

[Insert Health Service Provider Logo]

# STAFF AND STUDENTS CLINICAL PLACEMENT AGREEMENT

## Details of the Parties

<b>Name of Education Provider:</b>	
Address:	
ABN:	
Contact for Notices:	
Email for Notices:	
Phone Number:	

<b>Name of Health Service Provider</b>	
Address:	
ABN:	
Contact for Notices:	
Email for Notices:	
Phone Number:	

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EAST PERTH WA 6004

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**This Agreement is made between**

[insert name of HSP] being a body corporate established under section 32 of the *Health Services Act 2016*

(“HSP”)

**AND**

[insert name of Education Provider] being a body corporate established under section X of the *name of Act of address* in the State of XX.

**RECITALS:**

According to this Agreement:

- A.** The purpose of this Agreement is to set out terms and conditions upon which the Health Service Provider (HSP) will provide Students of the Education Provider with placements in the HSP’s Health Services for the purposes of the Education Provider’s Clinical Placements Programs, including:
  - (a) the arrangements under which the EP Staff and Students may have access to the Premises and Facilities controlled by the HSP; and
  - (b) the training and supervisory services that the HSP will provide to Students and the fees that the Education Provider will pay for the provision of those services.
- B.** It is the intention of the Parties that entry into this Agreement should not hinder the HSP in its provision of efficient and high-quality hospital and health services.
- C.** The Parties have now agreed to set out their respective rights and obligations in this Agreement.

**THE PARTIES HEREBY AGREE AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

1.1. In this Agreement, unless the contrary intention appears:

**Agreement** means this Agreement, including the Schedules.

**Authorised Officer** means, for the:

- (a) HSP, the Chief Executive or another delegate of the HSP;
- (b) Education Provider, when it is a university, the Vice-Chancellor or delegate of the Education Provider;
- (c) Education Provider, when it is an Institute of Technical and Further Education (TAFE), the Director or delegate of the Education Provider;
- (d) Education Provider, when it is a Registered Training Organisation other than an Institute of Technical and Further Education, the Chief Executive/ Managing Director or delegate of the Education Provider.

**Board** means one or more of the regulatory authorities established under the National Registration and Accreditation Scheme for registered health practitioners.

**Confidential Information** means any information which the parties agree in writing is confidential and that is by its nature confidential but does not include information which:

- (a) is or becomes part of the public domain unless it came into the public domain by a breach of confidentiality;
- (b) is obtained lawfully from a third party without any breach of confidentiality;
- (c) is already known by the recipient party (as shown by its written record) before the date of disclosure to it;
- (d) is independently developed by an employee of the recipient party who has no knowledge of the disclosure under this Agreement.

**Consenting Patients** means the Patients who have consented to receive care and treatment from a Student.

**Contract Manager** means the person nominated as such by a Party pursuant to **clause 2.1**.

**CP Program** means the clinical placement program conducted by the Education Provider whereby Students are permitted to have access to the Premises and Facilities for the purposes of their supervised practical course work relating to the Education Program.

**Direct Supervision** means the EP Staff or HSP Student Supervisor (as agreed between the Parties) is actually present, observes, works with and/or directs the person who is being supervised. **Directly Supervises** has a corresponding meaning.

**Discipline** means a health profession discipline specified in **Schedules 1 and 2** of this Agreement.

**Dispute** means any dispute or difference between the HSP and the Education Provider that arises under or in connection with this Agreement.

**Education Program** means a course of study leading to a qualification required for a health-related occupation offered by the Education Provider of which education in a clinical setting or non-clinical setting forms a part.

**Education Provider** means the individual university, registered training organisation or TAFE College, responsible for the delivery of education or training, so described on page 2 of this Agreement.

**EP Staff** means a person nominated, engaged by and reporting to the Education Provider and approved by the HSP to provide education, Direct Supervision and assessment of Students on Student Placement. For the avoidance of doubt, EP Staff includes clinical academics employed or engaged by the Education Provider.

**Facility** means the facilities and resources located within the Premises of the HSP.

**Health Policy** means any policy of, or adopted by, the CEO of the Department of Health or the HSP from time to time in connection with the operation, management and maintenance of public hospitals, which is notified, or has been notified to the Education Provider from time to time, including those policies listed in **Schedule 5** as amended, superseded or replaced from time to time.

**Health Service** means a Hospital and the health centres, schools, clinics and other places staffed by employees of the HSP, which are under the management and control of the HSP.

**Hospital** means a public hospital pursuant to section 8(6) of the *Health Services Act 2016* (WA) under the control of the HSP.

**HSP** means the Health Service Provider so described on the first page of this Agreement.

**HSP Student Supervisor** (or Facilitator) means an appropriately qualified health practitioner employed by the HSP who provides clinical education and/or Directly Supervises and precepts a Student on Student Placement.

**Intellectual Property** includes:

- (a) patents, copyright, registered designs, trademarks; and
- (b) any application or right to apply for registration of any of those rights.

**Law** means all applicable present and future laws including:

- (a) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the State of Western Australia or the Commonwealth of Australia;
- (b) any authorisations, approvals, consents, permits and licences required under any Law;
- (c) principles of law or equity; and
- (d) standards, codes and guidelines.

**Medical Record** means all medical, clinical and other Patient records relating to the provision of medical and related services by HSP employees (or any other contractor) to Patients as part of the HSP's operation, whether written, computerised or stored by any other means, including a Patient's My Health Record.

**National Police Certificate** means an Australia-wide check of a person's criminal history prepared by the Australian Federal Police, a State or Territory police service, or an agency accredited by CrimTrac.

**Nominated Officer** means the officer/s nominated by the Parties for each Discipline in **Schedule 2** as required by **clause 2.7**.

**Party** means the Education Provider or the HSP as the context requires and **Parties** means both of them.

**Patients** means the patients (of whatever description or type) currently receiving treatment or care from the HSP, and where the context requires, includes Consenting Patients.

**Personal Information** means information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual, whether living or dead —

- (a) whose identity is apparent or can reasonably be ascertained from the information or opinion; or
- (b) who can be identified by reference to an identification number or other identifying particular such as a fingerprint, retina print or body sample.

**Premises** means the land and buildings used by the HSP.

**Relevant Privacy Laws** means any relevant legislation, code or guideline which applies to the Parties and which relates to the protection of Personal Information.

**Service** means the supply of HSP Student Supervisors to precept and/or provide clinical education, training and supervisory services to Students pursuant to this Agreement.

**Service Fees** means the fees for the Service, to be paid by the Education Provider to the HSP as set out in **clause 8** of this Agreement.

**Student** means the student enrolled in the Education Program and who is also included within the CP Program and placed at the Premises.

**Student Placement** means the provision of supervised education and research opportunities for Students. The supervised education must be:

- (a) a requirement of the Student's qualification;
- (b) a requirement for registration into a profession or discipline; or
- (c) a requirement to be eligible for licensing as a professional association member.

**Term** means the term specified in **clause 22** of this Agreement.

**Working with Children Legislation** means the *Working with Children (Criminal Record Checking) Act 2004* and *Working with Children (Criminal Record Checking) Regulations 2005*, or their replacement.

1.2. In this Agreement, unless the contrary appears:

- (a) words in the singular number include the plural and vice versa;
- (b) words importing a gender include any other gender;
- (c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word have corresponding meanings; and
- (d) references to a Party includes its personnel.

## **2. ADMINISTRATION OF THIS AGREEMENT**

2.1. The HSP and the Education Provider shall each nominate a Contract Manager, as set out in **Schedule 3**.

2.2. For the purposes of this Agreement, the Contract Manager may, on behalf of the Party who nominated them:

- (a) exercise a power specified in this Agreement as being exercisable by the HSP or the Education Provider, other than the power in **clause 2.1**;
- (b) perform an act or do a thing specified in this Agreement as being required or permitted to be done by the HSP or the Education Provider; and

- (c) give an approval specified in this Agreement as being required or permitted to be given by the HSP or the Education Provider.
- 2.3. The role of the Contract Manager is to:
- (a) provide a central point of contact between the Parties, in particular for addressing matters where coordination across disciplines and/or facilities is required;
  - (b) liaise with officers nominated under **clause 2.7** as required; and
  - (c) advise their Authorised Officer of any issues requiring attention relating to the administration of this Agreement.
- 2.4. Either Party may substitute its Contract Manager with another person by notifying the other Party in writing.
- 2.5. Unless this Agreement specifies otherwise, all communications between the Parties relating to this Agreement or matters that arise out of this Agreement shall be given to or sent by the Contract Manager.
- 2.6. The Parties must specify in **Schedule 2**:
- (a) the details of the CP Program for each Discipline; and
  - (b) how the administration of the Student Clinical Placements for each Discipline will be carried out (the administration arrangements).
- 2.7. The Parties will nominate officers for each Discipline to be responsible for:
- (a) identifying Student Placements and appropriately qualified EP Staff and HSP Student Supervisors;
  - (b) coordinating the Student Placement process for their discipline within agreed timeframes;
  - (c) maintaining details of Student Placements in their discipline; and
  - (d) advising their Authorised Officer of any issues requiring attention regarding Student Placements,

in accordance with the administration arrangements specified in **Schedule 2** for each Discipline.

### **3. HSP PERMITS ACCESS BY STAFF AND STUDENTS**

- 3.1. Notwithstanding **clauses 3.2** and **3.4**, the Parties agree that nothing in the Agreement obliges the HSP to accept the placement of one or more Students and, if such placements are accepted, the number at any given time will be at the absolute discretion of the HSP.
- 3.2. Subject to **clauses 3.3** and **3.5**, the HSP permits EP Staff and Students:

- (a) to have access to the Premises; and
- (b) to use the Facilities located on the Premises,

provided that such access and use is:

- (a) required for, and is part of, the CP Program; and
- (b) in accordance with the terms and conditions set out in this Agreement.

3.3 The HSP may restrict EP Staff and Students' access to parts of the Premises at any time.

3.4 The HSP permits EP Staff and Students, as and when it is necessary, to accompany the employees of the HSP to places not on the Premises, provided that:

- (a) the particular employee is acting in the course of their employment or duties as an employee of the HSP;
- (b) the particular employee consents;
- (c) it is required for, and is part of, the CP Program conducted by the Education Provider; and
- (d) it is in accordance with the terms and conditions set out in this Agreement.

3.5 The HSP permits EP Staff and Students access as above in **clauses 3.2 and 3.4** provided that all EP Staff and Students:

- (a) maintain Patient confidentiality;
- (b) comply with all Laws and Health Policy and any other rules and regulations or protocols of the HSP, including the protocols and procedures applicable to the Premises and those relating to visiting Aboriginal communities; and
- (c) obey all reasonable directions and orders of the officers, employees and agents of the HSP.

## **4 ACCESS**

4.1. Subject to the administration arrangements and CP Program details specified in **Schedule 2**, the Education Provider and the HSP shall endeavour to agree on the numbers of Students taking part in the CP Program for each Discipline and the times at which, Students may attend the Premises for the purpose of the CP Program. For the purposes of this clause:

- (a) the HSP will give final determination on the number of Students and the times the Students may attend the Premises for the purpose of the CP Program;
- (b) subject to the conditions stated in **Schedule 2** for each Discipline, the Nominated Officers for the Parties will agree to a timeframe for the provision of information on



Student numbers and the times at which Students may attend the Premises for the purpose of the CP Program;

- (c) the Education Provider agrees to notify the HSP's Nominated Officers for each Discipline of any variation, cancellation or deferral of the agreed Student numbers and times within a timeframe defined between both Parties.
- 4.2. The Education Provider shall provide the HSP's Nominated Officer for each Discipline with relevant details of Student allocations, including the names of Students, prior to the commencement of each semester, or by agreement at other times. The Education Provider shall, as soon as reasonably practical, notify the HSP's Nominated Officer of any changes to the details of Students participating in the CP Program.
  - 4.3. The Nominated Officers for the Parties shall agree on the Student / Patient ratio and on the selection of Consenting Patients for the relevant Disciplines at each Health Service.
  - 4.4. In determining the details referred to in **clause 4.1**, the HSP and the Education Provider shall have regard to the number of Consenting Patients and the effective and efficient operation of the HSP, the Health Service, and the CP Program. For the avoidance of doubt, if agreement is not reached by the Parties, the number of student placements available for the Students and the times the Students may attend the Premises for the purpose of CP Program, shall be determined by the HSP in its absolute discretion.
  - 4.5. Access to Consenting Patients will be dependent upon the discretion of the Consenting Patient and HSP's Nominated Officer.
  - 4.6. Access by the EP Staff and Students to Medical Records is limited to those Consenting Patients for whom the EP Staff and Students are providing clinical care.

## **5 EDUCATION PROVIDER OBLIGATIONS**

- 5.1. The Education Provider must take all reasonable measures to ensure that the EP Staff and Students familiarise themselves with all Health Policy and any other rules and regulations or protocols of the HSP that the Students will be required to comply with during the CP Program.
- 5.2. Prior to the commencement of a Student Placement, the Education Provider must:
  - (a) notify the EP Staff and Students of any policies or procedures that the HSP has notified the Education Provider that the EP Staff and Students will be required to comply with during the CP Program;
  - (b) ensure that the EP Staff and Students sign the written undertakings at **Schedule 4** agreeing to:
    - i. maintain Patient confidentiality;
    - ii. comply with all Laws and Health Policy and any other rules and regulations and protocols of the HSP, including the protocols and procedures applicable to the Premises and those relating to visiting Aboriginal communities; and
    - iii. obey all reasonable directions and orders of the officers, employees and agents of the HSP;

- (c) explain to the EP Staff and Students the relevant terms and conditions under which the Student Placement is being conducted;
  - (d) inform the Student of appropriate information regarding the location and timing of the Student Placement;
  - (e) explain to the Student that where a Student is permitted to make a notation in a Medical Record, the entry must be:
    - i. made according to the HSP's policies and procedures; and
    - ii. it must be discussed and checked by the HSP Student Supervisor or a member of the Patient's treating team;
  - (f) explain to the Student that if the Student is aware of any personal matters which could impact upon the safety of Patients or the Student's own safety, or which could impact on the Student's capacity to meet the HSP's standards of Patient care, the Student should disclose the personal matter to the HSP's Nominated Officer for the Discipline and their HSP Student Supervisor if applicable;
  - (g) subject to **clause 5.2(h)**, ensure that EP Staff and Students obtain and provide evidence of a National Police Certificate to the HSP which is dated within three (3) years of the commencement of the CP Program and comply with the provisions of the Working with Children Legislation;
  - (h) ensure that where the CP Program involves working in aged care services subsidised under the *Aged Care Act 1997* (Cth) EP Staff and Students obtain and provide evidence of a National Police Certificate to the HSP which is dated within twelve (12) months of the commencement of the CP Program;
  - (i) inform Students that they should report any form of harassment or abuse or incompetence by an employee or agent of the HSP to the Education Provider's Nominated Officer;
  - (j) ensure that EP Staff who may have responsibilities for the clinical care of Consenting Patients are credentialed by the Health Service at which the Consenting Patients are receiving treatment or care;
  - (k) ensure that EP Staff and Students have received the mandatory training specified in **Schedule 2** for each discipline; and
  - (l) ensure that Students have been immunised in accordance with the requirements specified in OD 0388/12 "Health Care Worker Immunisation Policy" and any other policy that replaces or supersedes OD 0388/12.
- 5.3. The Education Provider shall provide EP Staff and Students with and ensure that they wear photographic identification badges at all times clearly identifying that EP Staff or Students are EP Staff or Students of the Education Provider. Identification badges must comply with the Health Service's infection control policies.
- 5.4. The Education Provider shall provide the HSP with evidence that EP Staff and Students have a *methicillin-resistant staphylococcus aureus* (MRSA) clearance if an EP Staff

member or Student has been a patient or student, or has worked, in any hospital or residential care facility outside of Western Australia in the last 12 months.

- 5.5. The Education Provider must ensure that, to the best of the Education Provider's knowledge, the Student is fit and proper and both mentally and physically competent to participate in the CP Program.

## 6. HEALTH SERVICE PROVIDER OBLIGATIONS

- 6.1. The HSP agrees:

- (a) to use all reasonable endeavours to ensure for the duration of the CP Program, Students act only under the supervision of a suitably experienced, qualified and (where relevant) registered clinician at all times when participating in the CP Program;
- (b) that discipline and control of Students is the responsibility of the Education Provider, subject to the right of the HSP to instruct a Student in connection with any task or responsibility arising in the course of the CP Program;
- (c) to notify the Education Provider Nominated Officer if a complaint is received by the HSP in relation to a Student or a member of EP Staff regarding the CP Program;
- (d) to obtain Patient consent to Students participating in the care and treatment of Patients;
- (e) to make available to EP Staff and Students all Health Policies and any other rules, regulations or protocols of the HSP that the Students and EP Staff will be required to comply with during the CP Program for the purposes of **clause 5.1**;
- (f) to make its relevant regulations, policies, manuals, guidelines, protocols, procedures and any other relevant information available to Students and EP Staff;
- (g) to provide EP Staff and Students with appropriate induction with respect to:
  - i. security;
  - ii. emergency;
  - iii. safety; and
  - iv. policies and procedures;
- (h) to provide an appropriate orientation for EP Staff and Students;
- (i) to provide facilities, subject to the operational requirements of the HSP, to enable EP Staff to conduct clinical education discussions with their Students;
- (j) at the discretion of the HSP, to provide (at no cost) Students with protective garments for hygiene and infection control for use during the CP Program; and

- (k) provide emergency care to EP Staff and Students, according to the facilities available, where they suffer an accident or illness whilst on the Premises, in accordance with the usual conditions relating to such visiting personnel at the Premises.

## **7. TERMINATION OF STUDENT OR EP STAFF ACCESS TO PREMISES**

- 7.1. The protection of the HSP's patients is the paramount consideration when allowing Students and EP Staff to access the Premises.
- 7.2. The HSP may, in its absolute discretion, defer, suspend, vary or cancel the CP Program and/or withdraw or exclude individual Students or EP Staff from the Premises for the purpose of protecting the HSP's patients. The HSP's decision is final and may be implemented immediately. Any such exclusion shall be reported by the HSP's Nominated Officer to the Education Provider's Nominated Officer as soon as reasonably practical.
- 7.3. In the event of an emergency the HSP may determine in its absolute discretion to terminate the CP Program as it pertains to a particular Student or to refuse to admit Students or EP Staff to a part of or all of the Premises.
- 7.4. If the HSP makes a determination in accordance with **clause 7.3**, the HSP's Nominated Officer will notify the Education Provider's Nominated Officer as soon as reasonably practical after the HSP's determination.
- 7.5. The Education Provider shall ensure that EP Staff and Students abide by the HSP's decisions regarding access to the Premises.

## **8. SUPERVISION / PRECEPTORING**

- 8.1 The amount and nature of supervision to be provided to each Student will be co-operatively determined between the Education Provider and the HSP. The Parties will take into account the individual educational needs of Students and the respective roles, where applicable, of the HSP Student Supervisors, EP Staff and Nominated Officers of the Parties, noting the responsibility of the Education Provider for oversight of the education, including clinical education, of its Students.
- 8.2 If the objectives of any Education Program are altered, or if the level of Student competence varies, the Education Provider may review the level of supervision required, and submit any changes for approval to the relevant Nominated Officer of the HSP.
- 8.3 In consultation with the HSP, the Education Provider shall provide appropriately qualified EP Staff to supervise and assess Students, unless otherwise specified in **Schedule 2** for each discipline.
- 8.4 The HSP may supply HSP Student Supervisors to precept and supervise Students:
  - (a) if requested by the Education Provider; or
  - (b) if the HSP determines that a HSP Student Supervisor is required.

- 8.5 In consideration of the Service in **clause 8.4**, the Education Provider will pay to the HSP the Service Fees in accordance with that set out in **Schedule 1**.
- 8.6 Notwithstanding **clauses 8.4** and **8.5**, where the HSP supplies HSP Student Supervisors to precept and supervise Students, the Education Provider will:
- (a) if requested by the HSP, provide appropriate training for the HSP Student Supervisors at no cost to the HSP;
  - (b) with prior agreement, reimburse the HSP in the time and manner agreed by the Parties in **Schedule 1** for each discipline, for any costs, including salary (and on call payments if applicable), district allowance and all other allowances which are incurred by the HSP as a result of the HSP Student Supervisor being unable to perform the clinical and teaching duties the HSP Student Supervisor is required to provide to the HSP whilst precepting and supervising Students; and
  - (c) reimburse the HSP in the time and manner agreed by the Parties in Schedule 1 for each discipline for the HSP's corporate costs associated with this Agreement, including the costs associated with administering this Agreement.
- 8.7 In-kind contributions agreed between the Parties will be specified in **Schedule 1** for each discipline and may be taken into account by the Parties in the setting of the Service Fees.

## **9. VARIATION OF SERVICE FEE**

- 9.1 On the first anniversary of the commencement date of the Agreement, and on each anniversary thereafter during the Term, the HSP may review and amend the Service Fees in consultation with the Education Provider.
- 9.2 Without limiting **clause 9.1**, the Service Fees specified in this Agreement may be varied by the HSP, acting reasonably, to take into account factors such as changes in Commonwealth funding and the HSP's staffing costs associated with the Service. Any resultant changes to the Service Fee will take effect forty-five (45) days after the HSP notifies the Education Provider of that increase. If the Education Provider disputes the amount of an increase the dispute will be referred for resolution pursuant to **clause 16**.

## **10 COURSE CONTENT/PROGRAMS/ASSESSMENT**

- 10.1 The Education Provider shall be responsible for:
- (a) the administration and development of the Education Program course content;
  - (b) clinical and practical programs;
  - (c) the format of the Education Program Student assessment;
  - (d) taking reasonable steps to inform the HSP of the specific learning objectives for Students during their participation in the CP Program;

- (e) taking reasonable steps to inform the HSP of the extent and nature of prior experience of Students as relevant to the CP Program;
  - (f) taking reasonable steps to inform the HSP of specific matters which may affect a Student's learning capacity as relevant to the CP Program; and
  - (g) all related matters.
- 10.2 The Education Provider shall be responsible for Student assessment, unless it is otherwise agreed in writing by the Parties that the content of placement and assessment is to be conducted in collaboration with the HSP's employees.
- 10.3 Subject to **clause 10.2**, the HSP Student Supervisor will provide feedback that contributes to the Education Provider's assessment of the Student's competence in the CP Program at the end of the Student Placement. In the event of a dispute between the HSP Student Supervisor and EP Staff regarding the success or failure of the Student in the CP Program:
- (a) the dispute will be referred to the Nominated Officer of each Party for the Discipline;
  - (b) the Parties' Nominated Officers will use reasonable endeavours to resolve the dispute within fifteen (15) working days;
  - (c) if the dispute cannot be resolved, the Education Provider will give the final decision regarding the competence or the success or failure of the Student in the CP Program; and
  - (d) the HSP may request that the Education Provider provide a statement outlining the reasons for its decision under **clause 10.3(c)**.
- 10.4 The Education Provider shall be responsible for informing the HSP of its accreditation status on an annual basis, with respect to the standards approved by its professional regulating authority and of any change of that status.

## **11 RESOURCE MATERIAL**

- 11.1 Subject to the HSP's policies, EP Staff and Students will be given access to the HSP's libraries on the Premises and any other resource material, lectures or presentations available at the Premises during the EP Staff or Student's participation in the CP Program.
- 11.2 The Education Provider grants the HSP Student Supervisors access to the Education Provider's library for the duration of this Agreement.

## **12 REGISTRATION AND NOTIFICATION TO HSP**

- 12.1 The Education Provider must ensure that all EP Staff and Students participating in the CP Program must, as applicable, be registered with the relevant Board, or, if registration is not required, hold membership, or, if neither registration nor membership is required, be eligible for membership of their professional association. If required by the HSP, evidence of that registration or eligibility for membership must be produced to the HSP within one month of each annual re-registration or on demand.

- 12.2 EP Staff must provide to the HSP evidence that their professional indemnity insurance arrangements meet the registration standard determined by the relevant Board on an annual basis.
- 12.3 The Education Provider must confirm that all Students are enrolled in a course accredited by the relevant professional body.
- 12.4 The Education Provider must notify the HSP as soon as it becomes aware:
- (a) in the case of EP Staff, if:
    - i. they are fined or reprimanded by the relevant Board or association, give an undertaking to be of good behaviour to the relevant Board or association, or his or her Board registration, or association membership, being made conditional, suspended, removed or lapsing;
    - ii. their indemnity protection is removed or lapses;
    - iii. any investigation by a relevant professional body is commenced against them;
    - iv. any charges or convictions for an offence punishable by imprisonment being made against them;
    - v. any actual or potential conflict of interest involving them which is known to the Education Provider;
    - vi. they have any illness or disease that would interfere with their ability to treat Patients or that is communicable and presents a risk to Patients or other people;
    - vii. there is a matter which a member of EP Staff is obliged to inform his or her indemnity fund, organisation or insurer;
    - viii. they are referred to the Board; or
    - ix. they are referred to the Health and Disability Services Complaints Office or an equivalent body; and
  - (b) in respect of any Patient, of any:
    - i. adverse incident;
    - ii. serious verbal, or any written complaints received; or
    - iii. threats of legal action or any writ, subpoena or summons received.
- 12.5 The Education Provider must carry out periodic enquiries to investigate whether any of the matters referred to in **clause 12.4** have occurred.
- 12.6 Subject to **clause 12.7**, the Education Provider must:
- a) take all reasonable steps to assist, and use all reasonable endeavours to cause any member of EP Staff to assist, the HSP in inquiring into and resolving any matter arising under or in connection with any matter referred to in **clause 12.4**; and
  - b) if requested by the HSP, provide and cause any member of EP Staff to provide as soon as reasonably practicable all relevant details of any matters of which the HSP is advised under **clause 12.4** or otherwise becomes aware.
- 12.7 Nothing requires any member of EP Staff to disclose information to the HSP where to do so would cause that person to be in breach of his or her obligations to any medical defence organisation, indemnity fund or insurer, or which may significantly prejudice any claim by

that person under that indemnity cover or insurance. In any such circumstances the member of EP Staff must use their best endeavours to obtain the approval of the defence organisation, indemnity fund or insurer to disclose the information required by the HSP, and must disclose the information to the HSP in accordance with any approval given.

### **13 PATIENT CARE**

- 13.1 A Student may only participate in the delivery of health care or treatment of Consenting Patients at levels commensurate with his or her stage of preparation and progress in his or her Education Program and as approved by the HSP, and must be supervised in accordance with the usual standards and practice for the relevant discipline, taking into account the level of experience and competency of the Student.
- 13.2 The Education Provider shall advise the HSP and the appropriate employees or agents of the HSP at the Health Service of the current level of training of the Student and the HSP will not assign tasks to the Student that are beyond the Student's current level of training.

### **14 RESEARCH PROJECTS AND INTELLECTUAL PROPERTY**

- 14.1 The Education Provider shall ensure that Students do not undertake any research projects, quality assurance activities or surveys which involve the HSP, or its officers, employees or agents, or Patients, without the prior approval of the HSP and the HSP's Human Research Ethics Governance Committee or equivalent, and, where relevant, the Education Provider's Human Research Ethics Committee.
- 14.2 The Education Provider shall ensure that Students do not undertake any research projects or surveys which involve Patients of Aboriginal or Torres Strait Islander descent without the prior approval of the HSP and the Western Australian Aboriginal Health Information and Ethics Committee.
- 14.3 Subject to **clause 14.4**, the Education Provider acknowledges and agrees that ownership of all Intellectual Property created, discovered, brought into existence or otherwise acquired as a result of, for the purposes of, or in connection with the Student Placement or this Agreement and all other rights in respect of such Intellectual Property vest exclusively in the HSP.
- 14.4 Subject to **clause 14.5**, the HSP acknowledges and agrees that ownership of all Intellectual Property discovered, brought into existence or otherwise acquired by a Student as a result of, for the purposes of, or in connection with, course work that is a component of the Education Program and all other rights in respect of such Intellectual Property vest in the Student.
- 14.5 Where the HSP or Student identifies that Intellectual Property may be jointly discovered, brought into existence or otherwise acquired by the HSP and the Student, the HSP, Education Provider and Student may enter a written agreement dealing with ownership of that Intellectual Property.



## **15 DISCIPLINE OF STUDENTS**

- 15.1 Whilst a Student is on the Premises, any matters of Student discipline within the knowledge of the HSP will be referred by the HSP to EP Staff and will be dealt with by the Education Provider according to its disciplinary policy and procedures.
- 15.2 Whilst a Student is participating in the CP Program, the Education Provider shall enforce its disciplinary policy and procedures pertaining to academic and clinical programs against that Student if that Student breaches any such policy or procedure.

## **16 RESOLUTION OF DISPUTES**

- 16.1 If the two Parties are in dispute on any matter under this Agreement either Party may notify the other of the existence and nature of the Dispute by issuing a notice in writing within ten (10) working days of the circumstances giving rise to the Dispute first occurring.
- 16.2 Within fifteen (15) working days after notice of a Dispute is given under **clause 16.1**, the Parties' Contract Managers must make contact and discuss and use reasonable endeavours and act in good faith to seek to resolve the Dispute by discussion and negotiation.
- 16.3 If the Dispute cannot be resolved by the persons referred to in **clause 16.2**, the Dispute shall then be referred to the Authorised Officers for each Party.
- 16.4 If the persons referred to in **clause 16.3** within twenty (20) working days of the matter being referred to them are unable to resolve the dispute each Party is free to take whatever steps it considers appropriate.
- 16.5 This **clause 16** does not prevent any Party from seeking any urgent injunctive or interlocutory relief.
- 16.6 Despite the existence of a Dispute, the Parties must continue to perform their respective obligations under this Agreement and any related agreements, unless the circumstances giving rise to or in connection with the Dispute are such that a Party has reasonably formed the view that continuing to perform that Party's obligations under this Agreement would cause, or be likely to cause, a risk to the health and safety of Students, Patients or staff of the HSP.

## **17 PROCESS FOR COMPLAINT BY STUDENT**

- 17.1 Where the Education Provider Nominated Officer receives a complaint from a student, that he or she has experienced any form of harassment or abuse or incompetence by an employee or agent of the HSP, the Education Provider Nominated Officer will promptly inform the HSP Nominated Officer in writing of the complaint.
- 17.2 The HSP will, where appropriate, after due and proper consultation with the Education Provider Nominated Officer, deal with the complaint in its absolute discretion.
- 17.3 The Education Provider may withdraw the Student from the placement if warranted.

## **18 CONFIDENTIALITY AND PRIVACY**

- 18.1 The Parties must keep all Confidential Information of the other Party confidential and each Party undertakes that it will not communicate, publish or release, or permit the communication, publication or release of any Confidential Information except:
- (a) as is necessary for a Party to perform its obligations under this Agreement; or
  - (b) as permitted or required by applicable laws or regulations or as ordered by a court or other regulatory or government authority; or
  - (c) in the case of the HSP, to the Director General of the Department of Health, its Minister and to the Parliament (including Committees of it).
- 18.2 Each Party must ensure that any Personal Information of EP Staff, Students or employees or agents of the HSP it obtains or holds as a result of the CP Program is collected, stored, used and disclosed by it in accordance with the Relevant Privacy Laws.
- 18.3 Each Party will promptly report to the other Party if it becomes aware of any unauthorised access to, use or disclosure of Personal Information it obtains or holds as a result of the CP Program ("Incident"), and will work with the other Party to take reasonable steps to remedy the Incident.
- 18.4 Each Party will not transmit Personal Information to a jurisdiction outside Australia without the prior express consent of the Party that owns or discloses the Personal Information.

## **19 INDEMNITY**

- 19.1 Each Party ("the Indemnitor") indemnifies and will keep indemnified the other Party and its respective officers and employees ("the Indemnitee") from and against all liabilities, actions, suits, proceedings, claims, demands, costs and expenses whatsoever which may arise or be made or taken against the Indemnitee or be incurred or become payable by the Indemnitee in respect of any negligent act or omission on the part of the Indemnitor pursuant to this Agreement.
- 19.2 The indemnity given by any one Indemnitor pursuant to **clause 19.1** will be reduced proportionately to the extent that any liabilities, actions, suits, proceedings, claims, demands, costs or expenses result from any negligent act or omission by the Indemnitee.
- 19.3 The Parties agree that the rights, duties, obligations and liabilities of the Parties under this Agreement shall in every case be several and not joint nor joint and several.

## **20 INSURANCE**

- 20.1 The Education Provider must effect and maintain the following insurance policies during the Term of the Agreement:
- (a) Public Liability Insurance in the amount of not less than \$20 million in respect of each and every occurrence;

- (b) Professional Indemnity Insurance (including Medical Treatment Liability) in the amount of not less than \$15 million for any one claim and \$30 million for all claims in the aggregate during any one 12 month period of insurance;
  - (c) Personal Accident Insurance in respect of each EP Staff member and Student attending the Premises in relation to the CP Program; and
  - (d) Workers' compensation insurance for an amount required by law.
- 20.2 The Education Provider must maintain the Professional Indemnity Insurance policy for a period of at least 6 years after termination or expiry of the Agreement or alternatively obtain 6 year run-off cover.
- 20.3 The Education Provider must provide to the HSP satisfactory evidence that the Education Provider has effected and renewed the insurance policies referred to in **clause 20.1**:
- (a) on an annual basis; or
  - (b) if there is a change to an existing policy, within one month of the change, renewal or commencement of a new policy.
- 20.4 The Education Provider satisfies the requirements of **clause 20.1** if it is entitled to indemnity under a program or scheme of insurance or indemnity that is arranged by a State or Territory of the Commonwealth of Australia.
- 20.5 The HSP arranges self-insurance through the Insurance Commission of Western Australia, a body corporate constituted under the *Insurance Commission of Western Australia Act 1986*.

## **21 AMENDMENTS**

- 21.1 Subject to **clause 21.2**, this Agreement may not be varied except in writing signed by the Authorised Officer for each Party.
- 21.2 Variations to **Schedules 1, 2 and 3** may be agreed in writing between the Authorised Officers for each Party.
- 21.3 Where changes to the Agreement are agreed by the Parties, those changes will be set out as **Schedule 2** "Special Conditions" to this Agreement and signed by the Authorised Officer of each Party. To the extent of any inconsistency between the terms of this Agreement and a term recorded in **Schedule 1**, the term recorded in **Schedule 1** will prevail.

## **22 TERM OF AGREEMENT**

- 22.1 Subject to **clause 23**, this Agreement commences from the date this Agreement is last signed by either the HSP or the Education Provider.
- 22.2 Subject to amendment or earlier termination in accordance with **clauses 23.1** or **23.2** this Agreement shall continue in force from the date of execution for a period of five (5) years.

22.3 No later than ninety (90) days prior to the expiration of the Agreement, the Parties may agree in writing to extend the Agreement on its current terms or on varied terms as agreed between the Parties. Such extension or renewal of this Agreement may be for a term of up to a maximum of five (5) years.

## **23 TERMINATION**

23.1 Subject to **clause 23.2**, either Party may terminate this agreement by giving the other Party no less than six months' notice in writing, no later than six months prior to the commencement of the following academic year as published by the Education Provider.

23.2 Either Party may terminate this Agreement with thirty (30) days prior written notice or such shorter time period as is reasonably required in the circumstances if the other Party:

- (a) is in breach of any obligations under the Agreement and fails to remedy such breach where it is capable of remedy within fourteen (14) days of a written notice from the terminating Party specifying the breach and requiring its remedy; or
- (b) is declared insolvent or has an administrator or receiver appointed over all or any part of its assets or ceases or threatens to cease to carry on its business.

23.3 If this Agreement is terminated for any reason, each Party must immediately deliver to the other Party all Confidential Information and other material received from the other Party pursuant to this Agreement.

## **24 ELECTRONIC EXCHANGE**

This Agreement may be executed and delivered in counterparts, including via facsimile or Adobe Acrobat or ".pdf" format, each of which shall be deemed to be an original, and all such counterparts shall constitute one instrument.

## **25 NOTICES**

25.1 The addresses of the Parties for the purposes of giving any notice are set out on the front page of this Agreement.

25.2 A notice, consent, approval or other communication (each a notice) under this Agreement:

- (a) must be in writing;
- (b) may be given by an Authorised Officer or the Contract Manager for the Party; and
- (c) a notice given in accordance with this clause shall be deemed received:
  - i. if hand delivered, on delivery;
  - ii. if sent by prepaid post on the third business day after the date of posting (or on the 10<sup>th</sup> business day after the date of posting if posted to or from outside Australia); and
  - iii. if sent electronically then the date and time of delivery will be when the notice provided by the Party's server or mail box has confirmed that the notice has been sent or otherwise delivered.

## **26 GOODS AND SERVICES TAX**

### 26.1 Definitions

Unless the contrary intention appears, in this clause:

**GST** means goods and services tax applicable to any taxable supplies as determined under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

### 26.2 The Education Provider must pay to the HSP the amount of GST that the HSP is liable to pay:

(a) at the same time; and

(b) in the same manner,

as the Education Provider is obliged to pay for that Service under **clause 8**.

### 26.3 Service Fees do not include GST and the Education Provider must pay the amount of GST in addition to the consideration for the Service determined under this Agreement.

### 26.4 A written statement given to the Education Provider by the HSP of the amount of GST that the HSP pays or is liable to pay is conclusive as between the Parties except in the case of an obvious error.

## **27 ENTIRE AGREEMENT**

### 27.1 Effective from the date this Agreement commences under **clause 22.1**, any student clinical placement agreement between the Parties which predates the commencement of this Agreement is terminated.

### 27.2 This Agreement constitutes the entire agreement between the Parties in relation to the Student Placements and supersedes all prior representations, agreements, statements and understandings, whether verbal or in writing in relation to the Student Placements.

### 27.3 Any further understandings or related agreements between the Parties concerning Student Placements must be documented in the Schedules to this Agreement.

## **28 GENERAL**

### 28.1 This Agreement shall be read and construed according to the laws of the State of Western Australia and the Parties hereby submit to the exclusive jurisdiction of that State.

### 28.2 If any provision of this Agreement is held by a court to be unlawful, invalid, unenforceable or in conflict with any rule of law, statute, ordinance or regulation the validity and enforceability of the remaining provisions shall not be thereby affected.

### 28.3 All stamp duties and governmental charges arising out of or incidental to this Agreement shall be the responsibility of and payable by the Education Provider.

28.4 Nothing in this Agreement shall constitute the relationship of partnership, employment or agency as between the HSP and:

- (a) the Education Provider; or
- (b) the EP Staff; or
- (c) Students

and it is the express intention of the Parties that any such relationships are denied.

28.5 Each Party shall execute such agreements, deeds and documents and do or cause to be executed or done, all such acts and things as shall be necessary to give effect to this Agreement.

28.6 The Education Provider may not assign its rights and obligations under this Agreement unless:

- (a) the Education Provider obtains from the relevant assignee a written undertaking in favour of the HSP to be bound by the terms of this Agreement and
- (b) the Education Provider obtains the prior written consent of the HSP, such consent not to be unreasonably withheld.

28.7 The HSP may assign this Agreement to any entity which assumes control of a Health Service without the requirement of consent from the Education Provider.

28.8 In the event of a merger of an Education Provider and another Education Provider, the HSP's consent to the merger will not be necessary.

28.9 Clauses 14, 18 and 19 survive the expiry or termination of this Agreement.

In witness hereof, the Parties have caused this Agreement to be executed as of respective dates written below.

Education Provider	Name, position and signature of Authorised Officer	Date of signing by Authorised Officer
<p><b>insert name of Education Provider</b></p>	<p><u>name</u></p> <p><u>position</u></p> <p><u>signature</u></p>	

Health Service Provider	Name, position and signature of Authorised Officer for and on behalf of the health service provider in accordance with section 41 of the <i>Health Services Act 2016</i>	Date of signing by Authorised Officer
<p><b>insert name of Health Service Provider</b></p>	<p><u>name</u></p> <p><u>position</u></p> <p><u>signature</u></p>	