreement dated [DATE] (**agreement**), allowing the parties to collaborate on Services where such Services fall within the Focus.

(B) In connection with the agreement, the parties have agreed to collaborate in accordance with this Service Schedule.

**Part 2 Service provisions**

The parties agree that:

**1. Structure**

1.1 This Service Schedule forms part of the agreement.

1.2 The terms and conditions of the agreement apply to this Service Schedule. Each party agrees that it shall perform its obligations set out in this Service Schedule in accordance with the agreement.

1.3 Unless otherwise defined in this Service Schedule, terms used in this Service Schedule shall have the meaning given to them in the agreement.

**2. Description of Service**

**[INSERT DETAILED DESCRIPTION OF SERVICE HERE – RELEVANT NATIONAL SERVICE SPECIFICATION]**

**3. Term**

The Service shall commence on 1 April 2022 and, unless terminated earlier in accordance with the agreement, shall continue until 31 March 2027 (**Service Period**).

**4. Inputs**

The parties shall each provide the following Inputs in relation to the Service, in accordance with the following timeframes (if any):

| Input                             | Council | Trust | Timeframe                     |
|-----------------------------------|---------|-------|-------------------------------|
| Information on service user needs |         |       | Throughout the Service Period |

|   |  |  |                               |
|---|--|--|-------------------------------|
| Personnel   |  |  | Throughout the Service Period |
| Administration                                    |  |  | Throughout the Service Period |
| <i>[Insert other input items of either party]</i> |  |  |                               |

**5. Additional terms**

***[INSERT ANY ADDITIONAL TERMS APPLICABLE TO THE SERVICE].***



**Schedule 2 Initial Services Costs for Financial Year 2022-2023**

Executed by **The  
Metropolitan Borough  
Council of Stockport** by  
affixing the common seal in  
the presence of:

.....

Head of Legal / Designated Authorised Signatory

.....

Authorised Signatory

[Trust to insert appropriate  
execution block]

.....

Director