SELF EMPLOYED CLINICAL DIRECTOR ENGAGED UNDER THE FEDERATION MODEL

DATED                                                                      20

[FEDERATION NAME]

[CLINICAL DIRECTOR'S NAME]

|  |
| --- |
| AGREEMENT TO PROVIDE SERVICES TO A PRIMARY CARE NETWORK AS CLINICAL DIRECTOR |



**THIS AGREEMENT** dated [DATE] is made between the following parties :

1. [FEDERATION NAME] OF [ADDRESS] (**The Federation**); and
2. [INDIVIDUAL NAME] of [ADDRESS] (**Consultant**).

**Now it is agreed** as follows:

# Interpretation

## The definitions and rules of interpretation in this clause apply in this Agreement (unless the context requires otherwise).

|  |  |
| --- | --- |
| Associate Member | An associate member of the Primary Care Network as defined and set out in the Network Agreement for the Primary Care Network |
| Board | the board of the Primary Care Network to which the Services are to be provided under this Engagement; |
| Capacity | as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity; |
| Commencement Date | [DATE OF COMMENCEMENT OF ENGAGEMENT] |
| Confidential Information  Data Protection Legislation | information in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, patients, staff, customers, products, affairs and finances of the Federation, Members and Associate Members being confidential to the Federation, Members and Associate Members and trade secrets including, without limitation, technical data and know-how relating to the business of the Federation, Members and Associate Members from time to time, or any of their suppliers, patients, staff, customers, agents, distributors, partners, shareholders, management or business contacts, and including (but not limited to) information that the Consultant creates, develops, receives or obtains in connection with their Engagement, whether or not such information (if in anything other than oral form) is marked confidential;  all applicable laws from time to time in force in England and Wales on data protection, including but not limited to the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) 2003, the General Data Protection Regulations (EU) 2016/679 and the Data Protection Act 2018, as amended or updated from time to time; |
| Engagement | the engagement of the Consultant by the Federation on the terms of this Agreement; |
| Member | a member of the Primary Care Network as defined and set out in the Network Agreement for the Primary Care Network; |
| Personal Data | data relating to any living individual who can be identified from that data, or who can be identified from that data and any other data which is likely to come into the possession of the Federation, Members and Associate Members; |
| PCN | The [NAME] Primary Care Network operated by the Federation to which the Consultant will provide Services as Clinical Director which comprises the Members and Associate Members from time to time. |
| Services | the services provided by the Consultant as Clinical Director in a consultancy capacity for the Primary Care Network as more particularly described in The Appendix; |
| Termination Date | the date of termination of this Agreement, howsoever arising; |

## The Appendix to this Agreement forms part of (and is incorporated into) this Agreement.

# Term Of Engagement

## The Federation shall engage the Consultant to provide the Services of Clinical Director of the PCN on the terms of this Agreement. By the Consultant contracting directly with the Federation, the Services are being provided by the Contractor for the equal benefit of all Members and Associate Members.

## The Engagement shall [commence **OR** be deemed to have commenced] on the Commencement Date and shall continue [until [DATE], on which day this agreement shall automatically terminate] unless and until terminated [earlier]:

### as provided by the terms of this Agreement; or

### by either party giving to the other not less than [three] months' prior written notice.

# Duties And Obligations

## During the Engagement the Consultant shall:

### provide the Services of Clinical Director of the PCN with all due care, skill and ability; and

### report to the Board at such times and in such manner as are required from time to time;

### unless prevented by ill health or accident, devote at least [NUMBER] [hours **OR** days] in each calendar month to the carrying out of the Services together with such additional time if any as may be necessary for their proper performance.

## If the Consultant is unable to provide the Services due to illness or injury, they shall advise the Federation and the Board of that fact as soon as reasonably practicable. [For the avoidance of doubt, no fee shall be payable in accordance with clause 4 in respect of any period during which the Services are not provided.]

## Unless they have been specifically authorised to do so by, as appropriate, the Federation, the Board any Member or Associate Member in writing, the Consultant shall not:

### have any authority to incur any expenditure in the name of or for the account of the Federation, the Board, any Member or Associate Member; or

### hold themselves out as having authority to bind the Federation, the Board, any Member or Associate Member.

## The Consultant shall comply with all applicable laws, regulations, codes and legal obligations in the provision of the Services.

# Fees

## The Federation shall pay the Consultant a fee of £[AMOUNT] per [hour **OR** day] excluding any VAT. [On the last working day of each month during the Engagement the Consultant shall submit to the Federation an invoice which gives details of the [hours **OR** days] the Consultant has worked during the month in the provision of the Services, the Services provided and the amount of the fee payable for the Services during that month.]

## In consideration of the provision of the Services during the Engagement, the Federation shall pay [each invoice submitted by] the Consultant in accordance with clause 4.1 within [NUMBER] days of receipt.

# Expenses

## [The Federation shall reimburse all reasonable expenses properly and necessarily incurred by the Consultant in the course of the Engagement, subject to production of receipts or other appropriate evidence of payment.] OR

## [The Consultant shall be responsible for their own expenses].

# Other Activities

## It is acknowledged that the Consultant is likely to hold one or more clinical roles as a GP or in another capacity within the NHS. In addition, nothing in this Agreement shall prevent the Consultant from being engaged, concerned or having any financial interest in any Capacity in any other business, trade, profession or occupation during the Engagement provided that such activity does not cause a breach of any of the Consultant's obligations under this Agreement;

# Confidential Information

## The Consultant acknowledges that in the course of the Engagement they will have access to Confidential Information. The Consultant has therefore agreed to accept the restrictions in this clause.

## The Consultant shall not (except in the proper course of their duties), either during the Engagement or at any time after the Termination Date, use or disclose to any third party (and shall use their best endeavours to prevent the publication or disclosure of) any Confidential Information. This restriction does not apply to:

### any use or disclosure properly authorised by the Federation, the Board, any Member or Associate Member or required by law; or

### any information which is already in, or comes into, the public domain otherwise than through the Consultant's unauthorised disclosure.

# Data Protection

## The Consultant acknowledges that for the purposes of the Data Protection Legislation, the Federation is a data controller.

## The Federation will ensure that it has all necessary and appropriate consents and notices to enable the Consultant to process Personal Data for the duration and purposes of this Agreement.

## The Consultant shall comply with their obligations under the Data Protection Legislation by:

### providing an adequate level of protection to any Personal Data that is processed by them in the course of their duties during their Engagement;

### comply with reasonable instructions notified to them in advance by the Federation with respect to the processing of any Personal Data;

### assist the Federation in responding to any request from a data subject;

### assist the Federation in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators if required;

### notify the Federation as soon as practicable on becoming aware of a Personal Data breach; and

### at the written direction of the Federation, delete or return Personal Data and copies thereof to the Federation on termination of the Agreement.

## The Federation holds and processes, both electronically and manually, Personal Data relating to the Consultant in accordance with the Data Protection Legislation and the Federation’s data protection policies for legal, personnel, administrative and management purposes, for insurance purposes and in order to comply with legal requirements and obligations to third parties. This includes without limitation, as appropriate, the Consultant's references, bank details, contact details and emergency contact details. The Federation will continue to process personal data relating to the Consultant after termination of the Engagement in accordance with the Federation’s privacy policies, privacy notices and in accordance with the Federation’s document retention policy.

## The Federation may share the Consultant’s data internally, if access to the data is necessary for performance of the roles of the persons to whom the data have been or will be disclosed, or such other relevant colleagues when this is in the interests of the Federation.

## The Federation may share the Consultant’s contact details and related business information with the Members, Associate Members, the Board, [LIST HERE OTHER ENTITIES WHICH ARE LIKELY TO RECEIVE THE CD’S CONTACT DETAILS].

## The Federation shall be entitled to make such information available to its advisors including insurers, insurance brokers, accountants, auditors, lawyers, benefit providers, other brokers, caterers, and other third parties who provide products and/or services to the Federation, the Members and the Associate Members as well as to regulatory authorities, governmental or quasi-governmental organisations and potential purchasers of the Federation, any Member or Associate Member.

## The Federation may appoint a third party as a third-party processor of Personal Data under this Agreement.

# Termination

## Notwithstanding the provisions of clause 2.2, the Federation may terminate the Engagement with immediate effect with no liability to make any further payment to the Consultant (other than in respect of amounts accrued before the Termination Date) if at any time the PCN shall wind up or otherwise cease to exist, or if the Consultant:

### commits any gross misconduct;

### commits any serious or repeated breach or non-observance of any of the provisions of this Agreement or refuses or neglects in the provision of the Services to comply with any reasonable and lawful directions of the Federation or the Board;

### is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);

### is in the reasonable opinion of the Federation or the Board negligent or incompetent in the performance of the Services;

### is declared bankrupt or makes any arrangement with or for the benefit of their creditors or has a county court administration order made against them under the County Court Act 1984;

### is incapacitated (including by reason of illness or accident) from providing the Services for an aggregate period of [NUMBER] days in any [52-week] consecutive period;

### commits any fraud or dishonesty or acts in any manner which in the opinion of the Federation or the Board brings or is likely to bring the Consultant, the Federation, the Board or the Members or Associate Members into disrepute or is materially adverse to the interests of the Federation, the Board or the Members or Associate Members.

## The rights of the Federation under clause 9.1 are without prejudice to any other rights that it might have at law to terminate the Engagement or to accept any breach of this Agreement on the part of the Consultant as having brought the agreement to an end. Any delay by the Federation in exercising its rights to terminate shall not constitute a waiver of these rights.

# Obligations On Termination

## On the Termination Date the Consultant shall:

### immediately deliver to the Federation or any individual Member or Associate Member, any property belonging to the Federation or that Member or Associate Member in the possession or under the control of the Consultant;

### irretrievably delete any information relating to the Federation, Members and Associate Members stored on any magnetic or optical disk or memory and all matter derived from such sources which is in the possession or under the control of the Consultant; and

### provide a signed statement that they have has complied fully with their obligations under this clause.

# Status

## The relationship of the Consultant to the Federation will be that of independent contractor and nothing in this Agreement shall render the Consultant an employee, worker, agent or partner of the Federation, or of any Member or Associate Member and the Consultant shall not hold themselves out as such.

## This Agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant shall be fully responsible for and shall indemnify the Federation and each Member and Associate Member for and in respect of:

### any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services, where the recovery is not prohibited by law. The Consultant shall further indemnify the Federation and each Member and Associate Member against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Federation in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the Federation’s negligence or wilful default;

### any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Consultant against the Federation or individual Member or Associate Member arising out of or in connection with the provision of the Services.

## The Federation may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Consultant.

# Entire Agreement and Previous Contracts

## Each party on behalf of itself acknowledges and agrees with the other party that this Agreement, together with any documents referred to in it, constitutes the entire agreement and understanding between the Consultant and the Federation in relation to the Engagement, and supersedes any previous arrangement, understanding or agreement between them relating to the Engagement (which shall be deemed to have been terminated by mutual consent);

# Variation

No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

# Third Party Rights

## Except as expressly provided elsewhere in this Agreement 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 but this does not affect any right or remedy of a third party which exists, or is available, apart from under that Act.

## The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any person that is not a party to this Agreement.

## Notwithstanding the terms of clause 14.2, the Federation shall be entitled to take into account the representations of the Board in respect of the Consultant’s performance and conduct in the provision of the Services in exercising its rights and obligations under this Agreement.

# Governing Law And Jurisdiction

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

## The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Signed on behalf of the Federation by:

Date:

Signed by the Consultant

Date

The Appendix

Services

The Consultant shall provide the services of Clinical Director of the PCN. The overall objective of the Services is to lead and organise the provision of medical care across the entire PCN, and provide leadership for its strategic plans, by working with Members and Associate Members to improve the quality and effectiveness of the PCN’s services.

The Consultant will play a critical role in shaping and supporting the Integrated Care System (ICS), helping to ensure full engagement of primary care in developing and implementing local system plans to implement the *NHS Long Term Plan*.

This will include

* The provision of strategic and clinical leadership to the PCN, developing and implementing strategic plans, leading and supporting quality improvement and performance across member practices (including professional leadership of the Quality and Outcomes Framework Quality Improvement activity across the network).
* Influencing, leading and supporting the development of excellent relationships across the network to enable collaboration for better patient outcomes.
* The provision of strategic leadership for workforce development, through assessment of clinical skill-mix and development of network workforce strategy.
* Supporting network implementation of agreed service changes and pathways, working closely with member practices, the wider PCN and the commissioner to develop, support and deliver local improvement programmes aligned to national and local priorities.
* Developing relationships and working closely with other network Clinical Directors, clinical leaders of other health and social care providers, local commissioners and Local Medical Committees (LMCs).
* Facilitating practices within the network to take part in research studies and acting as a link between the network and local primary care research networks and research institutions.
* Representing the network at CCG-level clinical meetings and the ICS/STP,
* Contributing to the strategy and wider work of the ICS.