

 2020

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**AGREEMENT FOR THE PROVISION OF THE COVID-19 ES VACCINATION PROGRAMME**

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**Between:**

**[HOST PRACTICE]**

**And**

**THE PRIMARY CARE NETWORKS**

**(consisting of the practices as listed in Schedule 1)**

LMC LAW LIMITED

8 Peterborough Road Harrow London HA1 2BQ

Registered in England and Wales Registration Number 08977566

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**AGREEMENT FOR THE PROVISION OF THE COVID-19 ES VACCINATION PROGRAMME**

 **(‘Agreement’)**

1. **PARTIES**
	1. This Agreement is made between the following parties:
2. **[XXXXX],** situated at [XXXXX]**,** hereinafter referred to as **‘Host Practice’**;

**AND**

1. **The Primary Care Networks, consisting of the practices listed at Schedule 1,** hereinafter referred to as ‘**the PCN Grouping**’ or individually as ‘**PCN Member Practices**’.
	1. The parties set out above shall, hereinafter, collectively be referred to as ‘**the Parties**’ or ‘**Party**’ if referring to any one of them.
2. **DEFINITIONS**
	1. In this Agreement, the following words and definitions shall have the following meanings unless the context otherwise requires: -

|  |  |
| --- | --- |
| ‘**Best Industry Practice**’ means: | The standards which are comparable or substantially similar to the provision of healthcare services of a similar nature, having regard to factors such as any service levels, legislation/regulations, healthcare policy, the contract period, the pricing structure and any other relevant factors; |
| ‘**Commencement Date**’ means: | 14th December 2020 |
| ‘**Commissioner**’ means: | NHS Commissioning Board, or, as otherwise known, NHS England;  |
| ‘**Contracts**’ means: | Either: a General Medical Services (GMS) Contract, subject to the National Health Service (General Medical Services Contracts) Regulations 2015, as amended, or, a Personal Medical Services (PMS) Contract, subject to the National Health Service (Personal Medical Services Agreements) Regulations 2015, as amended, or, an Alternative Provider Medical Services (APMS) Contract, subject to the National Health Service (Alternative Provider Medical Services) Directions 2016, as amended; |
| ‘**Data Protection Legislation**’ means: | 1. the General Data Protection Regulation (Regulation (EU) 2016/679), the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing laws as amended from time to time,
2. the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy,
3. all applicable law about the processing of personal data and privacy;
 |
| ‘**Dispute Resolution**’ means: | The process of dispute resolution, as set out in Schedule 7; |
| ‘**EIR**’ means: | Environmental Information Regulations 2004 (SI 2004/3391); |
| ‘**FOIA**’ means: | The Freedom of Information Act 2000; |
| “**Force Majeure Event**” means: | any cause affecting, preventing or hindering the performance by any Party of its obligations under this Agreement, arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm, earthquake, civil commotion, malicious damage, any global pandemic or national epidemic (but only in the case where government travel bans/restrictions are imposed or public gatherings have been prohibited), but excluding any dispute relating to the Parties, the Parties staff or any other failure in the Parties supply chain; |
| ‘**Governance Board**’ means: | The board made up of representatives from each Party, who shall be responsible for the management, oversight and governance of the Service; |
| ‘**Host Site**’ means:  | As defined at Clause 4.3. herein; |
| ‘**Host Site Manager**’ means: | As defined in Clause 6.5. herein; |
| ‘**Losses**’ means: | Any and all claims (including third party claims), demands, actions, damages and expenses (including, without limitation, expenses of investigation, settlement, any damages awarded by any employment tribunal, litigation, legal fees or any costs in connection thereof); |
| ‘**Patients**’ means: | Those patients as defined in section 9.2. of the Specification; |
| ‘**Service**’ means: | As defined at Clause 4.1. herein; |
| ‘**Staff**’ means: | Staff, workers and/or contractors employed or engaged by any PCN Member Practice; |
| ‘**Specification**’ means: | The specification in relation to the Service, as attached at Schedule 2. |

1. **RECITALS**
	1. Reference to any statute or statutory provision includes a reference to the same as from time to time amended, re-enacted or consolidated (whether before or after the date of this Agreement) and all statutory instruments or orders made pursuant to it.
	2. The contents page and headings are included for ease of reference only and do not affect the interpretation of this Agreement.
	3. Where the context so admits, words importing the masculine gender shall include the feminine, words importing the singular number shall include the plural, and words importing the plural shall include the singular.
	4. References to ‘clauses’ and ‘schedules’ are, unless otherwise stated, references to clauses in and schedules to this Agreement.
	5. A person includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality) and that person’s personal representative, successors, and permitted assigns.
	6. A reference to any Party shall include that Party’s personal representatives, successors, and permitted assigns.
	7. A reference to ‘writing’ or ‘written’ includes electronic forms and the sending or supply of notices in electronic form.
	8. Unless expressly provided to the contrary, where a Party to this Agreement comprises of more than one person, each person should be jointly and severally liable for their obligations under this Agreement.
	9. In the event the terms and definitions in this Agreement conflict with those contained within the Specification, then the terms and definitions of the Specification shall prevail.
2. **BACKGROUND TERMS**
	1. The Parties have agreed to work collaboratively to provide a Covid-19 vaccination programme in accordance with the Specification (‘the Service’).
	2. This Agreement supplements and operates in conjunction with the Parties’ existing Contracts.
	3. The Commissioner has approved the premises situated at [ADDRESS] (‘the Host Site’) from which the Service will be delivered.
3. **TERM**
	1. The Service shall commence on the Commencement Date until the 31st August 2021 (unless terminated earlier in accordance with this Agreement).
4. **OBLIGATIONS OF THE PARTIES**

**The Host Practice**

* 1. The Host Practice will deliver the Service at the Host Site as from the Commencement Date, in accordance with the terms of this Agreement.
	2. The Host Practice shall agree to provide the following at the Host Site (unless otherwise agreed): -
		1. a minimum of [#] clinical rooms, which shall contain the following: -
			1. Wash and cleaning facilities; and
			2. PPE prep;

**[THE ABOVE IS NOT A DEFINITIVE LIST - PLEASE ADD OR REMOVE AS APPROPRIATE]**

* + 1. adequate car parking facilities;
		2. confirmation that the Host Site is fit for purpose;
		3. oxygen;
		4. defibrillator; and
		5. heating, lighting, building insurance and cleaning (including deep cleaning (where required);

**[THE ABOVE IS NOT A DEFINITIVE LIST – PLEASE ADD OR REMOVE AS APPROPRIATE]**

* 1. The Host Practice shall ensure that the CQC registration associated with the Host Site is updated and valid to accommodate the Service during the term of this Agreement.
	2. The Host Practice will ensure that the policies, protocols and processes necessary and applicable to Staff attending the Host Site and delivering the Service are up to date and robust.
	3. The Host Practice will provide a ‘manager’ at the Host Site who shall be employed by the Host Practice and, hereinafter, shall be referred to as the ‘Host Site Manager’. The Host Site Manager shall be responsible for managing the Host Site on behalf of the Parties, and such management shall include, but shall not be limited to, infection control and cleaning processes.

**PCN Grouping/PCN Member Practices**

* 1. The PCN Member Practices currently employ and/or engage Staff and hereby agree that Staff so employed and/or engaged shall be redirected to the Host Site and shall be fully engaged in the support and delivery of the Service, in accordance with the arrangements as set out in Schedule 3.
	2. The Governance Board shall be responsible for overseeing and coordinating the Service.

**[IF THERE ARE ANY OTHER RESPONSIBILITIES OF THE PCN GROUPING, PLEASE ADD TO THIS CLAUSE]**

1. **PROVISION OF STAFF**
	1. Further to the provision of Staff under clause 6.6 above, any Party providing Staff under this Agreement shall ensure that all Staff: -
		1. have undergone the following checks in respect of:
* Identity;
* Right to work;
* Employment history and reference;
* Disclosure and Barring (DBS);
* Work health assessment; and
* Any current NHS Employment Check Standards.
	+ 1. are aware of the various protocols and processes in place provided by the Host Practice;
		2. are aware of any terms and processes as referred to in this Agreement;
		3. receive proper and sufficient training and instruction in the execution of their duties in line with any requirements, and shall perform those duties in line with section 9.8.1. of the Specification and in accordance with Best Industry Practice;
		4. receive proper appraisals in terms of performance;
		5. carry out the Service in accordance with the provisions of this Agreement; and
		6. are appropriately qualified and competent to provide the Service.
	1. The Parties shall be responsible during the provision of the Service for identifying any concerns in relation to the competence or capability of their respective Staff in carrying out the Service. In the event that any Party becomes aware of any matter (either actual or potential) that is likely to have a significant impact on the delivery of the Service, then this shall immediately be brought to the attention of the relevant employing/engaging Party, and the Parties shall use all reasonable endeavours to resolve the same.
	2. In the event of any Staff being unable to perform the Service on account of any absence (including sickness absence), the employing/engaging Party shall use all reasonable endeavours to provide a replacement of equivalent competency.
	3. For the avoidance of doubt, Staff provided and redirected in accordance with clause 6.6. to support the Service, shall be the responsibility of the relevant employing/engaging Party who shall use all best endeavours to ensure that agreed rotas are filled.
	4. The Parties agree that a member of Staff shall remain an employee, worker or contractor (as the case may be) of the relevant employing/engaging Party at all times and that nothing in this Agreement creates (or is intended to create) an additional employment or other relationship between the member of Staff and the Host Practice. For the avoidance of doubt, the member of Staff shall only receive remuneration, and/or any other benefits or payments from the member of Staff’s employing/engaging Party.
1. **FINANCIAL ARRANGEMENTS**
2. 1. The Host Practice shall receive all payments from the Commissioner in respect of the Service. Payments will be made in accordance with section 11 of the Specification. Payments will reflect the Service as delivered to Patients.
	2. The Host Practice shall pay each PCN Member Practice on a monthly basis for the provision of any staff and/or services, in accordance with the payment terms as set out in Schedule 4.
	3. Where there is a dispute over any payment then the Parties in dispute shall make every attempt to resolve the same at first instance. Any failure to resolve such dispute shall be dealt with under the Dispute Resolution process.
3. **PATIENT SAFETY AND COMPLAINTS**
	1. The Parties shall be obliged to consider any complaint when it arises to ascertain whether the complaint relates to the Service under this Agreement.
	2. Each Party shall have their own complaints procedure and, in the event of a complaint by a Patient during the course of the delivery of the Service, the relevant Party shall manage that complaint in accordance with its own complaints policy and the Parties shall work collectively together (where necessary) to respond to such complaint and share all relevant information with each other.
	3. In the event there is an incident in relation to Patient safety then the Parties shall work together to ensure that the information relating to the said incident is shared between them for the purposes of any investigation or remedial plan.
	4. Where any Patient safety incident or a potential breach of the Specification is investigated by the Commissioner or any regulator, the Parties shall work collectively to respond to such investigation and shall share all relevant information with each other for the purpose of responding to the Commissioner and/or regulator (as relevant).
4. **MEETINGS**
	1. The Governance Board and shall ensure that regular meetings take place every [X] weeks in order to receive and consider reports from any Party, but, in particular, from the Host Site Manager, in relation to the delivery of the Service and/or to address any concerns and to assess the delivery of the Service in accordance with the Specification.
	2. With the approval of the Parties, any other relevant persons may attend the meetings, as required and necessary.
	3. Any decisions made in respect of the Service shall be conducted in accordance with the decision-making process as set out in Schedule 6.
5. **PROVISION OF THE SERVICE**
	1. The Parties acknowledge that Staff shall be accountable at all times to their employer, however, each Party shall ensure that their Staff are bound accordingly to all relevant policies and procedures as set out in this Agreement. To this effect, the Parties have agreed as follows:
		1. A first point of contact shall be identified to Staff for general advice and support at the Host Site. Furthermore, the Host Site Manager shall provide direct clinical supervision to the Staff;
		2. Staff shall be made aware of all applicable policies and procedures relating to the Host Site, including, without limitation, those in relation to patient confidentiality, information governance, whistle blowing, safeguarding, data sharing and health and safety requirements (including fire evacuation procedures and location of fire exits) and, where necessary, any other matter thought to be appropriate. Each Party shall procure that its Staff will agree to be bound by all such relevant internal policies and procedures of the Host Site during the delivery of the Service;
		3. Any Party may require a member Staff to be redeployed or removed from working at the Host Site and, to this effect, shall provide appropriate reasons and details to the relevant employer, in respect of the unsuitability of that member of Staff. The relevant employer shall do all that is reasonable to cooperate with the request, however, nothing in this clause shall be construed, and nor should it be taken, to place the employer in breach of any terms of employment or to create any liability vis-a-vis any member of Staff and their employer; and
		4. In the event of any disciplinary and/or grievance procedures being instigated against or by any member of Staff, this procedure shall be conducted by the relevant employer, with such assistance and/or input as may reasonably be required from any other Party (where relevant).
6. **INDEMNITY**
	1. Any Party (‘the Defaulting Party’) shall agree to indemnify, defend and hold harmless any other Party(ies) from and against any Losses incurred or sustained by any Party(ies) and which arise from; i) any breach of any of the terms and conditions of this Agreement, ii) any act or omission by the Defaulting Party (including any acts or omissions of any member of Staff of the Defaulting Party), and iii) any damage to property and/or any breach of intellectual property rights caused by the Defaulting Party (including any member of Staff of the Defaulting Party).
	2. Save and except for the Clinical Negligence Scheme for General Practice (CNSGP), which will provide clinical negligence indemnity cover for all Staff under this Agreement, the Parties shall ensure that they each have appropriate indemnity cover in place, including, but not limited to, any employment indemnity cover, and shall each notify their respective insurers of this Agreement. The Parties further agree to act in accordance with their respective insurance policies and agree not to do, or omit to do, anything that would or could potentially invalidate any insurance policy.
	3. Each Party shall ensure that any additional indemnity and insurance cover during the term of this Agreement is sufficient to cover any liabilities under this Agreement.
7. **DISPUTES AND MANAGEMENT**
	1. The Parties agree that in the event of a dispute arising out of this Agreement or any other relevant issue, then the Parties shall refer to the Dispute Resolution process.
	2. No Party to this Agreement shall take any action against each other in respect of any issue arising out of this Agreement without first exhausting the Dispute Resolution process.
	3. No Party shall be entitled to suspend the provision of the Service during any period where any matter has been referred to Dispute Resolution.
8. **TERMINATION**
	1. This Agreement may be terminated by all Parties giving no less than forty-two (42) days’ notice in writing to the Commissioner, setting out the Parties’ intention to withdraw from the provision of the Service, in accordance with the Specification (unless otherwise agreed by the Commissioner).
	2. Any Party may withdraw from this Agreement and terminate its respective obligations under it, by providing the Commissioner and the other Parties no less than 42 days’ notice in writing of its intention to withdraw, but, in any event, shall take account of the provisions of section 13 of the Specification.
	3. Any termination under this Agreement shall not affect any of the rights and obligations of each Party under it, and each Party hereby agrees to complete and fulfil any obligations prior to the expiry or termination date or as soon as practicable thereafter.
9. **GOVERNANCE**
	1. Each Party is an individual organisation with its own individual governance arrangements. Where possible and without prejudice to any other terms of this Agreement, the Parties agree to work together to ensure that any governance is properly coordinated.
10. **CONFIDENTIALITY**
	1. In this clause 16, Confidential Information means any information (however recorded or preserved) which:
		1. any Party may have or acquire (whether before or after the date of this Agreement) in relation to the business, assets or affairs, of any Party(ies); or,
		2. any Party may have or acquire (whether before or after the date of this Agreement) in relation to the business, assets or affairs, of any Party(ies) as a consequence of the negotiations relating to this Agreement or any other agreement or document referred to in this Agreement or the performance of this Agreement or any other agreement or document referred to in this Agreement; or,
		3. relates to the contents of this Agreement (or any agreement or arrangement entered into pursuant to this Agreement).
	2. Confidential Information shall no longer be confidential when the following applies:
		1. it is or becomes generally available to the public (other than as a result of its disclosure in breach of this Agreement); or,
		2. a Party can establish to the reasonable satisfaction of the other Party(ies) entitled to the benefit of the obligation of confidentiality that it found out the information from a person not connected with such other Parties and that the such person is not under any obligation of confidence in respect of the information; or,
		3. a Party can establish to the reasonable satisfaction of the other Party(ies) entitled to the benefit of obligation of confidentiality that the information was known to the first Party before the date of this Agreement and that it was not under any obligation of confidence in respect of the information; or,
		4. the relevant Parties agree in writing that it is not confidential.
	3. Each Party shall at all times keep confidential (and use all reasonable endeavours to ensure that its employees, agents, subsidiaries, and the employees and agents of such subsidiaries, and each Party shall keep confidential) any Confidential Information and shall not use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement, and shall not disclose such Confidential Information except:
		1. to a Party’s professional advisors where such disclosure is for a purpose related to the operation of this Agreement; or,
		2. with the written consent of such of the parties or the Party that the information relates to; or,
		3. as may be required by law or by the rules of any recognised stock exchange, or governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other Party(ies) as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause, it takes into account the reasonable requests of the other Party(ies) in relation to the content of such disclosure; or,
		4. a Party may, provided it has reasonable grounds to believe that the other Party(ies) is involved in activity that may constitute a criminal offence under the Bribery Act 2010, disclose Confidential Information to the Serious Fraud Office without first informing the other Party of such disclosure; or,
		5. to any tax authority to the extent reasonably required for the purposes of the tax affairs of the Party concerned or any member of its group.
	4. Each Party shall inform (and shall use all reasonable endeavours to procure that any subsidiary and each Party shall inform) any officer, employee, or agent or any professional advisor advising it in relation to the matters referred to in this Agreement, or to whom it provides Confidential Information, that such information is confidential and shall require them:
		1. To keep it confidential; and,
		2. Not to disclose it to any third party (other than those persons to whom it has already been disclosed in accordance with the terms of this Agreement).
	5. On termination of this Agreement, each Party shall (and shall use all reasonable endeavours to procure that its subsidiaries, and its officers and employees and those of its subsidiaries and each party shall):
		1. return to the other Party(ies) all documents and materials (and any copies) containing, reflecting, incorporating, or based on the other Party’s Confidential Information; and,
		2. erase all the other Party(ies) Confidential Information from the computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically practicable),

provided that a recipient Party (and/or the Parties, as the case may be) may retain documents and materials containing, reflecting, incorporating, or based on any other Party’s Confidential Information to the extent required by law or any applicable governmental or regulatory authority.

* 1. The provisions of this Clause 16 shall continue to apply after termination of this Agreement for any cause.
1. **DATA PROTECTION**
	1. The Parties acknowledge and shall comply with their respective obligations under current Data Protection Legislation (as amended from time to time).
	2. The Parties shall use all best endeavours to ensure that they inform each other of any changes to their personal data, including contact numbers and email addresses, as soon as reasonably practicable following any such change.
	3. The Parties hereby agree to comply with the data sharing obligations as set out in the Data Sharing Agreement, at Schedule 5.
	4. The Parties shall ensure that informed Patient consent is obtained in accordance with section 9.5.4. of the Specification.
2. **FREEDOM OF INFORMATION**
	1. Each Party acknowledges that the other Parties may be subject to the requirements of the FOIA and the EIR and each Party shall assist and co-operate with the other Parties to enable the other Parties to comply with these information disclosure obligations.
	2. Where a Party receives a request for information relating to this Agreement under the FOIA, it shall notify the other Parties of the request as soon as practicable after receipt. The other Parties will assist that Party to enable it to comply with its obligations. In particular, the other Parties shall provide all necessary assistance to obtain any and all information and provide that Party with a copy of all information in their possession relating to the request for information. The Parties will respond to any such request for assistance at their own cost, and promptly, and in any event within twenty (20) days of receipt of any request.
	3. Each Party shall be responsible for determining at its absolute discretion whether any commercially sensitive information it holds is exempt from disclosure under the FOIA or EIR or is to be disclosed in response to a request for information.
	4. Each Party acknowledges that the other Parties may be obliged under the FOIA or EIR to disclose information without consulting the other Parties or following consultation with the other Parties and having taken their advice into account and, in particular, shall have due regard to any claim by any Party that the exemptions relating to commercial confidence and/or confidentiality apply to the information sought.
3. **FORCE MAJEURE**
	1. Subject to the remaining provisions of this clause 19, no Party to this Agreement shall under any circumstances be liable to the others for any delay or non-performance of its obligations under this Agreement to the extent that such delay or non-performance is due to a Force Majeure Event. For the avoidance of doubt, any liabilities and/or obligations accrued by any Party up to the date of notification of a Force Majeure Event shall be binding on that Party to the fullest extent.
	2. In the event that any Party is delayed or prevented from or hindered in performing its obligations under this Agreement by a Force Majeure Event, such Party shall:
		1. give notice in writing of such delay or prevention to the other Parties as soon as reasonably possible, stating the commencement date and extent of such delay or prevention, the cause of the delay or prevention and its estimated duration;
		2. use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under this Agreement; and
		3. resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.
	3. A Party cannot claim relief if the Force Majeure Event is attributable to that Party's wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.
	4. Any Party cannot claim relief if the Force Majeure Event is one where a reasonable Party should have foreseen and provided for the cause in question.
	5. As soon as practicable following the affected Party's notification, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement. The affected Party shall take or procure the taking of all steps to overcome or minimise the consequences of the Force Majeure Event in accordance with best practice.
	6. The affected Party shall notify the other Parties as soon as practicable after the Force Majeure Event ceases or no longer causes the affected Party to be unable to comply with its obligations under this Agreement. Following such notification, this Agreement shall continue to be performed on the terms existing immediately prior to the occurrence of the Force Majeure Event, unless agreed otherwise by the Parties.
4. **PARTNERSHIP**
	1. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership between any of the Parties, constitute any Party the agent of another Party, nor authorise any Party to make or enter into any commitments for or on behalf of any other Party, except as expressly provided in this Agreement.
5. **COUNTERPARTS**
	1. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement. The expression ‘counterpart’ shall include any executed copy of this Agreement transmitted by fax or scanned into printable PDF, JPEG, or other agreed digital format and transmitted as an email attachment. No counterpart shall be effective until each Party has executed at least one counterpart.
6. **VARIATION**
	1. Save and except for clauses 22.2 and 22.3 below, this Agreement shall not be varied unless any variation is in writing and agreed and signed by all Parties (or their authorised representatives).
	2. This Agreement shall be automatically varied to incorporate any relevant statutory changes.
	3. This Agreement shall be varied in line with any amendments or updates to the Specification as notified by the Commissioner from time to time. The Parties agree to use all reasonable endeavours to ensure that the Service is delivered in line with the same.
	4. In the event a person or organisation is added to the PCN Grouping, then this Agreement will be updated in accordance with clause 22.1. above.
	5. Any PCN Member Practice leaving their respective PCN, or, any practice joining any PCN, shall be dealt with in accordance with the processes as set out in the relevant PCN network agreement.
	6. In the event that a leaving PCN Member Practice is also the Host Practice, then the remaining Parties shall agree a replacement Host Practice.
7. **WAIVER**
	1. A waiver of any right or remedy under this Agreement or by law is only effective if it is in writing and signed by the person waiving such right or remedy. Any such waiver shall apply only in relation to the circumstances in which it is given and shall not be deemed by any party to be a waiver of any subsequent breach or default.
	2. Any failure of delay by any Party to exercise any right or remedy provided under this Agreement or by law, shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy.
	3. The failure by any Party to insist upon the strict performance of any provision, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach thereof shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.
8. **NOTICES**
	1. A notice given to a Party under or in connection with this Agreement:
		1. shall be in writing;
		2. shall be signed by or on behalf of the party giving it;
		3. shall be sent to the relevant party for the attention of the contact and to the address specified in clause 24.2., or such other address, or person as that Party may notify to the other in accordance with the provisions of this clause 24;
		4. shall be:
			1. delivered by hand; or
			2. sent by pre-paid first class post, recorded delivery or special delivery; or
			3. sent by email;
			4. is deemed received as set out in clauses 24.3.1, 24.3.2. and 24.3.3.
	2. The addresses for service of notices are:
		1. The Host Practice:
			1. postal address: As per the address set out in column 2 of the table at Schedule 1;
			2. email address: As per the email address set out in column 4 of the table at Schedule 1;
			3. for the attention of: As per the contact name set out in column 3 of the table at Schedule 1; and,
		2. The PCN Member Practices:
			1. postal address: as per the addresses as set out in column 2 of the table at Schedule 1;
			2. email address: as per the email addresses as set out in column 4 of the table at Schedule 1;
			3. for the attention of: as per the contact name listed in column 3 of the table at Schedule 1.
	3. Delivery of a notice is deemed to have taken place (provided that all other requirements in this clause 24 have been satisfied):
		1. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address; or
		2. if sent by pre-paid first class post, recorded delivery or special delivery to an address in the UK, at 9.00 am on the second Business Day after posting; or
		3. if sent by email, upon receipt of an email delivery receipt; or
		4. if deemed receipt under the previous paragraphs of this clause 24.3. would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 am on the day when business next starts in the place of deemed receipt. For the purposes of this clause, all references to time are to local time in the place of deemed receipt.
	4. To prove service, it is sufficient to prove that:
		1. if delivered by hand, the notice was delivered to the correct address; or
		2. if sent by post, the envelope containing the notice was properly addressed, paid for and posted; or
		3. if sent by email, the notice was sent to the correct email address.
	5. This clause 24 does not apply to the service of any proceedings or other documents in any legal action.
9. **SEVERANCE**
	1. If any term or condition of this Agreement shall be held to be invalid, illegal or unenforceable by any court, tribunal or other competent authority, such term shall to the extent required be deemed to be deleted from this Agreement and shall not affect the validity, lawfulness or enforceability of the remainder of the terms of this Agreement.
10. **THIRD PARTY RIGHTS**
	1. A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
11. **INTELLECTUAL PROPERTY RIGHTS**
	1. Nothing in this Agreement or any activity undertaken that is contemplated by this Agreement shall affect the ownership by any Party of any pre-existing intellectual property rights held by any Party prior to this Agreement.
	2. A Party shall not enter into any licence, grant, or enter into any other contract, to use or dispose or exploit any intellectual property belonging to any Party, without the written agreement of the same.
12. **RESCISSION**
	1. Any right of rescission expressly granted to the Parties in this Agreement shall be in addition to, and without prejudice to, any other rights or remedies of the Parties. The exercise or failure by any Party to exercise any right of rescission shall not constitute a waiver of any such other rights or remedies.
13. **SURVIVAL**
	1. The Parties agree that this clause 29 and the following clauses shall survive this Agreement and they shall be bound by the same following any termination: -
		1. Clause 2 - Definitions
		2. Clause 3 - Recitals
		3. Clause 12 - Indemnity
		4. Clause 13 - Disputes and Management
		5. Clause 16 - Confidentiality
		6. Clause 17 - Data Protection
		7. Clause 18 - Freedom of Information
		8. Clause 19 – Force Majeure
		9. Clause 21 - Counterparts
		10. Clause 22 – Variation
		11. Clause 23 - Waiver
		12. Clause 24 - Notices
		13. Clause 25 – Severance
		14. Clause 26 – Third Party Rights
		15. Clause 27 – Intellectual Property Rights
		16. Clause 30 - Governing Law
		17. Clause 31 - Entire Agreement
14. **GOVERNING LAW**
	1. Without prejudice to the Dispute Resolution process referred to herein in relation to any dispute, legal action or proceedings arising under this Agreement (including non-contractual disputes or claims), this Agreement shall be governed by, and construed in accordance with, the law of England and Wales.
	2. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales which shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).
15. **ENTIRE AGREEMENT**
	1. The Parties agree that this Agreement and its schedules, constitutes the whole agreement governing the contractual relationship between them. This Agreement shall not be varied or amended unless in writing and agreed and signed by all Parties.

Dated this………………….day of……………………………………………………2020

Signed by: ………………………………………………………..

on behalf of [X] PRACTICE

Signature: ………………………………………………………..

Dated this………………….day of……………………………………………………2020

Signed by: ………………………………………………………..

on behalf of [X] PRACTICE

Signature: ………………………………………………………..

Dated this………………….day of……………………………………………………2020

Signed by: ………………………………………………………..

on behalf of [X] PRACTICE

Signature: ………………………………………………………..

## SCHEDULE 1 – PCN GROUPINGS

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **PCN Member Practice Name** | **PCN Member Practice Address** | **Contact Name** | **Contact Email Address** | **PCN Name** |
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## SCHEDULE 2 – SPECIFICATION



## SCHEDULE 3 – STAFF ROTA

## SCHEDULE 4 – PAYMENT TERMS

1. The PCN Member Practices shall invoice the Host Practice on a monthly basis for any sums due under this Agreement, in accordance with clause 8 of this Agreement.
2. Each invoice shall contain a full breakdown of the monthly costs associated with providing the Service.
3. The Host Practice shall pay each undisputed invoice received in accordance with this Schedule within twenty-eight (28) days of the invoice date, at the latest.
4. Where the Host Practice raises a query in respect of an invoice, the relevant Parties shall liaise with each other and agree a resolution to such query within fourteen (14) days of the query being raised. If the Parties are unable to agree a resolution within the required period, the query shall be referred to Dispute Resolution.

## SCHEDULE 5 – DATA SHARING AGREEMENT

## SCHEDULE 6 – DECISION-MAKING PROCESS

## SCHEDULE 7 – DISPUTE RESOLUTION

1. The Parties as set out in this Agreement shall agree that in the event of a dispute between some or all of them, they shall use all best endeavours to resolve the dispute amicably. In the event that the Parties in dispute cannot resolve the dispute amicably, an appeal panel shall be constituted comprising of the following representatives:
	1. One representative from each Party in dispute, who shall hold a senior/managerial role within their respective organisation;
	2. One independent representative, who shall be either a clinician or manager, as agreed by all the Parties.
2. The panel shall meet within a timeframe of 2 weeks and shall hear the dispute from all Parties by way of oral and/or documentary evidence. The panel shall make its recommendations within 5 days of hearing the dispute and the Parties to the dispute shall be informed of the decision forthwith.
3. Failing an amicable resolution of the dispute, the Parties to the dispute shall agree to resolve the dispute by way of mediation, through a single mediator, to be appointed by agreement. The costs are to be borne equally by the Parties to the dispute.
4. In the event that mediation still fails to resolve the dispute in question, then the Parties to the dispute agree that they shall promptly refer the dispute to an independent arbitrator of their joint choosing, whose decision shall be final and binding on the Parties. The arbitration shall be conducted in accordance with the provisions of the Arbitration Act 1996 (save for where expressly modified by the arbitrator) and the juridical seat of the arbitration shall be England. The costs of the arbitrator shall be borne equally between the Parties to the dispute.