

Services Agreement (short form) for Doctors in Secondary Schools

This Services agreement is made on the later of the dates it is signed by the parties below, and consists of the party details, agreement details and the agreement terms.

PARTY DETAILS*

***Note:** A party may change its contact details and persons nominated by notifying the other in writing.

Short name	PHN or SEMPHN	Contractor
Full name and address	South Eastern Melbourne Primary Health Network Ltd ABN 65 603 858 751 ACN 603 858 751 of Level 2/ 15 Corporate Drive, Heatherton VIC 3202	
Contract manager (day to day)	Attention: Shannon George Tel: 03 8514 6635 Email: shannon.george@semphn.org.au	Attention: Tel: Email:
Contact details for written legal notices	Attention: Tannia McMartin Tel: 03 8514 4465 Post: Level 2/ 15 Corporate Drive, Heatherton, Vic 3202 Email: tannia.mcmartin@semphn.org.au	Attention: Tel: Post: Email:
Senior executive for disputes	Attention: Cam Battaglia Tel: 03 8514 4444 Email: cam.battaglia@semphn.org.au	Attention: Tel: Email:

Executed as an Agreement:

Signed for and on behalf of ABN 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 South Eastern Melbourne)
Primary Health Network Limited ABN 65 603 858 751 by)
its authorised signatory in the presence of:)

Signature of witness

Signature of authorised signatory

Name of witness (print)

/ /
Name and position of signatory (print) Date

AGREEMENT DETAILS

Item 1 Name and purpose of the program (cl 3)

Name:

Doctors in Secondary Schools Program

Purpose (aims and objectives):

The Department of Education and Training (DET) is working with Victoria's six Primary Health Networks (PHN) to engage general practices in their catchments to provide suitably experienced Practices to work with participating schools.

The objectives of the initiative are to:

- Make primary health care more accessible to students and thereby help reduce unmet needs
- Provide assistance to young people to identify and address any health problems early
- Identification and management of any health problems; and
- Reduce the pressure on working parents and community-based GPs.

The program objectives are to:

- provide funding to the Program Schools, which are located in disadvantaged areas, in order to facilitate and enable the provision of adolescent health trained General Practitioners and Practice Nurses to attend those Program Schools up to once a week to provide medical advice and healthcare;
- provide training and coordination to relevant Program School personnel and General Practitioners and Practice Nurses;
- provide modern fit for purpose treatment rooms where required;
- link the Program to other relevant services for young people such as community based mental health services; and
- minimise or eliminate fragmentation of health care.

Item 2 Program and agreement period (cl 2)

Program period: from the date of execution to 31 January 2022

Extension of program period:

The PHN may extend the program period once by up to 12 months if it gives the Contractor at least three months written notice before the end of the program period.

Agreement period:

- (a) Commences on the earlier of: (i) date of this agreement; or (ii) the start of the program period
- (b) Ends on the later of: 3 months after the end of the program period OR 30 days after the PHN accepts the last deliverable

Item 3 Description of the program (cl 3)

Item 3.1 Program requirements / statement of work

Model of Service

The underlying principle of the school based GP clinic is to offer access to all students regardless of their ability to pay, and to address barriers to accessing primary health care such as out-of-pocket costs, transport needs, and inconvenient appointment times.

Range of Services

GPs will provide students with the same services as those of any GP in the community, including management of physical health, mental health, and sexual and reproductive health issues. GPs may also make referrals to other health services as required. The school program lead will work with the student, parents/carers, the GPs and nurses to help facilitate referrals to other services when needed. There will be no out-of-pocket expenses for the student or their family for the consultation.

The Service

The PHN has been engaged by the State of Victoria through the Department of Education and Training to coordinate to engage Medical Centres to perform medical services for clients as defined and otherwise described in the Medicare Benefit Schedule, published at <http://www.mbsonline.gov.au/>.

In delivering the Services, the Organisation must ensure that the clinical staff providing services on behalf of the Organisation are delivering these services as appropriate and comply with Doctors in Secondary Schools Program Operational Guidelines and clinical governance requirements as outlined in this Schedule C.

The Contractor must deliver Services to clients during the term of this agreement with due care, skill and diligence, and in accordance with the Services description in this clause C3 and the Doctors in Secondary Schools Program Operational Guidelines:

1 Location of Services

The services will be provided at the following locations:

2 Provision of Medical services, including:

- (a) Employing and nominating appropriate General Practitioners and Practice Nurses to deliver clinical services, which may be undertaken in partnership with The PHN and the Secondary School;
- (b) Providing one clinical session weekly of regular in-hours services for clients to access bulk-billed medical services within school terms;
- (c) Providing Practice Nurses onsite anytime the GP is in attendance; (with any surplus between the General Practitioner's time and the maximum 7.6 hours per week) can be spent at the Medical Centre if required;
- (d) Scheduling clinical sessions, the first of which should be within one week of contract execution;
- (e) Implementing agreed procedures for consent and flow of client information in appropriate circumstances;
- (f) Preparing for clinical sessions with clients;
- (g) Implementing agreed care and referral pathways that allow clients to seamlessly move to an appropriate alternate service should their circumstances change, including crisis response mechanisms;
- (h) Managing electronic patient records and files, complying with relevant privacy and confidentiality laws;
- (i) Working collaboratively with the school program lead, school health and wellbeing teams, school administrators and teachers to support promotion of the service and enhance student participation; and
- (j) Complying with Applicable Department of Education and Training Policies (e.g. Child Safe Standards).

3 Conduct of Clinical Support services, including:

- (a) Supplying a doctors' bag to include the items as outlined in attachment A at a minimum.
- (b) Establishing a satellite medical clinic within nominated school settings and satisfying requirements of the National General Practice Accreditation Scheme;
- (c) Appropriately supporting management of each General Practitioner and Practice Nurse;
- (d) Monitoring clinical session attendance of General Practitioners on a regular basis;
- (e) Developing and implementing a General Practitioner and Practice Nurse attendance retention strategy;
- (f) Ensuring suitably appropriate General Practitioners and Practice Nurses complete mandated Adolescent Health training and other induction.

4 Conduct of other Administrative Services, including:

- (a) Entering into a license agreement with the relevant School Council to access the relevant School (School Council License);
- (b) Providing requisite aggregate data for monitoring and evaluation purposes (e.g. de-identified clinical data pertaining to students who have received medical services);

- (c) Providing and implementing satisfaction and complaints management process;
- (d) Ensuring prompt communication of priorities, risks, issues and opportunities to the PHN;
- (e) Administering remuneration of the payments to General Practitioners providing clinical services;
- (f) Providing evidence of satellite location meeting requirements of surveying accreditation agency;
- (g) Invoicing The PHN on an agreed and timely basis for Incentive Payments and Medical Centre Support Payments which includes the costs of the Practice Nurse, Working with Children's Checks and Police Checks, any additional software licensing costs; and a one-off establishment payment for consumables in accordance with this Schedule C Statement of Work and attachments.

5 Clinic equipment and Consumables

The Contractor is to:

- (a) ensure that Clinical Personnel use furniture, fittings, supplied non-specialist equipment, specialist medical equipment and information technology (e.g. laptops) for the permitted purposes of the school-based clinical service delivery. This is shown in Attachment A.
- (b) ensure that the Clinical Personnel have timely access to a spirometer and electrocardiograph;
- (c) demonstrate that the equipment in use is sufficient for the procedures commonly performed at the School; and
- (d) demonstrate how key equipment is maintained.

6 Provide written confirmation to the PHN that the Medical Centre:

- (a) is requesting remuneration of the nurses which reflects ordinary hourly rate before they were engaged to provide services under the program, or where nurses are new employees to the Medical Centre, the rate charged ought to be the rate that nurse would be paid for working at the Medical Centre as a practice nurse;
- (b) is able to provide evidence of accreditation against the current RACGP Standards for General Practices; and
- (c) is able to supply the services detailed in this Contract.

7 Key Roles

- (a) The Contractor is required to appoint suitable Clinical Staff to each Key Role.
- (b) If a Key Role becomes vacant the Contractor needs to, as soon as reasonably practicable, appoint a replacement
- (c) The Contractor needs to provide prior to the appointment of any Clinical Staff: relevant information and documentation

Item 3.2 Performance criteria

- execute the Contract
- comply with reporting requirements set out in the contract including:
 - progress reports (monthly, or as prescribed) including periodic data reporting (this will be developed in association with SEMPHN once the contract is awarded).
 - a de-identified clinical minimum dataset to be implemented from 1 July 2017
 - any reports and evaluation information specified from time to time by the PHN.
 - participate in program evaluation activities if required; and
 - submit correctly rendered Tax Invoices which will be paid on completion of, and SEMPHN acceptance of, the agreed milestones.

Item 3.3 Specific laws, policies, guidelines, standards (cl 3.2(a), 12.3)

Standard, Acts and Frameworks

The Services must be delivered according to the following standards:

- (d) RACGP Standards for General Practices
- (e) The Privacy Act 1988 (Cth),
 - (i) The Privacy Amendment (Enhancing Privacy Protection) Act 2012
 - (ii) The Australian Privacy Principles (APPs)
 - (iii) The National Privacy Principles established under that Act
- (f) The Personally Controlled Electronic Health Records Act 2012 (Cth)
- (g) The Health Records Act 2001 (Vic)
- (h) Freedom of Information Act
- (i) Child Youth and Families Act (2005)
- (j) Child Safe Standards (VIC 2015)

Any other applicable law relating to privacy and the Purchaser's reasonable directions in relation to the protection of personal information and delivery of clinical services.

Accreditation and credentials

All Contractors must meet the following criteria:

- be a provider which currently provides services or delivers activities within the SEMP HN catchment (see the Department of Health's website for catchment boundaries)
- provide evidence of current accreditation by an approved accrediting agency as per the National General Practice Accreditation Scheme
- have access to practice software, willingness and ability to query practice software and report data
- provide bulk billing services for students (or willingness to do so)
- provide SEMP HN authority to publish outcomes and access minimum data sets pertaining to the delivery of the contracted services

Item 3.4 Licensing and credentialing (cl 3.2(a), 12.3)

These requirements may apply to the Contractor or specific personnel.

- (a) The Contractor must provide evidence of current accreditation by an approved accrediting agency as per the National General Practice Accreditation Scheme
- (b) In addition, the contracted GP must:
 - (i) have a medical degree with a license to practice in Australia
 - (ii) have AHPRA registration with no restrictions on scope of practice
- (c) the PHN may require the Contractor to obtain current police checks for its personnel, then every 3 years.
- (d) personnel with adverse police check results (according to Department requirements) must not perform any activity under this agreement.
- (e) the PHN may require the Contractor to obtain working with children checks for its personnel.
- (f) the Contractor must verify the qualifications, experience and professional standing of its health practitioners to ensure that they are competent, able to perform and professionally suitable to provide safe, high quality health services.
- (g) matters to be verified before appointment: identity, professional registration with AHPRA, qualifications/certifications required for the role, previous employment/experience/performance, criminal history checks, suitability to work with children and driver's licence (where relevant).
- (h) 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).
- (i) For the purposes of paragraph (f), the Contractor must ensure that:

- (i) its health practitioners hold and maintain all required qualifications, credentials and professional memberships; and
- (ii) its professional practice holds and maintains all required accreditations and certifications, as required by law or acquired after this agreement commences.

On PHN request, the Contractor must promptly provide evidence of compliance with these licensing and credentialing requirements.

Item 3.5 Clinical requirements

- (a) The Contractor must establish and maintain clinical governance arrangements (including to deal with patient consents) which are acceptable to the PHN.
- (b) On PHN request, the Contractor must promptly provide evidence of compliance with these clinical requirements

Item 4 Deliverables (cl 4)

Deliverable FY 2019-2020	Deliverable date
Evidence of a signed licence between the General Practice and the school.	On execution of contract agreement.
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/12/2019
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	January 2020 – no report required (school holidays)
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	28/02/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/03/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	30/04/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/05/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	30/06/2020

Deliverable FY 2020-2021	Deliverable date
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/07/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/08/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	30/09/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/10/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	30/11/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/12/2020
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	January 2021 – no report required (school holidays)
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	28/02/2021

Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/03/2021
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	30/04/2021
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/05/2021
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	30/06/2021

Deliverable FY 2021-2022	Deliverable date
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/07/2021
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/08/2021
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	30/09/2021
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/10/2021
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	30/11/2021
Monthly Progress Report as required and in a format that will be developed and advised by the PHN	31/12/2021

Item 5 Payments (cl 5)

The PHN will pay the Contractor in accordance with the following formula and invoices will be paid in accordance with clause 5 of the Terms and Conditions. Payment terms: 30 days of invoice receipt.

GP Incentive Payments

The amount of the Incentive Payment for each General Practitioner must be calculated in accordance with the following formula:

Incentive Payment = ((number of hours in attendance at a Catchment School, for the purpose of delivering the program) x * HR) – MBS (if <0 then = 0))

Where:

MBS is the total amount that the General Practitioner is entitled to be paid under the Medicare Benefits Schedule for the services rendered for each of the attendances claimed at the Catchment School.

HR is the hourly rate payable in respect of General Practitioners which will be \$150 (excluding GST) unless otherwise agreed in writing by the Department's Representative.

Medical Centre Support Payments

The amount of the Medical Centre Support Payment for each Medical Centre must be calculated in accordance with the following formula:

Medical Centre Support Payment = PN + WWC + SL + C + TC + AC + T + TA + PMF

Where:

PN is the actual cost to the Medical Centre of providing each Practice Nurse to provide services under the Program, which must be the Practice Nurse's ordinary hourly rate of pay (multiplied by 18% for on costs) multiplied by the hours worked for the Program over the relevant period the subject of the claim, plus travel allowances (calculated in accordance with eh Operational Policy)

WWC is the costs incurred by the Medical Centre in performing the Working with Children Checks and Police Checks required by this Agreement.

SL is any additional software licensing costs incurred by the Medical Centre in order to enable provision of medical services under the Program.

- C** is the one-off amount of \$200 (excluding GST) per school payable as a one off establishment basis for the medical consumables to be provided by Medical Centres in accordance with Schedule 8, in each case payable immediately prior to commencement of the clinic's engagement in the school.
- TC** is the amount of \$150 (excluding GST) per school per Term for the consumables replenishments to be provided to the Medical Centres in accordance with Schedule 8, payable at the start of each Term, commencing from the Medical Centre's second Term participation in the program.
- AC** is the cost of any necessary medical equipment and/or consumables required under Schedule 8 in excess of the amount payable under Item "C" that has been approved by the Department (such approval to be granted only in exceptional circumstances)
- T** is the amount claimable by the General Practitioner and/or Practice Nurse under the Department's travel policy (as set out in the Program's Operational Guidelines).
- TA** is the amount claimable by the General Practitioner and/or Practice Nurse to cover their time undertaking training in accordance with the Department's policy (as set out in the Program's Operational Guidelines).
- PMF** is the amount claimable by the Medical Centre for its Practice Management Fee, consisting of a once-off payment of \$358.72 (ex GST) plus a weekly payment of \$47.20 (ex GST), the weekly payment being payable by reference to the number of school weeks that the Medical Centre has been operating in the Program since January 2018 in relation to a particular School. If a Medical Centre is appointed to more than one School, then it can claim the Practice Management Fee multiple times by reference to the number of weeks it has been servicing each School.

Item 6 Existing material (cl 6)

PHN material	Contractor material
Nil	Nil

Item 7 Key personnel and subcontracting (cl 7)

Key Role	Description of Role	Weekly Engagement
Medical Centre	<p>Detailed role requirements and responsibilities will be contained the Operating Policy; however, in summary they will include:</p> <ul style="list-style-type: none"> • Hold current accreditation against the RACGP Standards for General Practices. • Provide an appropriately qualified General practitioners and Practice Nurses • Support the General Practitioners to implement clinical strategies where necessary • Securely store and maintain student medical records • Manage billing and remuneration of participating staff • Maintain license and use of practice software and support participating staff to fulfil any reporting or data collection requirements 	Not applicable
General Practitioner	<p>Detailed role requirements and responsibilities will be contained the Operational Policy; however, in summary they will include:</p> <ul style="list-style-type: none"> • Provide medical advice and primary health care for students in partnership with a Practice Nurse • Work collaboratively with the School Program Lead and other Department staff to support promotion of the service and enhance student participation • Attend initial training and ongoing professional development activities related to the role • Comply with Applicable Department Policies and procedures • Comply with any reporting or data collection requirements and participate in the evaluation activities of the program • Have a medical degree with license to practice in Australia, appropriate medical and professional indemnity cover (that will extend to their practice in the Catchment School) and Australian Health Practitioner Regulation Agency (AHPRA) registration with no restrictions on scope of practice • Desirable – experience in child and adolescent health 	Once a week during School Terms, with each attendance at a minimum (and maximum) of four hours at (each of) their assigned Catchment School.
Practice Nurse	<p>Detailed role requirements and responsibilities will be contained the Operational Policy; however, in summary they will include:</p> <ul style="list-style-type: none"> • Must be a Registered Nurse with the Nursing and Midwifery Board of Australia • Must attend adolescent health training arranged by PHN • Provide care coordination and program support for General Practitioners • Undertake initial triage of students, clinical assessment if required • Support coordinate required referrals to other services, support School Program Lead in coordination including appointment scheduling 	<p>0.2 FTE or 7.6 hours per week during school terms, for weeks in which a GP attends the Catchment School.</p> <p>The Practice Nurse must be present onsite at the Catchment School anytime the GP is in attendance; any surplus time (between the GP's attendance and the maximum 7.6 hours per week) can be spent at the Practice Nurse's Medical Centre (instead of onsite at the Catchment School), if required.</p>

Item 8 Minimum insurances (cl 8)*

***Note to Contractor:** The Contractor may take out either "claims made" or "claims occurring" policies. If the Contractor takes out "claims made" policies, it must hold that insurance for 7 years after this agreement ends or purchase "run off" insurance.

- (a) Public liability insurance for \$20 million per claim
- (b) Professional indemnity insurance for \$10 million per claim
- (c) Workers' compensation insurance required by Victorian law
- (d) 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 Special conditions (cl 1.1)

(a) **Mediation:** Mediation under clause 15 is compulsory.

Item 10 Attachments (cl 1.1, 1.2)

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

- (a) PHN's tender/EOI request
- (b) Contractor's tender response/EOI response
- (c) Doctors in Secondary Schools Operational Guidelines (as updated from time to time)
- (d) Attachment A - Clinic Equipment and consumables
- (e) Attachment B - School Terms

Attachment A

Clinic equipment and consumables

MEDICAL CENTRE OR GENERAL PRACTITIONER TO PROVIDE (AT A MINIMUM)	
Consumables	Doctor's bag
Disposable syringes and needles	Ophthalmoscope
Gloves (sterile and nonsterile)	Otoscope (Auriscopes)
Surgical masks	Stethoscope
Tourniquet	Torch
Urine testing strips	Digital thermometer
Vaginal specula	Blood glucose monitoring equipment
	Monofilament for sensation testing
	Patella hammer

DEPARTMENT OF EDUCATION AND TRAINING TO PROVIDE	
Furniture, fittings, non-specialist equipment	Specialist medical equipment
Bracket: sharps	Digital sphygmomanometer
Sharps bin	Scales: weighing, floor
Waste bin: paper, 20L	Examination couch/bed
Coat hook (x2)	Tape measure (affixed to wall)
Dispenser: soap	Light: LED medical examination, with mobile base
Telephone handset (x2)	Stainless steel trolley on wheels
Bin – biological waste	
Chair: ergonomic, office (x2)	
Chair: visitor, office (x2)	
Emergency call button	
Desk (x2)	
Laptop computer (up to x2, if Medical Centre does not already have available for use)	
Pinboard: fabric covered	
Printer (x2)	

Attachment B

School Terms

Term	Start Date	End Date	Sessions Available
Term 3 2019	15 July 2019	20 September 2019	10
Term 4 2019	7 October 2019	20 December 2019	11
Term 1 2020	29 January 2020	27 March 2020	9
Term 2 2020	14 April 2020	26 June 2020	11
Term 3 2020	13 July 2020	18 September 2020	10
Term 4 2020	5 October 2020	18 December 2020	11
Term 1 2021	28 January 2021	1 April 2021	10
Term 2 2021	19 April 2021	25 June 2021	10
Term 3 2021	12 July 2021	17 September 2021	10
Term 4 2021	4 October 2021	17 December 2021	11

Agreement Terms (PHN Standard Terms and Conditions)

1 Priority of documents

- 1.1 Subject to clause 1.2, if this agreement is inconsistent the following take precedence: special conditions (item 9) (highest); agreement terms; agreement details; and agreement attachments (item 10) (lowest).
- 1.2 Attachments to and documents referenced by this agreement form part of this agreement where they contain higher Contractor obligation or representations, warranties and indemnities in favour of the PHN.
- 1.3 Prior negotiations or agreements and Contractor terms and conditions are excluded from this agreement.
- 1.4 Unless a prior agreement applies, work before the program period is deemed performed and paid under this agreement and the Contractor's representations, warranties and indemnities will apply to that work.

2 Agreement and program period

- 2.1 The period of this agreement is set out in item 2, unless earlier terminated.
- 2.2 The program period set out in item 2 is the period during which the program is to be delivered.
- 2.3 Item 2 may allow the PHN to extend the program period by giving written notice to the Contractor.

3 Carrying out the program

- 3.1 The Contractor must carry out the program with due care and skill, efficiently, effectively, in good faith, to a high standard, to achieve value for money for the PHN and in accordance with the program requirements, statements of work, performance criteria and other requirements set out in item 3.
- 3.2 In carrying out the program, the Contractor must ensure that:
 - (a) it complies with all laws and the specific laws, policies, guidelines and standards set out in item 3.3;
 - (b) its personnel are suitably qualified, licensed and experienced, including as set out in item 3.4;
 - (c) it and its personnel obtains, holds and maintains the licensing and credentialing set out in item 3.4;
 - (d) its workplace environments are free from health or safety risks to its personnel and the public;
 - (e) it maintains records (including financial records) to explain all transactions under this agreement;
 - (f) it provides a free complaints/feedback process reasonably acceptable to the PHN.
- 3.3 If the Contractor is unable to carry out the program, it must advise the PHN promptly (and within 4 days).
- 3.4 The Contractor must provide ad-hoc reports or assistance relating to the program to the PHN upon request, and provision of access to systems or data in a form suitable for reporting to the Department.
- 3.5 While on the PHN's premises, the Contractor and its personnel must comply with the PHN's security, work health safety and other workplace policies and reasonable directions.
- 3.6 This agreement does not guarantee any minimum volume of work for the Contractor. Any maximum volume of work over any period is set out in item 3.

4 Deliverables and performance monitoring

- 4.1 The Contractor must deliver to the PHN the deliverables in accordance with item 4. Time is of the essence.
- 4.2 For accountability the PHN may at reasonable times:
 - (a) monitor performance or evaluate the program, for which the Contractor must participate; or
 - (b) assess the Contractor's performance in delivering the program according to this agreement. This does not relieve the Contractor of its responsibilities to the PHN.
- 4.3 Unless item 1 states that the program is an incentivisation program, the PHN has the right to accept each deliverable or:
 - (a) require the Contractor to make corrections and resubmit it for further acceptance;
 - (b) waive non-conformance to the requirements; or
 - (c) withhold payments and reject the deliverable in which case the Contractor is in breach of this agreement.
- 4.4 Unless item 1 states that the program is an incentivisation program, the PHN may direct the Contractor to vary the program and the PHN must reasonably adjust the payments due to the Contractor. Agreement variations must be in writing.

5 Payments, fees and GST

- 5.1 The PHN must pay the Contractor at the times, in the manner and according to the payment or fee structure set out in item 5, subject to clauses 4, 5.2, the PHN receiving Department funds, and the Contractor not being in breach of this agreement.
- 5.2 The Contractor must render tax invoices with sufficient detail to enable the PHN to identify the work performed. The PHN may require the Contractor to substantiate time spent and expenses payable.

5.3 The payments set out in item 5 are inclusive of all costs and expenses of the Contractor in complying with all obligations under this agreement.

5.4 The Contractor must pay all taxes (including GST), duties and government charges imposed or levied in connection with this agreement.

5.5 The PHN may set off or deduct payments from other amounts owed by the Contractor to the PHN.

6 Intellectual property

6.1 All developed material (including deliverables) vests in the PHN upon creation.

7 Key personnel and subcontracting

7.1 The Contractor must ensure that the key personnel set out in item 7 perform their identified role.

7.2 Unless item 1 states that the program is an incentivisation program, the PHN may request that the Contractor remove personnel (including key personnel) from roles relating to this agreement and to replace them with personnel acceptable to the PHN.

7.3 The Contractor must not subcontract any part of this agreement without the PHN's prior written approval (which may be subject to conditions). The Contractor remains responsible for its subcontractors.

7.4 The subcontractors set out in item 7 are approved as at the date of this agreement.

7.5 The Contractor must ensure that it has a subcontract with each subcontractor containing all agreement terms deemed relevant by the PHN (in particular clauses 7 and 16).

8 Insurance

8.1 The Contractor must take out and maintain the insurances set out in item 8:

- (a) for "occurrence" policies — during the term of this agreement; and
- (b) for "claims made" policies — until 7 years after this agreement terminates or expires.

8.2 The Contractor must promptly provide insurance currency certificates and policy wordings on PHN request.

9 Fund management

Not used

10 Department access and requirements

10.1 To safeguard Department money and for legal compliance, evaluation or reporting, the Contractor must give any auditor-general, privacy commissioner, ombudsman (as a government service provider) or PHN/Department nominees the right to:

- (a) access premises associated with the program or materials; and
- (b) interview personnel and inspect and copy materials relating to the program (in a format that they require), and any access software required to enable them to do so (including remotely).

10.2 Since the PHN is funded under the PHN funding agreement, the Contractor's acts or omissions might cause the PHN to breach the PHN funding agreement. The Contractor must comply with the PHN's reasonable directions (including to vary this agreement) and provide assistance to enable the PHN to comply with the PHN funding agreement.

11 Publicity

11.1 The Contractor must not make any public statements, media releases or announcements regarding this agreement or the program without the PHN's approval.

11.2 The Contractor agrees to have its name and the existence and nature of this agreement publicised by the PHN or the Department.

11.3 The Contractor grants to the PHN the right to reproduce the Contractor's name, logo and trademarks in connection with promoting the program.

11.4 The Contractor must not use any logo of the PHN or the Department without express permission.

11.5 The Contractor must publicly acknowledge that it receives financial and other support from the Department through the PHN in all written documents (including those published or disseminated online) and must use the precise form of words provided by the PHN.

11.6 The Contractor must include a Department disclaimer in publicly disseminated documents (including those published or disseminated online) and must use the precise form of words provided by the PHN.

12 Confidentiality, privacy and security

12.1 The Contractor and its personnel must not disclose any PHN confidential information except:

- (a) to the Contractor's personnel with a need to know to deliver the program; or
- (b) where required by law or with the PHN's approval.

- 12.2 The PHN may require Contractor personnel to give written undertakings on the terms of clause 12.1 or any other form determined by the PHN.
- 12.3 The Contractor must deal with personal information in accordance with the *Privacy Act 1988* (Cth) (as a contracted service provider) and the *Health Records Act 2001* (Vic), their privacy principles and the PHN's reasonable privacy directions.
- 12.4 The Contractor must promptly inform the PHN of any breaches of clause 12.3.
- 12.5 The Contractor must keep secure any PHN confidential information. When this agreement ends or upon the PHN's request, the PHN confidential information must be promptly delivered to the PHN.

13 Warranties

The Contractor represents and warrants to the PHN that:

- (a) it has all power, rights, licences, interests, skills, capacity and expertise to enter into and perform this agreement; and
- (b) statements made by the Contractor to the PHN are correct, complete and not false or misleading.

14 Indemnities

The Contractor must indemnify and keep indemnified the PHN and its personnel (whose rights are held for them on trust by the PHN) from and against any loss or claim arising directly or indirectly from:

- (a) actual or alleged intellectual property, confidentiality, privacy or security breaches; or
- (b) acts or omissions of the Contractor or its personnel which result in death, personal injury, property damage or clinical claims,

except to the extent the loss or claim is caused or contributed to by the PHN or its personnel.

15 Dispute resolution

- 15.1 A party claiming that a dispute has arisen under or in connection with this agreement must notify the other party giving details of the dispute. Pending resolution, the parties must go on performing this agreement.
- 15.2 On receipt of dispute details, the contract manager nominated under the party details (or their replacements) must negotiate in good faith to resolve the dispute.
- 15.3 If the dispute remains unresolved for 10 days, it must be escalated to each party's senior executive nominated under the party details (or their replacements) having authority to resolve the dispute.
- 15.4 If the dispute remains unresolved for a further 10 days, the parties must if item 9 states that "mediation is compulsory", refer the dispute to a mediator agreed by the parties or nominated by LEADR's president. LEADR mediation rules will apply.
- 15.5 If the dispute remains unresolved for 20 days after mediation begins, either party may start proceedings. This clause 15 does not apply to proceedings for interlocutory relief or upon termination under clause 16.

16 Termination for inadequate performance etc

- 16.1 The PHN may terminate, suspend or reduce (in a proportion or manner determined absolutely by the PHN) this agreement by written notice to the Contractor if:
- (a) the Contractor breaches a provision of this agreement which cannot be remedied;
 - (b) the PHN asks the Contractor to remedy a breach of this agreement but the Contractor fails to do so within 10 days;
 - (c) clause 13(b) is breached for a statement affecting the PHN's decision to sign this agreement;
 - (d) the PHN is reasonably satisfied that the Contractor cannot or will not comply with this agreement;
 - (e) the Contractor is insolvent, enters into liquidation or has a controller appointed (or similar);
 - (f) the PHN considers that a program activity poses a threat to a person's health, safety or well-being;
 - (g) the Department revokes approval of the Contractor as a subcontractor;
 - (h) the Contractor has engaged in misconduct or brought the PHN or its programs into disrepute;
 - (i) the Department directs the PHN to terminate, suspend or reduce this agreement;
 - (j) the Department terminates, suspends or reduces the PHN funding agreement and the PHN considers it not economic or not viable to continue this agreement; or
 - (k) the PHN considers it appropriate for any reason, if the PHN pays the Contractor's resulting reasonable costs directly and unavoidably incurred (capped at unpaid payments under clause 5).
- 16.2 If this agreement ends, the Contractor must return payments received for program parts not yet provided.

17 Relationship and notices

- 17.1 The Contractor is a non-exclusive independent contractor. 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.
- 17.2 The Contractor warrants that this agreement does not conflict with the PHN's interests. If a conflict arises the Contractor must disclose full details to the PHN and take remedial steps requested by the PHN.
- 17.3 The PHN may, but the Contractor may not, assign this agreement without the other's prior written consent.
- 17.4 If the Contractor is a trustee, this agreement binds the Contractor personally and as trustee.
- 17.5 A party must give written legal notices to the other party in person or by post/email/fax to the address set out under the party details.

18 Definitions and interpretation

- 18.1 In this agreement, unless the context requires otherwise:
 - "**claim**" includes a proceeding, action, demand or suit, howsoever arising.
 - "**Department**" means the Department of Education and Training (Vic).
 - "**developed material**" means materials developed for the purposes of this agreement.
 - "**item**" means an item in the agreement details. Blank or incomplete items are taken to be not applicable.
 - "**loss**" includes liabilities, expenses, damages and costs (including legal costs on a full indemnity basis).
 - "**material**" includes documents, records, software, goods, information and data stored by any means.
 - "**personnel**" includes officers, employees, agents, contractors, advisers, health practitioners, and their personnel.
 - "**PHN funding agreement**" means the funding agreement (including activity schedules/conditions) between the PHN and the Department, generally in the form of the standard funding agreement published at <<http://www.health.gov.au/internet/main/publishing.nsf/Content/gps-standard-funding-agreement>>.
 - "**program**" means the program more particularly described in item 1 and item 3.
 - "**vary**" includes add, increase, decrease, omit or delete.
- 18.2 Unless item 3 requires otherwise, if an act must be done on a day which is not a business day (being a weekday which is not a bank or public holiday) it must be done on the next business day.
- 18.3 Clauses 6, 8, 10, 11, 12, 13 and 14 survive the termination or expiry of this agreement.
- 18.4 This agreement is governed by Victorian law.