

DATED

2015

AUSTRALIAN HEALTH PRACTITIONER REGULATION AGENCY

- and -

#INSERT NAME OF SERVICE PROVIDER

AGREEMENT

relating to

**FUNDING OF NATIONAL HEALTH
SUPPORT PROGRAM FOR NURSES
AND MIDWIVES**

CONTENTS

1.	DEFINITIONS AND INTERPRETATION	1
	Definitions	1
	Interpretation.....	4
	Priority of documents.....	5
2.	GRANT OF FUNDING.....	5
3.	TERM OF AGREEMENT.....	7
4.	ESTABLISHMENT OF FRAMEWORKS FOR THE SERVICES	8
5.	BUSINESS PLAN AND STRATEGY	8
6.	ACKNOWLEDGEMENT AND PUBLIC STATEMENTS	9
	Acknowledgement of funding.....	9
	Publication	9
7.	FUNDING	9
	Use of Funding.....	9
	Management of Funding	10
	Unexpended Funding	10
8.	OBLIGATIONS OF SERVICE PROVIDER	10
	Carrying out the Program.....	10
	Compliance with laws and policies.....	11
	Record keeping	11
9.	REPRESENTATIVES, KEY PEOPLE AND EMPLOYEES	11
	Representatives	11
10.	ACCESS AND AUDIT	12
	Audit by AHPRA.....	12
11.	REPORTS	12
	Progress Reports	12
	Final Report	14
	Acceptance or rejection of reports	14
12.	COMMUNICATION.....	14
13.	DELAY	15
14.	INTELLECTUAL PROPERTY	15
	Ownership of Intellectual Property Rights.....	15
	Existing Material.....	15
	Warranty	15
	Moral rights consent	15
15.	PRIVACY	16

	Privacy Law	16
	Personal Information provided to AHPRA	16
	Protection of Personal Information	16
	Complaints	17
16.	CONFIDENTIALITY	17
	Further permitted use and disclosure	17
	Personnel to be made aware of Confidential Information	17
	Service Provider to report unauthorised disclosure	17
17.	CONFLICT OF INTEREST	17
18.	DISPUTE RESOLUTION	18
	Parties must follow dispute resolution procedures	18
	Notification and resolution of Disputes	18
	Performance of obligations	18
	Implementation of agreement or other resolution	18
19.	SUSPENSION AND TERMINATION	18
	Termination by agreement	18
	Right to terminate	19
	Termination by AHPRA	19
	Termination by the Service Provider	19
	Effect of termination	19
20.	CLAUSES SURVIVE THE EXPIRATION OR TERMINATION OF AGREEMENT	20
21.	INDEMNITY	20
22.	INSURANCE.....	21
23.	GST	21
	Recovery of GST on supplies and adjustments under this Agreement	21
	Other GST matters	21
24.	NOTICES.....	22
	Giving notices	22
	Change of address or fax number	22
	Time notice is given.....	22
25.	MISCELLANEOUS	22
	Sub-contracting and assignment of rights and obligations	22
	No agency etc.....	23
	Approvals and consents	23
	Costs.....	23
	Entire agreement	23

No variation unless in writing.....	23
Execution of separate documents.....	23
Further acts	24
Governing law and jurisdiction.....	24
Severability	24
Waivers	24
Force majeure	24
SCHEDULE 1: DETAILS	26
SCHEDULE 2: MILESTONES.....	27

BETWEEN:

- (1) **AUSTRALIAN HEALTH PRACTITIONER REGULATION AGENCY (ABN: 78 685 433 429) ("AHPRA")**
- (2) **#INSERT NAME OF SERVICE PROVIDER (ABN: #) ("Service Provider")**

BACKGROUND:

- A The Nursing and Midwifery Board of Australia ("**the Board**") is responsible, in conjunction with AHPRA, for administering the National Law in relation to nurses, midwives and relevant students (being registered students studying nursing or midwifery).
- B The Board's functions include overseeing notifications that may relate to practitioners with impaired health, and (at the Board's discretion) providing financial support for health programs for registered nurses, midwives and relevant students.
- C The Board wishes to fund a health program for the delivery of the Core Services by the Service Provider on a continuing basis, which will be available to registered nurses, midwives and relevant students in all states and territories.
- D AHPRA (under an arrangement it has with the Board) has agreed to provide funding to the Service Provider for the Service Provider to provide the Core Services and the Program.
- E The Service Provider will remain accountable to AHPRA for the funding provided, and this Agreement requires the Service Provider to properly perform its functions in relation to the Program.
- F The parties intend that the full suite of Core Services will be in place within [#Insert agreed time frame] months from the Commencement Date and that the Service Provider will develop a business plan and strategy to achieve this goal.
- G This Agreement formalises the understanding between AHPRA and the Service Provider regarding the funding to be provided, including how much funding will be provided, how it is to be paid and used, and the Service Provider's obligations regarding that funding.
- H The parties acknowledge that it will take some time to settle the details of the Program, and agree to approach this Agreement in a co-operative and collaborative manner, with the priority being to deliver an effective, high-standard Program to registered nurses, midwives and relevant students.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

Definitions

- 1.1 In this Agreement the following definitions apply:

"Business Case" means the Business Case referred to in clause 2.3.1.

"Business Day" means a day, other than a Saturday, Sunday or public holiday in Victoria.

"Commencement Date" has the meaning set out in clause 3.1.

"Confidential Information" means information, including any of the following information (whenever it was obtained):

- (a) Information relating to a party's operations, activities or strategies;
- (b) Information designated as confidential by a party;
- (c) Information acquired by the other party solely by virtue of provisions of this Agreement;
- (d) Intellectual property or other property;

but does not include information in any of the following circumstances:

- (a) it is in the public domain, unless it came into the public domain by a breach of confidentiality;
- (b) it is already known by the other party at the time this Agreement is entered into;
or
- (c) it is obtained lawfully from a third party without any breach of confidentiality.

"Core Services" means confidential health-related information services to assist registered nurses, midwives and students of nursing and midwifery (**'relevant students'**) to manage health impairment, with a focus on information, education and awareness raising, delivered by electronic information and telecommunications technologies (such as telephone or Internet-based technology) (**'telehealth technologies'**), to be available throughout Australia, and that includes:

- (a) confidential information for registered nurses, midwives, relevant students, education providers and employers on health impairment in the context of the National Law and available services to assist with health impairment;
- (b) specific information and advice regarding health impairment targeted at:
 - (i) people seeking advice, reassurance and guidance on behalf of registered nurses, midwives and relevant students; and
 - (ii) registered nurses, midwives and relevant students self-identifying as having a health impairment or at risk of a health impairment;
- (c) brief intervention and engagement in preparation for referral to specialist treatment programs for registered nurses, midwives and relevant students self-identifying as having a health impairment or at risk of a health impairment;
- (d) the establishment and maintenance of an up to date and accurate database of health services available to nurses, midwives and relevant students with a health impairment or risk of an impairment (including services that cover rural, remote, urban and regional areas throughout Australia);
- (e) development of electronic information and educational materials for nurses midwives, relevant students, education providers and employers about the role, responsibilities and management of nurses and midwives with health related problems in the workplace , and the role of AHPRA and the NMBA when a nurse, midwife or relevant student has a health impairment (all materials have to

be up to date and accurate, and not duplicate material already provided by the Board or AHPRA);

- (f) a nationally-focused website that provides up to date information on health impairment in the context of the National Law, education resources and information about health services throughout Australia for nurses, midwives and relevant students;
- (g) a minimum data set regarding the Program to be agreed with AHPRA in consultation with the NMBA; and
- (h) administration of the Program,

in each case, as set out in the Frameworks developed under clause 4.1 of this Agreement.

“CPI” means the ‘All Groups weighted average of eight cities’ published by the Australian Bureau of Statistics for the relevant period.

"Dispute" means any dispute or disagreement concerning:

- (a) this Agreement;
- (b) the carrying out of the Program;
- (c) the provision of Funding by AHPRA; or
- (d) the other rights or obligations of the parties under this Agreement.

"Existing Material" means all Material in existence prior to the Commencement Date that is incorporated in, supplied with, or as part of, or required to be supplied with, or as part of the Program Material.

"Event" includes speeches, performances, launches, openings and publicity activities associated with the Program.

"Final Report" means a report referred to in clause 11.4.

"Funding" means the amount of the grant that is paid or payable by AHPRA under this Agreement, as specified in Schedule 2.

"GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“Initial Work” means necessary administrative arrangements for establishing the Program, as specified in clause 2.

"Intellectual Property" includes all copyright (including rights in relation to phonograms and broadcasts), all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered and unregistered designs, circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

“Loss” means any liability, dService Providerge, loss, claim, proceeding, cost or expense.

"Material" means documents, information and data stored by any means.

"Milestone" means an event or circumstance set out in Schedule 2.

"National Clinical Governance Framework" has the meaning set out in clause 4.1.1.

"National Communication Protocol" has the meaning set out in clause 4.1.3.

"National Law" means the Health Practitioner Regulation National Law of each State and Territory.

"National Performance Framework" has the meaning set out in clause 4.1.2.

"Person" means any legal person or entity but also includes a partnership, trust or other entity which is not a legal person.

"Personal Information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in writing or spoken, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

"Personnel" means any director, officer, employee, agent or contractor.

"Privacy Law" means legislation, statutory instruments and any other enforceable codes or guidelines regulating the collection, use and/or disclosure of personal information that applies to any of the parties or to this document.

"Program" means the activities the Service Provider will perform to deliver the Core Services.

"Program Delivery" has the meaning specified in clause 2.1.1.

"Program Material" means all Material including Reports, brought into existence by the Service Provider for the purpose of performing the Program, or incorporated in, supplied or required to be supplied along with any such Material but not any Existing Material.

"Progress Reports" means a report referred to as such in clause 11.

"Promotional Material" includes advertisements, posters, press releases, signage, brochures, fliers, catalogues, invitations, programs and websites.

"Report" means the Progress Reports and the Final Report.

"Representative" means the persons or position holders specified in Schedule 1 for each party respectively, or such other persons as may be notified to the other party in writing from time to time in accordance with clause 9.2.

"Term" means the period for which this Agreement remains in force, as set out in clause 3.

"Unexpended Funding" means any portion of the Funding in the possession or control of the Service Provider at the time this Agreement ends or is terminated, excluding any portion of the Funding that the Service Provider is legally bound to provide to a third party or parties as a current liability as at the date of ending or termination or that is required to meet the reasonable necessary and substantiated wind-down costs of the Service Provider following the cessation of the Core Services.

Interpretation

- 1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- 1.2.1 headings are inserted for convenience only and do not affect the interpretation of this Agreement;
- 1.2.2 if the day on which any act, matter or thing is to be done under this Agreement is not a Business Day, the act, matter or thing must be done on the next Business Day;
- 1.2.3 a reference in this Agreement to "dollars" or "\$" means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars;
- 1.2.4 a reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- 1.2.5 a reference in this Agreement to any document or agreement is to that document or agreement as amended, novated, supplemented or replaced;
- 1.2.6 a reference to a clause, part, Schedule or attachment is a reference to a clause, part, Schedule or attachment of or to this Agreement;
- 1.2.7 an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
- 1.2.8 where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- 1.2.9 a word which indicates the singular also indicates the plural, a word which indicates the plural also indicates the singular, and a reference to any gender also indicates the other genders;
- 1.2.10 a reference to the word "include" or "including" is to be interpreted without limitation; and
- 1.2.11 any Schedules and attachments form part of this Agreement.

Priority of documents

- 1.3 Unless this Agreement expressly provides otherwise, if there is any inconsistency between any one or more of:
 - 1.3.1 the body of this Agreement; and
 - 1.3.2 a Schedule to this Agreement,

the order of precedence between them will be the order set out above, with the terms set out in the body of this Agreement having the highest level of precedence.

2. GRANT OF FUNDING

- 2.1 AHPRA agrees to provide the Funding to the Service Provider:
 - 2.1.1 for the Service Provider to:
 - 2.1.1.1 develop and operate the Program to deliver the Core Services;

- 2.1.1.2 make all necessary payments arising under, in connection with delivery of the Core Services; and
- 2.1.1.3 perform necessary related administrative services, (**‘together Program Delivery’**)

at the times set out in this clause 2, and recorded in Schedule 2, and otherwise in accordance with the terms of this Agreement.

2.2 Regarding the Funding for the Initial Work, the parties agree that:

- 2.2.1 the Service Provider will provide to AHPRA a written estimate (in the form of a compliant tax invoice), calculated in good faith, of the likely amount of Funding required to meet the Service Provider’s reasonable and necessary expenses to do the Initial Work, with a detailed explanation of the purposes for which the Funding will be used;
- 2.2.2 provided AHPRA agrees, acting reasonably, with that estimate, it will provide Funding for that amount, to be used solely for the Initial Work;
- 2.2.3 if the Service Provider requires additional Funding for the Initial Work, it must provide a further written estimate for the further amount in accordance with clause 2.2.1, and clause 2.2.2 applies to that estimate; and
- 2.2.4 on the first anniversary of the Commencement Date, the Service Provider must provide an audited financial statement, prepared by an auditor that meets the requirements of clause 11.4.2.3, setting out the Funding spent on the Initial Work, and must refund to AHPRA an amount equal to any amount of Funding provided for that Initial Work that was not spent for that purpose or another purpose agreed by the parties.

2.3 Regarding Funding for Program Delivery in the first year of the Term, the parties agree as follows.

2.3.1 As soon as practicable after the Commencement Date, the parties will, acting in good faith, agree a budget (in the form of a Business Case) that allocates Funding to the Service Provider:

- (a) for the administrative costs of the Service Provider for that year; and
- (b) for the costs of performing the Core Services for that year,

to be paid by AHPRA to the Service Provider within 30 days of the Service Provider issuing a compliant tax invoice for those amounts. The Service Provider may issue a tax invoice quarterly in advance, with the first invoice issued promptly after the budget is agreed by the parties. The Representatives of the parties may agree in writing to vary the dates on which the Service Provider may issue tax invoices for administrative convenience.

2.3.2 The budget to be agreed under clause 2.3.1 is to be allocated in accordance with the general principles set out in clause 2.5 below.

2.4 Regarding Funding for Program Delivery for each subsequent year of the Term, the parties agree that, at least one month before the end of the preceding year, the parties will, acting in good faith, agree a budget (in the form of a revised Business Case) that:

- (a) allocates Funding to the Service Provider for the coming year on the same basis as set out above under clause 2.3.1; and
- (b) allocates Funding to the Program in accordance with the principles set out in clause 2.5.

2.5 The parties intend that the following general principles will apply in relation to the Funding.

2.5.1 The maximum amount of Funding is \$[# TBA] for the first year of the Term, increased by an amount equal to any increase in CPI in each subsequent year of the Term. AHPRA will review the amount of the Funding on each anniversary of the Commencement Date during the Term for the purposes of this clause, using the most recent CPI figures available at that day.

2.5.2 AHPRA will only pay the maximum amount of Funding when full Core Services are being delivered in all states and territories, in accordance with the Business Plan agreed under clause 5.

2.5.3 If any of the Core Services cease to be provided, the Service Provider must use its best endeavours to provide replacement Core Services as soon as possible, and the next annual budget will provide for Funding to be adjusted accordingly.

2.5.4 AHPRA must advise the Service Provider of any increase in the Funding promptly after the annual review under clause 2.5.1.

2.6 If the Service Provider holds Funding that is not immediately required to perform its obligations under this Agreement, the Service Provider must hold that Funding securely and invest it prudently. If any interest or other dividend accrues in relation to that Funding, the Service Provider must arrange for that amount to be applied for the purposes of Program Delivery.

2.7 The Service Provider agrees that the Funding is intended to cover all costs of it fulfilling its obligations in relation to this Agreement. However:

2.7.1 AHPRA recognises that due to unforeseen events it is possible that a small amount of additional funding may be required for the Initial Work; and

2.7.2 if the need arises, AHPRA agrees to negotiate in good faith with the Service Provider to determine whether additional funding is required for the Initial Work, and if so, the amount of that funding.

2.8 AHPRA and the Service Provider may agree to broaden the scope of the Core Services to include further services (for example, so they apply to professions other than nursing and midwifery). The parties agree to negotiate in good faith as to the scope of, and funding for these additional services. When agreed, the additional services are to be administered in the same way as the original Core Services, with appropriate changes to reflect context.

3. TERM OF AGREEMENT

3.1 This Agreement takes effect on the date both parties have signed it (**‘the Commencement Date’**) and remains in force for an initial term of three years, unless terminated earlier.

3.2 AHPRA may, at its own and sole discretion, extend the term of this Agreement for a period of up to two further years, by providing three months’ written notice to the Service Provider, given before the end of the initial term.

- 3.3 Six months before the initial term or any extension of the initial term expires, AHPRA and the Service Provider will have a review meeting to review the operation of this Agreement and to consider the potential for further funding of a Program the same as, or similar to, that funded under this Agreement.

4. ESTABLISHMENT OF FRAMEWORKS FOR THE SERVICES

- 4.1 The Service Provider must work with AHPRA and the Board, in good faith, to develop within [#Insert agreed timeframe] months of the Commencement Date, the following documents:

- 4.1.1 a National Clinical Governance Framework for the Program;
- 4.1.2 a National Performance Framework for the Program (which is expected to include key performance indicators for, and details of, Core Services);
- 4.1.3 a National Communication Protocol for all parties involved in the Program (which is expected to set out how AHPRA, the Service Provider and other parties that may be involved in the Services are to communicate and co-operate in relation to the Program); and
- 4.1.4 Guidelines and Expert Advisory Council Requirements (which will set out in detail the role of the Expert Advisory Council, as summarised in Schedule 3),

collectively **“the Frameworks”**.

- 4.2 AHPRA will consider the Frameworks and, acting reasonably, will approve them if they are acceptable to AHPRA. If AHPRA requires any amendments to the Frameworks then it will consult with the Service Provider about those amendments to seek a mutually acceptable position, subject to AHPRA’s final approval.
- 4.3 After the Frameworks are approved by AHPRA, the Service Provider must ensure that the Service Provider and its Personnel comply with the Frameworks.
- 4.4 On each anniversary of the Commencement Date, a Representative of the Service Provider and AHPRA will review and consult regarding the Frameworks and agree any amendments to those Frameworks, which the Service Provider will promptly put into effect.

5. BUSINESS PLAN AND STRATEGY

- 5.1 The Service Provider must ensure that:
- 5.1.1 within [# insert agreed timeframe] months of the Commencement Date, provides AHPRA with a business plan and strategy outlining how the Service Provider proposes to develop the Program that is able to deliver all the Core Services within[# insert agreed timeframe] months of the Commencement Date; and
 - 5.1.2 within a further 30 days meet with AHPRA's nominated representatives to discuss and agree the business plan and strategy.
- 5.2 To avoid doubt, the Service Provider must ensure that it makes and implements any changes to the business plan and strategy that are agreed with AHPRA.

6. ACKNOWLEDGEMENT AND PUBLIC STATEMENTS

Acknowledgement of funding

6.1 The Service Provider must:

6.1.1 acknowledge the Board's contribution to the Program at all Events and in all Promotional Material; and

6.1.2 gives AHPRA the opportunity to contribute a sponsor's message to be given at Events and included in Promotional Material.

Publication

6.2 The Service Provider must ensure that if it wishes to publicly publish information regarding the Program:

6.2.1 such information is in a form that is substantially similar to or based upon template materials about the Program that has already been agreed between the Service Provider and AHPRA; or

6.2.2 if such information does not meet the requirements of clause 6.2.1:

6.2.2.1 it gives AHPRA a copy of the proposed publication at least thirty (30) days before doing so; and

6.2.2.2 the Service Provider must take into account AHPRA's comments regarding the publication and must modify or delete any part that AHPRA reasonably believes contains AHPRA's Confidential Information or Intellectual Property, or is contrary to the interests of the Board (acting reasonably).

6.3 The Service Provider acknowledges that AHPRA or the Board may issue public statements and publish information regarding this Agreement or the Program in its absolute discretion without the consent of the Service Provider.

7. FUNDING

Use of Funding

7.1 The Service Provider must ensure that it:

7.1.1 only uses the Funding for:

7.1.1.1 the purpose of implementing the Program to deliver the Core Services;

7.1.1.2 funding those Core Services; and

7.1.1.3 necessary related reasonable administration and other costs and expenses of the Service Provider; and

7.1.2 does not use the Funding for any other purpose without AHPRA's prior written consent.

7.2 To avoid doubt, the Service Provider may provide services other than the Core Services, but:

- 7.2.1 it must not use the Funding to provide these other services;
- 7.2.2 the other services must not interfere with or detract from the Service Provider's provision of the Core Services; and
- 7.2.3 the other services must be philosophically aligned with the purpose of the Core Services.

Management of Funding

- 7.3 The Service Provider must ensure that it:
 - 7.3.1 does not commit any part of the Funding for expenditure that is likely to occur after this Agreement ends or following receipt of a notice of termination from AHPRA without prior written approval from AHPRA; and
 - 7.3.2 arranges for the receipt and expenditure of the Funding to be identified separately within its accounting records so that at all times the Funding is identifiable and ascertainable.

Unexpended Funding

- 7.4 The Service Provider must ensure that if it is in possession of any Unexpended Funding (including accumulated interest) at the time this Agreement ends or is terminated, the Service Provider must notify AHPRA immediately in writing.
- 7.5 AHPRA may by notice require the Service Provider to arrange for return the Unexpended Funding (or any portion of it) to AHPRA within 10 Business Days.

8. OBLIGATIONS OF SERVICE PROVIDER

Carrying out the Program

- 8.1 The Service Provider must ensure that:
 - 8.1.1 its Personnel perform the Program with due care, skill and judgement, in an efficient, professional and cost effective manner;
 - 8.1.2 its Personnel have the necessary skills, expertise, qualifications and training to provide the Program to a high professional standard;
 - 8.1.3 it continually maintains an accurate and up to date list of all Personnel engaged to provide a Program, and promptly provides this to AHPRA on request;
 - 8.1.4 complies with any reasonable direction of AHPRA in relation to its Personnel or the Program; and
 - 8.1.5 is able to provide AHPRA all information that is necessary for AHPRA to comply with the *Freedom of Information Act 1982* (Cth) and the requirements of any public sector auditor or ombudsman.
- 8.1A If in AHPRA's opinion, acting reasonably, the Service Provider is not carrying out a Program or is unlikely to carry out that Program in accordance with the requirements set out in this Contract, then the Service Provider must:

- 8.1.6 use its best endeavours to attempt to resolve the problem with the delivery of the Program;
- 8.1.7 report to AHPRA what the Service Provider is doing to resolve the problem; and
- 8.1.8 if required by AHPRA, work with AHPRA in good faith to resolve the problem by other means agreed by the parties (which may include reducing the scope of the Program in question, with a corresponding reduction in Funding).

Compliance with laws and policies

- 8.2 In providing the Program, the Service Provider must comply with:
 - 8.2.1 the National Law, and in particular in relation to reporting notifiable conduct under the National Law to AHPRA;
 - 8.2.2 all applicable laws; and
 - 8.2.3 reasonable and lawful policies and directions regarding the Program which AHPRA notifies to the Service Provider from time to time.
- 8.3 The Service Provider must, as soon as practicable, notify AHPRA if it becomes aware of a breach of clause 8.2.
- 8.4 The Service Provider and its Personnel must not provide advice regarding the National Law to users of a Program, and must suggest to nurses, midwives or students seeking advice on the National Law from the Service Provider to seek that advice elsewhere.

Record keeping

- 8.5 The Service Provider must:
 - 8.5.1 keep full and accurate records about the carrying out of the Program including records about progress against any applicable Milestones, the receipt and use of Funding and the creation of Intellectual Property rights in Program Material; and
 - 8.5.2 retain such records for a period of no less than seven years after the end of the Term.

9. REPRESENTATIVES, KEY PEOPLE AND EMPLOYEES

Representatives

- 9.1 Each party must appoint the Representative named in Schedule 1 as its Representative under this Agreement. The Representatives will be responsible for the day to day administration of this Agreement on behalf of the party appointing him or her. In the case of the Service Provider, the Representative will oversee how the Program is being carried out, including by supervising all persons employed or engaged to carry out the Program.
- 9.2 The Representatives must be available and able to be contacted during normal business hours. A party must notify the other party immediately should its Representative be removed or replaced, together with the contact details of its new Representative, or of any change to its Representative's contact details.
- 9.3 Each party will be responsible for the acts, omissions and defaults of its Representative. Any direction, instruction, notice, approval or other communication made or given to a

Representative will be deemed to have been made or given to the party appointing that person.

10. ACCESS AND AUDIT

Audit by AHPRA

10.1 The Service Provider must permit AHPRA, on reasonable notice, to conduct an audit of the relevant records of the Service Provider:

10.1.1 if the financial returns or other records of the Service Provider give rise to reasonable concerns as to the Service Provider's compliance with its obligations under this Agreement;

10.1.2 to establish or investigate the Service Provider's financial position;

10.1.3 to establish whether the Funding has been expended or otherwise dealt with in accordance with this Agreement; and

10.1.4 to investigate the Service Provider's compliance with this Agreement.

10.2 The Service Provider must:

10.2.1 co-operate with AHPRA and its nominees in relation to the conduct of any audit under clause 10.1; and

10.2.2 make available to AHPRA and its nominees all relevant documents and information required for the purposes of the audit within 10 Business Days of written request by AHPRA.

10.3 To avoid doubt, it is AHPRA's intention not to require information from the Service Provider under this clause that would include Personal Information regarding any medical practitioner or student that is receiving or has received services under a Program or if to disclose the information would breach applicable law.

11. REPORTS

Progress Reports

11.1 The Service Provider must ensure that it provides AHPRA's Representative with the Progress Reports specified in the Schedule 2. Each Progress Report must contain:

11.1.1 a financial report containing, for the period to which the Progress Report applies:

11.1.1.1 details of the Funding received by the Service Provider;

11.1.1.2 the manner and the purposes for which any Funding has been expended;

11.1.1.3 estimated expenditure, and a revised cash flow for the next period, if applicable; and

11.1.1.4 any other relevant information reasonably required by AHPRA; and

11.1.2 an activities report containing, for the period to which the Progress Report applies:

- 11.1.2.1 a description of the key activities undertaken;
 - 11.1.2.2 a statement as to whether the objectives of the Program are being achieved, and if not, the reasons why those objectives are not being achieved and the action the Service Provider proposes to take to achieve the objectives of the Program during the remainder of the Term;
 - 11.1.2.3 information about whether the Program is proceeding in accordance with the Program as set out in the Business Case;
 - 11.1.2.4 the number of nurses, midwives and students being helped, and at what stage (e.g. advice and referral, phone contact, case management etc.);
 - 11.1.2.5 presenting problem of each nurse, midwife or student assisted (e.g. substance abuse, mental illness, physical illness);
 - 11.1.2.6 the gender of the nurses, midwives and students assisted;
 - 11.1.2.7 the jurisdiction where assistance was provided;
 - 11.1.2.8 the type of registration (including specialty) of any nurse or midwife assisted;
 - 11.1.2.9 reports on 'success' in providing assistance to nurses, midwives and students, including:
 - level of satisfaction reported by the nurses, midwives and students;
 - number who have returned to, or remained in, the workforce, and number who are not able to return; and
 - number who have complied or not complied with the action recommended by the Provider; and
 - 11.1.2.10 any other relevant information reasonably required by AHPRA from time to time.
- 11.2 To avoid doubt, financial and activities reports to AHPRA under this clause 11 must not include Personal Information regarding any nurse, midwife or student who is receiving or has received assistance through a Program or if to disclose the information would breach an applicable law.
- 11.3 The Service Provider may also provide, at its discretion, comments to AHPRA at any time regarding:
- 11.3.1 any quality assurance program being undertaken regarding the Program;
 - 11.3.2 training and education activities being undertaken by the Service Provider or its Personnel;
 - 11.3.3 activities undertaken by the Service Provider to promote the Program; and
 - 11.3.4 any other matters that in the opinion of the Service Provider is important for AHPRA and the Board to know about the Program (e.g. trends in health

problems, problems in administering the Program, or opportunities for improvement).

Final Report

- 11.4 The Service Provider must within 20 Business Days following the expiry or termination of this Agreement, provide AHPRA's Representative with a Final Report. The Final Report must contain the information required to be contained in a Progress Report, and in addition:
- 11.4.1 information about any further related activities that the Service Provider is willing to undertake;
 - 11.4.2 an audited financial report which:
 - 11.4.2.1 contains the matters referred to in clause 11.1.1;
 - 11.4.2.2 includes a statement as to whether the financial accounts are complete and accurate and that all Funding was expended in connection with the Program;
 - 11.4.2.3 is prepared by an independent auditor registered as a company auditor under the *Corporations Act 2001*, or who is a member of the Institute of Chartered Accountants in Australia, or of CPA Australia or the National Institute of Accountants; and
 - 11.4.2.4 complies with the Australian Auditing Standards.

Acceptance or rejection of reports

- 11.5 AHPRA may accept or reject:
- 11.5.1 a Progress Report; or
 - 11.5.2 the Final Report.
- 11.6 If AHPRA rejects a Report, AHPRA:
- 11.6.1 will provide reasons for the rejection; and
 - 11.6.2 may invite the Service Provider to resubmit the Report, within the time specified by AHPRA, taking into consideration any comments provided by AHPRA.

12. COMMUNICATION

- 12.1 Without limiting clause 11, the Service Provider must communicate with and report to AHPRA's Representative, as reasonably required by that Representative for the purposes of this Agreement.
- 12.2 Upon receipt of reasonable written notice, the Service Provider must, within the time-frame stipulated in the notice, or within a reasonable time-frame if no time-frame is stipulated in the notice, provide any information in relation to the Program reasonably requested by AHPRA for the purposes of this Agreement, including for monitoring and evaluation.

13. DELAY

13.1 Without limiting clause 11, if the Service Provider becomes aware that the Program may not progress or be completed in accordance with this Agreement, the Service Provider must immediately notify AHPRA's Representative in writing of:

13.1.1 the delay and its likely effect on the progress or completion of the Program; and

13.1.2 the action the Service Provider proposes to take to minimise the effect of the delay, and that action's likely effect on the progress or completion of the Program.

14. INTELLECTUAL PROPERTY

Ownership of Intellectual Property Rights

14.1 The Service Provider must ensure (and, where relevant, require any person it engages to provide the Program to ensure) that any Intellectual Property rights and title in and to the Program Material created by the Service Provider or any person it engages (other than its internal administrative files and materials) will vest, upon creation, in AHPRA.

14.2 AHPRA grants to the Service Provider a perpetual, irrevocable, royalty-free and licence fee-free, world-wide, non-exclusive licence (including a right of sub-licence, and for sub-licensees to further sub-licence) to use, copy, modify and exploit the Program Material for the purpose of providing the Program.

Existing Material

14.3 This clause does not affect the ownership of any Intellectual Property in any Existing Material. However, the Service Provider grants, and must ensure that any person it engages to perform the Program grants to AHPRA, a perpetual, irrevocable, royalty-free and licence fee-free, world-wide, non-exclusive licence (including a right of sub-licence) to use, copy, modify and exploit the Existing Material in which the Service Provider or person it engages holds Intellectual Property in conjunction with the other Program Material for the purposes of the Program.

14.4 AHPRA grants to the Service Provider a perpetual, irrevocable, royalty-free and licence fee-free, world-wide, non-exclusive licence (including a right of sub-licence, and for sub-licensees to further sub-licence) to use, copy, modify and exploit the Existing Material in which AHPRA holds Intellectual Property in conjunction with the other Program Material for the purpose of performing the Program.

Warranty

14.6 The Service Provider warrants that it is entitled to use any Intellectual Property that is used by it in connection with the Program and that its use of any information in connection with the Program will not infringe the Intellectual Property rights of any person or the moral rights of any person.

Moral rights consent

14.7 The Service Provider must procure the irrevocable consent of any person it engages to provide the Program not to enforce any or all moral rights that those people may have, presently or in the future, arising in relation to the Program and the Intellectual Property

created in relation to the Program (or both) including by executing any moral rights consents required by AHPRA.

15. PRIVACY

Privacy Law

- 15.1 The Service Provider must comply with, and must ensure that any persons it engages to perform the Program complies with, applicable Privacy Law and facilitate the compliance by AHPRA with Privacy Law as applicable to AHPRA in relation to the Program.
- 15.2 To avoid doubt, the Privacy Law that applies to AHPRA includes the confidentiality provisions set out in Part 10 of the National Law and the *Privacy Act 1988* (Cth).

Personal Information provided to AHPRA

- 15.3 The Service Provider warrants to AHPRA that:
- 15.3.1 any Personal Information that the Service Provider discloses to AHPRA under this Agreement has been collected in accordance with Privacy Law; and
- 15.3.2 the Service Provider is authorised to collect the Personal Information and use the Personal Information for the purposes of this Agreement.

Protection of Personal Information

- 15.4 In relation to any Personal Information that AHPRA discloses to the Service Provider in connection with this Agreement, the Service Provider agrees to:
- 15.4.1 not use, disclose, store, transfer or handle the information except in accordance with Privacy Law;
- 15.4.2 take all reasonable steps to ensure that the information is protected from misuse, loss, unauthorised access, modification or disclosure;
- 15.4.3 take all reasonable steps to destroy or permanently de-identify the information when it is no longer needed for a purpose connected with this Agreement;
- 15.4.4 only use or disclose the information for the purpose of fulfilling the Service Provider's obligations under this Agreement, except where otherwise required by law;
- 15.4.5 co-operate with any reasonable request or direction made by AHPRA which relates to the protection of the information;
- 15.4.6 other than access permitted by the Australian Privacy Principles or applicable privacy legislation, ensure that access to the information is limited to those members of the Service Provider's Personnel, if any, who are required to access that information for the purposes of this Agreement;
- 15.4.7 ensure that any employees, agents or contractors who access the information comply with the requirements of this clause and of Privacy Law; and
- 15.4.8 amend this Agreement to reflect any legislative or other regulatory changes concerning the privacy protection of Personal Information.

Complaints

- 15.5 The Service Provider must, as soon as practicably:
- 15.5.1 inform AHPRA in writing of any complaint that it receives concerning the use, disclosure, storage, transfer or handling of Personal Information; and
 - 15.5.2 comply with any reasonable direction given by AHPRA in relation to a complaint received by either party concerning the use, disclosure, storage, transfer or handling of Personal Information.

16. CONFIDENTIALITY

- 16.1 The Service Provider must keep confidential all Confidential Information that is received in relation to this Agreement, and must not disclose or permit the disclosure of such Confidential Information to any other person.

Further permitted use and disclosure

- 16.2 This Agreement does not prohibit the disclosure of Confidential Information by the Service Provider in the following circumstances:
- 16.2.1 the disclosure is required by law or a court or governmental or administrative authority or is required by APHRA to comply with the *Freedom of Information Act 1982* (Cth) and the requirements of any public sector auditor or ombudsman;
 - 16.2.2 the disclosure is specifically contemplated and permitted by this Agreement or is otherwise consented to by AHPRA in writing;
 - 16.2.3 the disclosure of Confidential Information is to a Provider or Representative of the Service Provider who needs it for the purposes of this Agreement and the Service Provider ensures that the relevant Provider or Representative complies with the terms of this clause 16; and
 - 16.2.4 the disclosure is to a professional adviser in order for it to provide advice in relation to matters arising under or in connection with this Agreement.

Personnel to be made aware of Confidential Information

- 16.3 The Service Provider must ensure that its Personnel are made aware that the Confidential Information must be kept confidential and that they must not do, or fail to do anything, which if done or not done by the Service Provider would amount to a breach of the Service Provider's obligations under this clause 16.

Service Provider to report unauthorised disclosure

- 16.4 If the Service Provider becomes aware of any unauthorised access to, use or disclosure of Confidential Information, or any suspected or possible breach of the obligations under this clause 16, it must notify AHPRA as soon as practicably.

17. CONFLICT OF INTEREST

- 17.1 The Service Provider warrants that, at the commencement of the Program, no conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement, in respect of it or any of its Personnel.

- 17.2 The Service Provider and its Personnel must not in the course of carrying out the Program, engage in any activity, transaction or arrangement that may result in a conflict of interest arising or continuing (including any activity, transaction or arrangement which AHPRA may reasonably view as a conflict of interest), unless AHPRA has been fully advised of the conflict and the parties have consulted and agreed as to the appropriate course of action

18. DISPUTE RESOLUTION

Parties must follow dispute resolution procedures

- 18.1 No party may bring any legal action or proceedings in relation to any Dispute until the dispute resolution procedures set out in this clause 18 have been followed, except for proceedings for urgent interlocutory relief.

Notification and resolution of Disputes

- 18.2 If a Dispute arises, either party may at any time give written notice to the other party outlining the nature of the Dispute and requesting that a meeting take place between Representatives or their nominees to seek to resolve the Dispute. The parties must use best endeavours to ensure that such a meeting is held within 10 Business Days of the notice.
- 18.3 The parties must use best endeavours to resolve any Dispute promptly and in good faith without involving other parties. However, if the parties are unable to resolve a Dispute within 20 Business Days of the first notice then either party may by notice to the other ("**Mediation Notice**") refer the Dispute to mediation.
- 18.4 If the parties cannot agree on a mediator within 7 days of the Mediation Notice then either party may request the President of the Law Institute of Victoria to choose a mediator. The mediator will choose the rules for the mediation. Each party must co-operate with the mediator. The mediator must seek to resolve the Dispute within 30 days of his or her appointment and if the Dispute is not resolved then, either party may bring legal proceedings in respect of the Dispute.

Performance of obligations

- 18.5 Subject to clause 18.6, each party must continue to perform its obligations under this Agreement during a Dispute.
- 18.6 The Service Provider is not obliged to continue to perform its obligations during a Dispute to the extent that it is unable to do so because the Funding has not been provided in accordance with the terms of this Agreement.

Implementation of agreement or other resolution

- 18.7 The parties must do whatever is reasonably necessary to put into effect any negotiated agreement or other resolution of any Dispute.

19. SUSPENSION AND TERMINATION

Termination by agreement

- 19.1 This Agreement may be terminated at any time by agreement between the parties.

Right to terminate

- 19.2 No party is entitled to terminate this Agreement except as expressly permitted in this Agreement or as otherwise agreed.

Termination by AHPRA

- 19.3 AHPRA may immediately terminate this Agreement if any of the following occurs:
- 19.3.1 the Service Provider fails to ensure the Program has commenced within [#insert agreed timeframe] months of the Commencement Date;
 - 19.3.2 the Service Provider is in breach of its material obligations under this Agreement and does not remedy the breach (to the extent that it can be remedied) within 30 Business Days after receiving a written notice from AHPRA specifying the breach and requiring it to be remedied;
 - 19.3.3 the Service Provider commits a material breach of a material obligation of this Agreement which cannot be remedied;
 - 19.3.4 the Service Provider commits multiple or recurring material breaches of a material obligation of this Agreement, whether or not remedied;
 - 19.3.5 any one or more Personnel of the Service Provider, in AHPRA's reasonable opinion, is guilty of misconduct in relation to the Program or the use of the Funding; or
 - 19.3.6 AHPRA becomes aware of anything that reasonably indicates that there is a significant risk that that the Service Provider is or will become unable to pay its debts as they fall due.

Termination by the Service Provider

- 19.4 The Service Provider may terminate this Agreement if AHPRA fails to provide Funding in accordance with the terms of this Agreement and the Service Provider reasonably considers that the matter cannot be resolved in accordance with clause 18.
- 19.5 In exercising a right to terminate under this Agreement, a party must use reasonable efforts to minimise the costs and liabilities that will or may be suffered or incurred by the other party as a direct result of the termination.

Effect of termination

- 19.6 In addition to any other rights, powers or remedies a party may have under this Agreement or at law, if this Agreement ends or is terminated the following will apply:
- 19.6.1 subject to clause 20, each party is released from its obligations under this Agreement;
 - 19.6.2 each party retains all of its accrued rights under this Agreement and at law in respect of any breach of this Agreement by the other party;
 - 19.6.3 the Service Provider must return to AHPRA any Confidential Information of AHPRA or other property of AHPRA in its possession; and

19.6.4 the Service Provider must not deal with Unexpended Funding other than in accordance with a direction of AHPRA, whether given pursuant to clause 7.5 or otherwise.

20. CLAUSES SURVIVE THE EXPIRATION OR TERMINATION OF AGREEMENT

20.1 The following clauses will survive the expiration or earlier termination of this Agreement:

20.1.1 clause 6 (Acknowledgement and Public Statements).

20.1.2 clause 7.4 and 7.5 (Unexpended Funding);

20.1.3 clause 8.5 (Record Keeping);

20.1.4 clause 10 (Access and Audit);

20.1.5 clause 11.4 (Final Report);

20.1.6 clause 15 (Privacy);

20.1.7 clause 21 (Indemnity);

20.1.8 clause 21A (Liability); and

20.1.9 clause 23 (GST).

21. INDEMNITY

The Service Provider indemnifies AHPRA, the Board and their officers and employees (**‘the indemnified’**) against all Loss suffered or incurred by the indemnified to the extent caused directly or indirectly by:

21.1.1 a breach of the obligations of privacy set out in clause 15;

21.1.2 a breach of the obligations of confidence set out in clause 16;

21.1.3 any wilfully reckless, fraudulent or wilfully wrongful acts or intentional misconduct of the Service Provider;

21.1.4 personal injury, death or loss of or damage to real or personal property caused by the Service Provider; and

21.1.5 breach of any third party Intellectual Property rights by the Service Provider, or breach of any warranty regarding Intellectual Property given by the Service Provider.

Any liability of the Service Provider under clause 21 shall be reduced to the extent that the Loss was caused or contributed to by AHPRA, the Board, or their officers or employees. AHPRA and the Board and their officers and employees must mitigate any loss, cost or expenses they suffer or incur in relation to a matter the subject of the indemnity and notify the Service Provider of any such claim without delay.

21A LIMIT ON LIABILITY

21.1 Other than in respect of wilful default by either of them, or a liability for which an indemnity is payable under clause 21, the Service Provider’s liability to AHPRA or the Board under or

in connection with this Agreement (including for negligence or breach) shall be limited in the aggregate to the amount of the first year's Funding.

22. INSURANCE

- 22.1 The Service Provider must maintain at all times the policies of insurance listed in Schedule 1.
- 22.2 The Service Provider must deliver to AHPRA evidence satisfactory to AHPRA (without breach of confidentiality obligations) that it has a particular insurance policy and that the insurance policy is current within 3 Business Days of a written request to do so.

23. GST

Recovery of GST on supplies and adjustments under this Agreement

- 23.1 All consideration provided under this Agreement is exclusive of GST, unless it is expressed to be GST-inclusive.
- 23.2 Where a party (Supplier) makes a taxable supply to another party (Recipient) under or in connection with this Agreement, the Recipient must pay to the Supplier an additional amount equal to the GST payable on the supply (unless the consideration for that taxable supply is expressed to include GST). Except where this Agreement provides otherwise, the additional amount must be paid by the Recipient at the later of the following:
 - 23.2.1 the date when any consideration for the taxable supply is first paid or provided; and
 - 23.2.2 the date when the Supplier issues a compliant tax invoice to the Recipient.
- 23.3 If, under or in connection with this Agreement, the Supplier has an adjustment for a supply under the GST law which varies the amount of GST payable by the Supplier, the Supplier will adjust the amount payable by the Recipient to take account of the varied GST amount. The Supplier must issue an adjustment note to the Recipient within 28 days of becoming aware of the adjustment.
- 23.4 To avoid doubt, the amount of Funding to be paid by AHPRA under this Agreement includes an amount equal to any GST or other tax or charge payable by the Service Provider in relation to that Funding. That is, AHPRA is not liable to pay the Service Provider any amount in addition to the Funding on account of GST or other tax or charge.

Other GST matters

- 23.5 If a party is entitled to be reimbursed or indemnified under this Agreement, the amount to be reimbursed or indemnified is reduced by the amount of GST for which there is an entitlement to claim an input tax credit on an acquisition associated with the reimbursement or indemnity. The reduction is to be made before any increase under clause 23.2. An entity is assumed to be entitled to a full input tax credit on an acquisition associated with the reimbursement or indemnity unless it demonstrates otherwise before the date the reimbursement or indemnity is made.
- 23.6 Terms used in this clause that are not otherwise defined in this Agreement have the meanings given to them in the GST Act.

24. NOTICES

Giving notices

24.1 Any notice or communication given to a party under this Agreement is only given if it is in writing and sent to the address for notices of the party specified in Schedule 1 in one of the following ways:

24.1.1 delivered or posted to that party at its address set out in Schedule 1 and marked for the attention of the relevant officer (if any);

24.1.2 faxed to that party at its fax number set out in Schedule 1 and marked for the attention of the relevant officer (if any) set out below; or

24.1.3 emailed to that party at the email address set out in Schedule 1.

Change of address or fax number

24.2 If a party gives the other party three Business Days' notice of a change of its address, fax number or email address, any notice or communication is only given by that other party if it is delivered, posted or faxed to the latest address or fax number.

Time notice is given

24.3 Any notice or communication is to be treated as given at the following time:

24.3.1 if it is delivered, when it is left at the relevant address;

24.3.2 if it is sent by post, two (or, in the case of a notice or communication posted to another country, nine) Business Days after it is posted;

24.3.3 if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number; or

24.3.4 if it sent by email, at the time it is sent.

24.4 However, if any notice or communication is given, on a day that is not a Business Day or after 5pm on a Business Day, in the place of the party to whom it is sent it is to be treated as having been given at the beginning of the next Business Day.

25. MISCELLANEOUS

Sub-contracting and assignment of rights and obligations

25.1 Except with the prior written consent of AHPRA, the Service Provider may not:

25.1.1 assign the whole or any part of the Service Provider's rights; or

25.1.2 assign or sub-contract the whole or any part of the Service Provides obligations, under this Contract.

25.2 If AHPRA does consent to the Contractor assigning or sub-contracting any of its obligations under this Contract, the Contractor:

25.2.1 remains liable for the due performance of those obligations as if it were performing them itself; and

25.2.2 must ensure that the subcontractor or assignee is bound to comply with the terms of this Contract in relation to those obligations as if it were the Service Provider, including (to avoid doubt) those obligations that apply to assignment of rights and subcontracting.

No agency etc

25.3 Except as expressly provided in this Agreement, the Service Provider:

25.3.1 is not an agent, representative, trustee, employee or partner of AHPRA by virtue of this Agreement and must not represent itself as such in any circumstances; and

25.3.2 has no power or authority to act for or to assume any obligation or responsibility on behalf of AHPRA.

25.4 AHPRA must not be taken to be the guarantor of the Service Provider in respect of any existing or future liabilities on the basis that AHPRA has granted the Funding or entered into this Agreement.

Approvals and consents

25.5 Unless this Agreement expressly provides otherwise, a party may give or withhold an approval or consent in that party's absolute discretion and subject to any conditions determined by the party. A party is not obliged to give its reasons for giving or withholding a consent or approval or for giving a consent or approval subject to conditions.

25.6 Where this Agreement refers to a matter being to the "satisfaction" of a party, this means to the satisfaction of that party in its absolute discretion.

Costs

25.7 Except as otherwise set out in this Agreement, each party must pay its own costs and expenses for preparing, negotiating, executing and completing this Agreement and any document related to this Agreement.

Entire agreement

25.8 This Agreement contains everything the parties have agreed in relation to the subject matter it deals with. No party can rely on an earlier written document or anything said or done by or on behalf of another party before this Agreement was executed.

No variation unless in writing

25.9 No variation of this Agreement will be of any force or effect unless it is in writing and signed by each party to this Agreement.

Execution of separate documents

25.10 This Agreement is properly executed if each party executes either this document or an identical document. In the latter case, this Agreement takes effect when the separately executed documents are exchanged between the parties.

Further acts

- 25.11 Each party must at its own expense promptly execute all documents and do or use reasonable endeavours to cause a third party to do all things that another party from time to time may reasonably request in order to give effect to, perfect or complete this Agreement and all transactions incidental to it.

Governing law and jurisdiction

- 25.12 This Agreement is governed by the law of Victoria. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

Severability

- 25.13 Each provision of this Agreement is individually severable. If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction it is to be treated as being severed from this Agreement in the relevant jurisdiction, but the rest of this Agreement will not be affected. The legality, validity and enforceability of the provision in any other jurisdiction will not be affected.
- 25.14 No variation of this Agreement will be of any force or effect unless it is in writing and signed by each party to this Agreement.

Waivers

- 25.15 A waiver of any right, power or remedy under this Agreement must be in writing signed by the party granting it. A waiver only affects the particular obligation or breach for which it is given. It is not an implied waiver of any other obligation or breach or an implied waiver of that obligation or breach on any other occasion.
- 25.16 The fact that a party fails to do, or delays in doing, something the party is entitled to do under this Agreement does not amount to a waiver.

The Board has the benefit of this Agreement

- 25.17 AHPRA holds the rights under clause 21 and clause 21A (Indemnity) that may be enforceable by the Board on trust for the Board but subject to this Agreement.

Force majeure

- 25.18 The Service Provider will not be liable for any failure to perform or delay in performing its obligations under this Agreement if that failure or delay is due to anything beyond that party's reasonable control. The Service Provider will notify AHPRA of any such failure or delay and will take reasonable steps to minimise its impact.

EXECUTED AS AN AGREEMENT:

DATE:

Signed for AHPRA by the person named below who warrants that he or she is authorised to sign for AHPRA:

.....
Signature

.....
Name and position (print)

.....
Witness

.....
Name of witness (print)

.....
Date

Executed by the Service Provider in accordance with s127 of the Corporations Act 2001:

.....
Signature of director

.....
Name of director (print)

.....
Date

.....
Signature of director/company secretary

.....
Name of director/company secretary (print)

SCHEDULE 1: DETAILS

1.	The Service Provider	Name: # Address: # ABN: #
2.	Amount of Funding	The amounts calculated in accordance with clause 2.
3.	Insurances	WHS – as required by law Professional Indemnity – \$40 million in aggregate; up to \$20 million per claim Public liability - \$20 million Directors & Officers - \$20 million Employment Practices Liability - \$5 million in aggregate
4.	Reports (clause 11.1)	As specified in Schedule 2.
5.	Existing Material (clause 14)	Nil Service Provider -owned or Service Provider -licensed material.
6.	AHPRA's Representative (Clause 9.1)	Name: # Position: # Phone: # Email: #
7.	The SERVICE PROVIDER's Representative (Clause 9.1)	Name: # Position: # Phone: # Fax: # Email: #
8.	AHPRA's Address for Notices (Clause 24)	Address: Level 8, 111 Bourke Street, Melbourne, Vic, 3000 Email: [#insert name]@ahpra.gov.au
9.	The SERVICE PROVIDER's Address for Notices (Clause 24)	Address: # Fax: # Email: #

SCHEDULE 2: MILESTONES

Milestone	Date	Report	Funding Amount payable
Payment of Funding for Initial Work	AHPRA to pay Funding for Initial Work within 30 days of agreeing to Service Provider's estimate.	N/A	Funding for Initial Work, as calculated under clause 2.2.
Payment of Funding for Program Delivery for first year of Term.	AHPRA to pay Funding: - on the dates; and - for the amounts specified in the agreed budget to be set under clause 2.3.*	N/A	Funding for Program Delivery in first year of the Term, as calculated under clause 2.3.
Payment of Funding for Program Delivery for subsequent years of the Term.	AHPRA to pay Funding: - on the dates; and - for the amounts specified in the agreed budget to be set under clause 2.4.*	N/A	Funding for Program Delivery in subsequent years of the Term, as calculated under clause 2.4
First Progress Report to AHPRA	[#Insert agreed timeframe] months after Commencement Date of this Agreement	First Progress Report due†	N/A
Subsequent Progress Reports to AHPRA [#timeframe may need to be adjusted by agreement of parties]	Each anniversary of the date the first Progress Report was due.	Second and following Progress Reports†	N/A
Final Report to AHPRA	Within twenty (20) days of expiry or termination of Agreement (clause 11.4)	Final Report	N/A

* Subject to the agreement of the parties, AHPRA's intention is that the proposed budgets will provide for payments to set up the Program to service each state and territory during the first [#insert agreed timeframe] months of the Term, and then to pay equal Funding amounts at six-monthly intervals thereafter for the balance of the Term.

† AHPRA proposes that the Service Provider and AHPRA discuss the creation of a unified data collection system for the purpose of reports under clause 11 of this Agreement.