

Dated **XX XX 2020**

(1) PROVIDER

and

(2) SafeLives

Services Agreement

**For delivery of online counselling services to West Sussex
Connect and Norfolk Connect service users**

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Commencement Date	27 th July 2020
Contract Period	means the period from the Commencement Date to: (a) the Initial Expiry Date; or (b) following an extension, the date of expiry of the extended period; or (c) such earlier date of termination or partial termination of this Services Agreement in accordance with the Law or the provisions of this Services Agreement;
Contract Price	means the cash price (inclusive of any applicable VAT), payable to [PROVIDER] by SafeLives under this Services Agreement, as set out in Error! Reference source not found. (<i>Payment and Invoicing</i>), for the full and proper performance by the [PROVIDER] of its obligations under this Services Agreement;
Confidential Information	means information of a confidential nature the disclosure of which would constitute an actionable breach of confidence, which has either been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including commercially sensitive information (and shall include the Agreement), information which relates to the finances, business, affairs, properties, assets, trading practices, goods/services, developments, trade secrets, Intellectual Property Rights, employees and other workers, customers and suppliers of either party, or to any other third party with whom of either party has dealt, or which is Personal Data (as defined in the Data Protection Act 2018).
Data Protection Legislation	means the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016, the Telecommunications (Lawful Business Practice) (Interception of Communications)

Regulations 2000 and the General Data Protection Regulation EU 2016/679 (GDPR) and any legislation implemented in connection with the GDPR and any replacement legislation coming into effect from time to time and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;

Default

means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject matter of this Services Agreement and in respect of which such Party is liable to the other;

Force Majeure

means any event or occurrence that is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including: fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:

- (a) any industrial action occurring within [PROVIDER]'s or any Subcontractor's organisation; or
- (b) the failure by any Subcontractor to perform its obligations under any Subcontract;

Good Industry Practice

means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances;

Initial Expiry Date

30th June 2021 End of Connect project

Intellectual Property/Intellectual Property Rights

means any and all patents, trademarks, service marks, copyright, moral rights, rights in design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether now or in the future subsisting in the United Kingdom or any other part of the world together with all or any good will and accrued rights of action

Law

means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body of which [PROVIDER] is bound to comply;

Parent Company

means any company which is the ultimate Holding Company of [PROVIDER] or any other company of which the ultimate Holding Company of [PROVIDER] is also the ultimate Holding Company and which is either responsible directly or indirectly for the business activities of [PROVIDER] or which is engaged by the same or similar business to [PROVIDER]. The term “**Holding Company**” shall have the meaning ascribed in section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto;

Personal Data

shall have the meaning set out in the GDPR

Prohibited Act

the following constitute Prohibited Acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by SafeLives, or any other involved party, a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or

- (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Services Agreement;
- (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences concerning fraudulent acts;
 - (iii) at common law concerning fraudulent acts relating to this Services Agreement or any other contract with SafeLives or a Funding Partner; or
- (d) defrauding, attempting to defraud or conspiring to defraud SafeLives or a Funding Partner;

Regulatory Bodies

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

The Services

means the services to be provided by [PROVIDER], as defined in Schedule 1

Subcontract

means any contract between [PROVIDER] and a third party under which [PROVIDER] agrees to source the provision of any of the Services from that third party;

Subcontractor

means any contractor or service provider that enters into a contract with [PROVIDER] for the delivery of the Services;

VAT	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
Working Day	means any day other than a Saturday or Sunday or public holiday in England and Wales.

3. Interpretation

3.1 The interpretation and construction of this Services Agreement shall be subject to the following provisions:

- a) “[PROVIDER]”, “West Sussex County Council”, “The You Trust”, “Spurgeons Children’s Charity”, “SafeLives”, and any “Party” or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- b) words importing the singular also include the plural and vice versa;
- c) words importing the masculine include the feminine and the neuter and vice versa;
- d) the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”;
- e) where this Services Agreement states that an obligation shall be performed “no later than” or “within” or “by” a prescribed number of Working Days, or a stipulated date or event which is a prescribed number of Working Days after a stipulated date or event, the latest time for performance shall be noon on the last Working Day for performance of the obligations concerned;
- f) a document in “agreed form” is a document which is previously agreed in writing by or on behalf of SafeLives or is in the form specified by SafeLives;
- g) “assets” includes present and future properties, revenues and rights of every description;
- h) a “person” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- i) a “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- j) a provision of law is a reference to that provision as amended or re-enacted;
- k) headings are included in this Services Agreement for ease of reference only and shall not affect the interpretation or construction of this Services Agreement;
- l) the Schedules to this Services Agreement form part of this Services Agreement and any reference to this Services Agreement includes reference to the Schedules;

- m) any reference in this Services Agreement to “**appendix**”, “**clause**” and/or “**schedule**” shall, unless the context requires otherwise, be to a clause, appendix and/or schedule to this Services Agreement and “**appendices**”, “**clauses**” and “**schedules**” shall be construed accordingly;
- n) unless the context requires otherwise any capitalised term which is defined in, or in any document in, any clause, appendix or schedule, shall have the meaning ascribed to it in such appendix, clause or schedule when used in this Services Agreement and the contrary shall apply with respect to capitalised terms which are defined in this Services Agreement.

4. Initial Contract Period

Notwithstanding its date of signature, this Services Agreement shall take effect on the Commencement Date and shall expire automatically on the Initial Expiry Date, unless it is otherwise terminated or extended in accordance with the provisions of this Services Agreement.

5. Extension of Initial Contract Period

SafeLives may, by giving written notice to [PROVIDER] not less than **three** months before the Initial Expiry Date, extend this Services Agreement for any further period or periods agreed by the Parties. The provisions of this Services Agreement will apply throughout any such extended period, except that the Contract Price will be automatically varied in line with inflationary measures.

6. [PROVIDER]’s Status

At all times during the Contract Period [PROVIDER] shall be an independent Delivery Partner and nothing in this Services Agreement shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party except as expressly permitted by the terms of this Services Agreement.

7. SafeLives’ Obligations

Except as otherwise expressly provided, the obligations of SafeLives under this Services Agreement are obligations in its capacity as a contracting counterparty and nothing in this Services Agreement shall operate as an obligation on, or in any other way fetter or constrain, SafeLives in any other capacity, nor shall the exercise by SafeLives of its duties and powers in any other capacity lead to any liability under this Services Agreement (howsoever arising) on the part of SafeLives to [PROVIDER].

Provision of Services

8. Services

- 8.1 [PROVIDER] shall provide the Services during the Contract Period in accordance with the requirements set out in this Services Agreement in consideration for the payment of the Contract Price. SafeLives, or its nominated delegates, may inspect and examine the manner in which [PROVIDER] provides the Services during normal business hours.
- 8.2 [PROVIDER] shall at all times perform its obligations involved in providing this Services Agreement in accordance with the Law and Good Industry Practice
- 8.3 [PROVIDER] shall ensure that all Staff involved in providing the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper provision of the Services, as stated in the service specification and associated role descriptions
- 8.4 [PROVIDER] represents and warrants to SafeLives that
- a) [PROVIDER] is satisfied that all necessary assessments tests and examinations have been made or will be made prior to delivery of the Services to ensure that the Services when performed are safe and without risk to the health and safety of persons performing or receiving the same;
 - b) [PROVIDER] has made available to SafeLives, The You Trust and Spurgeons Children's charity, adequate information relating to the health and safety of the recipients of the Services and all Staff of [PROVIDER] providing the Services; and
 - c) all Staff providing the Services shall be appropriately trained and qualified to provide the Services on behalf of [PROVIDER]
- 8.5 SafeLives shall be empowered to suspend the provision of the Services in the event of non-compliance by [PROVIDER] with Clause 8.4. [PROVIDER] shall not resume provision of the Services until SafeLives are satisfied that the non-compliance has been rectified.
- 8.6 , One nominated project representative from each party shall meet together on such frequency as may be agreed between the parties, to review performance of this Agreement
- 8.7 [PROVIDER] agrees to deliver the On-line Services in accordance with the specifications, Performance Standards and Quality Standards specified in Schedule 1, and KPIs specified in Schedule 3
- 8.8 SafeLives shall procure that a senior representative from [PROVIDER] is invited to all regular quarterly operational and strategic review meetings, together with any

extraordinary meetings, with Spurgeon's Children's Charity, The You Trust, where the subject matter of discussion is the delivery of this service

8.9 The parties acknowledge that, as a contractor to SafeLives, [PROVIDER] is in a position where it shall potentially lose its business through an act or omission of SafeLives that is entirely outside of [PROVIDER]'s control. Therefore, SafeLives agrees to immediately notify [PROVIDER] in writing:

1.1.1 Of any circumstances which might adversely affect [PROVIDER]'s ability to perform the On-line Services, whether temporarily or permanently;

2.1.1 Of any circumstances which might adversely affect SafeLives' ability to perform their duties under this contract, whether temporarily or permanently

9. Safeguarding

9.1 [PROVIDER] shall:

- (a) have and shall maintain in place throughout the term of this Service Agreement its own safeguarding policy, to ensure compliance with the Relevant Requirements and will enforce them where appropriate; and
- (b) immediately notify SafeLives (in writing) of any breach of the safeguarding policy including details of how [PROVIDER] will remedy that breach.

Payment and Contract Price

10. Contract Price

10.1 The full contract value shall be £75,000 **inclusive** of any applicable VAT

10.2 SafeLives shall pay to [PROVIDER] as full consideration for the performance by [PROVIDER] of its duties under this Agreement the amounts set out in Schedule 3 at the times specified in Schedule 3, without deductions or of any kind (other than in the limited circumstances described in Schedule 3 of this agreement).

10.3 Where any party disputes any sum to be paid by it or to it, then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be dealt with in accordance with the provisions of Section 8 (Dispute Resolution of the Agreement).

10.4 SafeLives shall pay interest on any overdue undisputed sum properly invoiced at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

- 10.5 [PROVIDER] shall ensure that each invoice contains all appropriate references and that it is supported by any other documents reasonably required by SafeLives to substantiate the invoice.
- 10.6 [PROVIDER] shall identify any VAT in the invoice at the prevailing rate as applicable.
- 10.7 [PROVIDER] shall not suspend the provision of the Services within the Contract Period unless [PROVIDER] is entitled to terminate this Services Agreement under clause 29 (*Termination or Default*) for failure to pay undisputed sums of money.

Statutory Obligations and Regulations

11. Conflicts of Interest

- 11.1 [PROVIDER] shall take appropriate steps to ensure that neither [PROVIDER] nor any Staff are placed in a position where (in the reasonable opinion of SafeLives), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of [PROVIDER] or Staff and the duties owed to, Spurgeons Children's Charity, The You Trust, or SafeLives under the provisions of this Services Agreement.
- 11.2 [PROVIDER] shall promptly notify SafeLives (and provide full particulars) if any conflict referred to in clause 11.1 above arises or is reasonably foreseeable.
- 11.3 SafeLives reserves the right to terminate this Services Agreement immediately by giving notice in writing to [PROVIDER] and/or to take such other steps it deems necessary where, in the reasonable opinion of the council, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of [PROVIDER] and the duties owed to the council under the provisions of this Services Agreement

12. Compliance with UK and EU law

- 12.1 [PROVIDER] will take all necessary steps to ensure that it, and its employees, workers and any other persons acting on its behalf complies with the law for the time being in force in the United Kingdom. This includes (but is not limited to) the requirements of:
- (i) General Data Protection Regulations (GDPR) 2018
 - (ii) EU Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime
 - (iii) the Health and Safety at Work Act Etc 1974;
 - (iv) the Data Protection Act 1998;
 - (v) the Human Rights Act 1998;
 - (vi) the Modern Slavery Act 2015;
 - (vii) the Equality Act 2010;

- (viii) all Codes of Practice issued by the Equality and Human Rights Commission and equivalent bodies relating to equal opportunities and good practices in employment;
- (ix) the Public Contracts Regulations 2015;
- (x) the State Aid Rules;
- (xi) Children and Families Act 2014;
- (xii) Children and Young Persons Act 2008;
- (xiii) the Safeguarding Vulnerable Groups Act 2006; and
- (xiv) all other legislation and regulations applicable.

13. Prevention of Bribery

13.1 [PROVIDER] shall:

- (a) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (“**Relevant Requirements**”);
- (b) have and shall maintain in place throughout the term of this Services Agreement its own ethics, anti-bribery and anti-corruption policies and procedures as approved by SafeLives in advance of the Commencement Date and from time to time, including but not limited to adequate procedures under the Bribery Act 2010 and as amended in accordance with the requirements of SafeLives (save that such amendments shall not be accepted if they would place [PROVIDER] in breach of the Relevant Requirements) or the relevant industry body from time to time, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;
- (c) promptly report to SafeLives any request or demand for any undue financial or other advantage of any kind received by [PROVIDER] in connection with the performance of this Services Agreement;

13.2 [PROVIDER] shall ensure that any person associated with [PROVIDER] who is performing services in connection with this Services Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on [PROVIDER] in this clause 17 (“**Relevant Terms**”). [PROVIDER] shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to SafeLives for any breach by such persons of any of the Relevant Terms.

13.3 Breach of this clause 17 shall be deemed a material breach under clause 39 (*Termination on Default*).

13.4 For the purpose of this clause 17, the meaning of Adequate Procedures and Foreign Public Official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 17 a person associated with [PROVIDER] includes but is not limited to any Subcontractor of [PROVIDER].

14. Discrimination

14.1 [PROVIDER] shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).

14.2 [PROVIDER] shall take all reasonable steps to secure the observance of clause 14.1 by all Staff employed in the delivery of this Services Agreement.

Information

15. Confidentiality

15.1 Each party shall treat all Confidential Information of the other party as confidential and safeguard it accordingly provided that this condition does not extend to any information which was rightfully in the possession of each party prior to the commencement of the negotiations leading to this Agreement or which is already in the public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause).

15.2 Clause **Error! Reference source not found.** shall not apply to any disclosure of information:

- (a) required by any applicable law;
- (b) that is reasonably required by persons engaged by a Party in the performance of such Party's obligations under this Services Agreement;
- (c) that is reasonably required by either Party in order to report to the Service intervention Partners and the Funding Partners ;
- (d) where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause **Error! Reference source not found.**;
- (e) which is already lawfully in the possession of the receiving party, before its disclosure by the disclosing party, and the disclosing party is not under any obligation of confidence in respect of that information;

15.3 Where SafeLives receives a request from any Funding Partner to disclose any information that is [PROVIDER]'s Confidential Information, it will notify [PROVIDER] of

the Confidential Information required from [PROVIDER] and the use for which the information is intended and timescales for such delivery. [PROVIDER] shall provide such information to SafeLives within the timescales set out in that notice. [PROVIDER] has the right to refuse to provide confidential information where there are reasonable grounds to do so, and these are accepted by SafeLives

- 15.4 In the event that [PROVIDER] becomes aware of any Confidential Information being disclosed or which is about to be disclosed, in breach of clause 15.1 above, [PROVIDER] shall immediately notify SafeLives and [PROVIDER] undertakes to take such steps as SafeLives requires in order to prevent the disclosure or further disclosure of such Confidential Information and any additional detriment or harm being caused.
- 15.5 The provisions of this clause 15 shall apply during the continuance of the Services Agreement and after its termination howsoever arising.

16. Data Protection and Data Collection

- 16.1 [PROVIDER] shall procure that its Staff shall, duly observe all their obligations under the Data Protection Legislation, which arise in connection with the performance of this Contract.
- 16.2 [PROVIDER] shall perform its obligations under this Contract in such a way as to ensure that it does not cause SafeLives, The You Trust or Spurgeons Children's Charity to breach any of its applicable obligations under the Data Protection Legislation.
- 16.3 To the extent that the parties may share Personal Data under this Services Agreement [PROVIDER] agrees that it shall enter into an appropriate data sharing agreement so as to set out the parties obligations in relation to any Personal Data which may be shared between the parties and including but not limited to the protocols that the parties will follow to determine exactly what data will be shared, the means of transmission and how the parties will cooperate with one another to ensure compliance with data protection requirements.
- 16.4 The provisions of this clause shall apply during the continuance of this Services Agreement and indefinitely after its expiry or termination.

17 Publicity

- 17.2 [PROVIDER] shall not make any press announcements or publicise this Services Agreement in any way without SafeLives' prior approval.
- 17.3 [PROVIDER] shall not do anything, or cause anything to be done, which may damage the reputation of, or otherwise bring into disrepute, , SafeLives, the Norfolk Community Safety Partnership, Spurgeon's Children's Charity or The You Trust organisations.

17.4 [PROVIDER] shall adhere to any branding guidelines, where these exist, as directed by SafeLives when creating any publicly available products, tools or communications.

18 Intellectual Property Rights

18.1 It shall be a condition of this Agreement that, the services provided by any party to this Agreement will not infringe any patent, trade mark, registered design, copyright or other right in the nature of intellectual property in whole or in part (so as to be actionable at Law) of any third party and that each party shall indemnify the other party against all actions, claims, demands, costs and expenses which that party may suffer or incur as a result of or in connection with any breach of this clause.

18.2 All rights (including ownership of copyright) in any specifications, instructions, plans, drawings, patterns, models, designs or other materials furnished to or made available to the each party pursuant to the Agreement are and shall remain vested in the providing party and the receiving party shall neither obtain by this Agreement nor by any means arising from the Agreement acquire (unless by specific written agreement of the providing party) any such rights with regard thereto; and/or

18.3 The receiving party shall not and shall procure that its personnel shall not (except to the extent necessary for the implementation of this Agreement) without prior consent of the providing party use or disclose any such specifications, instructions, plans drawings, patterns, models, designs or other material as aforesaid or any other information (whether or not relevant to this Agreement) which the receiving party may obtain pursuant to or by reason of the Agreement, except for information which is already in the public domain otherwise than by reason of a breach of this clause, and in particular (but without prejudice to the generality of the foregoing) neither party shall refer to each other or the Agreement in any advertisement or press release without the other party's prior written consent.

18.4 The provision of this clause [7] shall apply during the continuance of the Agreement and shall endure after its termination howsoever arising.

Control of this Services Agreement

19 Provision of Information and Meetings

19.1 [PROVIDER] shall submit such Management Information as is agreed to SafeLives throughout the Contract Period

19.2 On receipt of any request for information under FOIA [PROVIDER] shall forward it to SafeLives and [PROVIDER] shall not respond to it directly.

20 Complaints and Remedies in the Event of Inadequate Performance

- 20.1 [PROVIDER] shall maintain a system for managing any complaint it receives in relation to the Services. [PROVIDER] shall immediately investigate any complaint it receives in relation to the Services and take appropriate corrective action. The system dealing with complaints and the steps taken by [PROVIDER] shall be made available upon request to SafeLives for review.
- 20.2 Where Spurgeons Children's Charity, The You Trust or SafeLives receives a complaint about the standard of Services or about the manner in which any Services have been provided or work has been performed or about the materials or procedures used or about any other matter connected with the performance of [PROVIDER]'s obligations under this Services Agreement, then SafeLives shall take reasonable steps to investigate the complaint. The council may, in its sole discretion, uphold the complaint, and may (acting reasonably):
- (a) withhold a sum; or
 - (b) deduct a sum,
- in each case equal to a maximum of ten percent (10%) of the Contract Price payable in respect of the month in which the complaint arose.
- 20.3 Where SafeLives withholds a sum pursuant to clause 20.2 (a) then that sum shall be paid to [PROVIDER] when, in the reasonable opinion of the council, the matters complained of have been rectified and there has been no repeat of those matters for 3 month(s).
- 20.4 If [PROVIDER] fails to supply any of the Services in accordance with the provisions of this Services Agreement and such failure is capable of remedy, then SafeLives shall instruct [PROVIDER] to remedy the failure and [PROVIDER] shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within ten (10) Working Days of the instructions or such other period of time as the council may direct.
- 20.5 If [PROVIDER] fails to comply with the clause above and the failure is materially adverse to the interests of SafeLives or the West Sussex or Norfolk Connect services, then SafeLives may terminate this Services Agreement with immediate effect by giving [PROVIDER] notice in writing.
- 20.6 Failure to achieve the Key Performance Indicators as shown in Schedule Three, for any three months within a six month period, may be considered a material breach unless otherwise agreed, and clause 29 will apply

21 Rights and Remedies

Except as expressly provided in this Services Agreement the rights and remedies provided under this Services Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

22 Assignment and Subcontracting

22.1 [PROVIDER] shall not assign, novate, subcontract or in any other way dispose of this Services Agreement or any part of it without prior Approval. Subcontracting any part of this Services Agreement shall not relieve [PROVIDER] of any of its obligations or duties under this Services Agreement.

22.2 [PROVIDER] shall be responsible for the acts and omissions of its Subcontractors as though they are its own.

23 The Contracts (Rights of Third Parties) Act 1999

23.1 A person who is not a party to this Services Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Services Agreement.

23.2 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Services Agreement are not subject to the consent of any other person.

24 Severance

24.1 If any provision or part-provision of this Services Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Services Agreement.

24.2 If any provision or part-provision of this Services Agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

Liabilities

25 Liability, Indemnity and Insurance

25.1 Nothing in this Services Agreement shall be construed to limit or exclude either Party's liability for:

- (a) death or personal injury caused by its negligence;

- (b) fraud or fraudulent misrepresentation;
 - (c) any matter for which it would be unlawful to exclude or restrict liability.
- 4.** Subject to the clause above; Neither party shall under any circumstances be liable to the other, whether in contract, tort (including negligence), equity (including restitution), breach of statutory duty, or otherwise, for:
- (i) any loss of profit, loss of revenue, loss of use, loss of goodwill, loss of data, loss due to interruption of business, or loss of anticipated savings, whether direct or indirect, and even if the party has been advised of the possibility of such losses or damages;
 - (ii) any loss that is an indirect consequence of any act or omission of the other party; or

the total liability of either party to the other in respect of all other loss or damage arising under or in connection with this Agreement, whether in contract, tort (including negligence), equity (including restitution), breach of statutory duty, or otherwise, shall in no circumstances exceed the full value of this agreement for the entire term of this Agreement.

26 Warranties and Representations

[PROVIDER] warrants and represents that:

- (a) it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its Parent Company) to enter into and perform its obligations under this Services Agreement;
- (b) this Services Agreement is executed by a duly authorised representative of [PROVIDER];
- (c) in entering this Services Agreement it has not committed any Prohibited Act;
- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or its assets which will or might affect its ability to perform its obligations under this Services Agreement;
- (e) it is not subject to any contractual obligation, compliance with which is likely to have an adverse effect on its ability to perform its obligations under this Services Agreement;
- (f) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of [PROVIDER] or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of [PROVIDER]'s assets or revenue;

- (g) it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under this Services Agreement; and
- (h) the Services shall be provided and carried out by appropriately experienced, qualified and trained Staff with all due skill, care and diligence.

Default, Disruption and Termination

27 Termination - General

- 27.1 SafeLives may terminate this Services Agreement should it be required to do so as a result of a loss of all or a portion of the funding for the Services. SafeLives will make a best faith effort to offer at least three (3) months written notice for any such termination, dependent upon the notice provided to them by their funders.
- 27.2 Either party may terminate this Services Agreement on or after eighteen (18) months from the Commencement Date by giving [PROVIDER] three (3) months' written notice.

28 Termination on Insolvency

- 28.1 Without affecting any other right or remedy available to it, either party may terminate this Services Agreement with immediate effect by giving written notice if:
 - a. the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default 7 days after being notified in writing to make such payment;
 - b. the other party repeatedly breaches any of the terms of this Agreement in such a manner (having been notified of such breaches and without taking meaningful action to remedy such breaches) so as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or
 - c. the other party is in material breach of this Agreement, where **material breach** means a breach having a serious effect on the benefit which the terminating party would otherwise derive from a substantial portion of this agreement and such breach is not remedied within 30 days;
 - d. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - e. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company);

- f. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- g. the holder of a qualifying floating charge over the assets of that other party (being a company) has appointed an administrative receiver;
- h. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- i. any event occurs, or proceeding is taken, with respect to the other party that has an effect equivalent or similar to any of the events mentioned in clause a)d to clause 8.1(h) (inclusive); or
- j. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

29 Termination on Default

29.1 SafeLives may terminate this Services Agreement with immediate effect, by giving written notice to [PROVIDER] if [PROVIDER] commits a material breach and if:

- (a) [PROVIDER] has not remedied the material breach to the satisfaction of SafeLives within twenty (20) Working Days, or such other period as may be specified by SafeLives, after issue of a written notice specifying the material breach and requesting it to be remedied; or
- (b) the material breach is not, in the opinion of SafeLives, capable of remedy.

29.2 For the purposes of clause 29.1, “**material breach**” means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which SafeLives would otherwise derive from a substantial portion of this Services Agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding. This may include failure to achieve the agreed Key Performance Indicators, as shown in schedule 3, in any 3 months of a 6 month period, unless otherwise agreed with SafeLives

29.3 SafeLives may terminate this Services Agreement by giving written notice to [PROVIDER] with immediate effect if [PROVIDER] repeatedly breaches any of the terms of this Services Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Services Agreement.

29.4 The following will be considered material breaches;

- (a) Breach of Safeguarding obligations
- (b) Failure to meet requirements under Statutory Obligations and Regulations and information including but not limited to;

- 29.4.1.1 Breach of the Prevention of Bribery obligations
 - 29.4.1.2 Breach of Confidentiality obligations
 - 29.4.1.3 Breach of Data Protection obligations
 - 29.4.1.4 mandatory exclusion criteria in Regulation 57 of the Public Contracts Regulations 2015
- (c) Failure to inform SafeLives that a material breach has occurred, will itself constitute a breach, even if the original occurrence has now been remedied; or
- (d) Any breach or series of breaches that is capable of having a serious effect on the benefit which SafeLives would otherwise derive from this Service Agreement.

30 Consequences of Termination or Expiry

30.1 Except as otherwise expressly provided in this Services Agreement:

- (a) termination or expiry of this Services Agreement shall be without prejudice to any rights, remedies or obligations accrued under this Services Agreement before termination or expiration and nothing in this Services Agreement shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of this Services Agreement shall not affect the continuing rights, remedies or obligations of SafeLives or [PROVIDER].

31 Dispute Resolution

31.1 If any dispute arises out of or in connection with this Contract, the Parties in dispute must, within 10 working days of a written request from one Party to the other, meet and attempt in good faith to resolve it. If the dispute is not resolved within 20 working days of that written request, a member of the Governing Body of each relevant Party, with authority to settle the dispute, shall meet and attempt wholly to resolve the dispute.

31.2 If the Parties are unable to resolve the dispute within 20 working days of the meeting of Governing Body, the dispute must be referred to expert determination for final resolution. The expert must be appointed by agreement in writing between the Parties. The expert must act as an expert and not as an arbitrator, and must act fairly and impartially, and the expert's determination will (in the absence of manifest error, fraud, collusion, bias or material breach of instructions on the part of the expert) be final and binding on the Parties.

31.3 The expert will decide the procedure to be followed in the determination and must make the determination within 30 working days of his appointment (or to such other timescale

as the Parties agree) and the Parties must assist and provide the documentation that the expert requires for the purpose of the determination.

- 31.4 Each Party will bear its own costs in relation to the expert determination. The expert's fees and properly incurred costs will be borne by the Parties equally or in such other proportions as the expert may direct.
- 31.5 All information, whether oral, in writing or otherwise, arising out of or in connection with the expert determination will be inadmissible as evidence in any current or subsequent litigation or other proceedings whatsoever, with the exception of any information which would in any event have been admissible or disclosable in any such proceedings.
- 31.6 Nothing in this clause [x] prevents any Party seeking an injunction relating to any matter arising under clause [9] (Confidentiality).

32 Force Majeure

Neither Party shall be in breach of this Services Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Services Agreement if such delay or failure result from events, circumstances or causes deemed as Force Majeure, as described within section 1 Definitions.

In such circumstances the affected Party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for three (3) the Party not affected may terminate this Services Agreement by giving thirty (30) days' written notice to the affected Party.

33 Entire Agreement

- 33.1 This Services Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 33.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Services Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Services Agreement, provided that nothing in this clause 33 shall operate to exclude any liability for fraud.
- 33.3 In the event of and only to the extent of any conflict between the clauses of this Services Agreement and its Schedules, the conflict shall be resolved in accordance with the following order of precedence:
- (a) the clauses of this Services Agreement;
 - (b) the Schedules to this Services Agreement;

(c) any other document referred to in this Services Agreement.

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

35. Governing law

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

Authorised to sign for and on behalf of [PROVIDER] Limited

Signature

Date

Name in capitals

Address.....

Authorised to sign for and on behalf of SafeLives

Signature

Date

Name in capitals

Address.....

.....
.....

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1 Services

The appointed organisation must:

- Provide 30+ hours a week of audio and/or visual counselling across both the Connect sites to adult survivors of domestic abuse (18+), from 10am-10pm, seven days a week including bank holidays
- Provide 30+ hours a month of chat and/or message sessions across both the Connect sites from 10am-10pm, seven days a week
- Provide a flexible working pattern to ensure it meets the needs of the survivors, working closely with the Connect Services to ensure consistency for the survivors.
- The counsellors connected to the contract will undertake SafeLives' domestic abuse bespoke training to understand the dynamics of domestic abuse and how it impacts Survivors and their families
- Have a track record of stakeholder and agency engagement and an understanding of the importance of client focused support

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Schedule 2 Payments, Fees and Invoicing

- a. Monthly fixed price of £x (including VAT) for 4 quarters or 12 months [To be added when final budget agreed]
- b. Payment by SafeLives shall be made monthly in arrears, unless otherwise agreed by bank transfer.
- c. [PROVIDER] shall deliver its invoice for the above fees (and any expenses or charges properly incurred in accordance with the terms of the Main Contract) by no later than five (5) working day after the end of each month, in respect of services completed during the previous month.
- d. SafeLives shall pay all sums properly due and payable to [PROVIDER] within thirty (30) calendar days of receipt of [PROVIDER]'s invoice, irrespective of whether or not it has received payment from Customer.

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Schedule 3 Key Performance Indicators

Please see clause 20.6 above for possible implications of failure to achieve KPIs. KPIs will be jointly reviewed by SafeLives and [PROVIDER] after three months service to ensure relevance, and then annually thereafter.

Please note KPIs are in draft form and will be agreed with the appointed provider

KPI 1

Website availability is at 99.99% over any one month period, excepting scheduled down time for maintenance or development.

KPI 2

All agreed content and functionality is available at all times, excepting scheduled down time for maintenance or development.

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Schedule 4 Management Information

[PROVIDER] will provide quarterly reporting to SafeLives which will contain the following information [DRAFT to be finalised and agreed when contract finalised]

Counselling;

- Hours used
- Number of clients engaging / repeat clients
- Average number of sessions
- Demographics
- Outcomes in terms of progress against goals

Other areas of site;

-
- Numbers of people accessing different elements of the site
- Demographics

Whole site;

- Info on signposting: numbers signposted and to what services
- Breakdown of which area (i.e. Worthing or Crawley)

The content and format of management reporting will be reviewed at regular intervals, to ensure continued effectiveness and relevance.