

meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any Regulatory Body of which either party is bound to comply

“Business Day”

a day other than a Saturday, Sunday, Bank Holiday or other public holiday in England or other days when CUHP is officially closed for business

“Confidential Information”

is defined in **clause 6.1**

“CUHP’s Obligations”

the obligations of CUHP set out in **Schedule 3**

“DPA”

is defined in **clause 6.9**

“Intellectual Property Rights”

all intellectual and industrial property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights, domain names and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals, extensions, continuations, divisionals, reissues, re-examinations and substitutions.

“Personal Data”

is defined in **clause 6.10**

“Provider’s Obligations”

the obligations of the Provider set out in **Schedule 2**

“Regulatory Bodies”

means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of CUHP or the Provider and **“Regulatory Body”** shall be construed accordingly.

“Services”

the services set out in **Schedule 1**

“Term”

means the period for which this Contract is operational commencing on and including the date of this Contract and expiring on and including 31st May 2013 unless previously terminated in accordance with the Contract.

1.2 Terms not otherwise defined shall have the same meaning as in the NHS Contract.

1.3 The Schedules form part of this Contract and shall have the same force and effect as if set out in the body of this Contract and any reference to this Contract shall include the Schedules.

1.4 The background section and all headings are for ease of reference only and shall not affect the construction or interpretation of this Contract.

2. Services

2.1 In consideration of CUHP’s Obligations, the Provider shall use all reasonable endeavours to provide the Services from the **[INSERT DATE]** in accordance with the Provider’s Obligations.

2.2 In consideration of the Provider’s Obligations, CUHP shall comply with CUHP’s Obligations.

2.3 Payment for the Services shall be made in accordance with **Schedule 4**.

2.4 A designated representative of both parties shall hold and attend review meetings at agreed intervals to review the provision of the Services.

2.5 The parties agree that where there is a need to change an aspect of the Services, the parties (or a duly authorised representative) may agree on a written variation to the Services. In these circumstances a memorandum with full details of the change and the reason for the change (a "**Service Variation**") shall be presented and agreed at a review meeting referred to in **clause 2.4**. Any such Service Variations shall be allocated a sequential number and a copy of the Service Variation shall be attached to the minutes and the original Service Variation filed with the Contract.

3. **Marketing and Branding**

3.1 The Provider shall market, brand and provide all Services (as described in Schedule 1) under the logo and name of "Cambridge University Health Partners" or "CUHP" and in accordance with style and branding guidelines as indicated by CUHP on a Service by Service basis.

3.2 CUHP hereby grants to the Provider a non-exclusive, perpetual, revocable, royalty-free licence to use the logo and names of "Cambridge University Health Partners" or "CUHP" for the purposes set out in **clause 3.1**.

3.3 The Provider shall not use the logo and names of "Cambridge University Health Partners" or "CUHP" other than as authorised under **clauses 3.1 and 3.2** without the prior written consent of CUHP.

4. **Intellectual Property**

Background IP

4.1 This Contract does not affect the ownership of any Intellectual Property which belongs to either party prior to the date of this Contract ("**Background IP**"). No right to use any Background IP belonging to the other party is granted or implied by this Contract and any use must be expressly licensed by the relevant party in writing.

Ownership of Intellectual Property by CUHP

4.2 Any Intellectual Property created by an employee, secondee or consultant of the Provider while providing the Services will, unless otherwise agreed in writing by the parties, be owned by the Provider.

4.3 The Provider hereby grants to CUHP a non-exclusive, perpetual, revocable, royalty-free licence to use any Intellectual Property created pursuant to **clause**

4.2 and any know-how which forms part of such Intellectual Property for the purpose of providing the Services.

4.4 Following completion of the Services, the Provider shall be entitled to publish or otherwise disseminate the conclusions of the Services.

5. **Term and termination**

5.1 This Contract shall be effective from the date hereof for the Term unless prior terminated or extended in accordance with the terms hereof.

5.2 Unless appropriate notice is given to extend the Term this Contract shall expire without notice upon the last day of the Term or, if earlier, when all the Services have been provided and all payments have been made in accordance with this Contract.

5.3 Provided that at least six (6) months have expired from the date of this Contract either party may terminate this Contract by giving the other party no less than three (3) months' written notice (the "**Notice Period**").

5.4 Each party shall have the right at any time by giving written notice to the other party to terminate this Contract forthwith if:

5.4.1 a party commits a material breach of the provisions of this Contract which, if capable of remedy, is not remedied within twenty-eight (28) days of a request from another party to do so; or

5.4.2 there is at any time any material change in the operations, management or structure of a party which in the reasonable opinion of the other party means that the party subject to such change is substantially impaired in the performance of its obligations hereunder; or

5.4.3 at any time it is unlawful for a party to perform any of its obligations under this Contract; or

5.4.4 a party has appointed a liquidator, provisional liquidator, administrator or similar officer or a like appointment is made in relation to the assets of that party; or

5.4.5 where an application is made to a competent court for an order or an order is made or a meeting is convened or a resolution is passed for the purpose of appointing a person referred to in the preceding paragraph or for the winding up of the other party or for implementing

- a scheme or arrangement or for placing the other party under administration; or
- 5.4.6 a party fails to duly and punctually comply with any proper laws binding on it for the purposes of the rights and obligations specified in this Contract; or
- 5.4.7 a party ceases or threatens to cease to carry on the operations customarily carried on by it; or
- 5.4.8 any other event or series of events occurs which, in the reasonable opinion of that party, renders it impracticable or impossible to observe and fulfil the terms of this Contract.
- 5.5 Termination of this Contract for any reason shall not extinguish, prejudice or affect any antecedent rights that may have accrued to a party prior to the date of termination.
- 5.6 The following provisions of this Contract remain in full force after termination:
- 5.6.1 clause 1 (interpretation);
- 5.6.2 clause 4 (intellectual property)
- 5.6.3 this clause 5;
- 5.6.4 clause 6 (data protection and confidentiality); and
- 5.6.5 clause 9 (general provisions).
- 5.7 The parties agree that if the Provider fails to provide the Services as set out in Schedule 1 in accordance with the Milestones then, subject to CUHP having met its obligations under this Agreement, CUHP may (without prejudice to any other rights they may have):
- 5.7.1 terminate the Contract in whole or in part without liability to CUHP;
- 5.7.2 refuse to accept any subsequent performance of the Services which the Provider attempts to make;
- 5.7.3 purchase substitute services from elsewhere at the cost of the Provider;
- 5.7.4 hold the Provider accountable for any loss (excluding for indirect or consequential loss or damage; and/or loss of profits, business, revenue, goodwill or anticipated savings) and additional costs

reasonably incurred , save that such liability shall be limited for one incident or a series of incidents to the total amount of the payments made CUHP to the Provider; and

5.7.5 request that the Provider refunds to CUHP (as the case may be) all sums previously paid by CUHP to the Provider under the Contract with respect to the Services which the Provider failed to deliver.

6. **Data Protection and Confidentiality**

6.1 In this **clause 6** the expression "**Confidential Information**" means any information:

6.1.1 which any party may have or acquire (whether before or after the date of this Contract) in relation to the customers, patients, business, assets or affairs of another party, as a consequence of the negotiations relating to this Contract or the performance of this Contract) or patients; or

6.1.2 which relates to the contents of this Contract (or any agreement, contract or arrangement entered into pursuant to this Contract),

but excludes the information in **clause 6.2**.

6.2 Information is not Confidential Information if:

6.2.1 it is or becomes public knowledge other than as a direct or indirect result of the information being disclosed in breach of this Contract; or

6.2.2 a party can establish that it found out the information from a source not connected with the other party and that the source was not under any obligation of confidence in respect of the information; or

6.2.3 a party can establish that the information was known to it before the date of this Contract and that it was not under any obligation of confidence in respect of the information; or

6.2.4 is independently developed by any student, employee, agent, officer, of the recipient party who had no access to the Confidential Information and where the independent development can be proven by contemporaneous written documentation

6.2.5 the parties agree in writing that it is not confidential.

- 6.3 Each party shall at all times use all reasonable endeavours to keep confidential any Confidential Information and shall not use or disclose any such confidential information except:
- 6.3.1 to its professional advisers where such disclosure is for a proper purpose related to the operation of this Contract; or
 - 6.3.2 with the consent in writing of the other party; or
 - 6.3.3 as may be required by law or regulation, when the party concerned shall, if practicable, supply a copy of the required disclosure to the other party, in sufficient time before it is disclosed to enable the other party to consider and suggest amendments to it, and incorporate any amendments reasonably required by the others; or
 - 6.3.4 to any tax authority to the extent it concerns the party; or
 - 6.3.5 if the information comes within the public domain (otherwise than as a result of the breach of this **clause 6.3**).
- 6.4 Each party shall inform any officer, employee or agent or any professional adviser advising it in relation to the matters referred to in this Contract, or to whom it provides Confidential Information, that such information is confidential and shall require them:
- 6.4.1 to keep it confidential; and
 - 6.4.2 not to disclose it to any third party (other than those persons to whom it has already been disclosed in accordance with the terms of this Contract).
- 6.5 Upon termination of this Contract, each party may demand from the other party the return of any documents containing Confidential Information in relation to that party by notice in writing whereupon the other party shall (save for any submission to or filings with any Regulatory Body):
- 6.5.1 return such documents; and
 - 6.5.2 destroy any copies of such documents and any other document or other record reproducing, containing or made from or with reference to the Confidential Information,
- 6.6 Any return or destruction pursuant to **clause 6.5** shall take place as soon as practicable after the receipt of any such notice.

- 6.7 The obligations of each party in this **clause 6** shall continue without limit in time and notwithstanding termination of this Contract for any cause.
- 6.8 Neither party shall make or permit or authorise the making of any press release or other public statement or disclosure concerning this Contract, or any transaction contemplated by it or its termination without the prior consent in writing of the other party (except as required by law or regulation). Before any party makes any such release, statement or disclosure it shall where practicable first supply a copy of it to the other parties and shall incorporate any amendments or additions they may each reasonably require.
- 6.9 Unless otherwise required by the operation of English law and in accordance with the Data Protection Act 1998 ("**DPA**"), each party will keep confidential at all times and only process in accordance with the DPA any and all information and Personal Data received from the others relating to patients, collaborators, employees, or students.
- 6.10 For the purpose of **clause 6.9 "Personal Data"** means data which relate to a living individual who can be identified (i) from those data or (ii) from those data and other information which is in the possession of the recipient and keeper of such data.
- 6.11 If either party receives a request under the Freedom of Information Act 2000 to disclose any information that, under this Agreement, is the other party's Confidential Information, it will notify the other party and will consult with such party.

7. **Warranties**

Each party warrants to the others that, at the date of this Contract it has full power and authority and has obtained the consent of any third party necessary to enter into and perform this Contract.

8. **Notices**

8.1 Any demand, notice or other communication given or made under or in connection with this Contract will be in writing.

8.2 Any such demand, notice or other communication will, if given or made in accordance with this **clause 8**, be deemed to have been duly given or made as follows:

8.2.1 if sent by prepaid first class post, on the second Business Day after the date of posting; or

8.2.2 if delivered by hand, upon delivery at the address provided for in this Contract; or

8.2.3 if sent in electronic form, on the day of transmission;

provided however that, if it is delivered by hand or sent in electronic form on a day which is not a Business Day or after 4.00 pm on a Business Day, it will instead be deemed to have been given or made on the next Business Day.

8.3 Any such demand, notice or other communication will, in the case of service by post or delivery by hand, be addressed to the recipient at the recipient's address stated in this Contract or at such other address as may from time to time be notified in writing by the recipient to the sender as being the recipient's address for service.

8.4 Any such demand, notice or other communication will, in the case of service in electronic form, be sent to the recipient using an electronic address then used by the recipient.

8.5 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

9. **General provisions**

9.1 Each party warrants to the others that, at the date of this Contract it has full power and authority, and has obtained the consent of any third party necessary, to enter into and perform this Contract.

9.2 This Contract shall constitute the entire contractual relationship between the parties in relation to the Services and supersede and extinguish any previous agreements or contracts between the parties whether orally or in writing in respect of the Services and there are no representations, promises, terms, conditions or obligations between the parties other than those contained or expressly referred to therein. This clause does not restrict liability of any party arising as a result of any fraud. The parties agree that the NHS Agreement does not form part of their contractual relationship.

9.3 Neither party shall assign or transfer or purport to assign or transfer any of its rights or obligations hereunder without the prior consent in writing of the other party.

- 9.4 The waiver by either party any default by the other party in the performance of any obligation of such other party under this Contract shall not affect such party's rights in respect of any other default nor any subsequent default of the same or of a different kind.
- 9.5 Nothing in this Contract shall constitute a partnership between the parties or constitute one the agent of another and none of the parties shall do or suffer anything to be done whereby it shall or may be represented that it is the partner or agent of the other party unless such party is appointed partner or agent of the other party with the consent in writing of that party.
- 9.6 The parties to this Contract 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.
- 9.7 This Contract may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each party had executed the same document.
- 9.8 This Contract and any non-contractual obligations arising out of or in connection with it will be governed by English law.
- 9.9 The parties irrevocably submit to the non-exclusive jurisdiction of the courts of England and Wales for the determination of any dispute arising out of or in connection with this Contract (including (without limitation) in relation to any non-contractual obligations).

THIS CONTRACT has been signed on the date stated on the first page.

SCHEDULE 1
THE SERVICES

Cambridgeshire HIEC
Project Pro-forma

1. Title of Project	
2. Patient group	
3. Lead clinician (s)	
4. Project manager	
5. Collaborators	
6. Brief description of project (max. 250 words)	

7. Main objectives	
8. Timeframe and key milestones	

9. Project Resources Budget	<p>The project will require the following resources:</p> <p style="text-align: right;">£XXXXX</p> <p>_____ £XXXXX</p> <p>_____ £XXXXX</p> <p>Total Project Resources Budget £XXXXXX</p>
10. Match-funding	
11. What is innovative about the project?	
12. Performance indicators	
13. Sustainability	
14. Scale of impact	
15. Scope for research and evaluation	
16. Project management arrangements	<p>A project group will be established under the auspices of the CUHP Innovation Centre Expert Panel, and reporting also to the CUHP Executive. Project management support will be available through [INSERT NAME]</p>

SCHEDULE 2

THE PROVIDER'S OBLIGATIONS

Part 1 - General obligations

1. The Provider shall:
 - 1.1 provide the Services as set out in Schedule 1 and in accordance with the obligations in this Schedule 2;
 - 1.2 allocate sufficient resources to provide the Services in accordance with the terms of this Contract;
 - 1.3 use all reasonable skill, care and diligence in the performance of the Services;
 - 1.4 provide the Services in accordance with all Applicable Laws;
 - 1.5 observe, and ensure that all employees, servants, agents and sub-contractors observe, all health and safety rules and regulations, and all security and safeguarding policies that apply at any location where the Services are performed;
 - 1.6 comply with the requirements of the Health and Safety at Work Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to staff and other persons working at any location where the Services are performed in the performance of its obligations under the Contract and ensure that its health and safety policy statement (as required by the Health and Safety at Work Act 1974) is made available to CUHP on request;
 - 1.7 co-operate with CUHP and its agents to refine the performance indicators set out in schedule 1 and to develop and implement a framework for benefits realisation;
 - 1.8 participate in cross-project meetings for learning as organised by CUHP; and
 - 1.9 produce monitoring reports at the dates and to the format set out in part 2 of this Schedule or otherwise specified by CUHP.
2. The Provider warrants that:
 - 2.1 It has sufficient numbers of trained, qualified and skilled personnel to enable it to provide the Services during the Term of this Contract, and a sufficient reserve

of trained and qualified personnel available to provide the Services in the event of sickness or other cause or annual leave at no additional cost;

- 2.2 Its personnel are entitled to work in the United Kingdom and that where necessary its personnel have valid and current work permits in accordance with provision of the Immigration, Asylum and Nationality Act 2006 and any amendments or re-enactments of the same;
- 2.3 It will notify CUHP if any of its personnel who are employed or contracted at any time following the Commencement Date have been convicted of a serious criminal offence subject to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975;
- 2.4 Each member of its personnel has a job description and is subject to regular performance reviews;
- 2.5 Each member of its personnel is fully trained in his or her provision of the Services.

Part 2 - Reporting obligations

Interim report and presentation at [DD MMMM YYYY] CUHP Innovation Centre Expert Panel.

Final report by [DD MMMM YYYY]

Part 3 – Other sources of funding

[PROVIDE DETAILS IF APPLICABLE]

SCHEDULE 3

CUHP's OBLIGATIONS

Part 1 - General obligations

- 3. CUHP shall:
 - 3.1 nominate a person as point of contact for the Provider;
 - 3.2 comply with its payment obligations set out in part 2 of this Schedule and any other obligations it may have under this Contract;
 - 3.3 Provide style and branding guidelines.
 - 3.4 Co-ordinate reporting to the NHS East of England and the Department of Health.

Part 2 - Payment obligations

Payment of the following sums inclusive of the VAT will be made to the Provider upon the occurrence of the events specified below:

On signature of contract	(50% of Project Resources Budget)	£XXXX
Receipt and approval of final report	(50% of Project Resources Budget)	£XXXX
Total		£XXXXXX

The payments will be made within 30 days following submission by the Provider of a valid invoice addressed to:

Cambridge University Health Partners
 Cambridge Biomedical Campus
 Addenbrooke's Hospital - Box 146
 Hills Road
 Cambridge CB2 0QQ

<p>SIGNED by)</p> <p>Name:.....)</p> <p>Title:)</p> <p>Duly authorised to sign for and)</p> <p>on behalf of)</p> <p>CAMBRIDGE UNIVERSITY)</p> <p>HEALTH PARTNERS)</p>	<p>SIGNED by)</p> <p>Name:.....)</p> <p>Title:)</p> <p>Duly authorised to sign for and)</p> <p>on behalf of)</p> <p>PROVIDER)</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------