

STANDARD STANDALONE SERVICES AGREEMENT

SERVICES AGREEMENT

[### CONTRACT TITLE]

Melbourne Primary Care Network Limited
trading as North Western Melbourne PHN
ABN 93 153 323 436

and

[Provider Name]
ABN [XXXXXXXX]

Our reference: [S1 #Contract Number]

Contact: Melbourne Primary Care Network

Contact Name: [XXXXXXXXXX]
Role: [XXXXXXXXXXXXXXXXXXXX]
Email: [XXXXXXXX.XXXXXX@nwmpn.org.au]

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SERVICES AGREEMENT

Date of Agreement / /

(If blank, the PHN may insert the date the last party signed.)

PARTIES

	Short name	Full name and address
1	PHN or MPCN	Melbourne Primary Care Network Limited ACN 153 323 436 ABN 93 153 323 436 of Level 1, 369 Royal Parade, Parkville VIC 3052
2	Contractor	[Provider] [ABN] of [Address]

BACKGROUND

The PHN will:

- commission, design, develop, fund or support programs or projects in its catchment; or
- request the provision of services from qualified providers for the PHN or its catchment.
- The Contractor has the experience, skill, knowledge and competence to undertake, deliver or contribute to programmes, projects or service delivery that will contribute to the PHN's key objectives.
- The PHN and the Contractor may agree, by signing a Schedule, for the undertaking of programs, projects or services in accordance with the terms and conditions.

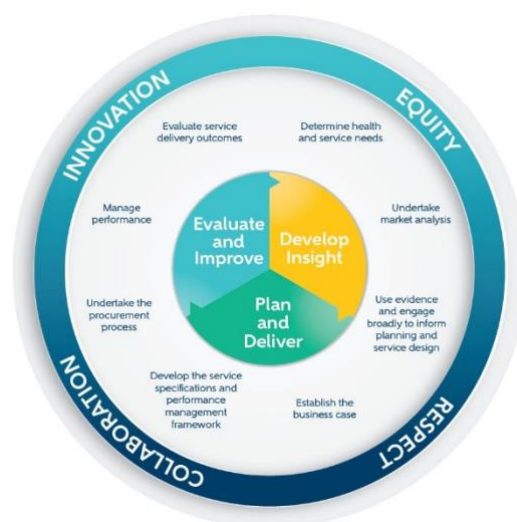
FOREWORD

At North Western Melbourne Primary Health Network (NWMPHN), we believe everyone has the right to the best health care possible. Everything we do is aimed at improving our community's health and well-being.

We collaborate with our community and organisations across all levels of the health care system, and beyond. From GPs and general practice staff to allied health, community health and pharmacists to hospitals and specialists, patients, consumers and carers, peak and community groups and governments. We build partnerships, consult and innovate to design better health solutions.

Our Commissioning Cycle has three key elements:

1. **Develop Insight** – we determine the needs of our community and explore the current systems capacity and scope, undertaking market analysis to gather the evidence we need to inform planning and service approach.
2. **Plan and Deliver** – in partnership with our community and sector we plan our approach and develop models aimed at getting the best outcomes for our region. We undertake transparent procurement, ensuring the best approach is purchased, building on the existing system and supports.
3. **Evaluate and Improve** – we build relationships and manage performance based on quality improvement and shared learning as we collectively evaluate the outcomes of procured activity.



We are guided by our values of equity, respect, collaboration and innovation as we strive for better care, every day in every way.

When entering into a contract with North Western Melbourne PHN, you understand that our relationship and the activity we have procured will be based on these values as we work together in partnership to achieve the **Quadruple Aim of Effective Primary Care** (Berwick, Nolan & Whittington, 2008). This is our anchor, it is why we are here. Ultimately, we strive to increasing the efficiency and effectiveness of health services for patients, **particularly those at risk of poor health outcomes**.

The quadruple aim of effective primary care



IMPROVED PATIENT EXPERIENCE

Better care: safe, quality care
Timely and equitable access
Patient and family needs met



IMPROVED PROVIDER EXPERIENCE

Increased clinician and staff satisfaction
Leadership and teamwork
Quality improvement culture in practice



POPULATION HEALTH

Better health outcomes
Reduced disease burden
Improvement in physical and mental health



SUSTAINABLE COST

Efficient and effective services
Increased resources for primary care
Commissioning effectively



EQUITY



RESPECT



COLLABORATION



INNOVATION

Equity

As a PHN, we receive limited funds from the Commonwealth Department of Health with the expectation that we will commission for the greatest possible outcomes. We also recognise that we are not the only funder purchasing activity in the market. When therefore commissioning activity for the greatest need and work towards addressing issues of health disparity.

NWMPHN works in consultation with the community and a number of sectors (health, education and social care) and the approach we take may not always be the 'obvious' option. Our commissioning intentions are based on a range of inputs, including:

- Population health data at the level required and available, this includes quantitative and qualitative data
- Understanding service gaps and needs
- Acknowledging barriers and enablers to health and access
- Understanding the social determinants of health
- Looking at the health system as a whole
- Considering how we take an equity-based approach across the region

Respect

Regardless of whether we are working with our staff or our sector and community, respect is the fundamental basis of our relationship. We acknowledge that everyone brings different experience, views and approaches to the table and there is often no right way or wrong way. Together we will work to find the best outcome for the community, with the resources available to us. We do so by:

- Striving to embrace different opinions, providing a respectful environment where it is safe to have a voice and learn from constructive criticism, but recognise trust needs to be earned.
- Understanding and respecting the experience of our consumers and communities and ensuring this knowledge informs our decision making.
- Enjoying the sharing of ideas and recognising this works both ways while recognising that finding the space to do this can be challenging.
- Having respect for the professionalism of our stakeholders and their commitment to building relationships for themselves and their organisations.
- Recognising that working respectfully increases our shared approach of collaboration, innovation and individual, organisational and systemic growth.
- Basing our shared investment on data (clarity, parity, quality and integrity).

Collaboration

Commissioning is not about us doing it ourselves, it is about working together, for our community, with our community.

What it means for us, both internally and externally:

- We believe we can all add value to each other's work.
- We actively seek to involve others to help inform and improve our work, which builds strength and confidence in our approach.
- Challenging ourselves to find better ways of doing things, asking for input and being open to what we hear.
- We see collaboration as the strongest form of working together and building partnerships as we leverage each other's work and effort.
- Sharing resources and knowledge, working for shared outcomes together (e.g. pool resources/efforts) ensures we drive funding to activity that benefits our consumers.
- We seek to identify links between programs and populations, to strengthen existing connections or build new ones.

When we work collaboratively, we:

- Talk/communicate with others openly and respectfully.
- Get off our chairs and talk to each other in the moment.
- Seize opportunities to connect.
- Use systems/processes in place and help improve them where needed.
- Encourage healthy culture through shared ideas, efforts, resources and challenges.

In working with us as a contracted provider, we welcome the opportunity to share our values and remain aware of those that you and your organisation are guided by.

Innovation

We believe that innovation – finding new, better ways to solve health care problems or addressing issues – is critical to us being able to provide better care for our community. This means we are open to different approaches, new ways of thinking and working, if they will better meet the needs of consumers or provide better value for the community.

TERMS AND CONDITIONS

1 COMPONENTS OF THIS AGREEMENT

1.1 Components of this Agreement

This Agreement comprises:

- (a) these terms and conditions;
- (b) the Schedule;
- (c) any attachments described in Item 10; and
- (d) any other documents incorporated in this Agreement by reference.

1.2 Priority

If there is any inconsistency between any of the documents forming part of this Agreement then those documents will be interpreted in the order of priority (highest to lowest) specified in clause 1.1, except that where attachments to or documents referenced by this Agreement contain higher Contractor obligations, representations, warranties and indemnities in favour of the PHN, those higher obligations, representations, warranties and indemnities will apply.

2 TERM

- (a) This Agreement begins on the Commencement Date and ends on the End Date (“**Term**”) unless terminated earlier in accordance with clause 16 or the Law, extended by agreement, or extended in accordance with clause 2(b).
- (b) The PHN may by Notice to the Contractor, in its absolute discretion, extend the Term and the Services Period as set out in Item 2 (if any).

3 PERFORMANCE OF SERVICES

3.1 Manner of performance of Services

The Contractor must carry out the Services during the Services Period:

- (a) with due care and skill and to the best of the knowledge and expertise of the Contractor;
- (b) efficiently, effectively, in good faith, to a high standard and to achieve value for money;
- (c) in accordance with the performance and other requirements set out in Item 3;
- (d) in a professional manner and in accordance with any applicable ethical codes or standards;
- (e) in accordance with relevant Australian (or if there are none, international) industry standards, best practice and guidelines;
- (f) using the Key Personnel (if any);
- (g) in accordance with:
 - (1) all applicable Law;
 - (2) all applicable governmental policy of which a prudent and experienced Contractor providing the Services should have been aware; and
 - (3) specified laws, policies, guidelines, standards and clinical governance set out in Item 3;
- (h) in accordance with the PHN’s reasonable directions;

- (i) so as to meet the Deliverable Dates and where no Deliverable Dates are specified, promptly and without delay (time being of the essence); and
- (j) otherwise in accordance with this Agreement.

3.2 Notification of delays

The Contractor must promptly notify the PHN (and within 4 Business Days):

- (a) if it becomes evident to the Contractor that anything, including an act or omission of the PHN or its Personnel, may delay the carrying out of the Services; or
- (b) if for any reason whether or not within the Contractor's control it is unable or unwilling to carry out the Services.

3.3 Variations to the Services

- (a) Without limiting clause 11.6, the PHN may propose a Variation in substantially the form of the attached variation form, which may, without limitation, require some other third party to carry out the Services. However, the PHN must not propose a Variation which the Contractor cannot reasonably be expected to carry out.
- (b) The PHN will:
 - (1) consult with the Contractor in good faith on any necessary adjustment to the Payments resulting from any Variation; and
 - (2) adjust the Payments as necessary and acting reasonably.
- (c) The Contractor must not unreasonably withhold or delay giving its consent to a Variation.

3.4 Volume of Services

This Agreement does not guarantee any minimum volume of Services will be requested by the PHN.

3.5 Work health and safety

- (a) The Contractor must comply with *Occupational Health and Safety Act 2004 (Vic)* and take reasonable steps to ensure its workplace environments are free from health and safety risks to its Personnel and the public.
- (b) While on the PHN's premises, the Contractor and its Personnel must comply with the PHN's security, work health and safety, and other workplace policies and reasonable directions.

3.6 Records

The Contractor must maintain records (including financial records) to explain all transactions and evidence the provision of Services under this Agreement.

3.7 Complaints

Where members of the public will interact with the Services, the Contractor must provide a free complaints and feedback process reasonably acceptable to the PHN.

3.8 Child Safe Standards

- (a) The Contractor must comply with any applicable Child Safe Standards made pursuant to the *Child Wellbeing and Safety Act 2005 (Vic)*.

- (b) The Contractor must comply with any written directions given by the PHN from time to time regarding:
- (1) steps that must or must not be taken; and
 - (2) evidence or information that must be provided,
- by the Contractor (or any of its Key Personnel, subcontractors and personnel) to satisfy the PHN that both it and the Contractor are complying with any applicable Child Safe Standards (or with the spirit and intent of those standards that are applicable to the PHN).
- (c) For the avoidance of doubt, any failure by the PHN to comply with the *Child Wellbeing and Safety Act 2005* (Vic), or any relevant Child Safe Standards, does not result in a breach by the PHN of this Agreement.

4 ACCEPTANCE OF SERVICES/DELIVERABLES

- 4.1 Unless the Schedule specifies otherwise, each element of the Services and Deliverables is subject to acceptance respectively by the PHN against the relevant performance and other requirements set out in the Schedule.
- 4.2 If the PHN considers that all or part of the Services do not meet the performance and other requirements set out in the Schedule, the PHN may notify the Contractor that the Services or the Deliverable has been rejected, together with associated details of the rejection. The Contractor must:
- (a) take all necessary steps to ensure that the Services and Deliverables are promptly corrected;
 - (b) give Notice to the PHN when the Services and Deliverables have been corrected; and
 - (c) allow the PHN to repeat the assessment or acceptance,
- within 5 Business Days after the date of the PHN's Notice or such other time as agreed between the parties in writing.
- 4.3 If the Services or Deliverables are rejected on two or more occasions, the PHN may (in addition to its other remedies and without limiting clause 16.1) withhold payment under clause 5 or terminate this Agreement immediately under clause 16.
- 4.4 Assessment of Services and acceptance of Deliverables does not reduce, relieve or otherwise affect the Contractor's obligations under this Agreement.

5 PAYMENTS

- 5.1 The Contractor must invoice the PHN for the Services in accordance with the requirements set out in Item 5.
- 5.2 The Payments are inclusive of all costs and expenses incurred by the Contractor, unless otherwise set out in Item 5.
- 5.3 All taxes (other than GST, which is dealt with in clauses 5.7 to 5.11), duties and government charges imposed or levied in Australia or overseas on the Contractor or in connection with this Agreement will be the responsibility of the Contractor.

5.4 Subject to:

- (a) the Contractor complying with its obligations under this Agreement (including that the Services have been delivered and performed in accordance with this Agreement) and this clause 5; and
- (b) the Contractor not being in breach or default under this Agreement,

the PHN must pay the Contractor the Payments in accordance with Item 5.

5.5 Any payment of moneys under this clause 5 is a payment on account and does not constitute acceptance of a Service or Deliverable, an admission of liability or approval that the Contractor has complied with this Agreement.

5.6 Without limiting its rights under this clause 5 or otherwise any other agreement or at Law, the PHN may deduct from moneys otherwise due to the Contractor any debt or other moneys due and payable by the Contractor to the PHN.

Goods and Services Tax

5.7 In this clause 5 and Item 5, a word or expression defined in *A New Tax System (Goods and Services Tax) Act 1999* ("**GST Act**") and not otherwise defined in these terms and conditions has the same meaning given to it in the GST Act.

5.8 When any consideration (whether expressed in money or otherwise) becomes due in respect of a Taxable Supply by the Contractor, the Contractor will provide the PHN with a Tax Invoice for the Supply to which the payment relates and any other documentation required under the GST Law.

5.9 If GST is applicable to a Supply (or part of a Supply), then, to the extent that the consideration for that Supply is not already stated to include an amount in respect of GST, the Contractor may increase the consideration by the applicable amount of GST and the PHN must pay that increased amount.

5.10 Where any out-of-pocket expenses incurred by the Contractor are to be reimbursed by the PHN under these terms and conditions, the reimbursable amount will be determined as follows:

- (a) first, any amount that the Contractor is entitled to claim as an Input Tax Credit shall be deducted from the cost to the Contractor of the expense item to arrive at an "Actual Cost"; and
- (b) second, the Actual Cost shall be increased by the amount of GST applicable to the Supply of the expense item to the PHN.

5.11 Each party agrees to do all things, including providing Tax Invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any Input Tax Credit, adjustment or refund in relation to any amount of GST paid or payable in respect of any Supply made under or in connection with these terms and conditions but the supplier need not provide a Tax Invoice for a Supply until the supplier has received payment for the Supply.

6 INTELLECTUAL PROPERTY RIGHTS

6.1 Existing Material

This clause 6 does not affect the ownership of the Intellectual Property Rights in any Existing Material.

6.2 PHN ownership of Intellectual Property Rights in Developed Material

- (a) Unless otherwise specified in Item 6, Intellectual Property Rights in the Developed Material vests in the PHN upon creation.
- (b) To the extent Item 6 specifies that any part of the Intellectual Property Rights in the Developed Material ("**Contractor Owned Developed Material**") will vest in the Contractor then the Contractor grants the PHN an irrevocable, royalty and licence fee free, worldwide, non-exclusive licence (including a right of sub-licence) to use, reproduce, modify, adapt, publish, perform, broadcast, communicate and exploit the Contractor Owned Developed Material:
 - (1) during the Term so that the PHN receives the full benefit of the Services; and
 - (2) perpetually to the extent incorporated into Developed Materials owned by the PHN.

Note to Contractor: If there is Contractor Material that cannot be licensed on these terms, please inform the PHN and propose a narrower licence scope to include in Item 6.

- (c) This clause 6.2 does not affect the ownership of the Intellectual Property Rights in Excluded Developed Material.

6.3 Licence of Contractor Materials to PHN

Unless otherwise specified in Item 6, the Contractor grants to or must obtain for the PHN an irrevocable, royalty and licence fee free, worldwide, non-exclusive licence (including a right of sub-licence) to use, reproduce, modify, adapt, publish, perform, broadcast, communicate and exploit Contractor Material:

- (a) during the Term so that the PHN receives the full benefit of the Services; and
- (b) perpetually to the extent incorporated into Developed Materials.

6.4 Licence of Developed Materials and PHN Material to Contractor

Unless otherwise specified in Item 6, to the extent that the Contractor needs to use any of the PHN Material or Developed Material for the purpose of performing its obligations under this Agreement, the PHN grants the Contractor, subject to any conditions or restrictions specified in Item 6 and any direction by the PHN, a non-exclusive, non-transferable, royalty-free licence to use:

- (a) the Developed Material; and
- (b) the PHN Material,

solely for the purpose of providing the Services and for the Term. The licence granted under this clause 6.4 does not allow the Contractor to distribute or exploit the PHN Material or the Developed Material unless the PHN agrees in writing.

6.5 Intellectual Property Rights warranty

The Contractor warrants that:

- (a) the PHN's use of the Developed Material and the Contractor Material ("**Warranted Material**") will not infringe the Intellectual Property Rights or Moral Rights of any person; and
- (b) it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided in this clause 6.

6.6 Third party claims

If a third party claims or is likely to claim that all or part of the Warranted Material infringes a third party's Intellectual Property Rights or Moral Rights, without limiting the PHN's other rights, the Contractor must promptly and at its own cost:

- (a) use its best efforts to secure the rights for the PHN to continue to use the affected Warranted Material; or
- (b) replace or modify the Warranted Material in a manner acceptable to the PHN so that it becomes non-infringing.

6.7 Moral rights

To the extent permitted by Law and for the PHN's benefit, the Contractor must:

- (a) give, where the Contractor is an individual; and
- (b) use its reasonable endeavours to ensure that Personnel used by the Contractor in the production or creation of the Developed Material gives,

genuine consent in writing, in a form reasonably acceptable to the PHN, to the use of the Developed Material for acts that would otherwise be an infringement of their Moral Rights.

7 KEY PERSONNEL AND SUBCONTRACTING

7.1 Subcontractors

- (a) The Contractor must not subcontract any aspect of providing the Services without the PHN's (or the Department under the PHN Funding Agreement) prior written approval which may be given or withheld in the PHN's (or the Department's) sole and absolute discretion.
- (b) The Contractor must ensure that any subcontractor, Personnel and Key Personnel approved under this Agreement complies with all applicable Law, this clause 7 (Key Personnel and subcontracting), clause 8 (Insurance), clause 11 (Department requirements and access), clause 12 (Confidentiality, privacy and security) and clause 16 (Termination).
- (c) The Contractor is fully responsible for the performance of the Services even if the Contractor subcontracts any aspect of the provision of the Services.

7.2 Key Personnel

- (a) The Key Personnel must perform those parts of the Services identified as to be performed exclusively by them. If Key Personnel become unable or unwilling to do so ("**Unavailability**"), the Contractor must inform the PHN as soon as possible.
- (b) person of equivalent expertise who must meet the requirements of this Agreement and be approved by the PHN.
- (c) The Contractor will provide the PHN, upon request in writing, with full particulars as to the qualifications and relevant experience of any proposed replacement person.
- (d) The Contractor warrants that the persons engaged in the performance of the Services will at all times be employed or contracted by it, suitably qualified, licensed and experienced to perform their duties under this Agreement, including as required by Item 3.
- (e) The PHN may at any time require the Contractor to remove any of its Personnel, including Key Personnel, from performing any of the Services.

7.3 Probity checks

- (a) To confirm that each individual Personnel is of suitable character to perform the Services, the Contractor must obtain from each of them consents to undertake, and to provide all information and assistance required for:
 - (1) a Police Check;
 - (2) any other check or investigation required by Law or government policy in respect of Children and Vulnerable Adults; and
 - (3) any other probity checks required by the PHN of a type referred to in Item 3.
- (b) Without limiting clause 7.3(a), the Contractor must, and must ensure that its Personnel comply with other requirements in any attachment to this Agreement regarding working with Children and Vulnerable Adults.

7.4 Credentialing

- (a) The Contractor must verify the qualifications, experience and professional standing of its Personnel, who are practitioners providing health or other care to individuals (Care Practitioner) to ensure that they are competent, able to perform and professionally suitable to provide safe, high quality health or other care services and otherwise as set out in Item 3.
- (b) For the purposes of clause 7.4(a), the Contractor must ensure that:
 - (1) its Care Practitioners hold and maintain all required qualifications, credentials and professional memberships; and
 - (2) its professional practice holds and maintains all required accreditations and certifications, as required by law or acquired after this Agreement commences or set out in Item 3.

7.5 Costs and compliance

- (a) The Contractor is responsible for all costs associated with this clause 7.
- (b) On request, the Contractor must promptly provide evidence it complied with this clause 7.

8 INSURANCE

- 8.1 The Contractor must from the Commencement Date have in place and maintain the insurances, and with such minimum amounts, required by Item 8, each of which is to be:
 - (a) in the case of a “claims occurring” policy, held during the Term;
 - (b) in the case of a “claims made” policy, held during the Term and for 7 years after the last Services End Date, unless the Contractor has taken out a “run off” policy;
 - (c) with reputable insurers; and
 - (d) subject to terms which are satisfactory to the PHN (acting reasonably).
- 8.2 The Contractor must provide the PHN with evidence satisfactory to the PHN (acting reasonably) that each policy is current as required by the PHN from time to time.
- 8.3 Insurance policies provided by the Victorian Managed Insurance Authority or liability mutual insurance arranged by the Municipal Association of Victoria will be taken to be reputable and satisfactory for the purposes of clauses 8.1(c) and 8.1(d) respectively.

9 FUNDS MANAGEMENT

9.1 Application of this clause

This clause 9 only applies where the Schedule provides for the PHN to pay the Contractor funding or a grant to undertake a Programs/Project based on a budget approved by the PHN.

9.2 Payment of funds to the Contractor

- (a) Where this clause 9 applies, Item 5 sets out the maximum funding which the PHN makes available to the Contractor.
- (b) The PHN may in its absolute discretion defer, reduce or avoid all or part of a payment under Item 5 if it is reasonably satisfied that sufficient funds remain to be spent or Committed.
- (c) The Contractor acknowledges that it may be paid part (or all) of the Payments in advance of performing the Services to which that part of the Payments relates.

9.3 Budget variations

The Contractor may only significantly alter the Budget with the PHN's written approval. Significant alterations include Budget items changing by either 10% or more, or \$20,000 or more excluding GST (or some other threshold specified in the Schedule).

9.4 Permitted and prohibited uses

The table below sets out conditionally permitted and prohibited use of the funding:

Permitted if in a Budget	Permitted with PHN approval	Prohibited
<ul style="list-style-type: none"> • Employee salaries • Employee leave including long service leave • Program activity costs • Approved subcontractor costs • Training costs <p>Conditions:</p> <ul style="list-style-type: none"> • All amounts must be based on actual costs incurred 	<ul style="list-style-type: none"> • Purchase or lease/lease back of real or personal property • Building or construction works • Allowance for administration overhead • Sitting fees • Domestic travel • Sinking fund contributions <p>Conditions:</p> <ul style="list-style-type: none"> • PHN written approval must be obtained before committing funds for these purposes • 3 quotes required to obtain assets over \$55,000 	<ul style="list-style-type: none"> • Fines or penalties • Loans or as loan security • Gifts or payments to associates (as defined by income tax legislation) • Legal claims • Redundancies • International travel • Costs incurred before or after program period • Activities of political organisations • Anything not listed at left

9.5 Separate account

Unless the PHN agrees otherwise, the Contractor must maintain a bank account which:

- (a) only receives Payments of funds;
- (b) only pays expenditure under the Schedule; and
- (c) is kept separate from all other Contractor accounts.

9.6 Separate records

The Contractor must keep separate financial records for the Programs/Project to enable:

- (a) all income and expenditure to be identified separately in the Contractor's accounts;
- (b) financial statements to be prepared in accordance with generally accepted Australian accounting standards; and
- (c) the audit of those records in accordance with the auditing standards.

9.7 Carryover or repayment of funds

- (a) The PHN may allow the Contractor to retain funds not spent or Committed for the extension of the Services by agreement, or for other purposes approved by the PHN.
- (b) On termination or expiry of this Agreement, or the reduction of this Agreement under clause 16, the PHN will be entitled to recover from the Contractor any part of the Payment of funds provided to the Contractor for that Service which:
 - (1) is not spent or Committed by the Contractor as at the date that the Notice of termination is received; or
 - (2) in the PHN's opinion, has been spent or Committed by the Contractor other than in accordance with this Agreement.
- (c) On termination of this Agreement under clause 16, the Contractor must hold the Payment of funds provided for that Service or under this Agreement in utmost good faith for use only in accordance with the PHN's directions and the Contractor must cease all other dealings with Payments of those funds.

9.8 Definitions

In this clause 9:

- (a) "**Budget**" means the budget attached to the Schedule or approved by the PHN from time to time which sets out the costs and expenses, at cost, to be incurred by the Contractor.
- (b) "**Payments of funds**" includes Payments, revenue received in carrying on the Services and interest earned on any of them.

10 USE OF ASSETS

- (a) This clause 10 only applies where the Schedule provides for the PHN to pay the Contractor funding or a grant to undertake a Programs/Project based on a budget approved by the PHN.
- (b) The Contractor acknowledges that:
 - (1) the PHN or the Department may supply assets to the Contractor to support the delivery of Services; and
 - (2) the Contractor may also acquire assets using Payments with the prior written approval of the PHN,
(together "**Assets**").
- (c) The Contractor must use the Assets to perform the Services. The Contractor may use the Assets for other purposes only if such use is not detrimental to the Services.
- (d) The Contractor must maintain the Assets in good working order, protect them (eg from misuse), not encumber them, and insure them against usual risks (eg theft).

- (e) If the Assets are sold, disposed of or otherwise destroyed (without replacement) before being fully depreciated, the Contractor must pay to the PHN within 20 Business Days an amount determined by the PHN representing the PHN's (or the Department's, as the case may be) contribution to the Assets not yet fully depreciated.
- (f) The Contractor grants a security interest in the Assets ("**Collateral**") to the PHN to secure payment of the money payable under clause 10(e) or any other provision of these terms and conditions ("**Secured Money**"). This security interest is a charge. If for any reason it is necessary to determine the nature of this charge, it is a fixed charge over all Collateral.
- (g) Unless it is permitted to do so by another provision of these terms and conditions, the Contractor must not, and must not agree to create or allow another interest in any Collateral, or dispose, or part with possession, of any Collateral.

11 DEPARTMENT REQUIREMENTS AND ACCESS

11.1 PHN Funding Agreement

Despite anything else in these terms and conditions, the Contractor:

- (a) acknowledges that the PHN is bound by the PHN Funding Agreement and that the Contractor's acts or omissions (even where acting according to these terms and conditions) may cause the PHN to breach or incur liabilities under the PHN Funding Agreement; and
- (b) must comply with all reasonable PHN directions, and otherwise provide all reasonable assistance and do all things reasonably necessary for the PHN to comply with the PHN Funding Agreement.

11.2 Access and inspection

The Contractor must allow the Auditor-General, the Privacy Commissioner, the Commonwealth Ombudsman and persons authorised in writing by the Department or the PHN:

- (a) to access its Personnel, and to access its premises at which any Developed Material is stored or at which the Services are undertaken; and
- (b) to inspect and copy any Developed Material.

Despite clause 17.1, the Contractor acknowledges that it may be considered and subject to investigation as a "Commonwealth Service Provider" for the purposes of the *Ombudsman Act 1976* (Cth) at the Contractor's own cost.

11.3 Assistance

The Contractor must provide any ad-hoc report, or assistance in preparing any report, as directed by the PHN in order for the PHN to comply with the PHN Funding Agreement.

11.4 Conflicts of interest

The Contractor must:

- (a) comply with any reasonable PHN directions as to confidentiality or conflict of interest; and
- (b) provide any information or enter into any undertakings required by the Department or the PHN in respect of confidentiality or conflict of interest.

11.5 Publicity

- (a) The PHN must pre-approve all public statements regarding the Services and agreements between the parties, and all public uses of the PHN's or the Department's name or logo.
- (b) The Contractor must comply with all the PHN's requirements to include public acknowledgements and disclaimers in Acknowledgment Locations and Disclaimer Locations in the form prescribed by the PHN regarding the support received from the Department.
- (c) The Contractor agrees to have its name and the existence and nature of this Agreement publicised by the PHN or the Department.
- (d) Clause 11.5(a) does not restrict the Contractor from making announcements relating to the Services which are required by law or a listing rule of a stock exchange, however the Contractor must promptly notify the PHN of such announcements.

11.6 Variation

Where the PHN reasonably decides an amendment to this Agreement is necessary:

- (a) to ensure that the Contractor complies with the requirements of the PHN Funding Agreement; or
- (b) as a result of any variation to the PHN Funding Agreement, or change in related funding or administrative policies or practices, where that change or variation is initiated by the Department,

the PHN will:

- (c) notify the Contractor in writing of the amendment;
 - (d) consult with the Contractor in good faith on any necessary adjustment to the Payments resulting from the amendment; and
 - (e) adjust the Payments as necessary and acting reasonably,
- and the Contractor will be deemed to have agreed to any amendment.

12 CONFIDENTIALITY, PRIVACY AND SECURITY

- 12.1 The Recipient must not directly or indirectly use any Discloser Confidential Information (whether disclosed by or on behalf of the Discloser to the Recipient) for any purpose other than providing the Services under this Agreement, and must not disclose such Confidential Information to any person without the Discloser's prior written consent.
- 12.2 In giving written consent under clause 12.1, the Discloser may impose such terms and conditions as it thinks fit in its sole and absolute discretion. The Recipient must comply with any term and condition imposed by the Discloser under this clause 12.2.
- 12.3 The Recipient acknowledges that a breach of clause 12.1 would irreversibly harm the Discloser, that monetary damages will be an inadequate remedy, and that the Discloser may seek injunctions to prevent the breach.
- 12.4 The Contractor must, at the PHN's request, sign a confidentiality agreement in a form determined by the PHN containing provisions similar to the provisions in this clause 12.1 in favour of the Department, the PHN or any existing or potential customer, supplier, contractor, agent, licensor or licensee of the PHN.

- 12.5 At the Discloser's request or on the expiry or termination of this Agreement under clause 16 (whichever occurs later), the Recipient must promptly return all of the Discloser's physical and written records containing Confidential Information, and all documentation relating to that Confidential Information (including copies), to the Discloser in a form reasonably requested by the Discloser. Alternatively, if requested by the Discloser, the Recipient must destroy such items in the manner specified by the Discloser and promptly certify to the Discloser in writing that it has done so.
- 12.6 To avoid doubt, these terms and conditions do not limit any obligation the Recipient may have regarding personal information under the *Privacy Act 1988* (Cth), *Privacy and Data Protection Act 2014* (Vic), information protected by the *Census and Statistics Act 1905* (Cth) or any other Laws requiring information to be kept private, secret or confidential.
- 12.7 If the PHN gives the Contractor personal information, the Contractor must comply with:
- (a) the *Privacy Act 1988* (Cth), the *Health Records Act 2001* (Vic), the privacy principles established under those Acts, and any applicable Law relating to privacy; and
 - (b) the PHN's reasonable directions in relation to the protection of personal information, including how the Contractor collects, holds, uses and discloses that information.
- 12.8 The Contractor must promptly notify the PHN of any breaches of clause 12.7.
- 12.9 If the Contractor gives the PHN personal information, the PHN must comply with the Contractor's reasonable directions in relation to the protection of personal information, including how the PHN collects, holds, uses and discloses that information.
- 12.10 The PHN must promptly notify the Contractor of any breaches of clause 12.9.
- 12.11 On the expiry of this Agreement or termination of this Agreement under clause 16 (whichever occurs later) ("**Expiry Date**") or in accordance with Law or upon PHN request, the Contractor must promptly at its cost deliver to the PHN all Developed Material, PHN Material and Deliverables. This clause 12.11 does not apply to the extent the PHN has granted the Contractor a licence beyond the Expiry Date to use the Developed Material, PHN Material or Deliverables.
- 12.12 On the Expiry Date or in accordance with Law or upon Contractor request, the PHN must promptly at its cost deliver to the Contractor all Contractor Material. This clause 12.12 does not apply to the extent the Contractor has granted the PHN a licence beyond the Expiry Date to use the Contractor Material.

13 WARRANTIES

- 13.1 The Contractor represents and warrants in favour of the PHN that:
- (a) it has the right to enter into this Agreement;
 - (b) it has all rights, title, licences, interests and property necessary to lawfully perform the Services and grant the rights to the PHN specified in this Agreement;
 - (c) it and its subcontractors and Personnel, including its Key Personnel, have the necessary experience, skill, knowledge and competence to perform the Services;
 - (d) all information, reports and Developed Material given to the PHN under this Agreement will be correct, complete and not misleading;
 - (e) if the Contractor is a trustee, it enters this Agreement personally and in its capacity as trustee;

- (f) neither it nor any of its Personnel, agents or subcontractors (including Key Personnel) has any actual or perceived conflict of interest or anticipates such a conflict, relevant to the performance of the Services;
- (g) it will promptly notify the PHN and fully disclose all material information if it becomes subject in any way to the operation of the Law relating to insolvency or bankruptcy;
- (h) no litigation, arbitration, mediation, conciliation or proceedings including any investigations are taking place, pending, or to the knowledge of any of its officers after due inquiry, are threatened, which, if adversely decided, could have an adverse effect on its ability to perform its obligations under this Agreement;
- (i) it has not made any false declaration in respect of any current or past dealings with the Department, any government agency or the PHN, including in any tender or application process or in any other agreement; and
- (j) it has had no significant deficiency in the performance of any substantive requirement or obligation under any prior agreement with the Department, any government agency or any other Primary Health Network which would adversely affect its ability to perform this Agreement.

13.2 The Contractor acknowledges and agrees that:

- (a) it has not placed any reliance on the completeness, accuracy or adequacy of any of the PHN Material or representations (including by silence) made by the PHN to the Contractor in respect of the scope or nature of the Services or any matters the subject of this Agreement ("**Representations**");
- (b) it has entered into this Agreement based on its own investigations, interpretations, deductions, information and determinations and its expertise in respect of the Services;
- (c) the PHN Material and Representations do not form part of this Agreement; and
- (d) to the extent permitted by law, the PHN is not liable to the Contractor upon any Claim with respect to the PHN Material or the Representations.

13.3 The Contractor acknowledges that the PHN is entering into this Agreement in reliance on the warranties and representations set out in this Agreement.

14 INDEMNITIES

14.1 The Contractor indemnifies the PHN, the Department and their Personnel from and against any:

- (a) loss or liability incurred by the PHN, the Department and their Personnel;
- (b) loss of or damage to property of the PHN, the Department or their Personnel; or
- (c) loss or expense incurred by the PHN, the Department or their Personnel in dealing with any claim against it or them including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the PHN or the Department,

arising from:

- (d) any breach of the Contractor's obligations or warranties in these terms and conditions;
- (e) any act or omission by the Contractor or the Contractor's Personnel in connection with this Agreement, where there was fault (including any negligent or other tortious or unlawful act or omission) on the part of the person whose conduct gave rise to that liability, loss, damage or expense;

- (f) the Contractor or the Contractor's Personnel's acquisition or use of the Developed Material and/or the Contractor Material; or
 - (g) the use by the PHN, the Department or their Personnel of the Developed Material or Contractor Material in accordance with this Agreement, and/or any claim by a third party relating to any ownership or right to use Intellectual Property Rights or Moral Rights in the Developed Material or Existing Material.
- 14.2 The Contractor's liability to indemnify the PHN, the Department and their Personnel under clause 14.1 will be reduced proportionately to the extent that any negligent or other tortious or unlawful act or omission of the PHN, the Department or their Personnel contributed to the relevant liability, loss, damage or expense.
- 14.3 The right of the PHN, the Department or their Personnel to be indemnified under clause 14.1:
- (a) is in addition to, and not exclusive of, any other right, power or remedy provided by Law; and
 - (b) does not entitle the PHN, the Department or their Personnel to be compensated in excess of the amount of the relevant liability, loss, damage or expense.
- 14.4 To the extent permitted by Law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Contractor under or in connection with this Agreement.

15 DISPUTE RESOLUTION

- 15.1 Subject to clause 15.6:
- (a) a party must not start court proceedings about a dispute arising out of this Agreement or the Services ("**Dispute**") unless it has first complied with this clause 15; and
 - (b) if a party does not comply with this clause 15 in relation to a Dispute, the other party does not have to comply with this clause 15 in relation to the Dispute.
- 15.2 A party claiming that a Dispute has arisen must notify the other party or parties to the Dispute giving details of the Dispute ("**Notification**").
- 15.3 On receipt of a Notification each party must negotiate in good faith to resolve the Dispute and, if the Dispute remains unresolved within 7 Business Days of the Notification, it must be referred to the senior executives of the parties set out in Item 9.
- 15.4 If the Dispute is not resolved under clause 15.3 within 7 Business Days of that referral (or a longer period agreed between the parties), the parties must refer the Dispute for mediation by a mediator agreed by the parties (or in the absence of any agreement, nominated by the President for the time being of the Resolution Institute) for resolution in accordance with the Resolution Institute Mediation Rules must take place within the State of Victoria.
- 15.5 If the Dispute is not resolved under clause 15.4 within 15 Business Days after referral to mediation (or a longer period agreed between the parties) any party may initiate proceedings in a court.
- 15.6 This clause 15 does not:
- (a) prevent a party from applying to a court for urgent injunctive relief;
 - (b) apply to any Dispute in relation to a termination or reduction by the PHN under clause 16; or
 - (c) apply if this Agreement has been terminated.

16 TERMINATION

16.1 Termination of this Agreement or reduction in scope for convenience

- (a) The PHN may by Notice:
- (1) at any time and in its absolute discretion;
 - (2) without limiting clause 16.1(a)(1), if the Department directs the PHN to do so, terminates the PHN Funding Agreement or varies the PHN Funding Agreement such that it is not viable for the PHN to obtain the Services,
- terminate this Agreement or reduce the scope of this Agreement (including by reducing or terminating one or more Services) immediately.
- (b) The Contractor must, on receipt of a Notice of termination or reduction issued under clause 16.1(a):
- (1) stop or reduce the performance of the Contractor's obligations as specified in the Notice;
 - (2) take all available steps to minimise the losses, costs and expenses resulting from that termination or reduction;
 - (3) continue performing any Services, or any part of them, not affected by the Notice, except to the extent the PHN notifies the Contractor otherwise; and
 - (4) comply with clause 9.
- (c) In the event of a termination under clause 16.1(a), the PHN will be liable only:
- (1) to make a Payment that was due and payable to the Contractor under the relevant Schedule prior to the date of the Notice of termination; and
 - (2) to reimburse any reasonable expenses that the Contractor unavoidably incurs that relate directly and entirely to the termination of the agreement and are not covered by clause 16.1(c)(1).
- (d) The PHN will not be liable to pay, in respect of any Services, amounts under clause 16.1(c) which would, added to any Payments already provided to the Contractor under this Agreement, together exceed the total amount of the Payments for those Services.
- (e) In the event of a reduction in the scope of this Agreement under clause 16.1(a), the PHN's liability to pay any part of the Payment of funds for any Services will, except to the extent the Parties agree in writing otherwise, reduce in accordance with the reduction in, or termination of, the Services resulting from that reduction in scope.
- (f) The PHN's liability to pay any compensation under clause 16.1(c)(2) is subject to:
- (1) the Contractor's strict compliance with this clause 16.1; and
 - (2) the Contractor's substantiation of any amount claimed under clause 16.1(c)(2).
- (g) The Contractor will not be entitled to compensation for loss of prospective profits or loss of any benefits that would have been conferred on the Contractor if the termination or reduction had not occurred.
- (h) This clause 16.1 does not affect the PHN's other rights under this Agreement or at Law.

16.2 Termination of this Agreement for Contractor's default

- (a) The PHN may:

- (1) terminate this Agreement immediately by Notice to the Contractor if any of the termination events specified in clause 16.2(b) occur; or
 - (2) at its sole discretion, choose to immediately terminate one or more of the Services affected by a termination event specified in clause 16.2(b) instead of terminating this Agreement.
- (b) For the purposes of clause 16.2(a), the termination events are:
- (1) the Contractor breaches any provision of this Agreement and the PHN considers that the breach cannot be rectified;
 - (2) the Contractor breaches any provision of this Agreement and does not rectify the breach within 7 Business Days after receipt of the PHN's Notice to do so;
 - (3) the PHN considers that its decision to approve the Payments for a Service was affected by a statement in the Contractor's submissions to the PHN that were incorrect, incomplete, false or misleading;
 - (4) the PHN is satisfied on reasonable grounds that the Contractor is unable or unwilling to satisfy the terms of this Agreement;
 - (5) the Contractor:
 - (i) fails to submit a Deliverable in the form, and containing the information, required by this Agreement; or
 - (ii) submits a Deliverable that is incomplete or that the PHN, acting reasonably, considers is inadequate;

and the Contractor fails to rectify this within 7 Business Days of being notified to do so by the PHN;
 - (6) the Contractor comes under a form of external administration referred to in Chapter 5 of the *Corporations Act 2001* (Cth) or equivalent provisions in legislation of the States and Territories pertaining to local governments or to incorporated associations or Chapter 11 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) or has an order made against the Contractor for the purpose of placing the Contractor under external administration;
 - (7) the Contractor is unable to pay all the Contractor's debts as and when they become payable or the Contractor fails to comply with a statutory demand within the meaning of sections 459E and 459F of the *Corporations Act 2001* (Cth);
 - (8) proceedings are initiated with a view to obtaining an order for winding the Contractor up, or any shareholder, member or director convenes a meeting for the purpose of considering or passing any resolution for winding the Contractor up;
 - (9) if the Contractor is a local government organisation, the relevant State Government takes action to cease the Contractor's operations and/or to amalgamate them with the operations of another local government organisation;
 - (10) the Contractor becomes bankrupt or enters into a scheme of arrangement with creditors;
 - (11) anything analogous to, or of a similar effect to, anything described in clause 16.2(b)(6) to 16.2(b)(10) occurs in respect of the Contractor;
 - (12) another provision allows for termination under this clause 16.2;

- (13) the Contractor has breached a provision of another arrangement or agreement with the PHN or the Department and that breach allows the PHN or the Department to terminate that other arrangement or agreement;
 - (14) the PHN considers that a Service poses a threat to the health, safety or well-being of any person; or
 - (15) in respect of a Services, the PHN considers that the Contractor's purposes and activities are no longer compatible with the aims or objectives of the PHN Program or a Program/Project.
- (c) If the PHN terminates this Agreement, the PHN will not be liable to make any further Payments to the Contractor.
 - (d) If a purported termination by the PHN under this clause 16.2 is determined by a competent authority not to be a proper termination under this clause 16.2, then that termination by the PHN will be deemed to be a termination for convenience under clause 16.1 with effect from the date of the Notice of termination referred to in this clause 16.1.
 - (e) This clause 16.2 does not affect the PHN's other rights under this Agreement or otherwise at Law.

16.3 Termination of this Agreement for PHN's default

- (a) The Contractor may:
 - (1) terminate this Agreement immediately by Notice to the PHN if any of the termination events specified in clause 16.3(b) occur; or
 - (2) at its sole discretion, choose to immediately terminate one or more of the Services affected by a termination event specified in clause 16.3(b) instead of terminating this Agreement.
- (b) For the purposes of clause 16.3(b), the termination events are:
 - (1) the PHN breaches any provision of this Agreement and the Contractor considers that the breach cannot be rectified;
 - (2) the PHN breaches any provision of this Agreement and does not rectify the breach within 15 Business Days after receipt of the Contractor's Notice to do so;
 - (3) the PHN comes under a form of external administration referred to in Chapter 5 of the *Corporations Act 2001* (Cth) or has an order made against the PHN for the purpose of placing the PHN under external administration;
 - (4) the PHN is unable to pay all the PHN's debts as and when they become payable or the PHN fails to comply with a statutory demand within the meaning of sections 459E and 459F of the *Corporations Act 2001* (Cth);
 - (5) proceedings are initiated with a view to obtaining an order for winding the PHN up, or any shareholder, member or director convenes a meeting for the purpose of considering or passing any resolution for winding the PHN up; or
 - (6) anything analogous to, or of a similar effect to, anything described in clause 16.3(b)(3) to 16.3(b)(5) occurs in respect of the PHN.
- (c) This clause 16.3 does not affect the Contractor's other rights under this Agreement or otherwise at Law.

16.4 Termination by mutual agreement

The parties may terminate this agreement by mutual agreement in writing and signed by the parties.

17 RELATIONSHIP

17.1 No partnership or employment

- (a) The Contractor is a non-exclusive independent contractor and retains the ultimate responsibility to manage and direct the provision and performance of the Services to the PHN. This agreement does not create any partnership, agency or employment relationship. The Department and the PHN are not bound by acts of the Contractor or its Personnel.
- (b) The Contractor acknowledges that the PHN is in no way restricted from performing or engaging third parties to perform services similar to the Services.

17.2 Assignment

The Contractor may not assign or otherwise deal with the whole or any part of this Agreement except with the prior written consent of the PHN. The PHN may assign this Agreement by giving written notice to the Contractor.

18 GENERAL

18.1 Further assurance

Each party must promptly at its own cost do all things (including executing and if necessary delivering all documents) necessary or desirable to give full effect to this Agreement.

18.2 Severability

If anything in this Agreement is unenforceable, illegal or void then it is severed and the rest of this Agreement remains in force.

18.3 Counterparts

This Agreement may be executed in counterparts. All executed counterparts constitute one document.

18.4 Entire understanding

This Agreement:

- (a) is the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement; and
- (b) supersedes any prior agreement or understanding on anything connected with that subject matter in respect of the Term.

18.5 Amendment

Subject to clauses 3.3 and 11, an amendment to this Agreement must be in writing and signed by the parties.

18.6 Waiver

No waiver of any right of a party to this Agreement will be effective unless it is in writing and signed by that party. A single or partial exercise or waiver of a right under this Agreement does not prevent any other exercise of that right or the exercise of any other right.

18.7 Costs and outlays

Each party must pay its own costs to negotiate, prepare and execute this Agreement.

18.8 Notices

- (a) A notice or other communication connected with this Agreement (“**Notice**”) shall be deemed to have been duly given or served if it is in writing, signed by or on behalf of a party and addressed to the contact person set out in Item 9, and is either delivered by hand, posted, by email or facsimile to the address set out in Item 9 or such other address as may be notified in writing from time to time.
- (b) A Notice given in accordance with clause 18.8(a) is taken to be received:
 - (1) if sent by post, on the sixth Business Day after the date of posting;
 - (2) if sent by facsimile, when the sender’s facsimile machine generates a message confirming successful transmission; or
 - (3) if sent by email, the date Notice was sent, unless the sender receives an email message stating that the Notice could not be delivered,

but if the Notice is given after 5.00pm on a Business Day or not on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

18.9 Governing law and jurisdiction

The law of the State of Victoria governs this Agreement, and the parties submit to the non-exclusive jurisdiction of the courts of the State of Victoria and any courts of appeal from those courts.

18.10 Survival

The obligations of the Contractor under clauses 6, 8, 9, 11, 12 and 14 survive the expiry or termination of this Agreement.

19 DEFINITIONS

In this Agreement:

“**Acknowledgment Locations**” means:

- (a) publications, promotional and advertising materials, public announcements and activities published, made or carried out by or on behalf of the Contractor; and
- (b) other locations nominated from time to time by the PHN or the Department,

which relate to the Services or any products, processes or inventions developed as a result of the Services.

“**Business Day**” means a weekday which is not a public or bank holiday in the place where an act is to be performed or a payment is to be made.

“Child” means an individual aged under 18 years.

“Claim” includes any claim, proceeding, action, cause of action, demand or suit (including by way of contribution or indemnity), at law or in equity, including for payment of money (including damages) or for an extension of time, including by statute (to the extent permitted by Law), in tort for negligence or otherwise, including negligent misrepresentation or for strict liability, breach or for restitution.

“Commencement Date” means the date specified in Item 2.

“Committed” means the Contractor is bound by written contract which identifies the amount and is presently obliged to pay a third party that amount from Payments received by the Contractor under clause 5.

“Confidential Information” means all information of whatever description, whether in permanently recorded form or not and whether or not belonging to a third party, which is:

- (a) by its nature confidential;
- (b) is designated by the Discloser as confidential at or about the time of disclosure to the Recipient; or
- (c) the Recipient knows or ought to know is confidential,

but does not include information:

- (d) that is independently created or rightfully known by, or in the possession or control of, the Recipient and not subject to an obligation of confidentiality on the Recipient;
- (e) which is or becomes public knowledge (otherwise than as a result of a breach of this Agreement or any other confidentiality obligation); or
- (f) required to be disclosed by Law.

“Contractor Material” means Material:

- (a) used by the Contractor for the purpose of performing the Services; and
- (b) which has been:
 - (i) created by the Contractor or a third party before the date of this Agreement; or
 - (ii) created, modified, developed or enhanced by the Contractor or a third party after the date of this Agreement other than for the purpose of performing the Services,

and includes the Material specified in Item 6 identified to be Contractor Material.

“day” means a calendar day.

“Deliverable Date” means any fixed date to be met by the Contractor in performing any of its obligations under this Agreement, as specified in Item 3 or Item 4.

“Deliverables” means any Developed Material or other item or element of the Services to be delivered, supplied or undertaken by the Contractor to the PHN under this Agreement, including as specified in Item 4.

“Department” means the Commonwealth of Australia represented by the Department of Health.

“Developed Material” means any Material created or developed by the Contractor on or following the date of this Agreement Commencement Date, for the purpose of or as a result of performing its obligations under this Agreement and includes any modifications that may be required under clause 6.6(b), but excludes Contractor Material and Excluded Developed Material.

“Disclaimer Locations” means any website or publicly disseminated Developed Material where any of them are produced as part of the Services.

“Discloser” means the party whose Confidential Information is being disclosed to the other party.

“End Date” means the date specified in Item 2.

“Excluded Developed Material” means any Material specified in Item 6 identified to be excluded as Developed Material.

“Existing Material” means PHN Material or Contractor Material.

“Intellectual Property Rights” means all intellectual property rights, including:

- (a) plant breeder’s right, patents, copyright, rights in circuit layouts, registered designs, trade marks (including goodwill in those marks), domain names and any right to have confidential information kept confidential;
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
- (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere, whether or not such rights are registered or capable of being registered,

whether or not such rights are registered or capable of being registered.

“Item” means an item in the details of the Schedule.

“Key Personnel” means the Contractor’s subcontractors or Personnel specified in Item 7.

“Law” means:

- (a) any statute, regulation or subordinate legislation of the Commonwealth of Australia, the State of Victoria or local or other government in force in Victoria, irrespective of where enacted; and
- (b) the common law and the principles of equity as applied from time to time in the State of Victoria.

“Losses” means liabilities, expenses, losses, damages and costs (including legal costs on a full indemnity basis, whether incurred by or awarded against a party).

“Material” includes software, firmware, systems, documented methodology or process, property, information, documentation or other material in whatever form, including any reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.

“Moral Rights” has the meaning given by the *Copyright Act 1968* (Cth).

“Notice” has the meaning given in clause 18.8.

“Payments” means payments for the Services payable in accordance with clause 5 and Item 5.

“Personnel” means any natural person who is an employee, officer, agent or professional adviser of a party or, in the case of the Contractor, of a subcontractor.

“PHN Funding Agreement” means the Standard Funding Agreement (March 2015) between the Department and the PHN (published on the Department’s website) and the activity schedules for the Program, and any other Department terms and conditions incorporated by reference, as varied from time to time.

“PHN Material” means any Material provided to the Contractor by the PHN, including the Material (if any) specified in Item 6 identified to be PHN Material.

“Police Check” means a formal inquiry made to the relevant police authority in each State or Territory designed to obtain details of an individual’s criminal convictions or findings of guilt in each State or Territory and in all non-Australian jurisdictions in which the relevant person is known to have resided.

“Program/Project” means a program or project described in Item 3.

“Recipient” means the party receiving Confidential Information belonging to the other party.

“Schedule” means the schedule to this Agreement.

“Services” means the services described in Item 3 to be provided by the Contractor for the Program and includes any Deliverables.

“Services Commencement Date” means the date specified in Item 2.

“Services End Date” means the date specified in Item 2.

“Services Period” means the period which begins on the Services Commencement Date and ends on the Services End Date.

“Term” has the meaning given in clause 2(a).

“Variation” means any change to the Services, including any addition, increase, decrease, omission or deletion in, to or from the Services.

“Vulnerable Adult” means an individual aged 18 years or above who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation by any reason, including age, illness, trauma or disability, pregnancy, the influence, or part or existing use, of alcohol, drugs or substance use or any other reason.

“Vulnerable Person” means a Child or Vulnerable Adult.

20 INTERPRETATION

20.1 A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the agreement or the inclusion of the provision in the agreement.

- 20.2 If an act must be done on a specified day that is not a Business Day, it must be done on or by the next Business Day.
- 20.3 To the extent an Item is blank or has not been completed, that Item will be taken to be “not applicable” for the purpose of the Schedule.
- 20.4 A reference to a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority and the person’s legal personal representatives, successors, assigns and persons substituted by novation.

SCHEDULE - SERVICES

ITEM 1 CONTRACTOR

Name

ABN

ITEM 2 TERM AND SERVICES PERIOD

Item 2.1 Commencement Date/Services Commencement Date

##[Click or tap to enter a date. – this will usually be the earlier of the date of this Agreement or some fixed/formulaic date agreed by the parties]

Note: For Services, the Commencement Date will also be the Services Commencement Date

Item 2.2 End Date/Services End Date

##[Click or tap to enter a date. – this will usually be a date after the PHN accepts the last deliverable or all obligations are completed, or some fixed/formulaic date agreed by the parties.]

Note: For Services, the End Date will also be the Services End Date

Item 2.3 PHN right to extend Term and Services Period (clause 2.2(b))

##[OPTION: specify any right(s) the PHN has to extend the Term/Services Period, otherwise insert "Not applicable". The PHN needs to consider how payments and deliverables will be set for this further period.]

The PHN may extend the Term/Services Period [##once] by [##3 months] if it gives the Contractor at least ##[one months'] written notice before the end of the Term and Services Period.

ITEM 3 PROGRAMME/PROJECT AND SERVICES

Item 3.1 Name and purpose of the Programme/Project

Programme Name [##]

Programme Purpose [##]

Item 3.2 Services to be performed by the Contractor, excluding PHN responsibilities in Item 3.3

[##]

Item 3.3 PHN responsibilities

[##]

Item 3.4 Performance criteria

[##]

Item 3.5 Specific laws, policies, guidelines, standards

[##]

Item 3.6 Licensing and credentialing

- (a) The Contractor must comply with the attachment titled "Working with Children and Vulnerable Adults" (as attached to the Agreement).

(b) The Contractor must comply with the attachment titled “Commissioned Clinical Services Credentialing and Safety Compliance Policy” (as attached to the agreement).

(c) ##[Matters to be verified before appointment: identity, professional registration with AHPRA, qualifications/certifications required for the role, previous employment/experience/performance and driver’s licence (where relevant).]

(d) Matters to be verified at least annually and when roles change: professional registration with AHPRA, qualifications/certifications required for the role, suitability to work with children and driver’s licence (where relevant).]

Item 3.7 Clinical and clinical governance requirements

##Please refer to CG001 Board Clinical Governance Policy and CG003 Clinical Governance Framework. The policy recognises differing levels of oversight of contractors depending on whether they are smaller suppliers or larger suppliers. Greater oversight will be required for smaller suppliers who may represent a higher risk, so more detail of the oversight arrangements must be included in this item. For larger suppliers, there might be more generic requirements that the larger supplier maintain a clinical governance policy and framework consistent CG001 and CG003.]

ITEM 4 DELIVERABLES

Deliverable	Deliverable date
##	Click or tap to enter a date.
##	Click or tap to enter a date.

ITEM 5 PAYMENTS

Item 5.1 Payment Amounts

The PHN must pay the Contractor as follows. All amounts in this Item 5 are ##inclusive / exclusive] of GST. Where the Contractor’s right to issue an invoice is linked to a Deliverable, the invoice may only be issued if the Deliverable has been completed and accepted to the PHN’s satisfaction. If no timing is specified, the Contractor may only issue an invoice when reasonably directed by the PHN.

Timing when Contractor may issue invoice	Estimated Date	Amount (GST exclusive)	Amount (GST inclusive)
##insert conditions which must be met before payment may be invoiced eg execution of this agreement / on the last day of each month / upon completion of delivery of services to a client]	Click or tap to enter a date.	##	##
##	Click or tap to enter a date.	##	##

##Additional/alternative payment structures:

(a) ##Lump sum / fixed fee]

(b) ##Per-session or per-client fee (eg for clinical services)]

- (c) [##Time and materials (hourly rate plus disbursements) or payment formula (eg for consulting services, percentage fees)] [##fee cap] [##out of pocket disbursements must have the PHN's prior written approval]
 - (i) [##E.g. The PHN agrees to pay out-of-pocket expenses that are reimbursable by the PHN as follows. Any out-of-pocket expenses incurred by the Contractor in providing the Services must be pre-approved in writing by the PHN. The PHN agrees to reimburse the Contractor for all pre-approved out-of-pocket expenses within 30 days after receipt of a correctly rendered Tax Invoice per Item 5.2.]
- (d) [##Part payments linked to deliverables]
- (e) [##Payment terms: e.g. 30 days of invoice receipt / monthly in arrears / quarterly in arrears]
- (f) The PHN must make payment of a correctly rendered invoice within [##insert number (eg 30)] days of receipt of an invoice which the PHN is required to pay under this agreement.

Item 5.2 Invoice requirements

The Contractor's invoices must comply with the following requirements:

- (a) Invoices must be addressed to the PHN's address in Item 9 and include:
 - (i) the name and date of this Agreement;
 - (ii) the correct invoice amount;
 - (iii) details of the work that is the subject of the invoice, including the period of time during which the work was carried out;
 - (iv) substantiation of out of pocket expenses claimed to the PHN's reasonable satisfaction;
 - (v) payment method details (either the Contractor's postal address details or bank account details); and
 - (vi) contact person (including address, email address and telephone number) for accounts queries.
- (b) If a supply to which the invoice relates is a taxable supply, the invoice must be in the form of a tax invoice.

ITEM 6 IP IN MATERIAL

Item 6.1 PHN Material

[##Describe material being supplied by the PHN or "Nil"]

Item 6.2 Contractor Material

[##Describe material being supplied by the Contractor or "Nil"]

Item 6.3 Excluded Developed Material (to be owned by the Contractor)

[##List any Materials which do not become Developed Materials. Anything listed here will be owned by the Contractor. Generally the PHN will want to own all Developed Material so that it will have the opportunity to replicate the Services in other regions. Some exceptions might include:

- (a) client records — any records for an individual client created or developed by the Contractor in the course of providing advice, undertaking assessments or delivering treatment to that individual as part of the Services. If client records are excluded, consider whether the PHN requires a licence to use the identifiable client records (eg in connection with funding, management, planning, monitoring, improvement or evaluation of the services);
- (b) internal working documents or work in progress (e.g. of accountants) which are not Deliverables, so that that they can comply with their professional duties and insurer requirements];
- (c) where the Developed Material builds on third party material which the PHN does not have an ongoing licence to use.]

Item 6.4 Alternate licence terms, conditions or restrictions (clauses 6.3 and 6.4)

[##Describe alternate licence terms, conditions or restrictions or insert “Not applicable”.

If the Contractor is a not-for-profit and seeks to use the Developed Material for purposes beneficial to the public after the Term, a form of licence could be included here.

If the Developed Material improves on the Contractor Material, consider giving the Contractor a broad licence after the Term to use the Developed Material in connection with the Contractor Material, or for purposes such as the Contractor’s ongoing service delivery, research or internal training.]

ITEM 7 KEY PERSONNEL AND SUBCONTRACTING

Item 7.1 Key Personnel – names and role

[##Insert names of Contractor’s key personnel, only if they are critical to the performance of this agreement or the decision to specifically engage the Contractor]

Item 7.2 Subcontractors approved at Commencement Date

[##Insert names/ABN of Contractor’s subcontractors]

ITEM 8 MINIMUM INSURANCES (CLAUSE 8)

- (a) Public liability insurance for [##\$20] million per claim
- (b) Professional indemnity insurance for [##\$1/5/10] million per claim
- (c) Workers’ compensation insurance required by Victorian law

[##Insert any additional insurance requirements – e.g. specified assets, industrial special risks, motor vehicles]

- (d) Industrial special risks insurance for the full replacement or reinstatement value of all material facilities and equipment used by the Contractor in the performance of this agreement
- (e) Comprehensive motor vehicle insurance for:

- (i) market value of the vehicles to be used in the performance of this agreement; and
- (ii) for [##\$10] million per claim in respect of third-party property damage

ITEM 9 CONTACT DETAILS (CLAUSE 18.8)

	PHN	Contractor
Contract manager (day to day)	Attention: [Name] Role: [position] Tel: 03 9347 1188 Fax: 03 9347 7433 Post: PO Box 139 Parkville VIC 3052 Email: xxxxxxx@nwmpnh.org.au	Attention: [Name] Role: [Role] Tel: [Telephone] Fax: [Fax] Post: [Address] Email: [email address]
Contact details for written legal notices	Attention: [Name] Role: [position] Tel: 03 9347 1188 Fax: 03 9347 7433 Post: PO Box 139 Parkville VIC 3052 Email: xxxxxxx@nwmpnh.org.au	Attention: [Name] Role: [Role] Tel: [Telephone] Fax: [Fax] Post: [Address] Email: [email address]
Senior executive for disputes	Attention: [Name] Role: [position] Tel: 03 9347 1188 Fax: 03 9347 7433 Post: PO Box 139 Parkville VIC 3052 Email: xxxxxxx@nwmpnh.org.au	Attention: [Name] Role: [Role] Tel: [Telephone] Fax: [Fax] Post: [Address] Email: [email address]

ITEM 10 ATTACHMENTS

The following form part of this Agreement (whether referenced by or attached to this Agreement):

- (a) Working with Vulnerable Persons (as attached to this Agreement)
- (b) Commissioned Clinical Services Credentialing and Safety Compliance Policy (as attached to this Agreement)
- (c) [##PHN's tender/EOI request dated ##] **Click or tap to enter a date.**
- (d) [##Contractor's tender response/EOI response dated ##] **Click or tap to enter a date.**
- (e) [##Programme guidelines (as updated from time to time)]

EXECUTION

Signed for and on behalf of **Melbourne Primary**)
Care Network Limited (trading as North Western)
Melbourne PHN) by its authorised signatory in the
presence of:

.....
Signature of witness

.....
Signature of authorised signatory

.....
Name of witness (print)

.....
Name & position of signatory (print) Date

Signed for and on behalf of the **Contractor** by its)
authorised signatory in the presence of:)

.....
Signature of witness

.....
Signature of authorised signatory

.....
Name of witness (print)

.....
Name & position of signatory (print) Date

ATTACHMENT A: WORKING WITH CHILDREN AND VULNERABLE ADULTS

- 1 For the purposes of this attachment:
 - 1.1 **'Child'** means an individual under the age of 18;
 - 1.2 **'Criminal or Court Record'** means any record of any Other Offence;
 - 1.3 **'Other Offence'** means, in relation to any Relevant Person, a conviction, finding of guilt, on-the-spot fine for, or court order relating to:
 - (a) an apprehended violence or protection order made against the Relevant Person;
 - (b) one or more traffic offences involving speeding more than 30 kilometres over the speed limit, injury to a person or damage to property;
 - (c) a crime or offence involving the consumption, dealing in, possession or handling of alcohol, a prohibited drug, a prohibited narcotic or any other prohibited substance;
 - (d) a crime or offence involving violence against or the injury, but not the death, of a person;
 - (e) a crime or offence involving dishonesty that is not covered by clause 1.5(c); or
 - (f) an attempt to commit a crime or offence described in clauses 1.3(a) to (e);
 - 1.4 **'Relevant Person'** means a natural person who is an actual or potential officer, employee, volunteer, agent or contractor of the Contractor;
 - 1.5 **'Serious Offence'** means:
 - (a) a crime or offence involving the death of a person;
 - (b) a sex-related offence or a crime, including sexual assault (whether against an adult or Child), Child pornography, or an indecent act involving a Child;
 - (c) fraud, money laundering, insider dealing or any other financial offence or crime, including those under legislation relating to companies, banking, insurance or other financial services; or
 - (d) an attempt to commit a crime or offence described in clauses 1.5(a) to (c);
 - 1.6 **'Serious Record'** means a conviction or any finding of guilt regarding a Serious Offence;
 - 1.7 **'Vulnerable Adult'** means an individual aged 18 years or above who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation by any reason, including age, illness, trauma or disability, pregnancy, the influence, or part or existing use, of alcohol, drugs or substance use or any other reason; and
 - 1.8 **'Vulnerable Person'** means a Child or Vulnerable Adult.
- 2 This attachment applies to any part of a Service that involves working, or contact, with Vulnerable Persons except as otherwise specified in Item 3 of the Schedule.
- 3 The Contractor must:
 - 3.1 before engaging, deploying or redeploying a Relevant Person in relation to any part of a Service that involves working or contact with a Vulnerable Person; and
 - 3.2 thereafter every 3 years that the Relevant Person is deployed or redeployed in relation to any part of a Service that involves working or contact with a Vulnerable Person,do the following:

- 3.3 obtain a Police Check for the Relevant Person, except as otherwise specified in Item 3 of the Schedule;
 - 3.4 confirm that no applicable Commonwealth, State or Territory Law prohibits the Relevant Person from being engaged in a capacity where they may have contact with Vulnerable Persons;
 - 3.5 comply with all other applicable Laws of the place in which that part of the Service is being conducted in relation to engaging or deploying the Relevant Person in a capacity where he or she may have contact with Vulnerable Persons; and
 - 3.6 comply with any other conditions set out in Item 3 of the Schedule in respect of the Service.
- 4** If a Police Check indicates that a Relevant Person has a Serious Record, the Contractor may not deploy or redeploy that Relevant Person in relation to any part of a Service that involves working or contact with a Vulnerable Person.
- 5** The Contractor agrees:
- 5.1 if a Police Check indicates that a Relevant Person has a Criminal or Court Record, not to engage, deploy or redeploy that Relevant Person in respect of any part of a Service that involves working with Vulnerable Persons unless the Contractor has conducted and documented a risk assessment for that Relevant Person in accordance with clauses 7 to 9;
 - 5.2 within 24 hours of becoming aware of any Relevant Person being charged or convicted of any Other Offence, or charged with any Serious Offence, to comply with clause 3.5 and conduct and document a risk assessment in accordance with clause 7 to 9 to determine whether to allow that Relevant Person to continue performing any part of a Service that involves working with Vulnerable Persons;
 - 5.3 on becoming aware of a Relevant Person being convicted of a Serious Offence, to comply with clause 3.5 and immediately cease to deploy the Relevant Person in relation to any part of a Service that involves working or contact with a Vulnerable Person; and
 - 5.4 to document the actions the Contractor will take as a result of conducting a risk assessment.
- 6** The Contractor must promptly notify the PHN if the Contractor becomes aware of an occurrence specified in clause 5 or the Contractor conducts a risk assessment in accordance with clauses 7 to 9, except to the extent otherwise specified in Item 3 of the Schedule or agreed in writing by the PHN.
- 7** The Contractor is wholly responsible for conducting any risk assessment, assessing its outcome and deciding to engage, deploy or redeploy a Relevant Person who has:
- 7.1 a Criminal or Court Record;
 - 7.2 been charged or convicted of any Other Offence;
 - 7.3 been charged with an Serious Offence,
- to work on any part of a Service that involves working or contact with Vulnerable Persons.
- 8** In undertaking the risk assessment under clause 7 in respect of a Relevant Person, the Contractor agrees to take into account the following factors:
- 8.1 whether the Relevant Person's Criminal or Court Record (or the offence that the Relevant Person has been charged with, or convicted of, as specified in clause 5.2) is directly relevant to the role that he or she will or is likely to perform in relation to a Service;
 - 8.2 the length of time that has passed since the Relevant Person's charge or conviction and his or her record since that time;

- 8.3 the nature of the offence pertaining to the Relevant Person's charge or conviction and the circumstances in which it occurred;
 - 8.4 whether the Relevant Person's charge or conviction involved Vulnerable Persons;
 - 8.5 the nature of the Service for which the Relevant Person is employed or engaged and the circumstances in which the Relevant Person will or is likely to have contact with Vulnerable Persons;
 - 8.6 the particular role the Relevant Person is proposed to undertake or is currently undertaking in relation to a Service and whether the fact the Relevant Person has a Criminal or Court Record (or has been charged or convicted as specified in clause 5.2) is reasonably likely to impair his or her ability to perform or continue to perform the inherent requirements of that role;
 - 8.7 the Relevant Person's suitability based on their merit, experience and references to perform the role they are proposed to undertake, or are currently undertaking, in relation to a Service; and
 - 8.8 any other factors which the PHN directs that the Contractor must take into account in conducting a risk assessment for the purpose of this attachment.
- 9** After taking into account the factors set out in clause 8 in respect of a Relevant Person, the Contractor agrees to determine whether it is reasonably necessary to:
- 9.1 not engage, deploy or redeploy the Relevant Person in relation to a Service or any part of a Service;
 - 9.2 remove the Relevant Person from working in any position or acting in any capacity in relation to any part of a Service that involves working or having contact with Vulnerable Persons;
 - 9.3 make particular arrangements or impose conditions in relation to the Relevant Person's role in relation to a Service (or any part of a Service) and, where relevant, his or her contact with Vulnerable Persons; and/or
 - 9.4 take steps to protect the physical, psychological or emotional wellbeing of the Vulnerable Persons to whom the Service relates.
- 10** As and when required by the PHN, the Contractor must promptly provide evidence, in a form the PHN requires, that the Contractor has complied with the requirements of this attachment.
- 11** The Contractor agrees to:
- 11.1 reflect the Contractor's obligations under this attachment in all subcontracts the Contractor enters into; and
 - 11.2 ensure the requirements in this attachment are included in any sub-subcontracts that are entered into, in relation to any part of a Service that involves working with Vulnerable Persons.
- 12** This attachment does not limit the Contractor's obligations and the PHN's rights under clause 7.3.

ATTACHMENT B: COMMISSIONED CLINICAL SERVICES CREDENTIALING AND SAFETY COMPLIANCE POLICY

1 PURPOSE

Melbourne Primary Care Network (MPCN) contracts with a variety of providers to provide specified services. (Contracted Providers). MPCN requires all Contracted Providers to comply with the terms of the Policy including:

- (i) Comply with professional credentialing and accountability requirements, and
- (ii) Comply with relevant legislative, regulatory and standards requirements.

2 SCOPE

This Policy applies to all Contracted Providers contracted by MPCN to undertake clinical services.

Where a consortium or partnership has been engaged, the Policy applies to both the lead agency contracted by MPCN as well as consortium members / partners.

Where individuals or organisations are engaged as sub-contractors (or sub-sub-contractor, and so on), this policy also applies to the employees, volunteers and individual contractors of any sub-contractor (or sub-sub-contractors, and so on).

3 DEFINITIONS AND ACRONYMS

Accreditation means the public recognition by a health care accreditation body of the achievement of accreditation standards by a health care organisation, demonstrated through an independent external peer assessment of that organisation's level of performance in relation to the standards.

ACSQHC means the **Australian Commission for Safety and Quality in Health Care** established in 2006 by the Australian, state and territory governments to lead and coordinate national improvements in safety and quality in health care [www.safetyandquality.gov.au].

AHPRA means the **Australian Health Practitioner Regulation Agency** being the organisation responsible for the implementation of the National Registration and Accreditation Scheme across Australia [www.ahpra.gov.au].

AHPRA Conditions on Registration means any conditions placed on a practitioner's registration for whatever reason and **any** current conditions which restrict a practitioner's practice of the profession. Commentary: it is noted a National Board or an adjudication body can impose a condition on the registration of a practitioner or student, or on an endorsement of registration. A condition aims to restrict a practitioner's practice in some way, to protect the public.

- Conditions may be imposed because a National Board has found that a practitioner has departed from accepted professional standards.
- Conditions can also be placed on a practitioner's registration for reasons that are not disciplinary, such as for a practitioner who is returning to practice after a break.
- Conditions are published on the register of practitioners.

AHPRA Undertakings on Registration means an undertaking from a practitioner to limit the practitioner’s practice in some way if this is necessary to protect the public and the undertaking is accepted by a National Boards.

- The undertaking means the practitioner agrees to do, or to not do something in relation to their practice of the profession.
- Current undertakings which restrict a practitioner’s practice of the profession are published on the register of practitioners.
- An undertaking is voluntary, whereas a condition is imposed on a practitioner’s registration.

Australian Health Service Safety and Quality Accreditation (AHSSQA) Scheme means the national coordination of accreditation processes against the National Safety and Quality Health Service (NSQHS) Standards created by the ACSQHC [www.safetyandquality.gov.au/our-work/assessment-to-the-nsqhs-standards/australian-health-service-safety-and-quality-accreditation-scheme/].

Certified copied documents mean a copy of a document (often a photocopy) of a primary document that has on it a certification that it is a true copy of the primary document. It does not certify that the primary document is genuine, only that it is a true copy of the primary document [www.justice.vic.gov.au/statdecs].

Clinical service means any service that MPCN in its absolute discretion deems to be a clinical service.

Commissioned service means services the Contracted Provider agrees to deliver pursuant to its contract with MPCN and that are specified in that contract.

Credentialing is the formal process used to verify the qualifications, experience, professional standing and other relevant professional attributes of health practitioners for the purpose of forming a view about their competence, performance and professional suitability to provide safe, high quality health care services within specific organisational environments.

National Police Check means the result of a search identifying and releasing any relevant Australian Federal Police (AFP) information subject to relevant spent convictions, non-disclosure legislation and information release policies. Each of these police checks can only be undertaken with the informed consent of the person being checked.

National Registration and Accreditation Scheme (NRAS)

The following professions are nationally regulated by a corresponding National Board via the Australian Health Practitioner Regulation Agency (AHPRA) [www.ahpra.gov.au/About-AHPRA/What-We-Do.aspx]:

<ul style="list-style-type: none">• Aboriginal and Torres Strait Islander health practitioners• Chinese medicine practitioners (including acupuncturists, Chinese herbal medicine practitioners and Chinese herbal dispensers)• Chiropractors• Dental practitioners (including dentists, dental hygienists, dental prosthetists & dental therapists)• Medical practitioners• Medical radiation practitioners (including diagnostic radiographers, radiation therapists and nuclear medicine technologists)	<ul style="list-style-type: none">• Nurses and midwives• Occupational therapists• Optometrists• Osteopaths• Paramedics• Pharmacists• Physiotherapists• Podiatrists• Psychologists
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National Safety and Quality Health Service (NSQHS) Standards

The Australian Commission on Safety and Quality in Healthcare (ACSQHC) has developed the National Safety and Quality Health Service (NSQHS) Standards to drive the implementation of safety and quality systems and improve the quality of health care in Australia [www.safetyandquality.gov.au/our-work/assessment-to-the-nsqhs-standards/].

Unregistered Healthcare Practitioner means any person who provides a health service and is not registered in one of the health professions regulated under the National Registration and Accreditation Scheme (NRAS).

Working with Children Check means a screening process for assessing or re-assessing people who work with or care for children aged 0 – 18 years in Victoria [www.workingwithchildren.vic.gov.au].

4 REQUIREMENTS

Providers contracted by MPCN to provide clinical services must ensure they hold evidence of appropriate minimum credentials and have appropriate clinical governance including safety and reporting. For the purposes of this Policy, the evidence required is dependent on the type of contracted organisation.

Requirements are:

4.1 Credentialing

The provider must satisfy one of 4.1.1, 4.1.2 or 4.1.3 depending on the contracted organisation type and each of 4.2, 4.3 and 4.4.

4.1.1 An Australian incorporated organisation accredited under the Australian Health Service Safety and Quality Accreditation (AHSSQA) Scheme.

Evidence type	Item	Frequency
Identification (Corporate)	Australian Company Number (ACN) / Australian Registered Business Number (ARBN)	Before contract execution, update at time of any change
Accreditation	Certified copy of independent accreditation	Before contract execution, and at successful completion of accreditation cycle (usually 3 years)
Insurance	Certified copy of certificate of currency for professional indemnity insurance not less than \$10 million per claim; and, Certified copy of certificate of currency for public liability insurance not less than \$20 million per claim	Annual

4.1.2 An Australian incorporated organisation not accredited under the Australian Health Service Safety and Quality Accreditation (AHSSQA) Scheme.

Credentialing of practitioners will be for a maximum period of 3 years, with recredentialing requiring the same evidence as outlined below.

Evidence type	Item	Frequency
Identification (Corporate)	Australian Company Number (ACN) or Australian Registered Business Number (ARBN)	Before contract execution, update at time of any change
Accreditation	If an organisation is a General Practice - Certified copy of independent accreditation to Royal Australian College of General Practitioners (RACGP) standards If an organisation is not a General Practice - Relevant other standards (e.g. Mental Health) - Certified copy of independent accreditation	Before contract execution, and at successful completion of accreditation cycle (usually 3 years)
Insurance	Certified copy of certificate of currency for professional indemnity insurance not less than \$10 million per claim; and, Certified copy of certificate of currency for public liability insurance not less than \$20 million per claim	Annual
National Registration	General or specialist AHPRA registration with no conditions or undertakings	Annual check by MPCN
Skills and experience	Curriculum Vitae demonstrating a minimum of two (2) years relevant experience	Prior to commencement of service delivery by the individual
Security Checks	Certified copies of National Police Check not more than 3 months old; and, Certified copies of current Working with Children Check if any work with people < 18 years of age	Annual

4.1.3 An Australian Partnership, Sole Trader or unincorporated organisation.

Credentialing of practitioners will be for a maximum period of 3 years, with recredentialing requiring the same evidence as outlined below.

Evidence type	Item	Frequency
Identification (Corporate)	Australian Business Number (ABN)	Before contract execution, update at time of any change
Identification (Individual)	100 point identification check: original documents	Before contract execution, update at time of any change
Insurance	<ul style="list-style-type: none"> Certified copy of certificate of currency for professional indemnity insurance not less than \$10 million per claim; and, Certified copy of certificate of currency for public liability insurance not less than \$20 million per claim 	Annual

No claim liability	Statutory Declaration stating no claim liability carried forward	Annually, and in the event of any change to liability status
National Registration	General or specialist AHPRA registration with no conditions or undertakings.	Annually, and in the event of any change to registration status. Subject to audit check by MPCN
Skills and experience	Curriculum Vitae demonstrating a minimum of two (2) years relevant experience; and, Referee check to be undertaken by MPCN	Prior to commencement of service delivery by the individual
Security Checks	Certified copies of National Police Check not more than 3 months old; and Certified copies of current Working with Children Check if any work with people < 18 years of age	Annual

4.2 Safety requirements and standards

MPCN requires that clinical services are delivered to the highest possible safety standards, complying with relevant statutory, regulatory and other standards.

These include at a minimum, but are not limited to:

- Mandatory reporting prescribed by relevant legislation, regulations and standards.
- Privacy Act 1988.
- Cyber security and data protection laws.
- Safer Care Victoria clinical and quality standards [bettersafecare.vic.gov.au].
- National Safety and Quality Health Service Standards.
- Victorian Child Safe Standards.
- Vulnerable persons guidelines and standards.

4.3 Guidance, practice and notification requirements

MPCN requires that commissioned services meet relevant guidance, practice and notification requirements. This will be clearly articulated in contractual arrangements. This may include (as examples):

- Deliver services in alignment with all related Commonwealth Guidance (such as the 2012 ATAPS Guidelines) and MPCN contractual requirements.
- Monitor client services to ensure all service requirements are met, including data capture, review dates and reporting.
- Measure outcomes (clinical and non-clinical) as identified by the related Commonwealth Guidance, MPCN funding contract and program specifications and in accordance with professional evidence-based practice.

- Keep accurate and up to date client records in accordance with the *Privacy Act 1988 (Cth)*, *Health Records Act 2001 (Vic)*, ensuring they are stored securely in accordance with the *Privacy and Data Protection Act 2014 (Vic)* (where Victorian Government funding is involved).
- Enter all service-related data into the applicable database at intervals outlined within the contractual Statement of Works.
- Actively monitor and assess risk for clients / consumers, including risk of harm to self or others, or physical and / or mental deterioration and refer to appropriate services when necessary.
- Provide services to clients / consumers in an environment that is accessible, welcoming and supports their needs with a focus on strengths and abilities.

4.4 Clinical Incident Reporting

MPCN requires active incident identification and reporting as part of contracted arrangements in order to monitor safety and foster quality improvement.

A clinical incident is any event or circumstance which has actually or could potentially lead to unintended and / or unnecessary mental or physical harm to:

- a client / consumer accessing services commissioned by MPCN;
- and / or to a clinician / contracted provider delivering commissioned services to a client / consumer.

It is expected that all clinical incidents are managed in accordance with the CG018 Clinical Incident Procedure which is provided on contract offer.

5 UNREGISTERED HEALTHCARE PROFESSIONALS

In general, healthcare practitioners from a professional group not regulated by AHPRA are not able to provide clinical services (in any arrangement type).

It is however acknowledged by MPCN that given the special needs of populations, especially in order to increase access and equity for consumers, this may need to occur at times.

Healthcare practitioners from a professional group not regulated by AHPRA will be considered on a case-by-case basis via the delegated clinical governance review mechanism as established by the MPCN. Additional requirements and undertakings will apply in the application and review process.

In such cases, requirements must be met, and written permission provided by MPCN before any clinical services are provided. This includes the provision of services either directly or in any subcontract arrangement.

6 SUBCONTRACTORS

Only organisations covered under 4.1.1 and 4.1.2 are permitted to subcontract clinical services. In these cases, it is the responsibility of the lead organisation holding the contract with MPCN to ensure compliance with the Policy at all times by any subcontractor.

This means all persons providing services must:

- Hold general or specialist AHPRA registration with no conditions or undertakings.
- Hold a current Working with Children Check if they provide any work with people < 18 years of age.
- Have recent clear National Police Checks.
- Be appropriately skilled.
- Hold professional indemnity and public liability insurance as required in 4.1.1 and 4.1.2.
- Comply with 4.2, 4.3 and 4.4 of this policy.

The agreement between the contracted service provider and its subcontractor must include appropriate provisions clearly specifying the procedures to be followed to ensure that the sub-contractors comply with this policy. This must be conducted either by the contracted service provider or the sub-contractor's board (or their relevant governance or management mechanism). MPCN may require evidence of this prior to the contract or at any time during the contract. Failure to provide this during the contract within a reasonable time may result in termination of the contract.

7 NON-CONFORMANCE TO POLICY

For individuals and organisations that do not meet requirements in full, MPCN may consider further information on a case-by-case basis via the delegated clinical governance review mechanism as established by MPCN. Additional requirements and undertakings may be required during the application and review process.

Failure to meet the requirements of this policy may result in termination of the contract.

8 REFERENCES

- MPCN "Board Clinical Governance Policy"
- MPCN "Clinical Incident Procedure"
- [Australian Health Service Safety and Quality Accreditation \(AHSSQA\) Scheme](#)
- [National Registration and Accreditation Scheme \(NRAS\)](#)
- [National Safety and Quality Health Service \(NSQHS\) Standards](#)
- [Royal Australian College of General Practitioners \(RACGP\) Standards](#)
- [Working with Children Check \(Victorian Government\)](#)

ANNEXURE: VARIATION FORM

The Schedule between Melbourne Primary Care Network Limited ACN 153 323 436 ABN 93 153 323 436 and the Contractor identified below is varied in accordance with the terms of this Variation Form and its attachments.

Contractor	[##Insert full legal name of Contractor] [##Insert ABN (11 digits) from abr.business.gov.au] [##Insert ACN (9 digits) from asicconnect.asic.gov.au or association no A#####X from www.consumer.vic.gov.au]
Head Agreement	Head Agreement dated [##insert date]
Schedule Name and Date	Schedule titled [##insert title] dated [##insert date]
Variation number	
Date proposed	
Party proposing the variation	
Details of variation proposal	
Clauses affected by the proposal	
Payments affected by this variation proposal	
Any other matters which the parties consider are important	
Execution	
PHN/MPCN's Representative	
Name (print)	
Position	
Signature and date	_____ / ____ / _____
Contractor's Representative	
Name (print)	
Position	
Signature and date	_____ / ____ / _____