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| Dated  2019 |
| SHAREHOLDERS’ AGREEMENT  |
| Relating to |
| **LEEDS GENERAL PRACTICE CONFEDERATION LIMITED**COMPANY NO. 11250872  |

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**THIS AGREEMENT** is made on 2019.

**BETWEEN:**

1. Those person whose details are set out in Part 1 of the Schedule to this Agreement, together collectively referred to as the “**Initial** **Shareholders**”, and
2. **LEEDS GENERAL PRACTICE CONFEDERATION LIMITED** a private company limited by shares registered in England and Wales under company registration number 11250872 whose registered office is at Central Square, 5th Floor 29 Wellington Street, Leeds LS1 4DL (“**the Company**”).

**BACKGROUND:**

1. The Company was incorporated as a private company limited by shares on 12 March 2018;
2. The Initial Shareholders are the current Shareholders of the Company as at the date of this Agreement;
3. The Company has been established and will be operated in a manner that will enable it to supply services to its shareholders without charging Value Added Tax under the VAT Cost Sharing Exemption (as described in Part 2 of the Schedule); and
4. The Initial Shareholders and the Company have agreed that, for the purpose of regulating their relationship with each other with regard to Recital C above, they will comply with the terms and conditions of this Agreement, the terms of the Articles and any other shareholders’ agreement agreed from time to time.

**IT IS AGREED** **AS FOLLOWS**:

DEFINITIONS AND INTERPRETATION

In this Agreement:

* 1. Unless there be something in the subject or context inconsistent therewith, the following expressions have the following meanings:

|  |  |
| --- | --- |
| 1. **“2006 Act”**
 | 1. means the Companies Act 2006;
 |
| 1. **“5% Test”**
 | 1. means the requirement to undertake a minimum amount of 5% of VAT exempt and/or non-business activities;
 |
| 1. **“85% Test”**
 | 1. means the requirement to undertake a minimum amount of 85% of VAT exempt and/or non-business activities;
 |
| 1. **“Accountants”**
 | 1. means RSM Accountants of Central Square, 5th Floor 29 Wellington Street, Leeds LS1 4DL or such other firm of accountants as may be appointed by the Executive Board from time to time;
 |
| 1. **“Accounting Date”**
 | 1. means 31 March in each year or such other date as the Executive Board may from time to time designate;
 |
| 1. **“Accounting Period”**
 | 1. means the period of twelve (12) months ending on an Accounting Date;
 |
| 1. **“Agreement Date”**
 | 1. means the last date of execution hereof;
 |
| 1. **“Articles”**
 | 1. means the articles of association of the Company as amended from time to time;
 |
| 1. **“Chief Executive Officer”**
 | 1. means the Chief Executive Officer of the Company from time to time;
 |
| 1. **“Costs”**
 | 1. means cash payments, start-up costs, accruals, overheads, amounts required to meet future expenditure, discounts and depreciation of assets;
 |
| 1. **“CSG”**
 | 1. means a VAT Cost Sharing Group under the VAT Cost Sharing Exemption;
 |
| 1. **“Directly Attributable”**
 | 1. means directly attributable (using Partial Exemption methodology) to the Shareholder’s VAT exempt and/or non-business activities;
 |
| 1. **“Effective Date”**
 | 1. means 1 April 2019;
 |
| 1. **“Executive Board”**
 | 1. means the board of directors of the Company from time to time;
 |
| 1. **“Further Shareholders”**
 | 1. means the Shareholders of the Company who become Shareholders subsequent to the Initial Shareholders;
 |
| 1. **“HMRC”**
 | 1. means Her Majesty’s Revenue and Customs;
 |
| 1. **“Intellectual Property Rights”**
 | 1. means any patent, copyright, registered design or unregistered design right, trade mark and any application for any of the foregoing, knowhow and any other right of a similar nature;
 |
| 1. **“Parties”**
 | 1. means the Initial Shareholders and the Company;
 |
| 1. **“Schedule”**
 | 1. means the Schedule in 3 Parts, annexed to and forming part of this Agreement;
 |
| 1. **“Service”**
 | 1. means the services to be provided by the Company to its shareholders as agreed from time to time by the Executive Board in accordance with the Articles;
 |
| 1. **“Shareholders”**
 | 1. means the Shareholders of the Company from time to time (and the expression “Shareholder” shall be construed accordingly) which shall include the Initial Shareholders and any Further Shareholders;
 |
| 1. **“VAT Cost Sharing Exemption”**
 | 1. means exemption from VAT under Group 16, Schedule 9 of Value Added Tax Act 1994; and
 |
| 1. **“VAT”**
 | 1. means value added tax;
 |
| 1. **“Year”**
 | 1. means a continuous period of twelve (12) months (or such period as otherwise determined by the Executive Board).
 |

* 1. Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re‑enacted.
	2. Subject as herein otherwise expressly defined, words and phrases the definitions of which are contained or referred to in the 2006 Act shall be construed as having the meaning thereby attributed to them but excluding any statutory modification thereof not in force on the date of this Agreement.
	3. Words and phrases the definitions of which are contained or referred to in the Articles shall be construed as having the meaning thereby attributed to them.
	4. Words importing the singular include the plural, words importing any gender include every gender, and words importing persons include bodies corporate and unincorporate; and (in each case) vice versa.
	5. Reference to Clauses and the Schedule are references to Clauses and the Schedule of this Agreement and any reference to a sub‑provision is, unless otherwise stated, a reference to a sub‑provision of the provision in which the reference appears.
	6. Headings and any sub-headings are inserted for convenience only and shall not affect interpretation of this Agreement.

SUBSCRIPTION TERMS AND CONDITIONS

The Shareholders agree to use the Service on the terms and conditions as notified to them from time to time by the Executive Board.

VAT COST SHARING GROUP CONDITIONS

* 1. As the Company is a separate taxable entity from its Shareholders it is able to make supplies to its Shareholders which will be exempt from VAT if the conditions of the VAT Cost Sharing Exemption (as described in Part 2 of the Schedule) are met.
	2. The Parties acknowledge that, in relation to the Shareholders, they wish to operate at all times as a CSG and together acknowledge that to do so they must meet and continue to meet the conditions of the VAT Cost Sharing Exemption (as described in Part 2 of the Schedule).

*Qualification*

* 1. Each Shareholder confirms that it believes that, with effect from the Effective Date, it will meet the 85% Test on a regular and consistent basis.
	2. If the condition in clause 3.3 is not met, each Shareholder confirms that it believes that, with effect from the Effective Date, it will meet the 5% Test on a regular and consistent basis, and any services provided to the Shareholder by the Company are Directly Attributable.
	3. The admission of a Further Shareholder to the Company is dependent on its having met the 85% Test in the immediately preceding twelve (12) months or completed partial exemption year end prior to it taking shares in the Company (‘the backward look’), or having an intention in the twelve (12) months immediately following joining the Company to meet the 85% Test (‘the forward look’). If and when the conditions have been met the Further Shareholder will be entitled to receive all of its supplies from the Company exempt from VAT for as long as it continues to meet the 85% Test.
	4. If the conditions in clause 3.5 are not met, the Company may accept the admission of a Further Shareholder to the Company dependant on its having met the 5% Test, and any services to be provided to the Further Shareholder by the Company being Directly Attributable under the backward look and/or the forward look (as defined below).
	5. Each Shareholder and the Company agrees that it will:
		1. work with the other Shareholders to ensure that, in respect of each Accounting Period, the Company recovers only the Shareholder’s direct reimbursement of its individual share of all the Costs incurred in making the supplies;
		2. take all reasonable steps within its powers to ensure that the supply of legal guidance and support services to Shareholders pursuant to this Agreement is made for the purpose of providing to the Shareholders services directly necessary for their exempt and/or non-business activity (whether under the 85% Test or the 5% Test); and
		3. not make or seek to make any profit in relation to the services the Company supplies to Shareholders (save to the extent the same may be permitted in the operation of a CSG).

*Disqualification*

* 1. If a Shareholder fails to fulfil any of the conditions of the VAT Cost Sharing Exemption (as described in Part 2 of the Schedule), including that it must meet the 85% Test, or if it ceases or expects to cease to meet the 5% Test, or (in the case of the 5% Test) any services provided to the Shareholder by the Company are not Directly Attributable, it shall notify the Chief Executive Officer forthwith.
	2. The Shareholders recognise that the Company should be able to demonstrate to HMRC, when required to do so, that all conditions of the VAT Cost Sharing Exemption (as described in Part 2 of the Schedule) have been met by all Shareholders and shall provide the Executive Board and/or the Chief Executive Officer with all such information as they may request as to the satisfaction of the conditions of exemption and will provide a certificate to the Executive Board on an annual basis, commencing as at 1 April, confirming compliance in such form as the Executive Board may require.
	3. If a Shareholder is unable to meet the 85% Test in any year or to meet the 5% Test, or (in the case of the 5% Test) any services to be provided to the Shareholder by the Company are not Directly Attributable under the backward look and/or the forward look, then HMRC will not accept that all Company supplies to that Shareholder are exempt. All the supplies made by the Company will only become VAT exempt if and when the Shareholder is able to meet the 85% Test again or it is able to demonstrate it will meet the 5%Test, and any services provided to the Shareholder by the Company are Directly Attributable.
	4. If the Shareholder fails to meet the test on the forward look, or has used the one forward looking test available to it, it will have to rely on the backward look to qualify again or the Shareholder may benefit from the exemption to the extent that the supplies from the Company are Directly Attributable. In reviewing this process the Chief Executive Officer will discuss with the relevant Shareholder and the Executive Board the proposed steps that will be required to ensure that the correct test is satisfied in order that a Shareholder is not required to leave the Company or in order that a Shareholder may be re-admitted to the Company.
	5. If and when a Shareholder is no longer entitled to receive exempt supplies from the Company, it is no longer able to remain as a Shareholder of the Company and the Company shall be deemed to have served a Default Notice pursuant to Article 34.3.
	6. Where a Shareholder does not meet the conditions of the VAT Cost Sharing Exemption in force from time to time, including that it must meet the 5% Test on a regular and consistent basis or where it ceases or expects to cease to meet the 85% Test, VAT may become chargeable at the standard rate on all supplies made to that Shareholder from the point in time that they failed the relevant condition. Each of the Shareholders acknowledges that it shall indemnify the other Shareholders and the Company against any liability arising where it has not met these conditions and that any VAT liability thus arising will be recovered from it.

*Re-Qualification*

* 1. A Shareholder may be re-admitted to the Company where it can demonstrate that it has met the 85% Test in the immediately preceding twelve (12) months or completed partial exemption year end (the backward look), or have an intention in the twelve (12) months immediately following to meet the 85% Test (the forward look, if not used already).
	2. Alternatively, a Shareholder may be re-admitted to the Company where it can demonstrate that it meets the 5% Test, and any services to be provided to the Shareholder by the Company will be Directly Attributable under the backward look and/or the forward look.

*Co-operation, etc*

* 1. The Parties acknowledge that each Shareholder has a legal interest in the Company and that the Company is owned and operated by the Shareholders for their co-operative benefit, and is independent of any ownership, control or influence outside the Shareholders.
	2. The Parties and the Company undertake to operate in such a way that they meet all of the conditions of the VAT Cost Sharing Exemption (as described in Part 2 of the Schedule).
	3. The Shareholders acknowledge that the Company may provide services to non-Shareholders which will not benefit from the VAT exemption and which may result in the Company becoming registrable for, and in respect of such services charging, VAT.
	4. The Parties acknowledge that there must at all times be at least two Shareholders of the CSG.

*Direct reimbursement*

* 1. The Parties agree that the direct reimbursement (3.7.1 above) will be a recharge of the all the direct costs incurred by the Company in relation to each individual Shareholder as well as a portion of the general overhead costs.

RESPONSIBILITIES OF THE SHAREHOLDERS

* 1. Each of the Shareholders shall act in good faith towards one another and use reasonable endeavours to procure that (a) the objects of the Company are achieved; and (b) the conditions of the VAT Cost Sharing Exemption (as described in Part 2 of the Schedule) are met and, without prejudice to the foregoing, each of the Shareholders undertakes to the other Shareholders that it will act:-
		1. in accordance with the terms of the Articles; and
		2. timeously and in accordance with the reasonable instructions of the Executive Board with respect to the fulfilment of its obligations under this Agreement.
	2. The Shareholders undertake that they will pay the costs referred to in clause 3.20.
	3. The Shareholders undertake to sign the deed of accession (and any other relative documentation) relating thereto.

DURATION

This Agreement shall commence (or be deemed to have commenced) on the earlier of the Agreement Date and the Effective Date and shall remain in full force and effect unless terminated earlier in accordance with the provisions of Clause 9 (Termination).

PUBLICATION AND ANNOUNCEMENTS

None of the Shareholders shall be entitled to make, or permit or authorise the making of, any press release or other public statement or disclosure concerning this Agreement or the Service without the consent of the Executive Board (save as may be required by law).

INTELLECTUAL PROPERTY

All Intellectual Property Rights in the Service shall be owned by the Company.

CONFIDENTIALITY

* 1. Each Shareholder shall during the full term of this Agreement and thereafter keep secret and confidential all business or technical information, of a confidential or commercially sensitive nature, (“Confidential Information”) disclosed to it by the Company or any of the other Shareholders (or otherwise belonging to the other Shareholders) pursuant to or for the purposes of this Agreement or the Service (and shall procure that its agents, sub-contractors, consultants, students and representatives and/or employees who are involved or become involved in matters pertaining to this Agreement and/or the Company).
	2. The obligations of confidentiality contained in Clause 8.1 shall not apply or (as the case may be) shall cease to apply to confidential Information which:
		1. at the time of disclosure by the disclosing Shareholder, is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving Shareholder;
		2. is already known to the receiving Shareholder (as evidenced by written records) at the time of disclosure of such Confidential Information by the disclosing Shareholder and was not otherwise acquired by the receiving Shareholder from the disclosing Shareholder under any obligation of confidence
		3. the Shareholder is required to disclose by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction.

INSURANCE

The Company shall maintain all necessary insurances, including professional negligence, in respect of the the Services.

BANKERS

* 1. The principal bankers of the Company shall be such bankers as the Executive Board shall from time to time agree.
	2. All Company moneys shall as and when received be paid into the credit of the Company bank account and all securities for moneys shall be promptly deposited in the name of the Company with its bankers.

BOOKS OF ACCOUNT

* 1. Proper books of account or records of all moneys, effects and credits belonging to the Company shall be kept and such accounting records shall be open at any reasonable time to the inspection of the Executive Board.
	2. The books of account and all bills, notes, securities, contracts, letters and papers relating to the Company shall remain and be kept (electronically or otherwise) at such other place or places as shall be determined by the Executive Board.

ANNUAL ACCOUNTS

As soon as reasonably practicable after the end of each Accounting Period an annual operating statement and balance sheet shall be prepared by the Company and made up to the Accounting Date of all the assets and liabilities of the Company and of all its dealings and transactions during the preceding Accounting Period which shall be reviewed by the Accountants.

AMENDMENTS AND VARIATIONS

* 1. This Agreement may only be varied or amended with the written consent of each Shareholder.
	2. This Agreement shall be reviewed after five (5) years from the Effective Date but the Executive Board may at any time decide to review this Agreement.

SEVERABILITY

If any provision or term of this Agreement or any part thereof shall become or be declared illegal, invalid or unenforceable for any reason whatsoever, including provisions having force of Law or by reason of any decision of any Court or other body or authority having jurisdiction over the Parties, it shall be deemed to be deleted from this Agreement in the jurisdiction in question provided always that if any such deletion substantially affects or alters the basis of this Agreement, the Parties shall negotiate in good faith to amend and modify the provisions and terms of this Agreement as may be necessary or desirable in the circumstances.

ASSIGNATION

This Agreement or any of the rights or obligations hereunder may not be assigned or otherwise transferred or sub-contracted by any Party, in whole or in part, without the express prior written consent of the Executive Board.

DISPUTE RESOLUTION

* 1. The Parties shall use all reasonable endeavours acting in good faith to resolve any dispute, claim or proceeding arising out of or relating to this Agreement via the Executive Board. In the event that any disputes cannot be resolved at this level then each Party shall nominate one of its senior executives who has relevant authority to settle the same and those senior executives shall use all reasonable endeavours acting in good faith to resolve the dispute.
	2. If a dispute cannot be resolved under Clause 16.1 the Parties agree that the dispute be referred to an expert with suitable qualifications and expertise to resolve the particular dispute.

NOTICES

* 1. A notice given under this Agreement shall be sent, in writing, for the attention of the person and to the address given in Part 1 of the Schedule (or such other address or person as the relevant party may notify to the other party); and shall either be:
		1. delivered personally; or
		2. sent by pre-paid first-class post or recorded delivery.

MISCELLANEOUS

* 1. Each provision of this Agreement shall be construed separately and, save as otherwise expressly provided herein, none of the provisions hereof shall limit or govern the extent, application or construction of any other of them.
	2. No failure to exercise or delay in the exercise of any right or remedy which any Party may have under this Agreement or in connection with this Agreement shall operate as a waiver thereof, and nor shall any single or partial exercise of any such right or remedy prevent any further or other exercise thereof or of any other such right or remedy.

FURTHER ASSURANCES

The Parties shall do and execute all such further acts and things as are reasonably required to give full effect to the rights given and the transactions contemplated by this agreement.

COUNTERPARTS

This agreement may be executed in any number of counterparts, each of which is an original and which together have the same effect as if each Party had signed the same document.

GOVERNING LAW

* 1. This Agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England and Wales.
	2. The Parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

This agreement has been entered into on the date stated at the beginning of it.

SCHEDULE – PART 1

**INITIAL SHAREHOLDERS**

|  |  |
| --- | --- |
| **Name of Shareholder** | **Insert details of Shareholder’s Practice** |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

SCHEDULE – PART 2

**VAT COST SHARING GROUP CONDITIONS**

Group 16, Schedule 9 of Value Added Tax Act 1994 details the conditions each of which must be met in order to treat supplies to CSG Shareholders as VAT exempt.

The conditions are as follows:

1. The supply of services must be made by an independent group of persons.

2. Each of those persons is a person who is carrying on an activity (“the relevant activity”) which is exempt from VAT or in relation to which the person is not a taxable person within the meaning of Article 9 of Council Directive [2006/112/EC](http://www.legislation.gov.uk/european/directive/2006/0112).

3. The supply of services is made for the purpose of rendering the Shareholders of the group the services directly necessary for the exercise of the relevant activity.

4. The group merely claims from its Shareholders exact reimbursement of their share of the joint expenses.

5. The exemption of the supply is not likely to cause distortion of competition.

|  |  |  |
| --- | --- | --- |
| **SIGNED** by **DR \_\_\_\_\_\_\_\_\_\_\_\_\_** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**in the presence of: |  | NameSignature |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Witness signature |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Witness name  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Witness address |
|  |  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Witness occupation |
|  |  |  |
| **EXECUTED** for an on behalf of **LEEDS GENERAL PRACTICE CONFEDERATION LIMITED** in the presence of: |  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Witness signature |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Witness name  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Witness address |
|  |  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Witness occupation |