Dated 2017



**AGREEMENT**

**FOR PROVISION OF SERVICES**

**Between**

**SOUTH CHARNWOOD GP FEDERATION LIMITED**

**And**

**[x] PRACTICE**

LMC LAW LIMITED

52 High Street Harrow

London HA1 3LL

Company Registered in England in Wales

Registration Number 08977566

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**This Agreement** is made the day of 2017

**BETWEEN**:

1. **SOUTH CHARNWOOD GP FEDERATION LIMITED** registered as a limited company in England and Wales, company registration number X, whose registered office is situated at Rosebery Medical Centre, Rosebery Street, Loughborough, Leicestershire, LE11 5DX, hereinafter referred to as **‘the Company**’;

**AND**

1. **The GP Practices** as listed at Schedule 1 of this Agreement hereinafter referred to as ‘**the Practice**’.

Hereinafter collectively referred to as ‘**the Parties**’

1. **INTRODUCTION**
   1. The Company holds a Public Health Services Contract, dated 3rd April 2017 (**‘the Contract’**), with Leicestershire County Council (**‘the Commissioner’**), for the delivery of the Services, as set out in Schedule 2, within the Area.
   2. The Company shall deliver the Services by way of sub-contracting the delivery of the same to the Practice, as listed in Schedule 1. On that basis, the Practice shall agree to deliver and provide the Services, as set out in this Agreement, in a manner which is wholly consistent with the aims and objectives of:-

* This Agreement and its Schedules;
* The Contract (as set out in Schedule 3);
* The Services (as set out in Schedule 2)

For the avoidance of doubt, this clause 1.2 shall be taken to include and apply to any variation, amendment, replacement, or supplement to this Agreement and/or its Schedules, the Contract, and the Services, whether by agreement, imposition, or application of law.

* 1. The terms and conditions of the Contract shall be applicable fully to the Practice and reference to ‘Provider’ within that Contract shall be taken to mean the Practice for the purposes of this Agreement where relevant and applicable.
  2. The Practice has agreed to work in collaboration with the Company in order to achieve the following:-
* to enhance care and Service User experience equitably across the Area;
* to comply in full in respect of the delivery of KPIs, as required under the Contract;
* to deliver the Services to the highest standards, but specifically in relation to the requirements under the Contract and the Services.
  1. The Services shall be provided at the Practice Premises (**‘the Premises’**), as set out in Schedule 2 which may be accessed by each Service User in the Area. Each of the Premises shall be separately CQC registered.
  2. The Parties agree that they shall use all their respective unique expertise and experience as necessary, to ensure the objectives as set out in the Contract, and this Agreement, are achieved. The Practice, therefore, has agreed to administer and provide the Services in accordance with, and as described under, this Agreement on behalf of the Company.
  3. This Agreement shall be reviewed by the Parties on a regular basis in line with any strategic changes to the delivery of Public Health Services between the Company and the Commissioner.

1. **DEFINITIONS**
   1. In this Agreement the following words and definitions shall have the following meanings, unless the context otherwise requires, but shall **where applicable and where the context so permits** (and not specifically varied or excluded) also incorporate the definitions contained within the Contract.
   2. In the event of any conflict between those definitions and the definitions contained within this Agreement, the definitions in the Contract shall prevail:

**‘Area’** means: the county of Leicestershire

**‘Confidential Information’** means: All information relating to the Parties, including all information relating to Service Users, prospective business, technical processes, intellectual property and finances

**“Commissioner”** means: Leicestershire County Council

**‘Effective Date’** means: The start date of this Agreement, which is 3rd April 2017

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. References to terms (defined or otherwise) shall have the same meaning as set out in the Contract where relevant and applicable here.
   6. In the event that any other clauses in this Agreement (save for the definitions), conflict with the Contract, then this Agreement will prevail unless otherwise specifically excluded by this Agreement or by the Parties by mutual agreement.
2. **OBLIGATIONS OF THE PRACTICE**
   1. The Practice shall agree to provide details to the Company of any individual (‘the Administrator’) who shall at all times liaise between the Practice and the Company to facilitate the administration and provision of this Agreement, the Services, and the Contract, including any process for Service Users to access the Services. The process to access the Services is set out below:-
      1. The Services shall be provided at the Premises;
      2. The Service User shall be provided with the Services on attendance at the Premises and the Practice shall ensure that the Service User’s record is updated accordingly.
   2. The Practice shall ensure that the Services administered by them are fulfilled to the best possible standard and ability and, in any event, in line with this Agreement and the Contract, and shall ensure that any administrative arrangements are of a standard to ensure the smooth and efficient running of the Services.
   3. If, for whatever reason, including sickness, the Administrator or any other member of staff within the Practice is unable to fulfil his duties then the Practice shall use all best endeavours to put into place an adequate replacement.
   4. In the event that the Practice is aware of any issue, howsoever arising (including but not limited to; sickness, absence, or incapacity), which may or will have an impact on the delivery of the Services, such impact which could result in the Company being placed in breach, or potential breach, of the Contract, then the Practice shall;
      1. Use all best endeavours to eliminate or mitigate any impact on the Services;
      2. Inform the Company as soon as practicable with a view to collaborating with the Company to eliminate any impact on the Services or to put suitable alternative arrangements in place.
   5. The Practice agree to sign the Data Sharing Agreement, as set out in Schedule 6, and to ensure the same is delivered in signed copy to the Company prior or at the date of this Agreement.
3. **OBLIGATIONS OF THE COMPANY**
   1. The Company agrees as follows:
      1. To agree to use the Practice for the delivery of the Services exclusively, and shall not, itself or via any collaboration with, deliver in conjunction with any person, organisation or body, or use any other person, organisation or body, in competition with the Services under this Agreement during the existence of this Agreement.
      2. To inform the Practice, as soon as reasonably possible, of any changes to the Company business, including any mergers with other organisations or any other changes of a significant nature which may impact on the Services.
   2. For the avoidance of doubt, in the event that the Practice, or any one of them, fails to deliver the Services in accordance with the terms and conditions of this Agreement and/or the Contract, then the Company shall have the right to terminate this Agreement with the Practice, or either one of them, and shall be entitled to transfer this Agreement to another practice or provider.
   3. For the avoidance of doubt, any termination of this Agreement with one Practice shall not affect the terms and conditions and/or obligations in respect of this Agreement with any other.
4. **SERVICE USER DATA**
   1. The Practice shall agree to make available to the Company any relevant Service User and other data and provide access to the Practice’s clinical systems to enable the Company to perform any obligations as set out in the Contract, including but not limited to enabling the Company to:-
      1. deal with any queries from the Commissioner directly relating to the Services;
      2. check whether any Service User is registered as a NHS patient in order to confirm eligibility to receive the Services;
      3. access the Service User’s record to obtain information on the Service User for the purpose of fulfilling any obligations to the Commissioner;
      4. to provide any relevant information to any subsequent provider.
5. **COMMENCEMENT AND TERMINATION**
   1. This Agreement shall commence from the Effective Date and shall remain in force until terminated by either Party giving at least three months’ notice in writing.
   2. This Agreement may be terminated by mutual agreement of the Parties or any one of them.
   3. In the event of a material breach of this Agreement by the Practice, the Company shall have the right to terminate this Agreement without notice. Material breach includes but is not limited to:-
      1. failure to perform the Services in accordance with this Agreement and the Contract;
      2. failure to adhere to any information governance requirements;
      3. any action or inaction resulting in a serious incident or event giving rise to a remedial or breach notice being issued by the Commissioner to the Company.
   4. In the event that the Company fails to make payment to the Practice, in accordance with the terms of any invoice, then the Practice shall invoke the dispute resolution process, as set out in Schedule 5, in order to resolve any issue..
6. **FEES**
   1. Payment terms are as attached in Schedule 4 herein. For the avoidance of doubt, any payment terms shall include and be subject to the terms of this clause 8 and Schedule 4.
   2. The Company shall be responsible for making payment to the Practice, in accordance with Schedule 4.
   3. The Practice shall be responsible for meeting any financial requirements allocated to it under this Agreement and Schedule 4 and for meeting any financial requirements allocated to it under this Agreement.
   4. Payment to the Practice by the Company under Schedule 4 shall be accepted by the Practice in full satisfaction of the Services, save and except, this shall not waive any right of the Company to take any action against the Practice in respect of any complaint, dispute, or breach by the Practice of any obligation under this Agreement and/or the Contract, or in relation to the delivery of the Services which may arise after payment has been made.
   5. Where there is a dispute over any payment under this Agreement or any dispute over the delivery of the Services, then the Parties shall make every attempt to resolve the dispute in the first instance. Any failure to resolve such dispute shall be dealt with under the dispute resolution process as set out in Schedule 5.
   6. Neither Party shall take any action against each other in respect of any issue arising out of this Agreement and/or the Contract without first exhausting the process as set out herein.
7. **DATA PROTECTION**
   1. In accordance with the Data Protection Act 1998, the Company and the Practice shall ensure that any personal data (including sensitive data as defined under the Data Protection Act 1998) relating to any Service User shall be processed, held or utilised where necessary and reasonable in relation to the performance of the Services only, the conduct of the Parties business or as otherwise required by law.
   2. The Parties shall use all best endeavours to ensure that they inform any relevant Party of any changes to their personal data including contact numbers.
8. **LIABILITY AND INDEMNITY**
   1. The Practice shall ensure that any employee and/or agent/representative of the Practice who is involved in the delivery of the Services is fully appraised of any obligations, sanctions and/or other liabilities as set out in this Agreement, and the Contract, and shall use all best endeavours to ensure that those obligations are applied accordingly.
   2. Where the Commissioner considers that there has been a breach of Services delivery during the course of the delivery of the Services and either raises the issue informally or formally with the Company then, the Company shall inform the Practice and the Practice shall use all best endeavours together to remedy any breach. Any costs associated with any breach which covers the period to which the Services applies shall be the sole responsibility of the Practice.
   3. The Practice agrees to indemnify and keep indemnified the Company, against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses, howsoever arising, whether directly or indirectly, in respect of the provision of the Services under this Agreement.
9. **GOVERNANCE**
   1. The Practice is an individual organisation with its own individual governance arrangements. Where possible and without prejudice to any other terms in this Agreement, the Parties will agree to work together to integrate any governance and ensure that Services management and administration matters are coordinated as best possible.
   2. For the avoidance of doubt, the Practice, where necessary, shall ensure that it liaises with the Company, and any other Practice, in respect of Services management and administrative matters in order that the Parties may ensure an integrated approach.
   3. In the event of any Service User safety incidents or information governance breaches the Company and the Practice shall work together and collectively to ensure that any information relating to any such breach is shared for the purposes of any investigations and/or remedial plans to be put into place.
   4. The Practice shall have published a complaints procedure and in the event of a complaint during the course of this Agreement by a Service User, the relevant Parties shall work together to ensure that they respond and manage any complaint raised in accordance with that procedure. The Parties agree to support each other in responding to, co-ordinating any response to any complaint.
   5. For the avoidance of doubt, the Parties shall be obliged to consider any complaint when it arises to understand whether the complaint relates to the Services or falls outside of the Services under this Agreement and the Parties shall only be obliged to deal with it under the terms of this Agreement if the complaint relates to the period of time during which this Agreement is applicable.
   6. The Practice shall ensure that any of its employees, agents, representatives and/or contractors who shall be involved in delivering the Services shall have all relevant qualifications, regulations and certificates and any other mandatory requirements necessary to deliver the Services.
   7. The Practice must, at its own cost, effect and maintain the Required Insurances. The cover shall be in respect of all risks which may be incurred by the Practice, arising out of the Practice’s performance of the Services, including death or personal injury, loss of or damage to property or any other such loss, howsoever arising. For the avoidance of doubt, such policies must include cover in respect of any financial loss arising from any advice given or omitted to be given by the Practice.
   8. The Required Insurances shall include, but shall not limited to, £5 million public liability insurance, £5 million employer’s liability insurance, for the delivery of the Services, and a policy that provides at least £2 million cover for medical malpractice/clinical negligence.
   9. The Practice must provide to the Company, on request, a copy of, or a broker's placement verification of, the Required Insurances, together with receipts or other evidence of payment of the latest premiums due under those policies.
   10. The provision of any Required Insurances or the amount or limit of cover will not exclude or limit the Practice’s liabilities under this Agreement.
   11. The Company shall ensure the Practice is provided with any and all relevant information it may require for the provision of the Services.
10. **LEGAL**
    1. The Parties acknowledge that the Contract (as applicable), together with this Agreement and its Schedules, are applicable in full to the Parties, and shall consist of the whole agreement governing the contractual relationship between them. This Agreement shall not be varied unless agreed and signed in writing by all Parties, in accordance with the variation provisions.
    2. For the avoidance of doubt, any conflicts between this Agreement and the Contract, then the Contract shall apply.
    3. The Parties accept that the Contract (as applicable) may be varied as between the Commissioner and the Company (as applicable), and that any such variation shall apply to the Practice under this Agreement.
    4. This Agreement is governed by the laws of England and Wales and subject to the exclusive jurisdiction of the English courts.
11. **CONFIDENTIAL INFORMATION**
    1. The Parties undertake not at any time, whether during the life of this Agreement or thereafter, to use, divulge or communicate to any person this Agreement or any Confidential Information relating to this Agreement.
12. **WAIVER DELAY OR FAILURE TO EXERCISE RIGHTS**
    1. The failure or delay to exercise any right under this Agreement or to enforce any one or more of the terms and conditions of this Agreement shall not be construed as a waiver of any of them or, the right to exercise any of the rights or conditions of this Agreement.
    2. The Company during the course of providing the Services will have access to data and Service User information records of the Practice. In order to safeguard this information the Parties agree to ensure that a separate confidentiality agreement is signed whereby the Parties agree not to use, divulge or communicate to any person any Service User information or data that he has acquired during the delivery of the Services.
13. **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.
14. **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. The Company shall not enter into any licence, grant or other contract to use or dispose or exploit any intellectual property belonging to the Practice without the written agreement of the Practice.

Dated this………………….day of………………………………………………………..2017

Signed by: ………………………………………………………..

on behalf of **SOUTH CHARNWOOD GP FEDERATION LIMITED** **(the Company)**

Signature: ………………………………………………………..

Dated this………………….day of………………………………………………………..2017

(1) Signed by: ………………………………………………………..

on behalf of **……………………………………………… (The Practice)**

Signature: ………………………………………………………..

**Schedule 1 – Name & Address of the Practice**

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| --- | --- |
| **Practice** | **Practice Premises** |
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**Schedule 2 – The Services**

**Schedule 3 – The Contract**

**Schedule 4 – Payment Terms**

**The Company shall pay the Practice, for the provision of the Services, as set out below:-**

1. Subject always to any provision of this Agreement, in consideration for the provision of the Services, the Company shall pay the Practice the Charges.

2. The Parties shall to the extent reasonably practicable agree the Charges (subject to any deductions as set out in 5 below) in a transparent and equitable manner and the Charges shall be set out at Appendix E of the Contract (Schedule A) (Charges).

3. The Practice shall invoice the Company for payment of the Charges at the end of each quarter (or such other frequency agreed between the Parties in writing) which the Company shall verify and pay within 45 Business Days of receipt.

4. The Charges are stated exclusive of VAT, which shall be added at the prevailing rate, as applicable, and paid by the Company following delivery of a valid VAT invoice.

5. The Practice shall pay the Company an administration fee based on 5% of the charges submitted by the Practice at the end of each quarter.

6. The Company shall invoice the Practice for payment of the administration fee at the end of each quarter (or such other frequency agreed between the Parties in writing) which the Practice shall pay within 30 Business Days of receipt.

**Schedule 5 – Dispute Resolution Process**

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. Such resolution shall take place within 7 days of the Company being notified of the dispute, after which an appeal panel shall be constituted comprising of the following representatives:

a. One Local Medical Committee (**‘LMC’**) representative who is not employed or a partner within a practice that forms part of the Company;

b. One representative from each party who shall hold a senior/managerial role within their respective organisation;

c One independent person agreed by both Parties (relevant to nature of dispute e.g. Clinician or manager and funded by both Parties).

2. The panel shall meet within a timeframe of 4 weeks and shall hear the dispute from both parties by way of oral and/or documentary evidence. The panel shall make its recommendations within 2 weeks 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 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.

5. In the event of the parties failing to agree on a choice of arbitrator, then the matter shall be promptly referred, either or jointly, by both parties to the chairman of the LMC whose decision as to the choice of arbitrator shall be final and binding on the Parties.

**Schedule 6 – Data Sharing Agreement**