

<b>Meeting title:</b>	Public Board					
<b>Date of the meeting:</b>	12 September 2024					
<b>Title:</b>	UHL:UHN collaboration agreement					
<b>Report presented by:</b>	Becky Cassidy, Director of Corporate and Legal Affairs					
<b>Report written by:</b>	Becky Cassidy, Director of Corporate and Legal Affairs					
<b>Action – this paper is for:</b>	Decision/Approval	x	Assurance		Update	
<b>Where this report has been discussed previously</b>	Partnership Board – 30 July 2024					

### 1. **Purpose of the Report**

To provide the Board with the final draft of the University Hospitals of Leicester (UHL) and University Hospitals of Northamptonshire (UHN) collaboration agreement for approval.

### 2. **Recommendation**

The Trust Board are asked to approve the UHL:UHN collaboration agreement.

### 3. **Summary**

The Partnership Board received the final draft of the collaboration agreement at its meeting in July. Following formal Boards' approval for the establishment of the Partnership Board, a Collaboration Agreement has been prepared setting out the overarching framework for collaboration between the partners, building on work undertaken to date and setting out:

- The vision, collaboration purpose, objectives and priorities of the Collaboration, and
- The governance structure established by the partners in order for them to come together to make informed and binding decisions in identified areas

The Partnership Board considered and endorsed the draft, with comments, at its April 2024 meeting, before receiving a final draft for endorsement and subsequent recommendation to Boards as a final draft at its July meeting. The Partnership Board was invited to determine the effective date of commencement for the agreement as part of this recommendation. This will be notified to Boards going forward.

The Partnership Board also reviewed its terms of reference at its 30 July meeting which includes changing the body's title to the 'Partnership Committee'. Reference to the Partnership Committee in the enclosed agreement is therefore subject to Boards' ratification. The amended Terms of Reference as referred to at Schedule 4 are available within Paper O, Partnership Board Update, which is also submitted to this meeting.

Appendix 1 – collaboration agreement document

Draft No: 1  
Date of Draft: 08/03/24

Dated 2024

**COLLABORATION AGREEMENT**

Between

(1) KETTERING GENERAL HOSPITAL NHS  
FOUNDATION TRUST

(2) NORTHAMPTON GENERAL HOSPITAL NHS

AND

(3) UNIVERSITY HOSPITALS OF LEICESTER  
NHS TRUST

## CONTENTS

CLAUSE		PAGE
1	BACKGROUND.....	1
2	CONTEXT .....	1
3	STATUS OF THIS AGREEMENT .....	2
4	DEFINITIONS AND INTERPRETATION .....	2
5	COMMENCEMENT AND DURATION .....	2
6	COLLABORATIVE PRIORITIES.....	3
7	COLLABORATIVE PRINCIPLES.....	3
8	PROBLEM RESOLUTION AND ESCALATION.....	4
9	OBLIGATIONS AND ROLES OF THE PARTNERS .....	4
12	GOVERNANCE.....	6
13	INFORMATION SHARING AND CONFLICTS OF INTEREST.....	7
14	TERMINATION, EXCLUSION AND WITHDRAWAL .....	8
15	CHARGES AND LIABILITIES .....	8
16	VARIATIONS.....	8
17	CONFIDENTIAL INFORMATION.....	8
18	INTELLECTUAL PROPERTY .....	9
19	FREEDOM OF INFORMATION .....	9
20	NOTICES .....	9
21	NO PARTNERSHIP .....	9
22	COUNTERPARTS.....	9
23	GOVERNING LAW AND JURISDICTION.....	10
	SCHEDULE 1 - DEFINITIONS AND INTERPRETATION.....	11
	SCHEDULE 2 - COLLABORATIVE PRIORITIES .....	14
	SCHEDULE 3 – DISPUTE RESOLUTION PROCEDURE.....	15
	SCHEDULE 4 – PARTNERSHIP COMMITTEE TERMS OF REFERENCE .....	17

This Collaboration Agreement (“Agreement”) is made on [DATE] between:

(1) Kettering General Hospital NHS Foundation Trust of insert address (“KGH”),

(2) Northampton General Hospital NHS Trust of insert address (“NGH”),

(KGH and NGH together being “UHN”)

(3) University Hospitals of Leicester NHS Trust of insert address (“UHL”).

Together the above organisations will be referred to in this Agreement as the “Partners” working together in the “Collaborative” and “Partner” shall be construed accordingly.

## 1 BACKGROUND

1.1 This Agreement sets out the overarching framework for collaboration between the Partners. The Agreement builds upon the work undertaken by the Partners to date and sets out:

- The vision, collaborative purpose, objectives and priorities of the Collaborative, and
- The governance structure established by the Partners in order for them to come together to make informed and binding decisions in identified areas.

1.2 The format of the Agreement is designed to work alongside the Partners’ existing arrangements for collaboration and the Services Contracts held by each of the Partners with commissioners. The Agreement does not affect or override any of the Partners’ current Services Contracts in any way.

## 2 CONTEXT

2.1 The Health and Care Act 2022 (the “2022 Act”) established statutory integrated care boards and incorporated new legislative mechanisms to enable further integrated working between statutory partner organisations within integrated care systems (ICSs).

2.2 The mechanisms set out in the 2022 Act include a new power for provider NHS trusts, as well as integrated care boards and NHS England, to jointly exercise their statutory functions, including through a joint committee.

2.3 The Partners have been working toward a model of greater collaboration, and have established collaborative governance arrangements for the Collaborative. The Trusts moved to a single Chair in July 2023, and moved to a single CEO in October 2023. Working together at scale will provide the Partners with exciting opportunities to deliver benefits over and above what could be achieved as individual organisations. The Partners will work more closely together to strengthen clinical and support services and will improve efficiency, productivity and quality. Together, the Partners will work to improve the health and wellbeing of patients and create better employment opportunities.

2.4 Against this context, and to further the Collaborative’s development, the Partners have agreed to establish a joint committee pursuant to sections 65Z5 and 65Z6 of the NHS Act 2006, to be known as the Partnership Committee and through which the Partners shall jointly exercise certain of their functions.

2.5 The purpose of the Partnership Committee is to:

- Identify areas of collaboration between UHN and UHL,

- Provide a forum for taking joint strategic decisions across UHN and UHL, and
- Oversee a programme of collaboration between UHL and UHN.

2.6 In accordance with the Partnership Committee's terms of reference, the Partnership Committee will provide the formal leadership for the Collaborative across UHL and UHN and will be responsible for setting strategic direction and providing strategic oversight of all Collaborative activities. Further detail of priorities for the Collaborative activities are set out in Schedule 2 (Collaborative Priorities).

2.7 This Agreement sets out the overarching governance framework for the Partners to work and make decisions together on matters within the remit of the Collaborative and the Partnership Committee.

2.8 While, through this Agreement, the Partners are documenting their agreed governance arrangements for Collaborative working as at the Commencement Date, the governance model is likely to evolve over time as the Partners develop their working relationships further. It is therefore anticipated that this Agreement will be reviewed and updated regularly by agreement of the Partners.

2.9 The Partners have agreed to work together to form a single voice and act in concert to bring further improvements to care in their combined areas of operation. The Partners wish to record the basis on which they will collaborate with each other in this Agreement and intend to act in accordance with its terms.

2.10 This Agreement sets out:

- The agreed intention and purpose of the Collaborative,
- The initial Collaborative Priorities,
- The governance structures the Partners have established for the Collaborative,
- The programme management arrangements which will support the Collaborative, and
- The respective roles and responsibilities of the Partners in operating through the Collaborative.

### **3 STATUS OF THIS AGREEMENT**

3.1 The Partners agree that this Agreement shall be legally binding and the Partners enter into this Agreement intending to honour all their obligations to each other.

### **4 DEFINITIONS AND INTERPRETATION**

4.1 In this Agreement, capitalised words and expressions shall have the meanings given to them in Schedule 1.

### **5 COMMENCEMENT AND DURATION**

5.1 Each of the Partners acknowledges and confirms that as at the date of this Agreement it has obtained all necessary authorisations to enter into this Agreement.

5.2 This Agreement shall commence on the Commencement Date and will continue for the Initial Term, unless and until terminated in accordance with its terms.

5.3 On the expiry of the Initial Term this Agreement will expire automatically without notice unless, no later than 6 months before the end of the Initial Term, the Partners agree in writing that the

term of the Agreement may be extended for a further term to be agreed between the Partners (“**Extended Term**”).

- 5.4 The Partners will review progress made by the Collaborative against the Collaborative Priorities and the terms of this Agreement no later than 6 months following the Commencement Date and at such intervals thereafter as the Providers may agree, but at least annually. The Providers may agree to vary this Agreement to reflect developments as appropriate in accordance with Clause 16 (Variations).

## **6 COLLABORATIVE PRIORITIES**

- 6.1 The Partners have identified the Collaborative Priorities as set out in Schedule 2, being initially to deliver in respect of the Workstreams.

- 6.2 The Partners have identified that the benefits to be gained from the Collaborative Priorities are not relevant to each of the Partners equally, and so practically the Partners agree that the work being undertaken by needs practically to be organised by reference primarily to two axes, being:

- Axis 1: Collaboration between NGH and KGH (UHN), and
- Axis 2: Collaboration between UHN and UHL.

and, in due course, the Partners may consider incorporating Axis 3: EMAP.

- 6.3 The Partners acknowledge and confirm that the success of the Collaborative will depend on the Partners’ collective ability to effectively co-ordinate and combine their expertise, workforce, and resources as providers in order to deliver the Collaborative Priorities and achieve the benefits from the Workstreams and any other agreed activities.

- 6.4 The Partners will deliver the Collaborative Priorities with due regard to Integrated Care Systems and broader statutory law and guidance.

## **7 COLLABORATIVE PRINCIPLES**

- 7.1 The Partners have identified the high-level collaborative principles which they agree will underpin how the Partners will work together for the delivery of the Collaborative Priorities under this Agreement and to set out key factors for the success of the Collaborative.

- 7.2 The principles referred to in Clause 7.1 are that the Partners will work together in good faith and, unless the provisions in their individual Services Contract(s) or this Agreement state otherwise, through the Collaborative the Partners will:

- 7.2.1 look to provide mutual aid and support to each other in pursuit of the Collaborative Priorities;
- 7.2.2 make collective decisions that speed up transformation in relation to the Collaborative Principles, whilst ensuring that decisions are discussed with system partners, as relevant and are compliant with statutory and regulatory requirements;
- 7.2.3 challenge and hold each other to account through agreed systems, processes and ways of working;
- 7.2.4 act collaboratively and in good faith with each other in accordance with Guidance, the Law and Good Practice to achieve national and regional priorities;
- 7.2.5 actively promote a culture that facilitates integrated working and empowers staff to work collaboratively with other Partner staff to deliver better outcomes for the Population;

- 7.2.6 ensure strong clinical leadership is built into the Collaborative governance and work programmes;
- 7.2.7 engage with and involve the Population and wider stakeholders in the ICBs' areas in relation to the work of the Collaborative, primarily through each Partner's membership of place-based partnerships within each relevant ICB area;
- 7.2.8 support each other (informally and publicly) in taking decisions in the best interests of the Population;
- 7.2.9 take responsibility for and manage the risks in delivering the Collaborative Priorities together as Partners;
- 7.2.10 promote and develop a co-operative and high performing culture, and way of working across the Collaborative:
  - 7.2.10.1 that promotes and drives co-operation, innovation and continuous improvement;
  - 7.2.10.2 where information is shared;
  - 7.2.10.3 where communication is honest and respectful; and
  - 7.2.10.4 which is founded upon ethical and responsible behaviour and decision making, without losing sight of each Partner's corporate and statutory accountability;

and together these are the “**Collaborative Principles**”.

## **8 PROBLEM RESOLUTION AND ESCALATION**

- 8.1 The Partners agree to adopt a systematic approach to problem resolution between them on matters which relate to the Collaborative which recognises the intent of the Partners and the Collaborative Priorities.
- 8.2 If a problem, issue, concern, or complaint comes to the attention of a Partner in relation to the Collaborative Priorities or any matter within the scope of this Agreement, such Partner shall notify the other Partners and the Partners each acknowledge and confirm that they shall then seek to resolve the issue by a process of discussion between the relevant affected Partners.
- 8.3 Save as otherwise specifically provided for in this Agreement, any dispute arising between the Partners out of or in connection with this Agreement will be resolved in accordance with Schedule 3 (*Dispute Resolution*).
- 8.4 If any Partner receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier) in relation to the Collaborative Priorities or other work of the Collaborative, the Partner will liaise with the other Partners as to the contents of any response before a response is issued.

## **9 OBLIGATIONS AND ROLES OF THE PARTNERS**

- 9.1 Each Partner acknowledges and confirms that:
  - 9.1.1 it remains responsible for performing its obligations and functions for delivery of services to relevant ICBs in accordance with its Services Contract(s);
  - 9.1.2 it will be separately and solely liable to the relevant ICBs for the provision of services under its own Services Contract; and

- 9.1.3 the intention of the Partners is to work together with each other, and with the ICBs, to achieve better use of resources and better outcomes for the Population, initially in respect of the Collaborative Priorities and to create a collaborative culture in, and between, their organisations.
- 9.2 Each Partner undertakes to co-operate in good faith with the others to facilitate the proper performance of this Agreement and in particular will:
- 9.2.1 use all reasonable endeavours to avoid unnecessary disputes and claims against any other Partner;
- 9.2.2 not interfere with the rights of any other Partner and its servants, agents, representatives, contractors, or sub-contractors (of any tier) on its behalf in performing its obligations under this Agreement nor in any other way hinder or prevent such other Partner or its servants, agents, representatives, or sub-contractors (of any tier) on its behalf from performing those obligations; and
- 9.2.3 (subject to Clause 9.1) assist the other Partners (and their servants, agents, representatives, or sub-contractors (of any tier)) in performing those obligations so far as is reasonably practicable.
- 9.3 Nothing in Clause 9.2 shall:
- 9.3.1 interfere with the right of each of the Partners to arrange its affairs in whatever manner it considers fit in order to perform its obligations under this Agreement in the manner in which it considers to be the most effective and efficient; or
- 9.3.2 oblige any Partner to incur any additional cost or expense or suffer any loss in excess of that required by its proper performance of its obligations under this Agreement.
- 9.4 Each of the Partners severally undertakes that it shall:
- 9.4.1 subject to the provisions of this Agreement, comply with all Laws applicable to it which relate to the Collaborative Priorities; and
- 9.4.2 inform the Partnership Committee as soon as reasonably practicable if at any time it becomes unable to meet any of its obligations and in such case inform, and keep the Partnership Committee informed, of any course of action to remedy the situation recommended or required by NHS England, the Secretary of State for Health and Social Care or other competent authority, provided that, to avoid doubt, nothing in this Clause shall in any way fetter the discretion of the Partners in fulfilling their statutory functions.
- 9.5 The Trusts have not agreed to share risk or reward between them under this Agreement and any future introduction of such provisions will require additional legally binding provisions to be agreed between the relevant Trusts.

## **10 COLLABORATIVE PROGRAMME MANAGEMENT RESOURCE**

- 10.1 The Partners agree to work together to determine and implement Programme Management arrangements within three (3) months of the Effective Date.
- 10.2 At least **3 months** prior to the start of each financial year, the Partners shall agree a budget for the management of the Collaborative. The Partners agree that, unless otherwise agreed by the Partners in writing, any and all costs and liabilities attributable to the Collaborative shall be shared equally between the Partners.



## **11 REPORTING REQUIREMENTS**

- 11.1 Each of the Partners will during the Term:
- 11.1.1 promptly provide to the Partnership Committee and any individual Partner involved in the delivery of the Collaborative Priorities, such information about their work in respect of such Collaborative Priorities and such co-operation and access as the Partnership Committee or an individual Partner may reasonably require from time to time in line with the Collaborative Principles, provided that if the provision of such information, co-operation or access amounts to a change to this Agreement then it will need to be proposed as such to the Partnership Committee and agreed by all Partners in accordance with Clause 16; and
  - 11.1.2 identify and obtain all consents necessary for the fulfilment of its obligations in respect of the Collaborative Priorities, limited in each case to the extent that such action does not cause a Partner to be in breach of any Law, its obligations under Clause 13 (*Information Sharing and Conflicts of Interest*), Clause 17 (*Confidential Information*) or any legally binding confidentiality obligations owed to a third party.

## **12 GOVERNANCE**

- 12.1 A Partnership Committee has been established for the purpose of delivering the Collaborative Priorities.
- 12.2 The Partners have agreed to establish the Partnership Committee (“Partnership Committee”) pursuant to sections 65Z5 and 65Z6 of the NHS Act 2006. When making decisions on functions delegated to it by the Partners in accordance with its terms of reference, the Partnership Committee is a joint committee of the Partners. It has been established by each Partners in accordance with their respective governance arrangements.
- 12.3 The Partnership Committee is responsible for leading and overseeing the Partners’ approach to the Collaborative Priorities and working in accordance with the Collaborative Principles. The Partnership Committee may establish supporting and/or task and finish groups to take forward programmes in respect of the Collaborative Priorities as appropriate, ensuring a strong clinical voice and involving input from a range of functions across the Partners. The Partnership Committee will have other responsibilities as defined in its terms of reference set out in Schedule 4 (Governance).
- 12.4 The Partners have each agreed to jointly exercise certain of their functions through the Partnership Committee, as set out in the terms of reference and as may be updated from time to time through delegations from Partner boards. In the event that the Partners wish to delegate matters to the Partnership Committee, the Partners must each procure that their Partner board approves such delegation in writing in accordance with their respective standing orders and scheme of reservation and delegation. Where a Partner decides to delegate to the Partnership Committee for the first time or decides to amend or revoke previously delegated authority, either to the Partnership Committee or a Chief Executive, the Partner shall ensure that the other Partners are aware and that the matter is brought to the attention of the Partnership Committee Chair.
- 12.5 The Partners will ensure appropriate attendance from their respective organisations at all meetings of the Partnership Committee and that their representatives act in accordance with the Collaborative Principles.
- 12.6 The Partners acknowledge that they each participate in other arrangements outside of the Collaborative, including with other providers on a place level. The Partners will work together to ensure that the governance arrangements under this Agreement are streamlined and do not unnecessarily duplicate decision-making arrangements in other collaboratives.

### **13 INFORMATION SHARING AND CONFLICTS OF INTEREST**

- 13.1 Subject to compliance with all applicable Law (including competition law and obligations of confidentiality (contractual or otherwise)), the Partners will provide to each other all information that is reasonably required in order to deliver the Collaborative and achieve the Workstreams in an honest, open and timely manner.
- 13.2 The Partners will ensure that they share information, and in particular Competition Sensitive Information, in such a way that is compliant with competition law to the extent applicable.
- 13.3 The Partners acknowledge that it is for each Partner to decide whether information is Competition Sensitive Information but recognise that it is normally considered to include any internal commercial information which, if it is shared between Partners who are providers, would allow them to forecast or co-ordinate commercial strategy or behaviour in any market.
- 13.4 The Partners will make sure the Partnership Committee establishes appropriate non-disclosure or confidentiality agreements between and within the Partners so as to ensure that Competition Sensitive Information and Confidential Information are only available to those Partners who need to see it for the purposes of the better delivery of the Collaborative and Workstreams and for no other purpose whatsoever so that they do not breach competition law.
- 13.5 It is accepted that the involvement of the Partners in this Agreement may give rise to situations where information will be generated and made available to the Partners, which could give them an unfair advantage in competitions or which may be capable of distorting such competitions (for example, disclosure of pricing information or approach to risk may provide one Partner with a commercial advantage over a separate Partner). The Partners therefore recognise the need to manage the information referred to in this Clause 13.5 in a way which maximises their opportunity to take part in competitions operated by any ICB by putting in place appropriate procedures, such as appropriate non-disclosure or confidentiality agreements in advance of the disclosure of information.
- 13.6 Where there are any Patient Safety Incidents or Information Governance Breaches relating to the Collaborative Priorities, for example, the Partners shall ensure that they each comply with their individual Services Contract and work collectively and share all relevant information for the purposes of any investigations and/or remedial plans to be put in place, as well as for the purposes of learning lessons in order to avoid such Patient Safety Incident or Information Governance Breach in the future.
- 13.7 The Partners will:
- 13.7.1 disclose to each other the full particulars of any real or apparent conflict of interest which arises or may arise in connection with this Agreement or the delivery of the Collaborative Priorities, immediately upon becoming aware of the conflict of interest whether that conflict concerns the Partner organisation or any person employed or retained by them for or in connection with the delivery of the Collaborative or the Workstreams;
  - 13.7.2 not allow themselves to be placed in a position of conflict of interest or duty in regard to any of their rights or obligations under this Agreement (without the prior consent of the other Partners) before they participate in any decision in respect of that matter; and
  - 13.7.3 use best endeavours to ensure that their representatives on the Partnership Committee and other Collaborative governance groups also comply with the requirements of this Clause 13 when acting in connection with this Agreement.
- 13.8 The Partners shall comply with their obligations under the Data Protection Legislation.

## **14 TERMINATION, EXCLUSION AND WITHDRAWAL**

14.1 The Partners may resolve to terminate this Agreement in whole where:

14.1.1 a Dispute cannot be resolved pursuant to the Dispute Resolution Procedure; or

14.1.2 automatically and immediately where there exists just one Partner that remains party to this Agreement.

### *Exclusion*

14.2 A Partner may be excluded from this Agreement on written notice from all of the remaining Partners in the event of a material or a persistent breach of the terms of this Agreement by the relevant Partner which has not been rectified within 30 calendar days of notification issued by the remaining Partners or which is not reasonably capable of remedy. In such circumstances this Agreement shall be partially terminated in respect of the excluded Partner.

### *Consequences of termination / exclusion / withdrawal*

14.3 Where a Partner is excluded from this Agreement, or withdraws from it, the excluded Trust shall procure that all data and other material belonging to any other Partner shall be delivered back to the relevant Partner, deleted or destroyed as soon as reasonably practicable and confirm to the remaining Partners when this has been completed.

## **15 CHARGES AND LIABILITIES**

15.1 Except as otherwise provided, the Partners shall each bear their own costs and expenses incurred in complying with their obligations under this Agreement, including in respect of any losses or liabilities incurred due to their own or their employees' actions.

15.2 Except as otherwise provided, no Partner intends that any other Partner shall be liable for any loss it suffers as a result of this Agreement.

## **16 VARIATIONS**

16.1 No variation of this Agreement shall be effective unless it is in writing and signed by the Partners (or their authorised representatives).

## **17 CONFIDENTIAL INFORMATION**

17.1 Each Partner shall keep in strict confidence all Confidential Information it receives from another Partner except to the extent that such Confidential Information is required by Law to be disclosed or is already in the public domain or comes into the public domain otherwise than through an unauthorised disclosure by a Partner.

17.2 Each Partner shall use any Confidential Information received from another Partner solely for the purpose of delivering the Priorities and complying with its obligations under this Agreement in accordance with the Collaborative Principles and for no other purpose.

17.3 No Partner shall use any Confidential Information received under this Agreement for any other purpose including use for their own commercial gain in services outside of the Priorities or to inform any competitive bid for any elements of the Priorities without the express written permission of the disclosing Partner.

17.4 To the extent that any Confidential Information is covered or protected by legal privilege, then disclosing such Confidential Information to any Partner or otherwise permitting disclosure of such Confidential Information does not constitute a waiver of privilege or of any other rights which a Partner may have in respect of such Confidential Information.

17.5 The Partners agree to procure, as far as is reasonably practicable, that the terms of Clause 17 (*Confidential Information*) are observed by any of their respective successors, assigns or transferees of respective businesses or interests or any part thereof as if they had been party to this Agreement.

17.6 Nothing in Clause 17 (*Confidential Information*) will affect any of the Partner's regulatory or statutory obligations, including but not limited to competition law.

## **18 INTELLECTUAL PROPERTY**

18.1 In order to meet the objectives of the Collaborative each Partner grants to each of the other Partners a fully paid up non-exclusive licence to use its existing Intellectual Property provided under this Agreement insofar as is reasonably required for the sole purpose of the fulfilment of that Partners' respective obligations under this Agreement.

### *New Intellectual Property*

18.2 If any Partner creates any new Intellectual Property through the operation of the Collaborative, the Partner which creates the new Intellectual Property will grant to the other Partners a fully paid up non-exclusive licence to use the new Intellectual Property for the sole purpose of the fulfilment of that Partners' obligations under this Agreement.

## **19 FREEDOM OF INFORMATION**

19.1 If any Partner receives a request for information relating to this Agreement or the Partnership Committee under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, it shall consult with the other Partners before responding to such request and, in particular, shall have due regard to any claim by any other Partner to this Agreement that the exemptions relating to commercial confidence and/or confidentiality apply to the information sought.

## **20 NOTICES**

20.1 Any notice or other communication given to a Partner under or in connection with this Agreement shall be in writing addressed to that Partner at its principal place of business or such other address as that Partner may have specified to the other Partner in writing in accordance with this Clause, and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or commercial courier.

20.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address of the Partner's registered office; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Operational Day after posting; or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

## **21 NO PARTNERSHIP**

21.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any legal partnership between any of the Partners, constitute any Partner the agent of another Partner, nor authorise any Partner to make or enter into any commitments for or on behalf of any other Partner except as expressly provided in this Agreement.

## **22 COUNTERPARTS**

22.1 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same agreement. The expression "counterpart" shall include any executed copy of this Agreement scanned into printable PDF, JPEG, or other agreed digital format and transmitted as an e-mail attachment. No counterpart shall be effective until each Partner has executed at least one counterpart.

**23 GOVERNING LAW AND JURISDICTION**

23.1 This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and, subject to Clause 8 (Problem Resolution and Escalation), the Partners irrevocably submit to the exclusive jurisdiction of the courts of England.

This Agreement is executed on the date stated above by:

Signed by [authorised signatory] for and on behalf of <b>Kettering General Hospital NHS Foundation Trust</b>	..... . [TBC]
Signed by [authorised signatory] for and on behalf of <b>Northampton General Hospital NHS Foundation Trust</b>	..... . [TBC]
Signed by [authorised signatory] for and on behalf of <b>University Hospitals of Leicester NHS Trust</b>	..... . [TBC]

## SCHEDULE 1 - DEFINITIONS AND INTERPRETATION

- 1 In this Agreement, unless the context requires otherwise, the following rules of construction shall apply:
- 1.1 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2 a reference to a “Partner” includes its personal representatives, successors or permitted assigns.
- 1.3 a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.4 any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.5 a reference to writing or written includes faxes and e-mails.
- 2 The following words and phrases have the following meanings in this Agreement:

<b>Agreement</b>	this collaboration agreement incorporating the Schedules
<b>Collaborative</b>	the UHL/ UHN provider collaborative formed by the Partners and as detailed in this Agreement
<b>Collaborative Priorities</b>	the collaborative priorities for the Collaborative as set out in Schedule 2
<b>Collaborative Principles</b>	the collaborative principles for the Collaborative as set out in Clause 7
<b>Commencement Date</b>	[TBC]
<b>Competition Sensitive Information</b>	Confidential Information which is owned, produced and marked as Competition Sensitive Information by one of the Partners and which that Partner properly considers is of such a nature that it cannot be exchanged with the other Partners without a breach or potential breach of competition law. Competition Sensitive Information may include, by way of illustration, trade secrets, confidential financial information and confidential commercial information, including without limitation, information relating to the terms of actual or proposed contracts or sub-contract arrangements (including bids received under competitive tendering), future pricing, business strategy and costs data, as may be utilised, produced or recorded by any Partner, the publication of which an organisation in the same business would reasonably be able to expect to protect by virtue of business confidentiality provisions
<b>Confidential Information</b>	all information which is secret or otherwise not publicly available (in both cases in its entirety or in part) including commercial, financial, marketing or technical information, know-how, trade secrets or business methods, in all cases whether disclosed orally or in writing before or after the date of

	this Agreement, including Commercially Sensitive Information and Competition Sensitive Information;
<b>Data Protection Legislation</b>	all applicable Laws relating to data protection and privacy including without limitation the UK GDPR; the Data Protection Act 2018; the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426); the common law duty of confidentiality and the guidance and codes of practice issued by the Information Commissioner, relevant Government department or regulatory in relation to such applicable Laws
<b>Dispute</b>	any dispute arising between two or more of the Partners in connection with this Agreement or their respective rights and obligations under it
<b>Dispute Resolution Procedure</b>	the procedure set out in Schedule 3 (Dispute Resolution Procedure) to this Agreement
<b>Extended Term</b>	has the meaning set out in clause 5
<b>Good Practice</b>	has the meaning set out in the Services Contracts
<b>Guidance</b>	any applicable health or social care guidance, guidelines, direction or determination, framework, code of practice, standard or requirement to which the Partners have a duty to have regard (and whether specifically mentioned in this Agreement or not), to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Partner by NHS England, the ICB and/or any relevant regulatory body
<b>ICB or ICBs</b>	means, in relation to KGH and NGH, NHS Northamptonshire ICB and in relation to UHL, Leicester, Leicestershire and Rutland ICB
<b>IG Guidance for Serious Incidents</b>	NHS Digital's Checklist Guidance for Information Governance Serious Incidents Requiring Investigation June 2013, available at <a href="#">Data Security and Protection Toolkit - NHS Digital</a>
<b>Information Governance Breach</b>	an information governance serious incident requiring investigation, as defined in the IG Guidance for Serious Incidents
<b>Initial Term</b>	3 years from the Commencement Date
<b>Intellectual Property</b>	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, goodwill, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, Confidential Information and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world
<b>Law</b>	any applicable statute or proclamation or any delegated or subordinate legislation or regulation; any enforceable EU right within the meaning of section 2(1) European Communities Act 1972; any applicable judgment of a relevant court of law which is a binding precedent in England; Guidance; and any applicable code, in each case in force in England and Wales, and "Laws" shall be construed accordingly

<b>Operational Days</b>	a day other than a Saturday, Sunday or bank holiday in England
<b>Partnership Committee</b>	the joint committee established between the Partners as set out in clause 2.4
<b>Patient Safety Incident</b>	any unintended or unexpected incident that occurs in respect of a Service User, during and as a result of the provision of the Services, that could have led, or did lead to, harm to that Service User
<b>Population</b>	means the population of the ICB areas
<b>Services</b>	the services provided, or to be provided, by a Partner to an ICB pursuant to its respective Services Contract which may include services which are the subject of one or more priorities
<b>Services Contract</b>	a contract entered into by an ICB and a Partner for the provision of Services, and references to a Services Contract include all or any one of those contracts as the context requires
<b>Service User</b>	a patient or service user for whom an ICB has statutory responsibility and who receives Services under any Services Contract
<b>Term</b>	the Initial Term of this Agreement plus any Extended Term(s) agreed in accordance with the terms of this Agreement
<b>UK GDPR</b>	has the meaning given to it in section 3(1) (as supplemented by section 205(4) of the Data Protection Act 2018
<b>Workstream(s)</b>	refers to the 11 workstreams which have been identified as priorities for the Collaborative, as set out in Part 1 of Schedule 2



## **SCHEDULE 2 - COLLABORATIVE PRIORITIES**

### **PART 1: INITIAL COLLABORATIVE PRIORITIES**

The Partners agree to deliver the following Workstreams as the initial Collaborative Priorities:

- Clinical Strategy
- Service Quality
- Fragile Services
- Waiting Times
- Digital
- Clinical Support Services
- Economies of Scale (non-clinical)
- Workforce
- Capital Investment
- Academic
- Leadership and Culture

### **PART 2: FUTURE COLLABORATIVE PRIORITIES**

The Partners will work together to identify and deliver future Collaborative Priorities.

## SCHEDULE 3 – DISPUTE RESOLUTION PROCEDURE

### Avoiding and Solving Disputes

- 1.1 The Partners commit to working co-operatively to identify and resolve issues to mutual satisfaction so as to avoid so far as possible dispute or conflict in performing their obligations under this Agreement. Accordingly, the Partners shall collaborate and resolve differences between them in accordance with Clause 8 (*Problem Resolution and Escalation*) of the Agreement prior to commencing this procedure.
- 1.2 The Partners believe that:
  - 1.2.1 by focusing on the Collaborative Principles
  - 1.2.2 being collectively responsible for all risks; and
  - 1.2.3 fairly sharing risk and rewards,they will reinforce their commitment to avoiding disputes and conflicts arising out of or in connection with the Priorities.
- 1.3 The Partners shall promptly notify each other of any dispute or claim or any potential dispute or claim in relation to this Agreement (each a “**Dispute**”) when it arises.
- 1.4 The Partnership Committee shall seek to resolve any Dispute to the mutual satisfaction of each of the Partners involved in the Dispute.
- 1.5 The Partnership Committee shall deal proactively with any Dispute in accordance with the Collaborative Principles and this Agreement so as to seek to reach a unanimous decision. If the Partnership Committee reaches a decision that resolves, or otherwise concludes a Dispute, it will advise the Partners involved in the Dispute of its decision by written notice.
- 1.6 The Partners agree that the Partnership Committee may determine whatever action it believes is necessary including the following:
  - 1.6.1 if the Partnership Committee cannot resolve a Dispute, it may select an independent facilitator to assist with resolving the Dispute; and
  - 1.6.2 the independent facilitator shall:
    - 1.6.2.1 subject to the provisions of this Agreement, be provided with any information they request about the Dispute;
    - 1.6.2.2 assist the Partnership Committee to work towards a consensus decision in respect of the Dispute;
    - 1.6.2.3 regulate their own procedure and, subject to the terms of this Agreement, the procedure of the Partnership Committee at such discussions;
    - 1.6.2.4 determine the number of facilitated discussions, provided that there will be not less than three and not more than six facilitated discussions, which must take place within 20 Operational Days of the independent facilitator being appointed; and
    - 1.6.2.5 have their costs and disbursements met by the Partners involved in the Dispute equally or in such other proportions as the independent facilitator shall direct.

1.6.3 If the independent facilitator cannot resolve the Dispute, the Dispute must be considered afresh in accordance with this Schedule 4 and only after such further consideration again fails to resolve the Dispute, the Partnership Committee may decide to:

1.6.3.1 terminate the Agreement; or

1.6.3.2 agree that the Dispute need not be resolved.

**SCHEDULE 4 – PARTNERSHIP COMMITTEE TERMS OF REFERENCE**