

# City and Hackney Service Contract

**For the Provision of  
Public Health, GP and Pharmacy Services**

Terms and Conditions

*Public Procurement Excellence*



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**The contract is entered into between Thrive Tribe Ltd t/a City of London and Hackney Stop Smoking Service (“Provider”) and Chemist (“Subcontractor”)**

Duration: (with option to extend to 2X one years)

**BACKGROUND**

- (A) Thrive Tribe wishes to procure Public Health, GP and Pharmacy services (“the Services”) -
- (B) The Service Provider has offered to provide such Services.
- (C) Thrive Tribe has accepted the Service Provider’s offer subject to the terms and conditions of this Contract.

**IT IS AGREED**

**1. INTERPRETATION**

- 1.1. This Contract shall be interpreted in accordance with Appendix A (definitions and interpretation), unless the context requires otherwise.
- 1.2. In the event of conflict, the following shall be the order of precedence:
  - a) the body of this Contract;
  - b) Appendix A (definitions);

**2. COMMENCEMENT AND DURATION**

- 2.1. This Contract shall commence on the Commencement Date and, unless it is extended or terminated earlier in accordance with the provisions of this Contract, shall expire on the Expiry Date (“the Term”).
- 2.2. Thrive Tribe may, at its option and discretion, extend the Term for a period or periods up to an aggregate of five (5) years. In the event (and on each occasion) that the Authority exercises its discretion to so extend the Term it shall serve written notice on the Service Provider not less than three (3) months before the expiry of the Term (or if applicable the Term as previously extended). In such circumstances the definition of “Term” shall be deemed amended accordingly and the Service Provider shall continue to provide the Services in accordance with the Contract.
- 2.3. The Service Provider shall provide the Services in accordance with the Conditions of the Contract.

**3. REPRESENTATIVES**

- 3.1. The person set out below is authorised from the Commencement Date to act on behalf of the Thrive Tribe on all matters relating to this Contract (the Thrive Tribe Representative).

Title: The Director of Operations  
Details: Thrive Tribe  
167-169 Great Portland St  
London  
W1W 5PF

or any deputy appointed by him and notified to the Service Provider.

- 3.2. The person set out below is authorised from the Commencement Date to act on behalf of the Service Provider on all matters relating to this Contract (the Service Provider Representative).

Name and Contact Details of Service Provider Representative:

Name:

Organisation:

Address:

Telephone Number:

Email Address:

- 3.3. The Service Provider may replace the Service Provider Representative and Thrive Tribe may replace the Thrive Tribe Representative at any time by giving written notice to the other Party.

#### **4. CHARGES AND PAYMENT**

- 4.1. Subject to any provision of this Contract to the contrary (including without limitation those relating to withholding and/or retention), in consideration for the provision of the Services in accordance with the terms of this Contract, Thrive Tribe shall pay the Service Provider the associated costs for the Services as set out in the Service Specification.
- 4.2. Thrive Tribe will monitor and deal with the administration of monthly payments in respect to the Services delivered under this Contract.
- 4.3. The associated costs for delivering the Services are fixed as detailed in the Service Specification and will be paid by Thrive Tribe from its relevant fund.
- 4.4. In its performance of this Contract the Service Provider shall not provide or offer to a Service User any clinical or medical services for which any charges would be payable by the Service User (other than in accordance with this Contract, the Law and/or Guidance).
- 4.5. Save as provided in the Service Specification, no increase in the costs for the Services may be made (whether on account of increased material or labour, fluctuation in rates of exchange or otherwise) without the prior consent of Thrive Tribe in writing.
- 4.6. The Service Provider shall be deemed to have satisfied itself before entering into this Contract as to the accuracy and sufficiency of the associated costs to deliver the Services which shall, except where expressly provided to the contrary in this Contract, cover all the Service Provider's obligations under this Contract and the Service Provider shall be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect associated costs.

#### **5. GOOD CLINICAL PRACTICE**

- 5.1. The Service Provider must carry out the Services in accordance with the Law and Good Clinical Practice and must, unless otherwise agreed (subject to the Law) with the Authority in writing:
- (a) comply, where applicable, with the registration and regulatory compliance guidance of CQC and any other Regulatory Body;

- (b) respond, where applicable, to all requirements and enforcement actions issued from time to time by CQC or any other Regulatory Body;
- a) consider and respond to the recommendations arising from any audit, death, Serious Incident report or Patient Safety Incident report;
- b) comply with the recommendations issued from time to time by any body that has authority to issue standards or recommendations with which either Party must comply
- c) comply with the recommendations from time to time contained in guidance and appraisals issued by National Institute for Health and Clinical Excellence; and
- d) respond to any reports and recommendations made by Local HealthWatch.

## **6. STAFF**

6.1. At all times, the Service Provider must ensure that:

- a) each of the Staff is suitably qualified and experienced, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
- b) there is an adequate number of Staff to provide the Services properly in accordance with the provisions of the applicable Service Specification;
- c) where applicable, Staff are registered with the appropriate professional regulatory body; and
- d) Staff are aware of and respect equality and human rights of colleagues and Service Users.

6.2. If requested by Thrive Tribe, the Service Provider shall as soon as practicable and by no later than 20 Business Days following receipt of that request, provide Thrive Tribe with evidence of the Service Provider's compliance with clause 6.1.

6.3. The Service Provider must have in place systems for seeking and recording specialist professional advice and must ensure that every member of Staff involved in the provision of the Services receives:

- a) proper and sufficient continuous professional and personal development, training and instruction; and
- b) full and detailed appraisal (in terms of performance and on-going education and training),

each in accordance with Good Clinical Practice and the standards of any applicable relevant professional body.

6.4. The Service Provider must carry out Staff surveys in relation to the Services at intervals and in the form notified to it by Thrive Tribe or otherwise agreed with Thrive Tribe in writing from time to time.

6.5. Before the Service Provider engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Service Provider must without limitation, complete:

- a) the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks, criminal record checks and occupational health checks; and

## **7. EQUIPMENT**

- 7.1. The Service Provider must provide and maintain at its own cost all equipment, plant, materials and such other items supplied and used by the Service Provider in the performance of its obligations under this Contract (“Equipment”) necessary for the supply of the Services in accordance with any required Consents and must ensure that all Equipment is fit for the purpose of providing the applicable Services.

## **8. TRANSFER OF AND DISCHARGE FROM CARE OBLIGATIONS**

- 8.1. The Service Provider must comply with any transfer of and discharge from care protocols notified to it by Thrive Tribe or as otherwise agreed by the Parties.

## **9. WARRANTIES AND REPRESENTATIONS**

- 9.1. The Service Provider warrants and represents that:

- a) it has full capacity and authority to enter into this Contract and all necessary Consents have been obtained and are in full force and effect;
- b) its execution of this Contract does not and will not contravene or conflict with its constitution, any Law, or any agreement to which it is a party or which is binding on it or any of its assets;
- c) in entering this Contract, it has not committed any fraudulent acts or defrauding or attempting to defraud or conspiring to defraud under any law in the UK;
- d) all reasonably material information supplied by it to Thrive Tribe during the award procedure leading to the execution of this Contract is, to its reasonable knowledge and belief, true and accurate and it is not aware of any material facts or circumstances which have not been disclosed to Thrive Tribe which would, if disclosed, be likely to have an adverse effect on a reasonable public sector entity’s decision whether or not to contract with the Service Provider substantially on the terms of this Contract;
- e) to the best of its knowledge, nothing will have, or is likely to have, a material adverse effect on its ability to perform its obligations under this Contract;
- f) it has the right to permit disclosure and use of Confidential Information for the purpose of this Contract;
- g) The Service Provider warrants to Thrive Tribe that the Services will be performed by appropriately qualified and trained personnel, with due skill, care and diligence and to such high standard of quality as Thrive Tribe may expect from an appropriately experienced Service Provider providing similar services to the Services.

## **10. INDEMNITIES**

- 10.1. The Service Provider shall indemnify Thrive Tribe, and keep it indemnified, from and against any and all loss, damage, cost, expense or liability (whether criminal or civil) suffered, and legal fees and costs incurred, by Thrive Tribe resulting from any negligent or tortuous act or omission by the Service Provider or any breach of this Contract by the Service Provider, including (without limitation):
- a) any act, neglect or default of the Service Provider’s employees or agents; or
  - b) breaches in respect of any matter arising from the supply of the Services resulting in



any claim by any third party.

## **11. INSURANCE**

11.1. The Service Provider shall:

- a) maintain at its own costs a comprehensive policy of insurance to cover the liability of the Service Provider in respect of any act or default for which it may become liable to indemnify Thrive Tribe under the terms of this Contract; and
- b) to arrange that the minimum cost per claim of the policy is:
  - 1) for public liability insurance five million pounds (£1 million);
  - 2) for professional indemnity liability insurance ten million pounds (£10 million).

11.2. The Service Provider must give Thrive Tribe, on request, a copy of or a broker's placement verification of the insurance, together with receipts or other evidence of payment of the latest premiums due under those policies.

11.3. The provision of any insurance or the amount or limit of cover will not relieve or limit the Service Provider's liabilities under this Contract.

## **12. SERVICE USER INVOLVEMENT**

12.1. The Service Provider shall engage, liaise and communicate with Service Users, their Carers' Legal Guardians in an open and clear manner in accordance with the Law, Good Clinical Practice and their human rights.

12.2. If necessary and as reasonably practicable following any reasonable request from the Authority, the Service Provider must provide evidence to Thrive Tribe of the involvement of Service Users, Carers' and Staff in the development of Services.

## **13. EQUITY OF ACCESS, EQUALITY AND NO DISCRIMINATION**

13.1. The Parties must not discriminate between or against Service Users, on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation or any other non-medical characteristics except as permitted by the Law.

13.2. The Service Provider must provide appropriate assistance and make reasonable adjustments for Service Users, who do not speak, read or write English or who have communication difficulties (including without limitation hearing, oral or learning impairments).

13.3. In performing this Contract, the Service Provider must comply with the Equality Act 2010 in all applicable respects whatsoever including without limitation section 149 of the Equality Act 2010 to, without limitation:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act 2010;
- b) advance equality of opportunity between persons who share a relevant protected characteristic (as defined in the Equality Act 2010) and persons who do not share it; and
- c) foster good relations between persons who share a relevant protected characteristic (as defined in the Equality Act 2010) and persons who do not share it,

and for the avoidance of doubt this obligation shall apply whether or not the Service Provider is a public authority for the purposes of section 149 of the Equality Act 2010.

- 13.4. The Service Provider must provide to Thrive Tribe as soon as reasonably practicable, any information that Thrive Tribe reasonably requires to:
  - a) monitor the equity of access to the Services; and
  - b) fulfil their obligations under the Law.

#### **14. SAFEGUARDING VULNERABLE ADULTS**

- 14.1. The Service Provider shall adopt safeguarding policies, being written policies for safeguarding vulnerable adults, and such policies shall comply with Thrive Tribe's safeguarding policy as amended from time to time a copy of which can be obtained by the Service Provider from Thrive Tribe.
- 14.2. At the reasonable written request of Thrive Tribe and by no later than 10 Business Days following receipt of such request, the Service Provider must provide evidence to Thrive Tribe that it is addressing any safeguarding concerns.

#### **15. COMPLAINTS**

- 15.1. The Service Provider must at all times comply with the relevant regulations for complaints relating to the provision of the Services.
- 15.2. If a complaint is received about the standard of the provision of the Services or about the manner in which any of the Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Service Provider's obligations under this Contract, then the Authority may take any steps it considers reasonable in relation to that complaint, including investigating the complaint and discussing the complaint with the Service Provider, CQC or/and any Regulatory Body. Without prejudice to any other rights Thrive Tribe may have under this Contract, Thrive Tribe may, in its sole discretion, uphold the complaint and take any action specified in clause 27.

#### **16. INCIDENTS REQUIRING REPORTING**

- 16.1. If the Service Provider is CQC registered it shall comply with the requirements and arrangements for notification of deaths and other incidents to CQC in accordance with CQC Regulations and if the Service Provider is not CQC registered it shall notify Serious Incidents to any Regulatory Body as applicable, in accordance with the Law.
- 16.2. If the Service Provider gives a notification to the CQC or any other Regulatory Body under clause 16.1 which directly or indirectly concerns any Service User, the Service Provider must send a copy of it to the Authority within 5 Business Days.
- 16.3. Subject to the Law, Thrive Tribe shall have complete discretion to use the information provided by the Service Provider under this clause 16.

#### **17. CONSENT**

- 17.1. The Service Provider must publish, maintain and operate a Service User consent policy which complies with Good Clinical Practice and the Law.

## **18. SERVICE USER HEALTH RECORDS**

- 18.1. The Service Provider must create, maintain, store and retain Service User health records for all Service Users. The Service Provider must retain Service User health records for the periods of time required by Law and securely destroy them thereafter in accordance with any applicable Guidance.
- 18.2. The Service Provider must:
- a) use Service User health records solely for the execution of the Service Provider's obligations under this Contract; and
  - b) give each Service User full and accurate information regarding his/her treatment and Services received.
- 18.3. The Service Provider must at all times during the term of this Contract have a Caldicott Guardian and shall notify Thrive Tribe of their identity and contact details prior to the Commencement Date. If the Service Provider replaces its Caldicott Guardian at any time during the term of this Contract, it shall promptly notify Thrive Tribe of the identity and contact details of such replacements.
- 18.4. Subject to Guidance and where appropriate, the Service User Health Records should include the Service User's verified NHS number.

## **19. INFORMATION**

- 19.1. The Service Provider shall keep full and proper records in relation to the performance of its obligations under this Contract and provide Thrive Tribe with any information regarding such records as may be reasonably requested in writing by the Authority and/or its internal or external auditors having regard to Thrive Tribe's duties and responsibilities as a public authority.
- 19.2. Any information requested under clause 19.1 shall be provided by the Service Provider within a reasonable time being no longer than seven (7) Business Days from the date of such written request and shall be provided in hard copy and, where available, also electronically. Thrive Tribe shall be entitled to have the originals of any document so requested.
- 19.3. Without prejudice to the Service Provider's obligations under this clause 19, Thrive Tribe shall be entitled to request, and the Service Provider shall provide within a reasonable time, employment and relevant personal information in relation to the Staff or personnel engaged upon or in connection with the provision of the Services for the purposes of anti-fraud measures such as data matching. The Service Provider shall ensure that it takes any measures necessary pursuant to the DPA and any other relevant legislation to facilitate such disclosure lawfully and fairly.

## **DATA PROTECTION**

- 20.1 Each Party shall comply with its respective obligations under the Data Protection Legislation and shall ensure at all times that the processing of any Personal Data shall be strictly in accordance with the DPA.
- 20.2 The Parties acknowledge, understand, and accept that references in this Contract to the "Data Protection Legislation" and to the "DPA" include the GDPR to the extent that the GDPR is in force. As such:
- (a) where Thrive Tribe reasonably considers the provisions of this Contract do not comply fully with the requirements of the Data Protection Legislation and notifies the Service Provider

accordingly in writing, the Parties shall each use their reasonable endeavours to review and (to the extent necessary) vary the terms of this Contract as may be appropriate within a reasonable time and in any event within four (4) weeks.

- 20.3 Where, in accordance with clause 20.2 above, Thrive Tribe has notified the Service Provider in writing of its request to vary the provisions of this Contract in order to ensure compliance with Data Protection Legislation and the Parties have not done so within the timescales, Thrive Tribe may at its absolute discretion refer the matter either to the dispute resolution procedure set out in clause 30 (*Dispute Resolution*) above.
- 20.4 The Service Provider shall ensure that it does not knowingly or negligently fail to do something that places Thrive Tribe in breach of its obligations under the Data Protection Legislation. If so, the Service Provider shall indemnify and keep indemnified the Authority against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Service Provider of this Clause 20 or any more general breach by the Service Provider of its obligations under the Data Protection Legislation.
- 20.5 The Service Provider shall ensure and warrants to Thrive Tribe that the terms of any sub-contract made in relation to this Contract shall ensure that the Sub-Service Provider shall comply with the same obligations as imposed on the Service Provider pursuant to this Clause 20.
- 20.6 The provisions of this Clause 20 shall survive the expiry or early Termination of this Contract and shall continue in full force and effect without limit in point of time.

## **21 INTELLECTUAL PROPERTY**

- 21.1 The Service Provider shall not do anything or cause anything done which may damage or endanger the intellectual property of Thrive Tribe or Thrive Tribe's title to it, nor assist or permit others to do so.

## **22 CONFIDENTIALITY**

- 22.1 Subject to clause 22.2, any data or information provided by Thrive Tribe for the purposes of, or in relation to, this Contract which is so designated by Thrive Tribe shall be kept confidential by the Service Provider, and any data or information provided by the Service Provider for the purposes of, or in relation to, this Contract which is so designated by the Service Provider shall be kept confidential by Thrive Tribe; but the foregoing shall not apply to any data or information which is public knowledge at the time when it is so provided by either party, is required to be disclosed by law or by order of a court of competent jurisdiction and shall cease to apply if at any future time it becomes public knowledge through no fault of the other party. The Service Provider acknowledges that, Thrive Tribe may receive requests for information relating to this Contract and the Services which, but for any right to claim commercial confidentiality or any other applicable exemption, Thrive Tribe will be obliged to disclose under the FOIA / EIR. Thrive Tribe shall consult with the Service Provider over any such request and the Service Provider shall respond promptly with its opinion as to whether the material should not be disclosed on the grounds of confidentiality or otherwise and provide such other reasonable assistance as may be required to enable Thrive Tribe to comply with its obligations under the FOIA / EIR.
- 22.2 The Service Provider shall ensure that at all times it and all of its staff agents sub-Service Providers and sub-consultants engaged by it in connection with the performance of any of its obligations arising under from or in connection with this Contract comply in respect of each such obligation with all rules procedures policies guidelines and the like issued by the Authority'

from time to time relating to the handling and security of data or information including without limitation Confidential Information.

- 22.3 The obligations in this clause 22 shall survive the expiry or early determination for whatever reason of this Contract without limit in point of time.

## **23 PUBLICITY**

- 23.1 Except with the written consent of Thrive Tribe, (such consent not to be unreasonably withheld or delayed), the Service Provider must not make any press announcements in relation to this Contract in any way.
- 23.2 The Service Provider must take all reasonable steps to ensure the observance of the provisions of this clause 23 by all its staff, servants, agents, consultants and sub-contractors.

## **24 AUDIT, INSPECTION AND MONITORING**

- 24.1 Without prejudice to the rest of this clause 24 (Audit, Inspection and Monitoring) the Service Provider must comply with all Contract monitoring requirements set out in the Service Specification or as otherwise reasonably requested by Thrive Tribe.
- 24.2 The Service Provider must comply with all reasonable written requests made by, CQC, the National Audit Office, any Authorised Person and the authorised representative of the Local HealthWatch for entry to the Service Provider's premises and/or the premises of any sub-contractor for the purposes of auditing, viewing, observing or inspecting such premises and/or the provision of the Services, and for information relating to the provision of the Services. The Service Provider may refuse such request to enter the Service Provider's premises and/or the premises of any sub-contractor where it would adversely affect the provision of the Services or, the privacy or dignity of a Service User.
- 24.3 Subject to Law and notwithstanding clause 24.2, an Authorised Person or his deputy or agent may enter the Service Provider's premises and/or the premises of any sub-contractor without notice for the purposes of auditing, viewing, observing or inspecting such premises and/or the provision of the Services. During such visits, subject to Law and Good Clinical Practice (also taking into consideration the nature of the Services and the effect of the visit on Service Users), the Service Provider must not restrict access and must give all reasonable assistance and provide all reasonable facilities to the Authorised Person or his deputy or agent.
- 24.4 Within 10 Business Days of Thrive Tribe's reasonable request, the Service Provider must send Thrive Tribe a verified copy of the results of any audit, evaluation, inspection, investigation or research in relation to the Services, or services of a similar nature to the Services delivered by the Service Provider, to which the Service Provider has access and which it can disclose in accordance with the Law.
- 24.5 Thrive Tribe shall use its reasonable endeavours to ensure that the conduct of any audit does not unreasonably disrupt the Service Provider or delay the provision of the Services.
- 24.6 During any audit or inspection undertaken under this clause 24, the Service Provider must provide Thrive Tribe with all reasonable co-operation, assistance and facilities in relation to that audit, including:
- a) all reasonable information requested within the scope of the audit;
  - b) reasonable access to the Service Provider's premises and/or the premises of any sub-contractor; and
  - c) access to the Staff.

## **25 VARIATIONS**

- 25.1 Thrive Tribe may propose a variation (“Variation”) by giving written notice to the Service Provider (the “Variation Notice”), and the Service Provider shall confirm in writing to Thrive Tribe whether it agrees or does not agree to the Variation within 14 Business Days of receipt of the Variation Notice.
- 25.2 Immediately upon agreement by the Service Provider in accordance with clause 25.1 above, the Variation shall be imposed on the terms set out in the Variation Notice and the Service Provider shall be bound by those terms.
- 25.3 The Variation Notice shall specify:
- d) the detail of the Variation;
  - e) the date on which such a Variation is to have effect; and
  - f) the time period during which the Variation shall have effect if it is of a temporary nature.
- 25.4 For the avoidance of doubt, the Parties hereby acknowledge that any Variation may or may not result in an increase or decrease in the Charges. The amount of any increase or decrease in the Charges shall be agreed between Thrive Tribe and the Service Provider and may comprise a one-off additional payment or deduction, or an on-going adjustment to the Charges (upwardly or downwardly).
- 25.5 If either Party considers that such upward or downward adjustment or additional payment or deduction is necessary as a result of the Variation, that Party shall set out in writing to the other Party its proposal for the adjustment or payment / deduction and shall do so within 14 Business Days of the issue by Thrive Tribe of the Variation Notice. Such proposal shall be supported by sufficient documentation and a clear analysis as to how the proposal has been calculated.
- 25.6 In the event that no such proposal is made within 14 Business Days (and unless the other Party grants an extension in writing to the 14 Business Day period) both Parties shall be deemed satisfied that the Charges shall remain unadjusted as a result of the Variation.
- 25.7 For the avoidance of doubt no increase in the Charges nor additional payment shall be made in respect of a Variation if there is either a compensating reduction or re-organisation of any other part of the Services.
- 25.8 In the event of a dispute as to whether any Variation should give rise to an adjustment to the Charges (or the amount thereof) the dispute shall be referred to the dispute resolution procedure in clause 30.

## **26 ASSIGNMENT AND SUB-CONTRACTING**

- 26.1 The Service Provider must not assign, delegate, transfer, sub-contract, charge or otherwise dispose of all or any of its rights or obligations under this Contract without Thrive Tribe in writing:
- g) consenting to the appointment of the sub-contractor (such consent not to be unreasonably withheld or delayed); and
  - h) consenting to the sub-contract arrangements (such consent not to be unreasonably withheld or delayed).
- 26.2 Any consent or non-objection by Thrive Tribe to sub-contracting will not relieve the Service Provider of its liability to Thrive Tribe for the proper performance of any of its obligations under this Contract and the Service Provider shall be responsible for the acts, defaults or

neglect of any sub-contractor, or its employees or agents in all respects as if they were the acts, defaults or neglect of the Service Provider.

- 26.3 Any sub-contract submitted by the Service Provider to Thrive Tribe for consent to its terms, must impose obligations on the proposed sub-contractor in the same terms as those imposed on it pursuant to this Contract to the extent practicable.
- 26.4 Thrive Tribe may assign, transfer, novate or otherwise dispose of any or all of its rights and obligations under this Contract without the consent of the Service Provider.

## **27 DEFECTS IN THE PERFORMANCE OF THE SERVICES**

- 27.1 The Service Provider shall be responsible for correcting any breaches by the Service Provider of its obligations under this Contract including, for the avoidance of doubt, or defect or omission in the provision of the Services ("Performance Default") including, but not limited to, any Performance Default drawn to its attention in a written notice from Thrive Tribe. Thrive Tribe shall be entitled to withhold payment of the Charges (or relevant instalment of the Charges) until the Performance Default is corrected. In any event, the Performance Default shall be corrected at no additional cost to Thrive Tribe and within any timescale stipulated in the written notice by Thrive Tribe (if any) or, if no such timescale is given or notice served, as soon as possible and at a time which minimises the adverse effect on Thrive Tribe.
- 27.2 If the Service Provider fails to correct a Performance Default, or fails to correct it within the time stated, Thrive Tribe, acting reasonably, shall be entitled to assess the cost of having the Performance Default corrected by a third party and shall be entitled to deduct this amount from any payment due to the Service Provider under this Contractor recover it from ]the Service Provider as a debt.
- 27.3 If Thrive Tribe chooses to not correct Performance Default, Thrive Tribe shall be entitled to make a deduction from the payment of any sums due to the Service Provider of an amount equal to such costs and losses as Thrive Tribe may reasonably and fairly consider to be attributable to the Performance Default, including Thrive Tribe's reasonable management and administration costs in addressing the Performance Default.

## **28 TERMINATION**

- 28.1 Either Party may cancel this Contract by giving three (3) months' notice in writing to the other Party and Thrive Tribe shall then be liable to pay to the Service Provider any costs for the Services already performed satisfactorily but shall bear no further liability to the Service Provider.
- 28.2 Thrive Tribe may terminate this Contract in whole or part with immediate effect by written notice to the Service Provider at any time if:
- a) the Service Provider is in persistent breach of its obligations under this Contract;
  - b) the Service Provider:
    - (i) fails to obtain any Consent;
    - (ii) loses any Consent; or
    - (iii) has any Consent varied or restricted,the effect of which might reasonably be considered by Thrive Tribe to have a material adverse effect on the provision of the Services;
  - c) any of the Service Provider's necessary registrations are cancelled by the CQC or other Regulatory Body as applicable;

- d) the Service Provider materially breaches its obligations in clause 20 (*Data Protection*);
- e) the Service Provider breaches the terms of clause 26 (*Assignment and Sub-Contracting*);
- f) the Service Provider makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
- g) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Service Provider; or
- h) the Service Provider ceases, or threatens to cease, to carry on business; or
- i) Thrive Tribe reasonably apprehends that any of the events mentioned above is about to occur in relation to the Service Provider and notifies the Service Provider accordingly; or
- j) the Service Provider or any of its employees shall have offered, or given, or agreed to give to any person or have solicited or accepted from any person any gift, consideration, inducement or reward of any kind, for doing or not doing any action in relation to this Contract or to any other contract with Thrive Tribe; or
- k) the Service Provider or any of its employees shall have committed any offence under the Bribery Act 2010.

## **29. CONSEQUENCE OF EXPIRY OR TERMINATION**

- 29.1 Expiry or termination of this Contract, or termination of any Service, will not affect any rights or liabilities of the Parties that have accrued before the date of that expiry or termination or which later accrue.
- 29.2 On the expiry or termination of this Contract or termination of any Service the Service Provider must co-operate fully with Thrive Tribe to migrate the Services in an orderly manner to the successor Service Provider.
- 29.3 If this Contract is terminated Thrive Tribe shall:-
- a) not be liable to pay any associated costs to the Service Provider, provided that notice of termination is duly given, until the costs, losses and/or damage arising from the termination have been calculated and it is apparent that such sum is due to the Service Provider;
  - b) be entitled to repossess any information, data or materials, from the Service Provide created in connection with the performance of the Services.
  - c) be entitled to exercise a lien over any materials belonging to the Service Provider for such sum that may be due to Thrive Tribe from the Service Provider;
  - d) for the purposes of recovering any monies due to Thrive Tribe for any loss or damage arising from the termination of the Service Provider's employment (such loss or damage to include costs incurred in connection with Thrive Tribe exercising its rights pursuant to this clause 29, and Thrive Tribe's officers' time spent on such termination and/or in making alternative arrangements for the provision of the whole or part of the Services), to deduct any sums owing to Thrive Tribe from any monies due to the Service Provider or to recover any such monies as a debt; and
  - e) once the total costs (including loss or damage referred to above) shall have been calculated, recover any balance due to Thrive Tribe or alternatively pay to the Service Provider any



balance due.

- 29.4 On the expiry of this Contract the Service Provider shall return to Thrive Tribe any information, data, materials, clothing, equipment, vehicles or goods loaned or hired by it to the Service Provider or created in connection with the performance of the Services.
- 29.5 In the event that the Service Provider fails to return any item to which clause 29.4 relates in accordance with that clause Thrive Tribe shall be entitled whether itself or through any of its authorised agents to recover possession of the item/s concerned and accordingly and for this purpose the Service Provider hereby grants to Thrive Tribe a licence for it and any of its authorised agents to enter onto any land or premises belonging to or under the control of the Service Provider.
- 29.6 The rights of Thrive Tribe under this clause 29 are in addition to and without prejudice to any other rights and remedies Thrive Tribe may have arising from the termination.
- 29.7 The provisions of this clause 29 shall survive the expiry or early termination of this Contract.

### **30. DISPUTE RESOLUTION**

- 30.1 If there is a dispute between the Service Provider and Thrive Tribe concerning the interpretation or operation of this Contract it shall be referred to a senior officer of Thrive Tribe and a senior representative of the Service Provider for resolution.
- 30.2 If any dispute is not resolved within 20 Business Days of the referral under clause 30.1 above (or such longer period as Thrive Tribe and the Service Provider may agree), then the Parties shall attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (“CEDR”) Model Mediation Procedure 2018 (the “Model Procedure”) or such later edition as may be in force from time to time. To initiate the mediation a Party must give notice in writing (the “ADR notice”) to the other Party requesting a mediation in accordance with this clause. The mediation is to take place not later than 20 Business Days after the date of the ADR notice. If there is any issue on the conduct of the mediation upon which the Parties cannot agree within 10 Business Days after the date of the ADR notice, then CEDR will, at the request of any Party, decide the issue for the Parties having consulted with them.
- 30.3 If the dispute is not resolved within 10 Business Days of the mediation, then the Parties may litigate the matter.

### **31 FORCE MAJEURE**

- 31.1 If either Party is unable to perform any obligation under this Contract because of a matter beyond that Party’s reasonable control that arises from any of the following matters only:-
- explosion;
  - war;
  - civil disorder;
  - actual or threatened terrorist attack; or
  - acts of local or central Government or other competent authorities (other than the Authority in its capacity as contracting party);
- that Party will have no liability to the other Party for that failure to perform.
- 31.2 If an emergency or disaster resulting in destruction of or damage to, life or property (“Emergency”) arises during the term of this Contract which cannot be dealt with by performance of the Services, Thrive Tribe may instruct the Service Provider to use its best

endeavours to procure that such additional or alternative services are undertaken by the Service Provider as and when required by Thrive Tribe to ensure that the Emergency is dealt with and normal operation of the Services resumes as soon as is reasonably practicable.

31.3 The reasonable and proper costs incurred by the Service Provider of any additional or alternative services provided to Thrive Tribe under clause 31.2 shall be agreed between the Parties failing which they shall be determined in accordance with clause 30.

## **32 THIRD PARTY RIGHTS**

32.1 This Contract shall not confer nor be deemed to confer a benefit on any third party for the purposes of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

## **33 NON-EXCLUSIVITY**

33.1 This Contract is not exclusive and Thrive Tribe shall be entitled to procure services of the same or similar nature to the Services from any third party or carry them out itself.

## **34 SEVERABILITY**

34.1 If any provision of this Contract is held by any court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder of the provision in question shall not be affected.

## **35 NOTICES**

35.1 Any notices given under this Contract shall be in writing and shall be served by hand or post by sending the same to the relevant Party's representative whose details are in clause 3.

35.1 Notices:

- a) by post and correctly addressed shall be effective upon the earlier of actual receipt, or 2 Business Days after mailing by first class post; or
- b) by hand shall be effective upon delivery.

## **36 WAIVER**

36.1 No waiver by Thrive Tribe of any breach of this Contract by the Service Provider shall be considered as a waiver of any subsequent breach of the same or any other provision.

## **37 ENTIRE CONTRACT**

37.1 Except where expressly provided otherwise in this Contract this Contract constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Contract.

## **38 EXCLUSION OF PARTNERSHIP, JOINT VENTURE OR AGENCY**

38.1 Nothing in this Contract creates a partnership or joint venture or relationship of employer and employee or principal and agent between Thrive Tribe and the Service Provider.

### **39 GOVERNING LAW AND JURISDICTION**

39.1 This Contract will be governed by and interpreted in accordance with English Law and will be subject to the exclusive jurisdiction of the courts of England.

39.2 Subject to the provisions of clause 30 (dispute resolution), the Parties agree that the courts of England have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Contract.

## APPENDIX A: DEFINITIONS AND INTERPRETATIONS

1. The headings in this Contract shall not affect its interpretation.
2. References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.
3. References to a statutory provision shall include any subordinate legislation made from time to time under that provision.
4. References to clauses and Appendices are to the clauses and Appendices of this Contract, unless expressly stated otherwise.
5. References to any body, organisation or office shall include reference to its applicable successor from time to time.
6. Any references to this Contract or any other documents includes reference to this Contract or such other documents as varied, amended, supplemented, extended, restated and/or replaced from time to time.
7. Use of the singular includes the plural and vice versa.
8. The following terms shall have the following meaning:

**Authorised Person** means Thrive Tribe and any body or person concerned with the provision of the Service or care of a Service User

**Business Day** means a day (other than a Saturday or a Sunday) on which commercial banks are open for general business in London

**Caldicott Guardian** means the senior health professional responsible for safeguarding the confidentiality of patient information

**Care Quality Commission or CQC** means the care quality commission established under the Health and Social Care Act 2008

**Carer** means a family member or friend of the Service User who provides day-to-day support to the Service User without which the Service User could not manage

**Charges** means the charges which shall become due and payable by Thrive Tribe to the Service Provider in respect of the provision of the Services in accordance with the provisions of this Contract, as such charges are set out in the Tariff

**Commencement Date** means the date the provision of the Services is to commence as set out in each Service Specification.

**Confidential Information** means any information or data in whatever form disclosed, which by its nature is confidential or which the disclosing Party acting reasonably states in writing to the receiving Party is to be regarded as confidential, or which the disclosing Party acting reasonably has marked 'confidential' (including, without limitation, financial information, or marketing or development or work force plans and information, and information relating to services or products) but which is not Service User Health Records or information relating to a particular Service User, or Personal Data,

pursuant to an FOIA / EIR request, or information which is published as a result of government policy in relation to transparency

**Consents means:**

- (ii) any permission, consent, approval, certificate, permit, licence, statutory agreement, authorisation, exception or declaration required by Law for or in connection with the performance of Services; and/or
- (ii) any necessary consent or agreement from any third party needed either for the performance of the Service Provider's obligations under this Contract or for the provision by the Service Provider of the Services in accordance with this Contract

**Commencement Date** means 18th November 2024

**Conditions** means the terms and conditions set out in this document

**Contract** means the Contract comprising these Conditions and Schedules

**CQC Regulations** means the Care Quality Commission (Registration) Regulation 2009

**Data** means any data, document or information however stored that is:

- Communicated in writing, orally, electronically or by any other means by Thrive Tribe to the Contractor;
- Obtained by the Contractor during the course of the Contractor providing the Services or;
- Complied for Thrive Tribe by the Contractor during the course of the Contractor's provision of the Services;

**Data Controller** means as a 'controller' as defined in the GDPR;

**Data Processor** means a 'Processor' as defined in the GDPR;

**Data Protection Legislation:** means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time; (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy

**DBS** means the Disclosure and Barring Service

**DPA** means the Data Protection Act 2018

**EIR** means the Environmental Information Regulations 2004

**Electronic Registration System** means the Authority's capital E-sourcing electronic register for GPs and pharmacies;

**Enhanced DBS Check** means a disclosure of information comprised in a Standard DBS Check together with any information held locally by police forces that it is reasonably considered might be relevant to the post applied for

**Enhanced DBS Position** means any position listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended), which also meets the criteria set out in the Police Act 1997 (Criminal Records) Regulations 2002 (as amended), and in relation to which an Enhanced DBS Disclosure or an Enhanced DBS & Barred List Check (as appropriate) is permitted

**Equalities Legislation** means all Legislation which makes unlawful discrimination, harassment and/or victimization on grounds of age, disability, marital or civil partnership status, sexual orientation, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation or temporary or part-time status in employment or otherwise including, without limitation, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, the Part-time Workers(Prevention of Less Favourable Treatment) Regulations 2000 as amended, the Fixed-term Employees (Prevention of Less Favourable Treatment Regulations 2002 and/or any preceding , successor or amending Legislation concerning the same;

**Expiry Date** means: 30 June 2029, subject to clause 2.2

**FOIA** means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Authority or relevant government department in relation to such legislation

**GDPR** means the European Union General Data Protection Regulation 2016/679 (as amended or re-enacted from time to time) and any United Kingdom statute or European Union Regulation recognised in English law as substantially replacing the same;

**Good Clinical Practice** means using standards, practices, methods and procedures conforming to the Law and using that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, efficient and experienced clinical services Service Provider, or a person providing services the same as or similar to the Services, at the time the Services are provided, as applicable

**Guidance** means any applicable local authority, health or social care guidance, direction or determination which the Authority and/or the Service Provider have a duty to have regard to including any document published under section 73B of the NHS Act 2006

**Law** means:

- (i) any applicable statute or proclamation or any delegated or subordinate legislation or regulation;
- (ii) any enforceable EU right within the meaning of Section 2(1) of the European Communities Act 1972;
- (iii) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;
- (iv) Guidance; and
- (v) any applicable industry code in eac case in force in England and Wales

**Legal Guardian** means an individual who, by legal appointment or by the effect of a written law, is given custody of both the property and the person of one who is unable to manage their own affairs

**Local HealthWatch** means the local independent consumer champion for health and social care in England

**Losses** means all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law

**NHS Act 2006** means the National Health Service Act 2006

**Parties** means Thrive Tribe and the Service Provider and “Party” means either one of them

**Patient Safety Incident** means any unintended or unexpected incident that occurs in respect of a Service User that could have led or did lead to, harm to that Service User

**Personal Data** has the meaning set out in the DPA

**Process/Processing** means as defined in Article 4 of the GDPR

**Regulatory Body** means any body other than CQC carrying out regulatory functions in relation to the Service Provider and/or the Services

**Serious Incident** means an incident or accident or near-miss where a patient (whether or not a Service User), member of staff, or member of the public suffers serious injury, major permanent harm or unexpected death on the Service Provider’s premises or where the actions of the Service Provider, the Staff or Thrive Tribe are likely to be of significant public concern

**Services** means the services set out in the Service Specification

**Service Provider** means the pharmacy or GP who will provide the Services

**Service Specification** means the contract document so described and attached at Schedule 1 of the Contract.

**Service User** means the person directly receiving the Services provided by the Service Provider as specified in the Service Specifications and includes their Carer and Legal Guardian where appropriate

**Staff** means all persons employed by the Service Provider to perform its obligations under this Contract together with the Service Provider’s servants, agents, suppliers and sub-contractors used in the performance of its obligations under this Contract

**Standard DBS Check** means a disclosure of information which contains certain details of an individual’s convictions, cautions, reprimands or warnings recorded on police central records and includes both ‘spent’ and ‘unspent’ convictions

**Standard DBS Position** means any position listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) and in relation to which a Standard DBS Check is permitted

**Thrive Tribe** means the Authority’s contractor authorised to monitor and deal with administrative payments of associated costs for the Services.

**THIS CONTRACT** has been executed by the following parties:

**Thrive Tribe Ltd**

Signed By

PRINT NAME:

POSITION:

DATE:

("the Service Provider")

Signed By:

PRINT NAME:

POSITION:

DATE:



# **SCHEDULE 1**

## **SERVICE SPECIFICATION**

### **City of London and Hackney Stop Smoking Service**

#### **SPECIFICATION FOR STOP SMOKING SERVICES 1<sup>st</sup> July 2024 – 30<sup>th</sup> June 2027 (with option to extend to 2 x one years)**

## **1. Introduction and service summary**

- 1.1. The City of London Corporation and London Borough of Hackney are seeking to commission a specialist community-based stop smoking service (SSS) to help smokers to quit, through both face-to-face and remote methods. The service will be tailored to the needs of our diverse populations and prioritise delivery of evidence-based support to high prevalence communities and high risk groups.
- 1.2. The provider will deliver a high quality, flexible and fully integrated service which operates from a number of accessible and appropriate venues across the City of London (City) and Hackney, at times convenient to local people. The provider will support our ambition to reduce and prevent harms from smoking, with a specific focus on tackling inequalities. The provider will work closely with a dedicated 'community engagement' lead (who will be hosted within Hackney Council) to better understand and address smoking-related inequalities locally.
- 1.3. In line with the latest NICE Guidance, the service will provide support to stop smoking for everyone aged 12 and over, and help to reduce the harm from smoking for those who are not ready to stop in one go.

## **2. Aims and objectives of service**

To provide an integrated local SSS which is highly effective, accessible and responsive to local needs that will:

- reduce inequalities in smoking prevalence and related harms by helping people to quit
- work with local partners (including the NHS) to develop and implement streamlined treatment pathways to ensure support to quit smoking is available to all smokers, when and where they need it
- contribute to a reduction in smoking-related illness, disability and premature death

- contribute to reducing the demand for health and social care services by supporting people to live healthier lives
- reduce the costs to society from smoking as part of a comprehensive local tobacco control plan
- contribute to local and national Smokefree 2030 ambitions (to reduce smoking prevalence to 5% or below).

## **2.1. Target populations and priority groups**

The service will be for all smokers in City and Hackney with a focus on the following priority (high risk/high prevalence) groups:

- people in socioeconomically deprived communities
- people living in social housing
- people working in routine and manual jobs
- high smoking prevalence global majority groups, including:
  - Turkish/Kurdish/Cypriot
  - black Caribbean and mixed white/black Caribbean
  - Bangladeshi
  - Eastern European
  - Vietnamese
- people with poor mental health
- people living with long-term physical health conditions (especially those caused by/made worse by smoking)
- pregnant women and their families (especially those living in deprived communities)
- people experiencing homelessness
- people with substance misuse
- people with multiple needs
- LGBTQIA+ communities.

## **Eligibility criteria**

The provider will apply the following criteria to assess a person's suitability for the service. They

should be:

- 12 years old or over and live, work, study or be registered with a GP in the City or Hackney
- a current user of a tobacco product.

In addition, they should be:

- motivated to quit smoking OR motivated to reduce their tobacco use in preparation to eventually quit (harm reduction approach)

AND

- willing/able to make the necessary commitment to access specialist support via the service

AND

- not using another stop smoking service.

If service capacity permits, current users of nicotine-containing vapes who used these to quit smoking AND are motivated to quit vaping AND willing/able to make the necessary commitment to access support to do so may access this via the service.

## Exclusion criteria

Anyone under 12 years of age cannot be treated within the service and should be referred to their GP or other professional as appropriate.

Where a smoker falls under the cautionary groups for pharmacotherapy (e.g. young people aged 12 to 17 years old, pregnant women, breastfeeding women and people who have unstable cardiovascular disorders) they will be treated at the discretion of the service, based on knowledge and competence as indicated in NICE guidelines

## Reimbursement for Service Providers

The Service Provider will provide the Stop Smoking Service outlined in Section 1 of this Specification and shall ensure that the service is made available to all appropriate patients or customers with a specific focus on areas of deprivation and greater need. Service delivery should be informed by the information presented in this Specification and the Protocol.

Cost of the Service:

- Where an initial assessment has been carried out and a quit date set for the patient or customer, the Service Provider shall be awarded a payment of **£30.00**.
- Where an initial assessment has been carried out, a quit date set, up to six further support sessions delivered (best outcomes achieved with 6) and the patient or customer has recorded a quit at 4 weeks. The Service Provider shall be awarded a payment of **£60.00**.
- Where an initial assessment has been carried out, a quit date set, at least two further support sessions delivered and the patient or customer has recorded as quit at 4 weeks and a Carbon Monoxide validation has been carried out - the Service Provider shall be awarded **£80.00**.

- Where the provider captures quit status at 26 weeks, the Service provider shall be awarded **£10.00**.
- Where the provider captures quit status at 52 weeks, the Service provider shall be awarded **£10.00**.
- The maximum amount a Service Provider can claim for a successful quit is £130.00 per patient or customer.
- An additional bonus payment will be paid to the Service Provider, for 80% sustainment between 4 week quitters and 12 week quitters (CO Verified only) providing 15 or more patients are co verified at 12 weeks. This bonus payment is **£100.00** running from June to July each year (assessed in October each year starting October 2025)
- The Service Provider shall ensure that all service users are offered at least one of the approved pharmacotherapies in accordance with NICE guidance provided in the below embedded document.

## APPENDIX B- Pharmacotherapy Guide

### The use of Pharmacotherapy when providing City and Hackney Stop Smoking advice

Pharmacotherapy is the provision of pharmaceutical products, medicines or medicaments. The types of stop smoking medications provided by Gloji Smokefree and City and Hackney Stop Smoking Service are Nicotine Replacement Therapy (NRT) and electronic cigarettes (some exclusions apply).

#### Nicotine replacement therapy (NRT)

NRT is safe and effective and when used in isolation (without additional behavioural support) approximately doubles the chances of long-term abstinence. There are several types of NRT: patches (24hr and 16hr), gum, lozenge, microtab, nasal spray, inhalator and mouth-spray. There is no evidence to suggest that one type of NRT is more effective than another so product selection should be guided by client preference. NRT can be used by any person over the age of 12 including pregnant women and people with cardiovascular disease.

#### Prescription instructions

There are limitations on the provision of pharmacotherapy in City and Hackney. Please refer to the following instructions when providing any of the recommended medications.

**Nicotine Replacement Therapy (NRT):** NRT can be prescribed or issued for up to a total of 12 weeks per quit attempt. Clients should only be prescribed or provided with NRT when receiving stop smoking advice from a trained stop smoking advisor. The following products can be issued:

- Patches
- Gum
- Lozenges
- Nasal spray
- Mouthspray
- Inhalator
- Microtab

NRT cannot be issued to clients aged under 12. The stop smoking service training manual should be consulted for full information on side effects and the different products available.

*Providers must not offer any of the following forms of pharmacotherapy. Please note that this list is not exhaustive.*

- Bupropion (Zyban) and Varenicline
- E-cigarettes/Vapes- can only be provided by specialist stop smoking advisors working for City and Hackney Stop Smoking service. If your patients choose to use electronic cigarettes, please refer them to the core stop smoking service.
- Other medications such as: Anxiolytics (e.g. diazepam), Nicobrevin, NicoBloc, St John's Wort, Glucose, Lobeline

