

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Social Care Health and Wellbeing Cabinet Board

30 November 2017

Report of the Head of Children and Adult Social Services - A.JARRETT

Matter for Decision

Wards Affected: All

Commissioning of 24 Hour Call Monitoring Service for Assistive Technology Service

Purpose of the Report

1. To seek delegated authority for the Head of Children and Adult Social Services of Neath Port Talbot County Borough Council to enter into a three year agreement with Carmarthenshire County Council for the provision of a Call Monitoring Service for the Assistive Technology Service

Executive Summary

2. Neath Port Talbot County Borough Council (“the Council”) provide Assistive Technology (eg Lifeline) (“AT”) which gives the opportunity for our citizens to remain safe and independent within their own homes.

An essential element of the service is the provision of a 24 hour 365 days of the year Call Monitoring Service. To date this Call Monitoring Service has been provided by Carmarthenshire County

Council who have created their own in house service. Through dialogue with Carmarthenshire County Council, the Council have been able to negotiate the costs of the Call Monitoring Service and have now agreed a reduction currently estimated to be over £50,000 per annum pa (based on existing numbers of users), with no changes to the level of service used by the Council. To achieve this the Council will be required to enter into a three year agreement with Carmarthenshire County Council.

Background

- This Council provides Assistive Technology to citizens in the Neath Port Talbot locality. There are three types of service and the numbers of service users per type is in Table 1. below:-

Service Type	August 2017
Lifelink	2241
Lifelink Plus	123
Lifelink Extra	201
TOTAL	2565

Table 1. Total numbers of Service Users per service type (August 2017)

These citizens are primarily older and/or frail individuals who use the equipment to alert others should they require urgent/emergency help and assistance (e.g. in case they should suffer an injury through a fall or other such issue).

The Assistive Technology equipment (e.g. Lifeline units, falls sensors) that the Council have installed into service users homes are connected (via telephone lines) to a call monitoring centre so that all such calls for help can be responded to immediately.

Carmarthenshire County Council provide this service this via its 'Careline' service. They also provide this Call Monitoring Service to other Councils within Wales.

The Council have directly commissioned this Call Monitoring Service since 2011 and are presently in the second year of a three year agreement.

There is a 'flat rate' cost to all users across all three service levels.

During 2017, the Council have expressed concerns regarding the costs of the Call Monitoring Service and have been able to negotiate a reduction in the fee structure that better reflects this Council's requirements.

Even though there has been a reduction in the amount payable, there will be no change in the manner in which the Call Monitoring Service is provided.

A new Agreement between Carmarthenshire County Council and this Council will be required a copy of which is annexed to this Report at Appendix 1. The Agreement will be for three years, backdated to 1st April 2017 and expiring in March 2020, however the reduction in the contracted rate will only apply from the date the contract is signed.

Financial Impact

4. The AT budget sits within the Section 33 agreement (between the Council and ABMU) for Intermediate Care.

Current charges are fixed cost (£1.15 per person per week) to all users. The proposed SLA has two tariffs. One for Lifelink (£0.75 per person per week) and another for Lifelink Plus and Lifelink Extra (£0.87 per person per week). Table 2 compares the costs of the existing and proposed SLA and highlights the projected savings of the new SLA.

The full year savings equates to £51,330, as per table below. However the savings for 2017/18 will be commence from the date the contract is signed. Carmarthen Council have agreed to the reduced rate from contract signing rather than from April 2017 (when the SLA will be backdated to).

Number of users as of August 2017	Current SLA – annual cost	Proposed SLA – annual cost	Proposed annual Saving
Lifelink (2241 users)	134,012	87,399	46,613
Lifelink plus (123 users)	7,355	5,565	1,790
Lifelink extra (201 users)	12,020	9,093	2,927
TOTAL	153,387	102,057	51,330

Table 2. Cost comparison between current and proposed SLA (as of August 2017)

It is proposed that this saving be reinvested into the AT service to deliver increased numbers of users receiving AT.

Equality Impact Assessment

- An Equality Impact Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the initial screening assessment it has been determined that this proposal does not require an Equality Impact Assessment as there are no impact on service users. Service users charges will remain the same, there will be no change in the service they receive, the only change will be the rate Carmarthen charge NPT for the service.

Workforce Impacts

- There are no workforce impacts to the Council.

Legal Impacts

7. The Council is a contracting authority for the purposes of the Public Contract Regulations 2015 (“the Rules”), which govern this particular area of work and accordingly is required to comply with the Rules whenever it seeks to award contracts, the value of which exceed the relevant threshold value and which are not expressly excluded from the operation of the Rules. A Call Monitoring Service of this kind is classed as a “service contract” for the purposes of the Rules and the total duration of the proposed agreement with Carmarthenshire County Council exceeds the sum required for a competitive procurement exercise. Both the Council and Carmarthenshire County Council are public bodies for the purposes of the Rules. This means that they will have to comply with these rules in any agreements entered into.

Under Regulation 12(7) of the Rules, where public bodies cooperate with a view to jointly ensuring the execution of public interest tasks (i.e. education, highway maintenance, social services) then this may involve the award of contracts without triggering the obligation to apply the Rules. Therefore, to apply this exemption, the following will have to be complied with:

The Agreement must establish or implement a co-operation between the public bodies with the aim of ensuring that the services they have to perform are provided with a view to achieving objectives they have in common. This requirement could be satisfied here as both Councils are under an obligation to provide assistive technology services of this kind and will ultimately be working together to achieve these aims.

The participating authorities perform on the open market less than 20% of the activities concerned by the operation. This will not be applicable here as all both organisations are not openly trading in this area.

The implementation must be governed solely by considerations relating to public interest. What this means essentially is that the agreement cannot be used as an attempt to generate profit. The Council have ensured that any sums that are paid to Carmarthenshire County Council are for direct service cost only.

Risk Management

8. In the event that the Council did not enter into this revised Agreement the benefits which are identified in this report would fail to be realised and the Council will continue to pay an increase amount for a service where savings could realistically be achieved with no effect to service provision.

Consultation

9. There is no requirement under the Constitution for external consultation on this item.

Recommendation

10. It is recommended that:

- (a) The Head of Children and Adult Social Services be granted delegated authority to negotiate and settle the terms of the proposed three year agreement with Carmarthenshire County Council for a Call Monitoring Service
- (b) The Head of Children and Adult Social Services be granted delegated authority to enter into a three year agreement with Carmarthenshire County Council for the provision of a Call Monitoring Service

Reasons for Proposed Decision

11. The revised agreement with Carmarthenshire County Council provides all of the required service elements that our service users using the Assistive Technology services require. The Call Monitoring Service will be provided at a reduced cost to the Council and the financial benefit will increase as the number of service users ultimately increase.

Implementation of Decision

12. The decision is proposed for implementation after the three day call in period.

Appendices

13. Appendix 1: Draft Agreement with Carmarthenshire County Council for the provision of a Call Monitoring Service.

List of Background Papers

14. None

Officer Contact

15. Andy Griffiths
Integrated Community Services Manager
Andrew.Griffiths8@wales.nhs.uk

Service Agreement

Dated:

Carmarthenshire County Council
(Afterwards known as the “Provider”)

of:

County Hall
Carmarthen
Carmarthenshire
SA31 1JP

Signed:

Position:

(Being a duly authorised representative of the Provider)

And

Between Neath Port Talbot County Borough Council

(Afterwards known as the “Customer”)

of: Civic Centre Port Talbot SA13 1PJ

Signed:

Position:

(Being a duly authorised representative of the Customer)

DRAFT

Preface

This Service Agreement has been drawn up jointly by the Customer and the Provider.

It applies only to the specific mutual expectations and responsibilities relating to the provision of a 24 hours x 365 day per year monitoring of social alarms service for the Customer and to be provided by the Provider's CARELINE service.

The agreement in this document also acknowledges and reflects a wider collaborative relationship each partner has with other organisations. See Appendix A.

The service is delivered from the Carmarthenshire Care line Office. The Provider can be contacted on 0300 333 2222.

Definitions:

Provider- Carmarthenshire County Council, Careline service

Customer- Neath Port Talbot County Borough Council

Service - Call monitoring of Neath Port Talbot connections to the PNC database

Provider Manager- Carmarthenshire County Council, Careline Manager/Supervisor.

Customer Manager – Neath Port Talbot County Borough Council

Hardware- Includes all telecommunication equipment, computers, computer terminals, printers and associated peripherals necessary for the delivery of the service

Software- Includes all software packages and applications necessary for the delivery of the service

Maintenance and support- excludes that provided under contract by third party suppliers. Both the Provider and the Customer undertake to maintain appropriate maintenance and support contracts for their own hardware, software, telecommunications and any other equipment which is an essential part of the infrastructure of the service, with the manufacturer of the equipment as specialist providers.

PNC – Piper Network Control System

Disaster recovery - Procedures to divert the service as a ‘temporary’ measure to another location or provider

Arbitrator - To be appointed by agreement between head of departments

Volume of Calls – The ‘volume’ of calls is defined as being incoming calls only.

Section 1: Terms of the Agreement

Section 1.1: Administration

- a) The Agreement will commence on 1st April 2017 and end on 31st March 2020. (Termination details as per section 6) and any previous agreement shall be revoked from the 1st April 2017.
- b) The Provider is to supply the Customer with the services described in this Agreement (from here on known as the ‘**Service**’) at the levels identified in the Agreement or any attached Schedules or Appendices.
- c) The Customer shall be represented in any discussions with the Provider relevant to the operation of this Agreement by a named Senior Manager with delegated responsibility

(from here on known as the '**Customer Manager**'), or his/her nominated representative, who will be responsible for dealing with any matters which relate to the Service.

- d) The Provider shall be represented in any discussions with the Customer relevant to the operation of this Agreement by the Careline Services Manager (from here on known as the '**Provider Manager**'), or his/her nominated representative who will be responsible for the delivery of the Service.
- e) The Provider shall keep accurate records as agreed, relating to the provision of the Service and shall supply copies to the Customer when required by the Customer Manager (or their nominated representative).
- f) The Provider shall ensure that they comply with all relevant statutory regulations, enactments and requirements and all Council and Departmental Standing Orders, regulations and guidance. The Provider shall advise the Customer appropriately as to any requirements to be met relating to this clause.
- g) The Provider shall endeavour to comply with all requirements of the Customer's organisational policies and procedures. Where conflicts between organisational requirements occur they shall be dealt with under the Disputes procedure (Section 1.4). The Customer shall advise the Provider appropriately as to any requirements to be met relating to this clause.

Section 1.2: Nature of Service

- a) This Service Agreement relates to the provision of a continuous calls handling service by the Provider on behalf of the Customer.
- b) The Provider will respond to and process all contacts made by the Customer's service users in accordance with agreed protocols and service standards (see Section 4 below)
- c) The Customer's service users may use a range of equipment, including Telecare sensors, which will be connected to the Provider's calls handling equipment.
- d) The Customer and Provider undertake to use best endeavours to ensure compatibility between the Customer's equipment (including equipment installed in service users' homes and equipment associated with calls handling) and the Provider's equipment.
- e) The Customer retains responsibility for installing, maintaining and removal of all social alarm equipment provided in their clients' homes.
- f) The Customer retains responsibility for the provision of information, keeping it accurate and up to date as required by the Provider to operate, and respond appropriately to all calls on behalf of the Customer's social alarm users.
- g) The Provider will monitor the social alarm connections and respond to all calls raised by the customer's service users on calls handling equipment provided by the Customer

and located at the Provider's address. All elements of the equipment provided by the Customer remain the Customer's responsibility to maintain and replace as required.

Section 1.3 Volume of Service

- a) For the term of this Agreement the Provider is required to keep accurate and comprehensive records of the activities it undertakes for the Customer. These activities are to be reviewed on a quarterly basis in line with the contract monitoring meetings meeting schedule attached in Appendix E
- b) The minimum records to be provided by the Customer are detailed in Section 3 of this Agreement. It is the responsibility of the customer to ensure all service user data is accurate and up to date in accordance with the Data Protection Act.
- c) The information gathered during the term of this Agreement shall be used to determine future Service requirements. The Agreement is to be reviewed on annual basis to review level of service provided and charges, which are outlined in the Care line charging schedule. Appendix F
- d) The Provider and Customer will agree on the current or expected 'volume' of calls at the implementation of the Agreement. These figures will be determined from the PNC management reports and telephone activity levels. Please see Appendix G
- e) A review of the volume of calls will be held at the annual review liaison meetings (see Section 3 Appendix E), to determine the impact of any future service provision and cost. At this review an account for any increase or decrease in service user connections will be discussed which may affect the service performance and cost of the service to each party.

Section 1.4: Disputes/Complaints

- a) In the first instance, any problems with regard to the delivery of the Service or the operation of this Agreement will be discussed by the Customer Manager and the Provider Manager or nominated representatives who shall actively work together to resolve matters.

- b) Both parties will work on a basis of co-operation, and will arrange to discuss with the other party as soon as any problems or disputes arise. Both parties will attempt to resolve any difficulties through negotiation at an early stage, and each will make themselves available with reasonable notice to discuss the issues under dispute.
- c) Where matters cannot be resolved by the above process they may be referred by either manager to their respective senior managers.
- d) If after 28 days (or such longer period as the parties may agree) of the date of notice the dispute has not been resolved, either party may notify the other that it wishes the dispute to be referred to an independent arbitrator, to be agreed by both parties.
- e) If an independent arbitrator is appointed, the parties shall pay the arbitrator's fees in equal shares, and agree that they will be bound by the decision of the arbitrator.
- f) The dispute resolution procedure set out in this clause shall not delay or take precedence over the provisions for termination set out in this Agreement.
- g) Service user complaints will be dealt with by the respective corporate policies on complaints of both parties. All complaints raised by service users will be initially dealt with by the appropriate service manager or nominated representative. Investigations and results of that complaint will be shared with the respective managers and responses agreed. If appropriate investigations will be dealt with jointly.

Section 2: Information required by the Service Provider

Section 2:1 Information handling

- a. The Customer is responsible for promptly notifying the Provider of changes to alarm users' data including the service user records specifically covering access to the service user's property (key holder /key safe codes). The Customer is also responsible for recording the personal contact details for each service user or service users' contacts, and confirming in writing annually that the details held by the Provider on behalf of the service user are correct. Appendix G provides instructions on consistent data entry by the customer onto the PNC, to which the customer must adhere.
- b. The Customer will include in the details passed to the Provider the directions for dealing with any alarm calls connected to the call centre through the alarm network.

- c. The Customer consents to data collected in the course of delivering the Service being processed for the purposes of record keeping and producing reports (see sections 3.1 and 3.2 below). Also, See Appendix B for the Personal Information Sharing Protocol for the purpose of responding to emergency callers to the Service.

Section 3: Monitoring

Section 3.1: Records

- a. The following records are the minimum required to be kept by the Provider:

This list is not exhaustive

- ◇ Number of Service requests (includes automated calls recorded on PNC)
 - ◇ Actions in response to Service requests
 - ◇ Average response time to calls
 - ◇ Details of any failure to provide the Service including the reason for such failure
 - ◇ Details of actions taken to ensure future compliance which are either recommended to or agreed with the Customer
 - ◇ Details of any complaints and the actions taken to resolve them
 - ◇ Voice recordings of all calls on the PNC (to be retained for one year on agreed telephone lines).
- b) The Customer on retention of their own access to PNC systems can access and fully utilise the information in 3:1 apart from Voice Recordings held at the Providers location. The agreement is that all calls recorded will be shared between Customer and Provider on request.

Section 3.2: Reports

- a) The Provider shall each quarter discuss with the Customer management report details held on the PNC database summarising all activities undertaken during that particular period. Quarters are defined as the three month periods beginning 1st April each year. Any other significant reportable criteria outside of the PNC suite of reports, e.g. telephony, staffing, and Telecare, will also be considered in the quarterly discussion.

Section 3.3: Liaison Meetings-Refer to Appendix E Schedule of Meetings

- a) The Customer Manager and the Provider Manager or nominated representatives shall, meet quarterly to monitor the operation of the Agreement, and in particular to review the relevant records and Service performance.
- b) There shall be a meeting quarterly please see schedule Appendix E between the Customer Manager and the Provider Manager to review the Agreement, the provision of the Service, and to agree appropriate future activities and costs.

- c) Any plans by either party to introduce any new hardware or software (where this shall impact upon the Customer or Provider) shall be discussed and agreed prior to their implementation by the Customer Manager and the Provider Manager (and any other relevant persons). Agreement shall be recorded in writing and implementation reviewed 3 months after the start date.

Section 4: Service Provision

Section 4.1: Availability

- a) The Service is to be a continuous service provided on behalf of the Customer by the Provider on a 24 hours per day, 365 days per year basis.
- b) The Provider and the Customer will ensure that all necessary actions are taken to ensure that the equipment within their ownership or control is available and working at the above times.
- c) In the case of an unforeseen disruption to service at the Provider's location, the Provider will maintain a single disaster recovery agreement with Tunstall Response Ltd, covering the combined Provider and Customer integrated database,
- d) The Provider will send database updates on a weekly basis to Tunstall Response Ltd. These are automated 'file' data transfers via secure broadband connections. In addition the Provider and Customer will maintain an ongoing database file transfer on a daily basis and live replication of the data between the Provider's and Customers premises to ensure that data is kept up to date on both the Provider's and Customers Tunstall's systems.

Section 4.2: Categories of Service

- a) The Provider shall, in addition to the calls handling service described above, provide the following services to the Customer;
- Access by authorised personnel to the Provider's telecommunications system and its associated hardware and software.
 - Representation in negotiations with third party suppliers and technical liaison on maintenance support and with support services provided by third party suppliers.

Section 4.3: Service Standards

- a) The Customer will automatically inform the Provider of changes to the service user database using the live database link between Customer and Provider.

Section 4.4: Service commitments

- a) The Provider's staff shall act at all times to protect and promote the Customer's business activities and interests.
- b) The Provider will carry out repairs and maintenance work to the PNC system shall be carried out to the manufacturer's standards, and wherever possible at times which minimise impact upon the delivery of the Service.
- c) From time to time the Customer clients may assist the Provider in undertaking customer satisfaction surveys.
- d) The customer will, as required and appropriate, work jointly with the provider in meeting any relevant accreditation standards as required by the Telecare Standards Association (or any other potential accrediting organisation), or in providing information in order to facilitate internal or external audit of the service.
- e) In the event of authorised contacts being unavailable to attend a service user's property following the raising of an alarm, the Provider will refer the incident to the Police who will make a judgement on whether forced entry will be made. The Provider is not liable for any loss or damage arising from a forced entry made by the police.
- f) The Provider will voice record all alarm call traffic. The Customer should make all its staff, service users, and corporate clients aware of call recording.

Section 4.5: Health and Safety

- a) The Provider will comply with relevant Health and Safety legislation, directives and guidance in relation to the activities undertaken under this Agreement.

Section 4.6: Staffing

- a) The Provider will ensure that all staff are trained and competent to provide the service in a safe manner.
- b) The Provider will be responsible for ensuring that where new hardware and/or software is being introduced which will impact upon the service that its staff is trained appropriately.
- c) The Provider's staff shall keep strictly confidential any information or data of which they gain knowledge during the performance of the Service.

Section 5: Review of the Agreement

- a) The Parties shall review this Agreement six months prior to its termination date i.e. at the September Review meeting (see section 3:3: b and Appendix E Meeting Schedule) to determine whether the Customer wishes to extend the Agreement with the Provider and, if so, under what terms and conditions.
- b) Notice of any variations required under clause b above must be given to the other party at least 15 working days prior to the intended variation being effected.
- c) Any changes to the Customer Manager or the Provider Manager, or their nominees, must be notified to the other party as soon as possible but at the latest within 2 working days of the change.
- d) In cases of failure to agree any variations to this Agreement or failure to resolve any disputes or problems, the Disputes procedure as outlined in this Agreement (Sec 1.4) shall be followed.

Section 6: Termination

- a) Either party may terminate this **Agreement on 12 months notice** in writing to the other party. Such notice shall only be given by the relevant Director, Head of Legal services or Chief Executive.

Section 7: Payment Provisions

- a) The Provider shall invoice the Customer quarterly in arrears for the provision of the Service. Any adjustments to the overall fee for the year will be made in the first (period) of the following year. Please refer to charging Policy Appendix F
- b) After verification the Customer shall pay the agreed sum to the Provider. Where agreement cannot be reached the disputes procedure section 1.4 will be followed.
- c) Rates for future years are in place for the 3 year period of this contract with an annual inflationary rise being applied.
- d) Payment will be via the transfer of funds via the corporate accounting system **(on receipt of an invoice from the Provider)**.
- e) After verification by the Customer the invoice will be paid within 14 days of Receipt.

Section 8: Confidentiality and Data Protection

- a) The Provider and the Customer shall comply with the requirements of the duty of confidentiality at common law, the Human Rights Act 2000 and Article 8, and the Data Protection Act 1998 insofar as they apply to the provision of the Services and/or otherwise of this Agreement. The Provider and the Customer shall enter in to a Data Processing Agreement or Personal Information Sharing Protocol in respect of the information provided under this agreement in the terms set out in Appendix B.
- b) The Customer acknowledges the obligation of the Provider to comply with the Freedom of Information Act and the Statutory Code issued under Section 45 of the Act in relation to any request for access to recorded information held by this County Council.

Section 9: Applicable Law

- a) The Agreement shall be governed by and construed in accordance with the law of England and Wales.

Section 10: Assignment and Sub-contracting

The Provider will not assign or sub-contract all or any part of its obligations under this Contract unless the Customer agrees in writing.

- a) Subject to 9 (a) above, where the service is sub contracted to other providers, the Provider shall ensure that any sub-contractor complies with the terms and conditions of the Contract, so far as they are applicable. Any sub-contract shall not relieve the Provider of his obligations under the Contract.

Section 11: Insurance

- a) For as long as this Agreement is in force, the Provider shall have in place the following minimum insurance cover;
- Employer's liability insurance at least to the value of £10,000,000 for each and every claim, act or occurrence or series of claim acts or occurrences; and
 - Public Liability insurance at least to the value of £10,000,000 for each and every claim, act or occurrence or series of claim acts or occurrences; and
 - Professional indemnity insurance in an amount for each and every claim, act or occurrence or series of claim acts or occurrences which is sufficient to cover our liabilities under this Agreement.£5million any one claim and in the aggregate
- b) The Provider must ensure that any sub-contractors who provide any or all of the Support Services on its behalf take out and maintain insurance equivalent to those required from the Provider under clause 11a of this Agreement.
- c) The insurance policies referred to in clauses 11 of this Agreement must be taken out and maintained with a reputable insurance company.
- d) The provider shall provide to the Customer such evidence as the Customer may require that the insurance policies referred to in clauses 11of this Agreement have been taken out, provide adequate cover, and are in force at all times.

Section 12: Indemnities

- a) The Provider must fully and promptly indemnify the Customer against all losses, damages, costs, expense, liabilities, claims or proceedings, whether these arise under statute or common law, which the Customer suffers as a result of any negligence, default or breach of statutory duty on the part of the Provider in carrying out its obligations under this Agreement or on the part of any person who the Provider employs or engages to carry out its obligations under this Agreement.
- b) The Provider will not be liable to indemnify the Customer under clause 11a above to the extent that the Customer's losses are due to any negligence, default or breach of statutory duty on the Customer's part, or on the part of any of the Customer's employees agents or sub contractors
- c) The Customer must fully and promptly indemnify the Provider against all losses, damages, costs, expense, liabilities, claims or proceedings, whether these arise under statute or common law, which the Provider suffers as a result of any negligence, default or breach of statutory duty on the part of the Customer in carrying out its obligations under this Agreement or on the part of any person who the Customer employs or engages to carry out its obligations under this Agreement.
- d) The Customer will not be liable to indemnify the Provider under clause 12c above to the extent that the Provider's losses are due to any negligence, default or breach of statutory duty on the part of the Provider, or on the part of any of the Provider's employees agents or sub contractors.

Appendices:

Appendix A. List of corporate clients that may be party to certain terms and conditions and negotiations within this document.

Appendix B. Data Protection

Appendix C. Significant changes requiring notification

Appendix D. Disaster recovery arrangements **(NOT APPLICABLE)**

Appendix E. Schedule of Review Meetings and Annual Review

Appendix F. Care line Charging Policy

Appendix G. Consistent Data Entry Instructions

Appendix A. List of corporate clients that may be party to certain terms and conditions and negotiations within this document.

Neath Port Talbot County Borough Council

Carmarthenshire County Council

Local authorities and Housing association reliant on services or contracted to services offered by the Provider and Customers as parties to this agreement, for the financial year covered by this agreement.

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Data Protection

Part A – Introduction

Introduction

This Personal Information Sharing Protocol (PISP) has been prepared to support the sharing of personal information to support the work of the Community Alarm Service within the Wales national framework as described by the Wales Accord on the Sharing of Personal Information.

The Information Sharing Community

This Personal Information Sharing Protocol covers the exchange of information between social services in the City and County of Swansea, Neath Port Talbot County Borough Council and Carmarthenshire County Council for the purposes of responding to emergency callers to the Community Alarm service.

Scope and Purpose of Information Sharing

This Personal Information Sharing Protocol details the specific purpose(s) for information sharing to support the Community Alarm service, the group(s) of service users it impacts upon, the relevant legislative powers, what data is to be shared, the consent processes involved (where appropriate), the required operational procedures for the exchange of information and the process for review.

The aim of the Community Alarm service is to provide an emergency alerting service to vulnerable people living in their own homes or in sheltered accommodation. The Community Alarm Service can call out the 'blue light' services or can request nominated individuals make a call to check on the service user.

Information is shared to maintain 24/7 cover for Community Alarm service users (routine record keeping, consultation of records, emergency contact details etc).

Records may also be shared in the event of an emergency.

Information may be needed to support the monitoring of the service against existing standards and benchmarks.

Information may also be shared to support the effective administration, audit and inspection of services.

Partners may only use the information disclosed to them under this Personal Information Sharing Protocol for the specific purpose(s) set out in this document.

The PISP is supplementary to the Wales Accord on the Sharing of Personal Information (WASPI) that has been agreed between the participating partner organisations; partners have given consideration to its contents when drawing up this PISP.

This document sets out the rules and procedures to be adopted when sharing information to support these functions. Information shared to support functions other than those listed is not covered by this document.

In this document:-

- Part A** is this introduction;
- Part B** sets out the detailed rules and operational procedures that must be followed when sharing personal information;
- Part C** describes the specific rules relating to consent to sharing of information;
- Part D** describes the methods for sharing information that are permitted in support of the UAP and the controls which apply to those methods.

High Level Functions Covered by this Protocol

The Community Alarm service provides:

- ◆ Community alarm services
- ◆ Emergency response to calls made by service users using dispersed alarm equipment (a.k.a. Community Alarm).
- ◆ Routine calls to ensure service users' Community Alarm equipment is still functional and would work in an emergency.

Who does this Personal Information Sharing Protocol apply to?

This PISP applies to following organisations that are engaged in delivering a Community Alarm Service within:-

- ◆ City and County of Swansea
- ◆ Carmarthenshire County Council
- ◆ Neath Port Talbot County Borough Council

Staff of who work within the respective Community Alarm services carrying out call handling are bound by this protocol.

The term 'staff' encompasses paid workers, volunteers, students and other temporary workers approved by the employing / hosting organisation to carry out the Community Alarm service.

Service Users

Any person who is registered as an active service user within Carmarthenshire, NPT and Swansea.

These people are referred to as Service Users and will usually be residents of NPT, Carmarthenshire and/or Swansea, but residents of other authority areas will also occasionally present.

Value of sharing to Service Users

The sharing of this information is vital to ensure that service users can be supported in an emergency at any time of day or night.

Training

Signatory organisations will ensure that all current and newly-appointed staff receive appropriate training in the application of this PISP.

Security

Breaches of security and / or confidentiality and other violations of this PISP must be reported in line with each organisation's incident reporting procedures.

Complaints Procedure

Each organisation have a formal procedure by which Service Users can direct their complaints regarding application of this PISP.

Review of this Personal Information Sharing Protocol

This PISP will be reviewed one year after implementation and within 3 years thereafter.

Management Responsibilities and Authorisation

The managers responsible for this PISP are:-

Designation	Organisation
Samantha Watkins	Carmarthenshire County Council

These managers are responsible for the PISP within their own organisations, and must ensure the PISP is disseminated, understood and acted upon by relevant staff.

Part B – Rules and Procedures

Summary

Information can only be shared for the purposes set out in the High Level Functions (s.4).

Personal information must be collected using the approved collection tools and ensuring the required identifying information is complete and up-to-date.

Only the minimum necessary personal information must be shared to support the work of staff that have a legitimate involvement with the service user.

In addition, staff must also follow their own organisation's procedures relating to information handling (see s.18).

What personal information will be shared?

The information shared for the purpose of the Unified Assessment process includes a wide range of information about the Service User's general health and social well-being.

The information shared might therefore include:-

- ◆ Key identifying information (see s.11 below)
- ◆ Basic demographics
- ◆ People living with the service user
- ◆ Carer's contact details
- ◆ Other emergency contact details e.g. key-holder
- ◆ GP details
- ◆ Health details e.g. disease / condition
- ◆ Details of immediate environment e.g. property access details
- ◆ Safety issues
- ◆ Pets details

The information is used to prepare a care plan detailing how services will be provided, how needs will be met, who will be involved, whether any needs will remain unmet and how the Service User's ongoing care will be managed and reviewed.

Only the **minimum necessary** personal information consistent with the purposes set out here must be shared.

Key Identifying Information

When sharing information, the following data items will be used to ensure that all partners are referring to the same individual:

- Full name
- Full address
- Date of birth
- Community Alarm telephone number

What information collection tools must be used?

The organisations' approved collection tools for gathering this personal information are the following form(s) and system(s):-

- Personal Information Form for the Community Alarm Service
- PNC4 provided by Tunstall Group

When is personal information shared?

Information is shared live to support the delivery of the Community Alarm service as set out above.

If staff makes changes to a record, reasonable efforts must be taken to ensure that anyone who has received a copy of the record is also alerted to the change.

What other rules should be followed?

Organisational policies and procedures relating to personal information will need to be followed such as:-

- ◆ Information Security
- ◆ Records Management
- ◆ Data quality

Part C – Consent and Legislation

Summary

Information sharing should not take place without the informed consent of the service user. Part C sets out the law and general rules of consent that will usually apply. It also describes what to do in special circumstances where the user does not consent, is unable to consent or withdraws consent.

Staff should not hesitate to share personal information in order to prevent abuse or serious harm, in an emergency or in life-or-death situations. **If there are concerns relating to child or adult protection issues, the relevant organisational procedures must be followed.**

Consent

Consent is required to share information between different organisations. Service Users or their lawful representatives must be informed clearly about what information is to be shared, who the information will be shared between, and for what purposes. The member of staff must be satisfied that the Service User has understood the information sharing arrangements.

It is necessary to communicate with the Service User about the need for information sharing at the earliest appropriate opportunity, preferably at first contact.

Existing Service Users will be informed of the information sharing arrangements by means of the Review of Circumstances Form that is sent to each individual user annually. This will supplement any verbal communication and provide for future reference.

Additionally, new Service Users will be informed of the information sharing arrangements at the point of assessment during the completion of the Community Alarm application form.

The Application Form and the Review of Circumstances Form will describe procedures for opting out of the information sharing and the consequences of opting out.

Due to the nature of the service, service users who opt out will receive a service available only during limited hours.

Any restrictions on consent should be recorded and information dealt with appropriately.

Obtaining and Recording Consent

For the purposes of this PISP implied consent is required.

Provided that Service Users have been informed appropriately as set out above, information sharing between partner organisations is permitted.

Refused / Withdrawn Consent

A service user has the right to withhold consent to have information about them shared. He/she also has the right to withdraw consent to the sharing of information at any point. Further information should not then be shared.

Where the service user has withheld consent, the implications of withholding consent will be clearly explained to them and this dialogue should be recorded in an appropriate place.

See also 'Sharing information without consent' below.

Sharing information without consent

Staff are permitted to disclose personal information in order to prevent abuse or serious harm to others. If there are concerns relating to child or adult protection issues, you must follow the relevant local procedures.

Information can be lawfully shared without consent where an appropriate professional of sufficient seniority has taken the view that the duty of confidentiality can be breached in exceptional circumstances and where there is a substantial over-riding 'public interest'. Such situations where information might be shared without consent include:

- ◆ 'Life and death' situations;
- ◆ Where a person's condition indicates they may be a risk to the public or may inflict self-harm.

- ◆ On a case-by-case basis, to prevent serious crime and support detection, investigation and punishment of serious crime.

(This is not an exhaustive list.)

Given the nature of the service, there may be occasions where the risk to a person's safety are so great that it may be necessary to share the information without consent in order to provide emergency support and continuous cover.

Any claimed substantial public interest justification must be clearly stated and any decision to share information with another party without the consent of the Service User must be fully documented. The Service User should usually be informed of this decision, and what information has been shared unless doing so would risk harm to others or hinder any investigation or legal proceedings.

Staff with authority to agree information sharing without consent are:-

Designation	Organisation
Samantha Watkins	Carmarthenshire County Council

Legislative / statutory powers

Section 2(1)(h) of the *Chronically Sick and Disabled Persons Act 1970* provides for assistance to be given to those in need to obtain a telephone and any special equipment necessary to enable use of a telephone.

Section 17 of the *Health and Social Security Adjudications Act 1983* provides for local authorities to charge for welfare services to be made for such services provided under a range of enactments.

Housing Act 1985 Section 11A (as introduced by Section 126 of the *Leasehold Reform, Housing and Urban Development Act 1993*) provides for housing authorities to provide welfare services other than repair, maintenance, supervision or management of property and also provides for charges to be made for such services.

Section 47 of the *NHS and Community Care Act 1990* provides for social services authorities to involve staff of health and housing agencies in order to prepare comprehensive assessments of need. It can be implied from this duty that there is a power to share information with health bodies or housing authorities.

Local authorities also have wider powers under section 2 of the *Local Government Act 2000* to promote or improve the social wellbeing of their area. This provides an implied power to share information with other statutory services and the independent sector.

Section 22 of the *National Health Service Act 1977* provides for a general duty on NHS bodies and local authorities to cooperate with one another in order to secure and advance the health and welfare of the people of England and Wales. This general duty implies a power to share information between NHS bodies and local authorities.

Paragraph 16 of Schedule 2 to the *National Health Service and Community Care Act 1990* provides that NHS Trusts have general powers to do anything which is necessary or expedient for the purposes of or in connection with the provision of goods and services for the health service and similarly will give rise to an implied power to share information.

Whilst these provisions provide the power to share information, the actual disclosure of information in accordance with these powers must be conducted within the legal framework of the *Data Protection Act 1998* and the *Human Rights Act 2000* and in compliance with the common law duty of confidence.

Part D – Methods and Controls

Summary

Part D sets out the details of the information to be shared to support UAP and the controls which must be applied to the information in order to ensure that it is kept secure from accidental disclosure.

Methods and Controls for the Exchange of Personal Information to Support UAP

The following table provides a list of the personal information to be shared between the partner organisations, with whom in each organisation it will be shared, when it will be shared, why it will be shared i.e. its purpose and the methods of how it will be shared.

This table is to be reviewed and updated whenever there are changes e.g. additions to or subtraction of information shared or a change in the staff / organisations with whom the data is shared.

Appendix C. Significant changes requiring notification

Significant changes:

List of the type of changes the Customer would wish the Provider to report on daily.

The manner acceptable for reporting daily, fax, phone, email or combination.

The manner acceptable for reporting on bank holidays or weekends.

Typical examples are: Permanent cessation of service by service users

Complaints from service users and relatives

Notification of change to telephone numbers or address by service user.

Faults as reported BT service users

New users

Users who Terminate their service of alarm provision

Fee paying details

Personal Information on the user- others living with the user.

Contacts as responders to assist the alarm user in event of emergencies.

Access/ Egress details- including Key safe.

Telephony or other forms of telecommunication details for all the parties in the Personal information records of Each alarm user.

Changes of address

Holiday periods

Hospitalisation.

Types of equipment used to monitor wellbeing.

Health issues that may prevent evacuation in an emergency.

Maintenance provision (in hours out of hours) for alarm systems.

Telecare response pathways if they are specifically designed to meet the particular need of an individual.

The above list is not exhaustive

DRAFT

Appendix D. Current DR arrangements. The Provider independently maintains a Disaster Recovery service with Tunstall Response on a yearly contract. This provides an immediate facility to smart divert in any circumstance the provider's calls handling PNC7 capabilities if the operating facility becomes unavailable for use. The database details and changes are shared between Provider and Tunstall Response on a weekly basis maintaining an up-to date data supply.

The Customer independently maintains a Disaster Recovery service with Tunstall Response (Details of the terms and agreements?) Currently if the Provider's premises became unavailable for any reason, a smart divert carried out by the Providers staff will occur of the Customers service. It will be at the discretion of the Customer manager as to any further action regarding the data and calls handling of any Customers calls.

Appendix E

Contract Monitoring Meetings Schedule:

1ST April 2017 to 31st March 2020

Carmarthenshire County Council

And

Neath Port Talbot County Borough Council

<u>w/c 6th Jul'</u> <u>CCS Offices</u>	<u>w/c 14th Sept'</u> <u>Annual Review</u> <u>CCC Offices</u>	<u>w/c 5th Oct'</u> <u>CCS Offices</u>	<u>w/c 11TH Jan'</u> <u>CCC Offices</u>	<u>w/c 14TH Mar</u> <u>CCS Offices</u>
<u>Minutes /PNC Reports and Agenda</u>	<u>Minutes SA and Agenda</u>	<u>Minutes /PNC Reports and Agenda</u>	<u>Minutes /PNC Reports and Agenda</u>	<u>Minutes /PNC Reports and Agenda</u>

Data Processing Agreement

This data sharing agreement will be reviewed in line with any changes in legislation during the lifetime of the agreement

Between:

(1) Neath Port Talbot County Borough Council of Civic Centre Port Talbot SA13 1PJ ('Controller') and

(2) Carmarthenshire County Council of County Hall, Carmarthen, SA31 1JP ('Processor')

In consideration of the respective undertakings, warranties and representations given by each of the parties as set out in this Agreement, it is hereby agreed as follows:

1 Definitions and interpretation

1.1 The following words and phrases shall have the following meanings:

1.1.1 **'Agreement'** means this agreement, its schedules and any other documents attached to, or referred to as forming part of this agreement;

1.1.2 **'Data'** means personal data (having the meaning ascribed under the Data Protection Act 1998) that are under the control of the Controller and in respect of which the Processor is required to provide the Services as amended from time to time by the Controller;

- 1.1.3 **'Privacy Notice'** means a notice which complies with the requirements of Schedule 1, Part II of the Data Protection Act 1998.
 - 1.1.4 **'Principal Agreement'** means any agreement entered into by the parties for the provision of Services which is supplemented by the terms of this Agreement;
 - 1.1.5 **'Privacy Laws'** means all applicable privacy laws the United Kingdom for the time being, including the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 together with all subordinate legislation, directions of any competent privacy regulator, common law decisions, relevant regulatory guidance and codes of practice;
 - 1.1.6 **'processing'** has the meaning ascribed by the Data Protection Act 1998;
 - 1.1.7 **'Services'** means the services to be provided by the Processor relating to the provision of a 24 hours x 365 day per year monitoring of social alarms service for the Controller.
 - 1.1.8 **'Third Party'** means any person (other than an employee of the Controller or Processor) or organisation, whether incorporated or unincorporated, which is not named in this Agreement as the 'Controller' or 'Processor'.
- 1.2 In this Agreement:
- 1.2.1 references to clauses and schedules are references to the clauses and schedules of this Agreement;
 - 1.2.2 headings shall not affect its interpretation;
 - 1.2.3 words importing a gender shall include all genders and references to a 'person' shall include a reference to a body corporate, association or partnership;
 - 1.2.4 the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word 'include' and its derivatives shall be construed accordingly.

1.3 In the case of conflict or ambiguity between any Principal Agreement and this Agreement, this Agreement shall prevail.

2 Commencement

2.1 This Agreement shall commence on the ('Commencement Date') and shall continue in force until the Services are complete or the effective date of termination as set out in clause 10.

2.2 The Processor shall commence performance of the Services on the ('Service Start Date').

3 The Services

3.1 The terms of this Agreement supplement the terms of any Principal Agreement.

3.2 The Processor shall perform the Services using the level of skill and care that ought reasonably to be expected of an experienced provider of services of the nature of the Services and in accordance with:

3.2.1 the law of England and Wales;

3.2.2 good industry practice;

3.3 The Controller shall be entitled, by giving written notice to the Processor, to suspend the Services at any time and, immediately on receipt of such notice, the Processor shall, and shall procure that its employees shall, comply with the requirements of such suspension.

4 Data ownership

4.1 The Processor acknowledges and accepts that it is processing the Data as a service provider and data processor and that, as between the parties, the Data and all intellectual property rights in the Data shall belong to the Controller absolutely.

4.2 The Controller hereby grants the Processor permission during the term of this Agreement to use, edit, copy and store the Data solely for the purposes of performing and fulfilling its rights and obligations under this Agreement, but for no other purpose.

5 **Controller obligations**

No later than the Service Start Date, the Controller shall provide the Processor with the Data together with such information as the Processor may reasonably require to enable it to provide the Services.

6 **Processor obligations**

6.1 The Processor and any employees that may process the Data shall:

6.1.1 process the Data solely for the purpose of providing the Services in accordance with any Principal Agreement and to fulfil the Processor's obligations and exercise its rights under any Principal Agreement and/or this Agreement and for no other purpose. This restriction applies during the term of this Agreement and/or the term of the Principal Agreement whichever is the later and thereafter;

6.1.2 comply with all applicable laws including the Privacy Laws;

6.1.3 comply with the following data requirements in respect of the Data:

(a) process the Data strictly in accordance with this Agreement and the Controller's written instructions as given by the Controller from time to time;

(b) take appropriate technical and organisational measures that will safeguard the Data against unauthorised or unlawful processing and accidental loss, theft, use, disclosure, destruction and/or damage, including encrypting removable media or portable devices;

(c) treat and safeguard the Data as strictly private and confidential;

(d) not disclose the Data to any third party in any circumstances other than with the express written consent of the Controller, or in compliance with a legal obligation imposed upon the Processor;

- (e) allow access to the Data strictly on a 'need to know' basis employing appropriate access controls at all times;
- (f) only copy, reproduce and/or distribute the Data to the extent necessary for performance of the Services;
- (g) maintain adequate back-ups for the data to enable the Data to be recovered in the event of damage or loss;
- (h) take reasonable steps to ensure the reliability of those of its employees who may have access to the Data and ensure that such persons have sufficient skills and training in the handling of personal data and comply with the Privacy Laws;
- (i) not cause or permit the Data to be transferred outside the European Economic Area without the prior written consent of the Controller;
- (j) provide such assistance as is necessary to enable the Controller to comply with requests by data subjects for access to their personal data within the period required by the Privacy Laws and on request from the Controller, provide an up-to-date copy of the Data in the format, or media and within any reasonable time periods required by the Controller;
- (k) cooperate with the Controller to enable it to monitor compliance with the obligations set out in this Agreement and, upon reasonable notice, permit the Controller and/or its nominated agent to have access to any premises where the Data are being processed in order to ascertain compliance with this Agreement;
- (l) the Processor agrees to process the Data strictly in accordance with the Controller's relevant policies, processes and procedures, as set out in Schedule 2;
- (m) the Processor will notify the Controller promptly and without undue delay of any security breaches that occur, such as unauthorised disclosure, loss or theft of the Data; and

(n) upon completion of the Services for which the Data has been in the possession of the Processor, or the termination of this Agreement, to return the Data securely and in its entirety to the Controller.

6.2 The Processor agrees that it shall procure that any employees that may collect any data in respect of the Services shall ensure that such Data is captured correctly in accordance with the requirements of the Data Protection Act 1998 and shall amend inaccurate data promptly upon being notified that the data are inaccurate.

6.3 The Processor agrees that it shall procure that any employees that collect Data when providing the Services and/or create materials or interactive systems for the collection of Data shall:

6.3.1 incorporate a Privacy Notice:

(a) on all documents (whether paper based, online or otherwise), which data subjects may use to provide Data; and

(b) in all telephone scripts and recorded messages used by employees when collecting Data from data subjects;

6.3.2 ensure that any promotional materials include details of how the person to whom such promotional materials have been sent may indicate that he does not wish to receive any further promotional materials.

6.4 To the extent permitted to do so by applicable law, the Processor shall notify the Controller of all communications it receives from third parties relating to the Data which suggest non-compliance by the Controller, Processor or any other person with the Privacy Laws, including communications from data subjects and regulatory bodies, and shall not do anything or enter into any communication with such third party unless expressly authorised to do so by the Controller.

7 Warranties

7.1 Each party warrants that it has full and due authority to enter into this Agreement and that doing so will not cause it to be in breach of any other contract or order of any competent court or regulatory authority.

7.2 The Processor warrants and undertakes, and shall procure that it and its employees have not done and shall not do or, where they have a duty to act, have not omitted to do and shall not omit to do anything that would cause the Controller or themselves to be in breach of the Privacy Laws.

8 Use of third parties

8.1 The Processor shall not permit any third party to process the Data unless such processing is expressly authorised by this Agreement or the Controller has consented in writing to such third party processing the Data.

8.2 The Processor acknowledges and accepts that any consent given:

8.2.1 may be contingent upon compliance with additional terms;

8.2.2 is contingent upon the third party:

(a) having provided sufficient guarantees to the Processor in respect of the Data requirements set out in clause 6.1.3; and

(b) complying with this Agreement as if it were the Processor and having agreed to do so pursuant to a contract which is made in writing which is, in respect of the processing and the Data, enforceable directly by the Controller and which shall terminate automatically upon termination of this Agreement;

8.2.3 may be withdrawn in the event that the Controller reasonably believes that the Data or the rights of data subjects may be compromised by the third party.

9 Indemnities

9.1 Each party shall indemnify the other against any costs, claims, expenses (including reasonable legal costs), damages, liabilities and proceedings brought against the other arising out of a breach of this agreement by the indemnifying party.

9.2 The Processor will indemnify the Controller against any costs, claims, expenses (including reasonable legal costs), damages, liabilities, actions and proceedings brought against the Controller arising out of a breach of this Agreement by a third party engaged by the Processor in accordance with clause 8.1.

9.3 The Controller will indemnify the Processor against any costs, claims, expenses (including reasonable legal costs), damages, liabilities, actions and proceedings brought against the Processor arising out of a breach of this Agreement by a third party engaged by the Controller.

10 Termination

10.1 The Controller shall be entitled to terminate this Agreement for convenience by giving to the Processor not less than 12 calendar month's written notice.

10.2 This Agreement shall terminate automatically on termination of any Principal Agreement, subject to the provisions of clause 6.1.3(n). Either party shall be entitled to terminate this Agreement immediately in the event that:

10.2.1 the other is in material breach of any provision of this Agreement which is:

(a) not capable of remedy; or

(b) is capable of remedy but which is not remedied within 1 calendar month of notice being served requiring the breach to be remedied;

10.2.2 a petition is granted by a competent court or an order is made or resolution passed for the other to be wound-up;

10.2.3 the other is dissolved (other than for the purpose of reconstruction or amalgamation whilst solvent);

- 10.2.4 a petition is granted, notice of intended or actual appointment is presented or an order is made by a competent court for the appointment of an administrator;
 - 10.2.5 the other enters into an arrangement or compromise with its creditors (or any class of them) or takes steps to obtain a moratorium or protection from its creditors (or any class of them); or
 - 10.2.6 a distress, execution of or other legal process is levied over the whole or part of the other's undertaking or assets.
- 10.3 On termination or expiry of this Agreement, the Processor shall, procure that any third parties it engages shall, promptly and securely deliver, or procure the prompt and secure delivery, to the Controller of all Data, materials, documentation (including all copies in every form and media) in its power, possession or control.

11 Confidentiality

- 11.1 Each party shall treat as confidential the content of this Agreement and all information relating to the business and/or affairs of the other party which it may receive or derive as a result of this Agreement and shall not disclose to any person, or allow any other person to use, such information other than as permitted by this Agreement.
- 11.2 Each Party shall be entitled to disclose the information referred to in clause 11.1 to its professional advisers strictly on a 'need to know' basis and provided such professional advisers are under a binding duty of confidence.
- 11.3 The provisions of clause 11.1 shall not apply to any information which:
- 11.3.1 is in the public domain other than by default of the receiving party;
 - 11.3.2 is received by the receiving party from a bona fide third party with no apparent restriction on its unfettered right to disclose such information;
 - 11.3.3 is or has already been independently generated or obtained by the receiving party; or
 - 11.3.4 is required to be disclosed by applicable law.

PROVIDED ALWAYS that the relief in clauses 11.3.1 to 11.3.3 do not apply in respect of the Data.

12 **Miscellaneous**

- 12.1 **Assignment.** Neither the Processor nor any subcontractor of the Processor shall be entitled to assign its rights or benefits and/or transfer its obligations or burdens under this Agreement or any other agreement under which the Data are or are to be processed in each case, whether in whole or in part.
- 12.2 **Entire agreement.** This Agreement and the documents referred to in it including the Principal Agreement constitute the entire understanding and agreement of the parties in relation to the processing of the Data and supersede all prior agreements, discussions, negotiations, arrangements and understandings of the parties and/or their representatives in relation to such processing. However, nothing in this Agreement shall exclude or limit either party's liability for fraudulent misrepresentation in relation to this Agreement whether occurring before or after the Commencement Date.
- 12.3 **Further Assurance.** Each party will do and execute and/or arrange for the doing and executing of, any act and/or document reasonably requested of it by any other party to implement and give full effect to the terms of this Agreement.
- 12.4 **Survival.** Termination or expiry of this Agreement for any reason will not affect any rights or liabilities that have accrued prior to such termination or expiry, or the coming into force, or continuance in force, of any term that is expressly or by implication intended to come into, or continue in force, on or after termination or expiry.
- 12.5 **Waiver.** Delay in exercising, or failure to exercise, any right or remedy in connection with this Agreement will not operate as a waiver of that right or remedy.
- 12.6 **Severance.** The parties intend each provision of this Agreement to be severable and distinct from the others. If a provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the parties will work together in good faith to agree a provision that reflects the original intention of the parties as a substitute for the affected term.
- 12.7 **Counterparts.** This Agreement may be entered into in any number of counterparts and by the parties on separate documents all of which taken together will constitute one and the same instrument.

12.8 **Third party rights.** The Controller is entering into this Agreement for the benefit of itself and for the data subjects whose personal data are to be processed by the Processor each of which shall be entitled to enforce this Agreement²⁷. In all other cases, a person who is not a party to this Agreement shall not be entitled to benefit or have any rights to enforce any of its provisions and the Contracts (Rights of Third Parties) Act 1999 shall not apply.

12.9 **Law and jurisdiction.** This Agreement is governed by and shall be construed in accordance with the laws of England and Wales. Each party hereby submits to the non-exclusive jurisdiction of the courts of England and Wales.

Signed for and on behalf of the Controller:

Authorised signatory:

Name:

Position:

Date:

Signed for and behalf of the Processor

Authorised signatory:

Name:

Position:

Date: