



## **FPA Medical Professional Membership Terms and Conditions v.M1.2**

### **("Membership Terms")**

#### **BACKGROUND**

The Parties agree:

- 1) FPA is a provider of high-quality Patient Information
- 2) **"You"** are buying an FPA Medical Professional Membership (the **"Membership"**) which lasts for 1 year and gives your organisation:
  - a. Permission to share access to +25 digital Patient Information guides with your organisation's patients subject to your Membership Tier
  - b. A discount on FPA patient information booklets as per Schedule B below

The **FPA** and **"you"** (**"Member"**) may be referred to individually as a **"Party"** and collectively as the **"Parties"** in this Agreement.

By purchasing an FPA Medical Professional Membership you agree to these terms and conditions:

#### **THE PARTIES AGREE:**

##### **1. Definitions**

**1.1.** In this Agreement including the Background above the following definitions apply:

**"Agreement"** means these Terms and Conditions inclusive of its Schedules;

**"Anti-Spam Legislation"** means, collectively UK GDPR, the Data Protection Act 2018 and any other applicable local, state, federal and international laws, rules and regulations pertaining to the use of unsolicited electronic communications of the countries, jurisdictions in which either one of the Parties are incorporated and/or located, as the same may be in force from time to time and modified or amended from time to time;

**"Applicable Laws and Regulations"** means, collectively the laws of England and Wales and any applicable laws, directives, statutes, orders, rules, regulations, directives, codes of conduct and mandatory guidelines and recommendations from the Competent Authorities, whether local, national, international or otherwise existing from time to time and in jurisdictions in which either one of the Parties are incorporated, residing, located and/or doing business, including Bribery Laws, Anti-Spam Legislation and Personal Data Protection Legislation;

**"Bribery Laws"** means the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery and corruption.

**“Business Day”** means a day (except any Saturday or Sunday or public holidays) on which banks in London are open for business;

**“Commencement Date”** means the date by which you have received the Patient Information URLs from the FPA;

**“Confidential Information”** has the meaning given in clause 11;

**“FPA”** and **“Family Planning Association”** are trading names of **Family Planning Ltd**, a company incorporated in England and Wales whose registered address is Unit 12, Wetherby Business Park, Wetherby Road, Derby DE24 8HL, United Kingdom, company number 15486597;

**“FPA Marks”** means the Marks of FPA including the Family Planning Association name, FPA name, FPA.org.uk and the logos for the Family Planning Association, FPA and FPA Medical Professional;

**“FPA Medical Professional Membership”** means the membership programme outlined in this Agreement and as operated by the FPA, the FPA’s successors or assigns whereby the FPA provides access to the Patient Information;

**“FPA Platform”** means the Platforms including the FPA Website operated by, or on the behalf of, FPA;

**“FPA Website”** means [www.fpa.org.uk](http://www.fpa.org.uk);

**“Force Majeure Event”** means any event outside the reasonable control of either Party including, without limitation, an act of God, war, civil war, terrorist acts, lightning, strikes, labour disputes, natural disasters, riot, vandalism, malicious damage, fire, flood or failure of internet or utility supply but excluding lack of funds;

**“IP”** means intellectual property;

**“IP Rights”** means all intellectual property rights in any part of the world including any patent, Marks, rights in business, domain names, rights in trade dress or get up, rights in goodwill, Patient Information, registered designs and copyrights, rights in software and database rights, design rights, rights in confidential information (including know-how and trade secrets) and Source Code, in each case whether or not registered in any part of the world;

**“Marks”** means registered and unregistered trade marks, logos, devices, trade names, slogans or service marks;

**“Member”** and **“You”** means the organisation buying this Membership as given on the Order Information;

**“Member Employees”** means employees of the Member;

**“Member Patients”** means patients of the Member;

**“Member Platform”** means the Platform operated by, or on the behalf of, the Member. For the avoidance of doubt the Member may only add the Patient Information Links to the Permitted Platform;

**“Membership”** means this FPA Medical Professional Membership;

**“Membership Tier”** means the level of Membership ordered. The details of the Membership Fees and the rights of the different Membership Tiers are detailed in Schedules A and B;

**“Order Date”** means the date on which you purchase a Membership via the FPA Platform or the date on which you email us Purchase Order for a Membership or the date on which you request an invoice from us for a Membership;

**“Order Information”** means the information you added to your order that details your organisation, contact details and the website on which you would like to add the Patient Information Links to;

**“Patient Information”** means the health information created by the FPA that covers a range of topics including contraception, STIs, pregnancy, birth and menopause;

**“Patient Information Guide”** means a specific guide of Patient Information that relates to a specific health-based subject matter, for example the FPA’s “Guide to HIV”;

**“Patient Information Library”** means the library of Patient Information Guides found on the FPA Website and as defined in clause 3.2;

**“Patient Information Link”** means a Patient Information URL or Patient Information QR Code URL;

**“Patient Information URL”** means a URL provided by the FPA to you in order that you can add the Patient Information Link to the Permitted Platform so that Member Patients can click the link and access the Patient Information Guides on the FPA Website;

**“Patient Information QR Code URL”** means a URL provided by the FPA for you to add to QR Codes you create so that Member Patients can use the QR Code to access the Patient Information Guides on the FPA Website;

**“Permitted Platforms”** mean the website on which you would like to add the Patient Information Links and this must be clearly stated on the Order Information or as otherwise agreed in writing by both Parties. Note that the Permitted Platform is subject to FPA approval and your Membership Tier;

**“Personal Data”** has the meaning given in the Personal Data Protection Legislation;

**“Personal Data Protection Legislation”** means UK GDPR and the Data Protection Act 2018;

**“Platform”** means a website, a mobile app or similar electronic service;

**“Prohibited Activity”** has the meaning given to it in clause 6;

**“Prohibited Software”** means any software designed to carry out or promote, spam, unsolicited adware, spyware, phishing, malware, hacking or any other software that does not comply with the Applicable Laws and Regulations;

**“QR Code”** means a machine-readable code consisting of an array of black and white squares that can store a URL. For the avoidance of doubt, the Member is responsible for creating and maintaining its own QR Codes.

**“Rate of Inflation”** means the rate of inflation as calculated by the Bank of England and defined as the “Bank Rate” on [bankofengland.co.uk](http://bankofengland.co.uk);

**“Source Code”** mean any computer code, including html, JavaScript, the C- languages or other computer code, that FPA may use from time to time;

**“Spam”** means emails, text messages and/or other messages that are distributed by the Member, directly or indirectly, including, but not limited to messages that are posted on social networks,

chatrooms, instant messaging systems, and other types of internet forums, sent to mobile phones or other forms of digital communication and which:

- are directed at people who have not consented to receiving promotional messages from the Member;
- contain false or misleading statements;
- do not truthfully identify the source or the originating IP Address;
- purport to be, but are not, generated by the FPA;
- have not been created as opt-in lists under UK GDPR;
- do not provide the recipient with a clear option to 'opt-out' of receiving future emails or messages; or
- violate any Applicable Laws and Regulations regarding unsolicited communications;

**"STI"** means sexually transmitted infection;

**"The Term"** means the term of the Agreement which starts on the Order Date and ends 12 months after the Commencement Date;

**"Termination Date"** means the date on which the Agreement ends;

**"UK GDPR"** means the UK successor regulation to EU General Data Protection Regulation;

**"Website Terms and Conditions"** means the terms of business, between FPA and its readers as listed on the FPA Website.

## **2. Rights and duties of the FPA**

### **2.1. During the Term, the FPA shall:**

- a) Maintain a high-quality Patient Information Library as described in clause 3;
- b) Use all reasonable endeavours to send Patient Information Links to the Member within 3 Working Days of receipt of payment and/or within 3 days of receiving a Purchase Order (credit check permitting), whichever is first. This may be delayed if the FPA is reviewing your Membership purchase subject to clause 8.2.
- c) Maintain Patient Information Guides in accordance with:
  1. A minimum of WCAG 2.1 AA which is defined at <https://www.w3.org/WAI/standards-guidelines/wcag/> ;
  2. UK Government guidance on readability; and
  3. reasonable successor guidance of the above; and
- d) act in good faith towards the Member.

### **2.2. The FPA shall keep the Patient Information regularly updated and check it versus new guidance. If new guidance shows a Patient Information Guide to be inaccurate, incorrect or pose a health risk then the FPA, shall in its reasonable opinion, either:**

- a) promptly update the Patient Information Guide, or
- b) promptly remove the Patient Information Guide from the Patient Information Library and inform the Member of the change.

**2.3.** For the avoidance of doubt, nothing in this Agreement means the FPA is required or obliged to provide the Member with:

- a) Hardcopies of the Patient Information or other printed materials unless these are purchased separately although any such purchase is subject to a discount as defined in Schedule A;
- b) Patient Information in a PDF format or any other format electronic or otherwise other than a webpage on the FPA website; or
- c) Patient Information on webpages where the webpages can be copied.

**2.4.** The FPA shall not:

- a) Collect any personally identifiable information about Member Patients except the personally identifiable information that Member Patients specifically pass to FPA including if they email or call the FPA, open an account with the FPA and/or make a purchase on the FPA platform.

For the avoidance of doubt where a Member Patient does not specifically pass personally identifiable information to the FPA then the FPA may only collect aggregated Platform traffic data on that Member Patient; and

- b) Use the Facebook Meta Pixel software or similar software in order to monitor individual Member Patients and pass that data to Facebook, Instagram or similar Platforms.

### **3. Patient Information Library**

**3.1.** During the Term, FPA shall:

- a) maintain an up-to-date Patient Information Library with at least 25 user-friendly Patient Information Guides covering contraception, STIs, pregnancy, birth and menopause.
- b) ensure the Patient Information Guides are based on evidence-guided research from “**Suitable Experts**”. Where Suitable Experts include The Faculty of Sexual and Reproductive Healthcare (FSRH) of the Royal College of Obstetricians and Gynaecologists, the British Association for Sexual Health and HIV (BASHH), the National Institute for Health and Care Excellence (NICE) and the World Health Organization (WHO).

**3.2.** The current Patient Information Library includes the Patient Information Guides listed in the table below:

<b>Contraception Patient Information Guides</b>	<b>STI Patient Information Guides</b>	<b>Pregnancy, Birth and Menopause Patient Information Guides</b>
Condoms (Male & Female)	Bacterial Vaginosis	Reproduction: A Guide (Bodyworks)
Patch	Chlamydia	After A Baby: Your Health and Wellbeing
Contraception: A Guide	Genital Herpes	After A Baby: Your Baby's Health and Wellbeing
Emergency Contraception	Genital Warts	After A Baby: Sex and Relationships
Injections	Gonorrhoea	Menopause: A Guide
Pill (Combined)	HIV	Abortion
Pill (Progestogen-only)	Non-Gonococcal Urethritis (NGU)	
Implant	Pubic Lice	
Contraception After a Baby	Scabies	
IUD: Hormonal Coil (was IUS)	Syphilis	
IUD: Copper Coil	Thrush	
LARC (Long-Acting Reversible Contraception)	Trichomonas Vaginalis	
Vaginal Ring		
Diaphragms and Caps		

**3.3.** The FPA may change or remove Patient Information Guides:

- a) in the normal course of business and where this happens then the FPA shall give the Member at least 3 months' notice before it is removed; and/or
- b) subject to clause 2.2 and where this happens then the FPA shall promptly inform the Member.

**4. Rights and duties of the Member**

During the Term:

**4.1.** this Membership grants the Member the right to:

- a) share Patient Information Links with Member Patients under the Permitted Use defined in clause 5; and
- b) use the FPA logo and Family Planning Association logo on the Member Platform subject to clause 10;

**4.2.** the Member may not use the Patient Information Links for the Prohibited Activities and taking part in a Prohibited Activity shall be deemed a material breach of contract;

**4.3.** the Member shall:

- a) ensure that where Member Employees share Patient Information Links the Member Employees know:
  - 1. the Permitted Use of the Patient Information as defined in clause 5;
  - 2. the Prohibited Activities as defined in clause 6; and
  - 3. this Membership only covers the Member Patients and so should Member Employees wish to share Patient Information Links with parties who are not Member Patients then an additional Membership is required; and
- b) act diligently and in good faith towards the FPA and the FPA's IP;

**4.4.** the Member is solely responsible for the content on the Permitted Platform, including all content and materials, maintenance and operation thereof, adding Patient Information Links and complying with the terms of this Agreement; and

**4.5.** the Member shall not:

- a) engage in the Prohibited Activities defined in clause 6;
- b) incur any cost or obligation on behalf of FPA without the prior written consent of FPA; and
- c) falsely represent that they are the creator of the Patient Information.

**5. Permitted Use and Sharing Patient Information Links**

During the Term, in order to give Member Patients access to the Patient Information the Member may use the Patient Information URLs in the following ways (the "**Permitted Use**"):

- 5.1.** Add Patient Information Links to the Permitted Platforms provided this is also allowed in the Member's Membership Tier as defined in Schedules A and B;
- 5.2.** Email Patient Information Links to Member Patients;
- 5.3.** Send Text Messages to Member Patients where the Text Message contains a Patient Information URL; and
- 5.4.** Add Patient Information QR Code URLs to QR Codes and where this occurs then:
  - a) The Member is responsible for creating and maintaining their own QR Codes;
  - b) The Member must ask FPA for a set of Patient Information QR Code URLs, i.e. URLs to be used for the QR Codes; and
  - c) This must be for the sole purpose of giving Member Patients access to the Patient Information. For the avoidance of doubt, if the purpose of using QR Codes is to inform an audience that are not Member Patients then the Member may not add Patient Information QR Code URLs to QR Codes.

- 5.5. Member Employees and Member Patients may print Patient Information Guides as found via the Patient Information URLs provided this is for their own individual use or where a Member Employee prints a single copy for an individual Member Patient. For the avoidance of doubt, any such printing is for individual use and mass production and mass printing are Prohibited Activities. If multiple printed copies of the Patient Information Guides are required then they must be purchased separately from the FPA.

## 6. Prohibited Activities

The Member shall not and shall not encourage third parties to take part in any of the following “**Prohibited Activities**”:

- 6.1. share the Patient Information Links with any parties other than Member Employees and Member Patients;
- 6.2. Add Patient Information URLs to any platform if adding Patient Information URLs to a platform is not permitted by the Member’s Membership Tier as defined in Schedule B;
- 6.3. share, resell, sub-licence or otherwise redistribute the Patient Information or Patient Information Links in any way other than as allowed under the Permitted Use;
- 6.4. copy, plagiarise, mass print or otherwise reproduce the Patient Information except as permitted in clause 5.5;
- 6.5. use the Patient Information in a commercial manner to earn money, for marketing or advertising purposes, or in a trade mark, except as provided for in this Agreement;
- 6.6. add any Patient Information or Patient Information Links to any social media Platforms, public facing Platforms or private Platforms other than the Permitted Platforms.

For the avoidance of doubt the Member may still use social media Platforms, public facing Platforms and private Platforms to refer people to the pages on the Permitted Platforms which have Patient Information Links;

- 6.7. add the FPA Marks, Patient Information, Patient Information Links in any advert shown on any search engine, pay-per-click search engine or other pay-per-click facility;
- 6.8. alter the Patient Information Links unless agreed with the FPA;
- 6.9. show the Patient Information Links and Patient Information within an iFrame or similar technology that otherwise attempts to embed the Patient Information, Patient Information Guides or Patient Information Library within another Platform other than the FPA Platform;
- 6.10. use the Patient Information or Patient Information URLs in an obscene, defamatory or immoral way;



- 6.11. place the Patient Information Links on any Platform, or use any media or medium, which contains materials that:
- a) promotes or links to violence, or illegal activities; or
  - b) promotes discrimination based on race, gender, religion, nationality, disability, sexual orientation, or age;
- 6.12. place the Patient Information Links in Spam;
- 6.13. "Crawl", "spider", index or in any non-transitory manner store or cache information obtained from the Patient Information; and
- 6.14. use "bots", "artificial intelligence" ("AI") or Prohibited Software to copy, plagiarise, distribute or otherwise reproduce or share the Patient Information or Patient Information URLs.

## 7. Membership Fee

- 7.1. The Member shall pay the FPA the Membership Fee defined in Schedule A.
- 7.2. The Membership Fee is exclusive of VAT.
- 7.3. Invoices shall be due within 30 days of receipt.
- 7.4. Interest payable on any overdue amounts under this Agreement is charged at the Rate of Inflation plus 2%.

## 8. Term and Termination

- 8.1. The term of this Agreement is The Term;
- 8.2. FPA will review all purchases and orders to check the Order Information supplied by the Member and that the correct Membership Tier has been selected. FPA reserves the right to:
- a) cancel any purchases via the FPA Platform within 30 days of purchase and if so a full refund will be given;
  - b) reject any purchase orders for a Membership and if so you will not be charged for that purchase order; and
  - c) reject any invoice requests or quotes for a Membership.
- 8.3. Without prejudice to any other rights or remedies to which the parties may be entitled, either Party may terminate this Agreement immediately by giving written notice to the other Party (the "**Party in Default**") if the Party in Default:
- a) commits a material breach of any term of this Agreement which is irremediable or, if remediable, is not remedied within 10 Business Days of being notified in writing to do so; or

- b) goes into administration, liquidation, becomes insolvent, is wound up or otherwise ceases doing business as a going concern.

**8.4.** If there is a material change to the number of Member Patients then the FPA reserves the right to terminate the Agreement on 30 days notice and if so the FPA shall re-pay the Membership Fee to the Member on a pro rata basis for the unused period of the Membership.

**8.5.** The FPA reserves the right to discontinue the Membership, disable the Patient Information URLs and terminate the Agreement immediately if:

- a) the Member fails to pay the Membership Fee within 60 days of receipt of a valid invoice; or
- b) any copyright and IP infringement has taken place due to the Member's unauthorised use of the Patient Information or Patient Information URLs.

**8.6.** Upon expiry or as of the Termination Date, the FPA shall disable the Patient Information Links.

## **9. Membership Renewal**

**9.1.** Where the Member chooses to renew their membership this can be done through the FPA Platform.

**9.2.** The FPA may in order to manage the misuse of the FPA's IP, change the:

- a) Patient Information URLs once per year, and
- b) Patient Information QR Code URL once every three years.

**9.3.** Where the FPA changes Patient Information Links subject to clause 9.2 then the FPA shall:

- a) give the Member at least 3 months' notice; and
- b) ensure the old and new Patient Information Links are live concurrently for at least one month.

## **10. Intellectual Property Rights**

**10.1.** The Patient Information is the property of the FPA and is copyrighted by law. The Patient Information shall not be copied, published, or used in any way except as provided for in this Agreement.

**10.2.** The FPA retains all IP Rights in the Patient Information, including the sole copyright to the Patient Information. Nothing in this Agreement shall operate to transfer, assign or otherwise grant any party any right or interest in the FPA's IP Rights or affect ownership by the FPA of IP Rights with regards to the Patient Information.

- 10.3.** All IP, Patient Information and related material that is developed or produced by the FPA under this Agreement, will be the property of the FPA.
- 10.4.** FPA may use the IP of the Member but solely to inform the Member Patients that they are able to access the Patient Information due to this Membership and therefore the FPA may state in text on the Patient Information Library and Patient Information Guides that: “[This Patient Information is licenced to the {Member’s official name}](#)” or other wording as reasonably agreed by both parties.
- 10.5.** All content on the Member Platform (other than any FPA Marks or content supplied by FPA) shall be and remain the property of the Member and FPA shall not obtain any rights thereto whatsoever.
- 10.6.** All content on the FPA Platform (other than any Member Marks or content supplied by the Member) shall be and remain the property of the FPA and the Member shall not obtain any rights thereto whatsoever.
- 10.7.** Any IP use by either Party, under any conditions not specifically allowed for in this Agreement, may constitute a violation of the copyright laws of England and Wales or international copyright agreements.
- 10.8.** Each party shall retain all title, rights or interests in and to their respective Marks (including but not limited to those Marks relating to or used in connection with this Agreement) and each Party acknowledges that nothing in this Agreement will confer on it the other Party’s title, rights or interests in relation thereto.
- 10.9.** Neither Party shall misrepresent itself as the other Party including:
- a) using any IP of the other Party in any manner that implies either Party is an agency or branch of the other Party;
  - b) issuing or circulating any press release or any document with the characteristics of a press release with respect to the other Party without the Permission of the other Party;
  - c) co-opting the visual look and feel of the other Party’s Platform or otherwise violating the IP Rights of the other Party, including, without limitation, "scraping" text or images from the other Party’s Platform;
  - d) creating, establishing or otherwise maintaining any page on any social networking Platform, blog, website, domain or social networking service, or use a profile name or display name which could mislead others to believe that you do or may represent the other Party or any of its agents, employees or representatives; or
  - e) bidding on any keywords which include the other Party’s Marks or any variation of the other Party’s Marks in any pay-per-click search engine or other pay-per-click facility.

## 11. Confidentiality

11.1. Subject to clauses 11.2 and 11.3, each Party:

- a) undertakes that it shall treat as strictly confidential and shall use solely for the purposes contemplated by this Agreement, all information that is confidential in nature, whether technical or commercial, including any details of business, affairs, customers, technology or strategy, obtained or received as a result of entering or performing the obligations under this Agreement and relating to the negotiations relating to it, or the provisions or subject matter of this Agreement or the other Party (“**Confidential Information**”); and
- b) shall not, except with the prior written consent of the Party about whom the Confidential Information was obtained, use, publish or otherwise disclose to any person any Confidential Information except for the purposes contemplated by this Agreement.

11.2. Each Party may disclose Confidential Information which would otherwise be subject to clause 11.1 but only to the extent that the disclosing Party can demonstrate that:

- a) such disclosure is required by law;
- b) the Confidential Information was lawfully in its possession prior to its disclosure by the other Party (as evidenced by written records) and had not been obtained from the other Party;
- c) the Confidential Information has come into the public domain other than through its fault or the fault of any person to whom Confidential Information has been disclosed in accordance with this clause 11; or
- d) it has the prior written consent of the other Party.

11.3. Each Party, notwithstanding anything to the contrary in this clause 11, may disclose Confidential Information to third parties only so far as it is necessary for the performance of this Agreement and provided that they are aware of and agree to comply with obligations of confidence.

## 12. Notices and Acceptance of Electronic Communication

12.1. You hereby agree to the use of electronic communications in order to enter into contracts and to the electronic delivery of notices and reports. Furthermore, you hereby waive any rights or requirements under any laws or regulations in any jurisdiction which require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under applicable mandatory law.

12.2. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the Notice Email or by first-class pre-paid post to the Notice Address given in the table below or to such other address as either Party may from time to time notify the other.

	<b>FPA Notice Contact</b>	<b>Member Notice Contact</b>
<b>Primary Contact</b>	Adam Jepsen <a href="mailto:adamj@fpa.org.uk">adamj@fpa.org.uk</a>	The main contact given on the Order Information
<b>“Notice Email”</b>	<a href="mailto:notice@fpa.org.uk">notice@fpa.org.uk</a>	The email(s) given on the Order Information
<b>“Notice Address”</b>	Unit 12, Wetherby Business Park, Wetherby Road, Derby DE24 8HL	The address given on the Order Information

**12.3.** Any notice sent by first-class post shall be deemed to have been duly served two (2) Business Days after it was posted.

**12.4.** Any notice sent by email shall be deemed to have been duly served at the time of transmission provided that the sender can produce suitable evidence the email was sent.

### **13. Warranties**

**13.1.** While FPA shall make reasonable efforts to ensure Member Patients can access the Patient Information via the Patient Information Links FPA does not warrant that every Member Patient will be able to access the Patient Information for example:

- a) If Member Patients have parental controls switched on via their browser, mobile phone or mobile phone provider then the parental controls can block access to the Patient Information;
- b) The FPA platform uses the recommended TLS 1.2 and TLS 1.3 encryption standard for secure Platforms and therefore Member Patients on old browsers may not be able to access the FPA platform including via old browsers such as:
  - c) Internet Explorer versions released before October 2013;
  - d) iOS Safari versions released before March 2011;
  - e) mobile Firefox versions released before December 2013; or
  - f) mobile Chrome versions released before December 2013.

**13.2.** Patient Information is general information and not advice. The Patient Information does not come with a warranty as to its accuracy or completeness.

**13.3.** The Member represents and warrants that it will make all reasonable efforts to ensure the Patient Information is only shared with Member Employees and Member Patients.

- a) Each Party warrants to the other that in entering into and performing the rights and obligations of this Agreement:
- b) it has full authority to do so and will maintain such authority throughout the term of this Agreement;

- c) no act or omission by it or by any of its employees, agents or subcontractors shall bring the other Party's business, reputation or goodwill into disrepute; and
- d) it shall comply with all Applicable Laws and Regulations in its performance of this Agreement.

**13.4.** Neither Party warrants that their respective Platforms, systems, networks, software or hardware (or any systems, networks, software or hardware provided to them by third parties) will be error-free or uninterrupted.

### **13. Liability and Liability Limitations**

13.1. Nothing in this Agreement excludes a Party's liability for death or personal injury caused by negligence, or for fraud or for breach of any indemnity in this Agreement.

13.2. Neither Party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent), restitution or otherwise for any indirect or consequential loss or damage of any kind.

13.3. In no event shall either parties' liability hereunder exceed £20,000.

13.4. Without prejudice to clauses 13.1, 13.2, and 13.3, each Party's liability to the other in contract, tort or otherwise in relation to this Agreement is limited to £10,000 in respect of any one claim or series of connected claims and £20,000 in respect of all claims made under this Agreement.

### **14. Dispute Resolution**

14.1. If any dispute relating to this Agreement between the Parties is not resolved through informal discussion within 14 days from the date a dispute arises, the Parties agree to submit the issue first before a non-binding mediator and then to an arbitrator in the event that mediation fails. The decision of the arbitrator will be binding on the Parties. Any mediator or arbitrator must be a neutral party acceptable to both the FPA and the Member and the Parties shall in good faith work to agree on a reasonable mediator and/or arbitrator. The reasonable costs of any mediation or arbitration will be shared equally by the Parties.

14.2. If the Parties cannot meet with each other and the mediator and meet with each and the arbitrator within 40 Business Days of the dispute being raised then either Party may commence legal proceedings in connection with the dispute.

## **General Terms**

### **15. Customer Data and Data Protection**

Each Party shall, at its own expense, ensure that, in the performance of its obligations under this Agreement, it complies with the Personal Data Protection Legislation.

### **16. Additional Action**

Each party shall execute and deliver such other documents and do such other acts and things as may be necessary and desirable to carry out the terms, provisions and purposes of this Agreement.

### **17. Modern Slavery**

The parties shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015. For the avoidance of doubt, a breach of this clause shall constitute a material breach of this Agreement.

### **18. Bribery and Corruption**

18.1. Both parties shall always:

- a) comply, and shall ensure that its personnel comply, with all applicable laws and regulations, and codes relating to anti-bribery and anti-corruption and related matters. Both parties acknowledge that they are aware of, and agree to comply with, the UK Bribery Act, together with this Agreement whereby the words bribery and corruption include any behaviour that would be a breach of the UK Bribery Act 2010; and
- b) immediately notify the other should it become aware of any:
  1. actual or suspected breach of this clause; and/or
  2. other actual or suspected breach of anti-bribery or corruption laws or regulations, by a third party, which is directly or indirectly relevant to this Agreement.

18.2. Either Party may terminate this Agreement with immediate effect by written notice to the other Party, without liability, if either Party reasonably considers that the other Party has committed any breach of this clause.

### **19. Force Majeure**

19.1. If either Party is prevented, hindered or delayed from performing any of its obligations under this Agreement by a Force Majeure Event, that Party shall not be responsible, liable or in breach of this Agreement for any failure or delay in performing its obligations under this Agreement and/or during the continuation of the Force Majeure Event provided nothing in this clause shall excuse a delay or failure to comply with a payment obligation.

19.2. The Party whose performance has been delayed, prevented or hindered by a Force Majeure Event shall promptly notify the other Party in writing of the reasons for the failure or delay and the likely duration of the failure or delay.

19.3. If the Force Majeure Event persists for more than thirty (30) continuous days, either Party shall be entitled to terminate this Agreement with immediate effect by written notice to the other Party.

**20. Waiver**

No failure or any delay by a Party to exercise any right or remedy under this Agreement or by law shall constitute a waiver, in whole or in part, of this Agreement nor shall it prevent or restrict the further exercise of that or any other right or remedy.

**21. No Partnership or Joint Venture**

Nothing in this Agreement shall constitute, or be deemed to constitute, a joint venture or a partnership between the parties nor shall either Party be deemed to be an agent of the other Party for any purpose.

**22. No Authority to Bind**

Subject to any express provisions to the contrary in this Agreement, neither Party shall have any right or authority to and shall not do any act, enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, whether express or implied, of any kind on behalf of the other Party or bind the other Party in any way.

**23. No Exclusivity**

The Parties acknowledge that this Agreement is not exclusive and that either Party may enter into similar arrangements with third parties (including competitors of the other Party).

**24. Autonomy**

Except as otherwise provided in this Agreement, the FPA will have full control over working time, methods, and decision making in relation to provision of the Services in accordance with the Agreement. The FPA will work autonomously and not at the direction of the Member. However, the FPA will be responsive to the reasonable needs and concerns of the Member.

**25. Modification of Agreement**

No amendment to this Agreement shall be effective unless made in writing and signed by duly authorised representatives of each Party.

**26. Severability**



If any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement. The parties shall attempt to substitute for any invalid or unenforceable provision a reasonable valid or enforceable provision.

**27. Counterparts**

This Agreement may be executed in any number of counterparts, which shall together constitute one agreement. Any Party may enter into this Agreement by signing any such counterpart.

**28. Remedies**

The rights and remedies provided by this Agreement are cumulative and are not exclusive of any rights and remedies provided by law.

**29. Assignment**

The Member may not assign or transfer the Agreement or any rights granted within without the prior written consent of the FPA, and any attempted assignment or delegation without such consent will be void.

**30. Third Party Rights**

The Parties agree that the terms of this Agreement are not enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999.

**31. Entire Agreement**

31.1. This Agreement, together with any documents referred to in it, constitutes the whole agreement between the parties relating to its subject matter and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to each subject matter.

31.2. Nothing in this Agreement shall exclude or restrict the liability of the Parties under Applicable Laws and Regulations.

**32. Time is of the Essence**

Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

**33. Enurement**

This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.

#### **34. Titles, Headings and Wording**

In this Agreement unless expressed to the contrary or the context otherwise requires:

- 34.1. headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement;
- 34.2. words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa;
- 34.3. reference to a clause is to a clause in this Agreement and reference to a Schedule is to a Schedule in this Agreement;
- 34.4. reference to a Party includes that Party's successors and permitted assigns;
- 34.5. reference to days, months or years shall be a reference to calendar days, months or years, as the case may be, unless the contrary is expressly stated or clearly appears from the context; and
- 34.6. the words "include", "includes" and "including" shall be construed so that the examples that are given are not intended to be exclusive or limiting examples.

#### **35. Governing Law**

This Agreement will be governed by and construed in accordance with the laws of England and Wales, without regard to the jurisdiction in which any action may be instituted.

#### **36. Survival**

- 36.1. The provisions of the following clauses and Schedules of this Agreement shall survive the expiration of the term and/or the termination of this Agreement for any reason:
  - All definitions
  - Clause 6 - **Prohibited Activities**
  - Clause 8 - **Term and Termination**
  - Clause 10 - **Intellectual Property Rights**
  - Clause 11 - **Confidentiality**
  - Clauses 13 - **Warranties**
  - Clause 13 - **Liability and Liability Limitations**
  - Clause 14 - **Dispute Resolution**
  - Clauses 15 to 35 inclusive - **General Terms**;

### Schedule A - Membership Fees

Membership Tier	Organisation type	1 Year Membership Fee	Discount on Patient Information Booklets on the FPA Platform
Local	Single GP practice or single pharmacy	£99	10%
School	Single secondary school	£99	10%
Network	For Primary Care Networks with 3 to 7 GPs	£299	10%
Clinic	For a single standalone clinics	£699	15%
Plus	For organisations and chains not listed above. Contact FPA	Contact FPA for prices	Contact FPA for the discount rate
Trust	For Trusts and Healthcare Boards.	Contact FPA for prices	20%

### Schedule B - Membership Tier and Permission to Share Patient Information

#### a) Membership Tier: "Local"

- a. This Membership should only be bought by organisations that are a single GP or single pharmacy (not a chain)
- b. This Membership permits you to share Patient Information URLs subject to this Agreement via:
  - i. Email;
  - ii. Text Message;
  - iii. QR codes; and
  - iv. The Permitted Platform.

#### b) Membership Tier: "School"

- a. This Membership should only be bought by organisations that run a single secondary school.
- b. This Membership permits you to share Patient Information URLs subject to this Agreement via:
  - i. Email;

- ii. Text Message;
- iii. QR codes; and
- iv. The Permitted Platform; and
- v. The Member's school intranet.

**c) Membership Tier: "Network"**

- a. This Membership should only be bought by Primary Care Networks (PCNs) with 3 to 7 doctors surgeries
- b. This Membership permits you to share Patient Information URLs subject to this Agreement via:
  - i. Email;
  - ii. Text Message;
  - iii. QR codes; and
  - iv. Each GP website. Most independent pharmacies will also be permitted to add links to the pharmacy's website but this must be confirmed in writing with the FPA before adding any Patient Information URLs to any pharmacy website.

**d) Membership Tier: "Clinic"**

- a. This Membership should only be bought if your organisation is a standalone GUM, STI, sexual health, pregnancy, abortion or fertility clinic. For the avoidance of doubt, if your clinic is part of a Trust, hospital, chain or similar organisation then you are not permitted to buy this Membership, please contact FPA for a Membership that would suit your organisation.
- b. This Membership permits you to share Patient Information URLs subject to this Agreement via:
  - i. Email
  - ii. Text
  - iii. QR codes
  - iv. The permitted platform

**e) Membership Tiers: "Trust" and "Plus"**

- a. This requires a separate Membership Agreement, please contact FPA for a Membership that would suit your organisation.

**Other organisations**

For the avoidance of doubt if your organisation does not clearly match a Membership Tier description above then do not purchase a Membership unless the FPA have confirmed in writing the Membership Tier you require as well as any specific rules on sharing Patient Information URLs.