



Aboriginal and Torres Strait  
Islander Health Practice  
Chinese Medicine  
Chiropractic  
Dental  
Medical  
Medical Radiation Practice  
Nursing and Midwifery  
Occupational Therapy  
Optometry  
Osteopathy  
Pharmacy  
Physiotherapy  
Podiatry  
Psychology

Australian Health Practitioner Regulation Agency

## CONTRACT FOR SERVICES

### Parties

This Contract for Services is between

**Australian Health Practitioner Regulation Agency (ABN: 78 685 433 429) ('AHPRA')**

And

**# Insert name of Contractor (ABN: # ) ('Contractor')**

### 1 What the Contractor must do

- 1.1 During the term of this Contract, the Contractor must provide the services ('Services') set out in item 3 of Schedule 1.
- 1.2 Further detail regarding the Services is set out in:
  - (a) AHPRA Request for Tender [#insert title of RFT], dated [#insert date of RFT] ('AHPRA RFT'), which is Schedule 2 to this Contract; and
  - (b) the Contractor's response to the AHPRA RFT, which is Schedule 3 to this Contract ('Contractor's Response to RFT').
- 1.3 If there is an inconsistency between this Contract and the documents referred to in clause 1.2, the documents are to be interpreted in the following order of priority:
  - (a) this Contract; and
  - (b) the AHPRA RFT; and
  - (c) the Contractor's Response to RFT.
- 1.4 The Services must be done on time, lawfully and to a reasonable standard.
- 1.5 Whilst on AHPRA premises, the Contractor and any of its representatives must comply with AHPRA's reasonable and lawful directions and policies.
- 1.6 If a Key Person ('Key Person') is specified in item 5 of Schedule 1, the Contractor must cause the Key Person to provide the Services and be available for all reasonably required consultations with the AHPRA Contract Manger. The Contractor may only replace the Key Person with a person of similar qualifications,

skill and experience, and who is approved by AHPRA in advance.

- 1.7 The Contractor warrants that to the best of its knowledge, after making reasonable inquiries, the Services will not breach any right of a third party, including Intellectual Property rights.
- 1.8 The term of this Contract:
  - (a) begins on the earlier of both parties signing, or the start date specified in Item 3 of Schedule 1; and
  - (b) ends on the end date specified in Item 3 of Schedule 1, unless terminated before then.
- 1.9 If the Contractor fails to deliver the Services to AHPRA's reasonable satisfaction by the last day of the term, AHPRA may at its own option extend the term until the Services are delivered or AHPRA otherwise notifies the Contractor.

### 2 Fees

- 2.1 The Contractor must send AHPRA an invoice after it has provided the Services or in accordance with any Fee Schedule set out in Item 4 of Schedule 1. If required by AHPRA, it must also provide details of the Services provided.
- 2.2 If the Contractor is liable to pay GST for a taxable supply it makes under this Contract, its invoice must be a valid tax invoice, and AHPRA need not pay until it receives this tax invoice.
- 2.3 The Fees payable to the Contractor for the Services are specified in item 4 of Schedule 1.

- 2.4 If the Fees are consideration for taxable supplies, they include an amount equal to the GST payable in respect of those supplies.
- 2.5 Without limiting clause 2.4, all taxes, duties and government charges regarding this Contract must be paid by the Contractor.
- 2.6 Unless AHPRA disputes an invoice, it will pay the Fees within thirty (30) days of receiving the invoice.
- 2.7 Words defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause.

### 3 Expenses

- 3.1 The Contractor may only claim expenses:
- (a) where Item 4 of Schedule 1 specifies an amount for expenses or AHPRA agrees in writing, in advance, to pay expenses;
  - (b) up to the amount specified in Item 4 of Schedule 1 or approved by AHPRA in writing; and
  - (c) on the basis of actual expenses incurred, as evidenced to AHPRA's satisfaction.
- 3.2 If AHPRA agrees to reimburse the Contractor for expenses, and the Contractor can obtain an input tax credit on an acquisition associated with those expenses, the amount AHPRA is required to pay is:
- (a) reduced by the amount of that input tax credit; but
  - (b) increased by any amount of GST payable by the Contractor in respect of the reimbursement.

### 4 Confidentiality and Privacy

- 4.1 In providing the Services, the Contractor must comply with the *Privacy Act 1988* (Cth) and the confidentiality provisions in Part 10 of the *Health Practitioner Regulation National Law ('the National Law')* (as in force in each state and territory) in the same way that AHPRA would be bound to comply with those Acts if it were performing the Services itself. The Contractor must also do anything required to ensure AHPRA complies with those Acts in relation to the Services.

(For example, this means the Contractor and the people it engages have a duty of confidentiality regarding 'protected information' under the National Law – see Part 10 of the National Law).

- 4.2 AHPRA and the Contractor must keep each other's confidential information ('**Confidential Information**') confidential and must not disclose, or permit disclosure, of that information except:
- (a) where necessary to perform obligations or exercise rights under this Contract, or to audit activities under the Contract;
  - (b) as authorised or required by law, or where the information is used in relation to legal proceedings;
  - (c) if the information is required by a public sector auditor (as defined in the National Law) or the

National Health Practitioner Ombudsman in the course of performing their statutory duties;

- (d) where the information is already made public other than by breach of this Contract; or
  - (e) where the other party gives prior written consent to the disclosure.
- 4.3 Confidential Information includes, but is not limited to:
- (a) any information that a party maintains in confidence or marks as confidential;
  - (b) information that by its nature, and in the circumstances, would be regarded as confidential by a reasonable person; and
  - (c) internal administrative, financial and personnel data of a party.
- 4.4 The Contractor must not collect, use or disclose:
- (a) personal information or health information (as defined in the *Privacy Act 1988* (Cth)); or
  - (b) protected information (as defined in the National Law),
- except to the extent reasonably necessary to perform the Contract.
- 4.5 The Contractor must:
- (a) make each person it engages to perform the Services sign a confidentiality deed using the form attached to this Contract, before giving them access to any of AHPRA's Confidential Information; and
  - (b) if it becomes aware of a breach (or expected breach) of the deed, take action to enforce the deed, including all reasonable actions directed by AHPRA (and authorises AHPRA to enforce the deed if the Contractor fails to do so).
- 4.6 The Contractor must keep all of AHPRA's Confidential Information in its control secure and protect it from unauthorised use.
- 4.7 The Contractor must:
- (a) return to AHPRA, or at AHPRA's request, securely destroy any hard copies of AHPRA's Confidential Information it holds; and
  - (b) delete any electronic copies of AHPRA's Confidential Information it holds or securely destroy the medium (e.g. disc) on which those electronic copies are held,
- after it completes the Services, unless it is legally required to keep the Confidential Information for record-keeping purposes.
- 4.8 Despite anything else in this Contract, its terms may be publicly disclosed, provided this does not disclose trade secrets or Intellectual Property of a party in a way that would cause significant commercial disadvantage to a party.

## 5 Freedom of Information

- 5.1 The Contractor must provide AHPRA all information in its control that is necessary for AHPRA to comply with the *Freedom of Information Act 1982* (Cth), on request and at no cost.

## 6 Intellectual Property

- 6.1 AHPRA does not obtain any interest in the Intellectual Property created independently of this Contract (**'Background Intellectual Property'**).
- 6.2 Where the Services include Background Intellectual Property, the Contractor grants AHPRA a perpetual, non-exclusive, world-wide, royalty-free licence to use and adapt it so that AHPRA is able to enjoy the full benefit of the Services.
- 6.3 The Contractor assigns AHPRA ownership of all Intellectual Property in materials created in the course of providing the Services (**'Project Intellectual Property'**). If Project Intellectual Property belongs to people engaged by the Contractor, the Contractor will arrange for it to be assigned to AHPRA.
- 6.4 AHPRA grants the Contractor a perpetual, non-exclusive, world-wide, payment-free licence to use and adapt the Project Intellectual Property for non-commercial purposes.
- 6.5 The Contractor warrants that it has the necessary rights, or will obtain them, to perform this clause 6.

## 7 Moral rights

- 7.1 The Contractor:
- (a) agrees not to enforce against AHPRA any moral rights (as defined in the *Copyright Act 1968* (Cth)) it may have in the Background Intellectual Property and Project Intellectual Property, so that AHPRA is able to enjoy the full benefit of the Services; and
  - (b) warrants that use of the Background Intellectual Property and Project Intellectual Property by AHPRA for the purpose of enjoying the full benefit of the Services will not infringe the moral rights of any other person.

('Moral rights' are defined in the *Copyright Act 1968* (Cth) to include, for example, a right to attribution of authorship of a work, and a right to object to modifications of that work).

## 8 Publication

- 8.1 If the Contractor wishes to publish information regarding the Services, it must give AHPRA a copy of the proposed publication at least thirty (30) days before doing so. The Contractor must take into account AHPRA's comments regarding the publication and must modify or delete any part that AHPRA reasonably believes contains AHPRA's Confidential Information.
- 8.2 The Contractor agrees to acknowledge AHPRA's contribution to any publication.

## 9 Status of Contractor

- 9.1 AHPRA is engaging the Contractor as an independent contractor and nothing in this Agreement is intended to make the Contractor, or any person it engages or employs, an agent, partner or employee of AHPRA.

## 10 Indemnity and insurance

- 10.1 The Contractor indemnifies AHPRA and its officers, employees and agents (**'AHPRA Personnel'**) against any cost, loss, claim, charge, liability or damage that AHPRA or its Personnel may reasonably sustain or incur directly as a result of:
- (a) breach of the Contract by the Contractor or any person it engages; and
  - (b) any negligent, unlawful or fraudulent act or omission or wilful misconduct in connection with the Contract by the Contractor or any person it engages.
- 10.2 For the purposes of clause 10.1, 'claim' includes all demands, rights, actions and proceedings of any kind.
- 10.3 The Contractor's liability under clause 10.1 is reduced to the extent AHPRA or its Personnel caused or contributed to it by a negligent or unlawful act or omission.
- 10.4 The Contractor will not be liable to AHPRA under clause 10.1 for any loss of profits, loss of anticipated savings, loss of revenue or loss of opportunity.
- 10.5 AHPRA holds the benefit of this indemnity on trust for the benefit of the AHPRA Personnel.
- 10.6 AHPRA must take reasonable steps to mitigate its loss.
- 10.7 Nothing in this Contract is intended to limit or otherwise contract out of Proportionate Liability Legislation.
- 10.8 The Contractor must on and from the start of the term of this Contract have:
- (a) public liability insurance coverage for at least \$5,000,000 for any one occurrence;
  - (b) if the Services include the provision of goods, product liability insurance coverage for at least \$5,000,000;
  - (c) workers compensation insurances required by Australian laws;
  - (d) Unless Item 7 of Schedule 1 states to the contrary, professional indemnity insurance coverage for at least \$2,000,000 for any one claim; and
  - (e) any other insurance nominated in Item 7 of Schedule 1,
- with an insurer authorised under the *Insurance Act 1973* (Cth) and provide certificates of currency if AHPRA requests them.
- 10.9 Any insurance policies that provide cover on a 'claims made' basis must be maintained for no less than six

years after the completion of the Services or termination.

## 11 Termination

11.1 This Contract may be terminated if both parties consent, or by AHPRA giving thirty (30) days prior written notice to the Contractor.

11.2 AHPRA may immediately terminate this Contract by written notice to the Contractor if:

- (a) the Contractor breaches the Contract, and does not rectify the breach within seven (7) days of being asked to do so;
- (b) the Contractor is unable to pay all its debts when they become due, or enters into any form of insolvency, external administration or bankruptcy;
- (c) there is a change in the identity of the person who has control of the Contractor (that is, the power to direct or cause the direction of the management and policies of the Contractor, whether through ownership of voting securities, by contract or otherwise) from the person who had control at the time the Contractor signed this Contract, or in the case of a professional partnership that partnership merges or otherwise combines with another professional service firm without the prior approval of AHPRA; or
- (d) the Contractor's conduct brings its reputation into disrepute and AHPRA believes its continued association with the Contractor will be detrimental to AHPRA's reputation.

11.3 Any termination of this Contract will not affect the accrued rights, claims or liabilities of a party under this Contract.

11.4 If the Contract is terminated, AHPRA is not liable to pay for Services provided after termination.

## 12 Dispute Resolution

12.1 If there is a dispute about this Contract or an invoice issued by the Contractor, the parties must do the following.

12.2 A representative from each party must meet and try to resolve the dispute quickly and informally.

12.3 If the parties cannot agree within ten (10) business days, either may give the other a notice requiring mediation by a mediator appointed jointly by the parties. The notice must state the matters in dispute.

12.4 Each of the parties must co-operate fully with the mediator.

12.5 Parties may only commence legal proceedings when the mediator states in writing that it is no longer productive to continue the mediation.

12.6 Despite the existence of a dispute, the Contractor must (unless requested in writing by AHPRA not to do so) continue to perform the Services.

12.7 This procedure for dispute resolution does not apply to an act relating to termination or legal proceedings for urgent interlocutory relief.

## 13 General

13.1 The laws of Victoria (excluding its choice of law rules) apply to this Contract, and the parties submit to the exclusive jurisdiction of the Courts of that State.

13.2 The Contractor must ensure that it and the people it engages comply with all relevant laws in connection with this Contract.

13.3 If any clause or part of any clause of this Contract is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part of the clause) is to be severed from this Contract without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses).

13.4 This Contract is the entire agreement of the parties regarding the matters set out in it and supersedes all other representations, agreements, statements and understandings between them, whether verbal or written, and whether made before the signing of this Contract or during the provision of the Services.

13.5 This Contract may only be varied with the written consent of each party.

13.6 Notices regarding this Contract must be sent to the Contract Managers specified in Item 6 of Schedule 1.

13.7 An obligation or warranty on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally.

13.8 Except with the prior written consent of AHPRA, the Contractor may not:

- (a) assign the whole or any part of the Contractor's rights; or
- (b) assign or sub-contract the whole or any part of the Contractor's obligations,

under this Contract.

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

- (a) remains liable for the due performance of those obligations as if it were performing them itself; and
- (b) must ensure that the subcontractor or assignee is bound to comply with the terms of this contract in relation to those obligations.

13.10 If any party does not exercise (or delays in exercising) any of its rights, that failure or delay does not operate as a waiver of those rights.

13.11 The Contractor warrants that no conflicts of interest exist, or are expected, relevant to the performance of its obligations under this Contract. If a conflict of that

kind arises, the Contractor must notify AHPRA immediately. AHPRA may decide in its absolute discretion, without limiting its other rights under the Contract, that the Contractor may continue to provide the Services under the Contract.

## 14 Definitions and Interpretation

14.1 In this Contract:

**Intellectual Property** means all intellectual property rights, including, but not limited to, the following rights:

(a) trade marks, patents, designs, circuit layouts, copyrights and domain names; and

(b) any right to apply for registration of such rights,

whether those rights are registered or capable of being registered.

**Proportionate Liability Legislation** includes:

(a) *Civil Law (Wrongs) Act 2002* (ACT) Ch 7A;

(b) *Civil Liability Act 2002* (NSW) Pt 4;

(c) *Law Reform (Miscellaneous Provisions) Act 1946* (NSW);

(d) *Law Reform (Miscellaneous Provisions) Act 1965* (NSW);

(e) *Proportionate Liability Act 2005* (NT);

(f) *Civil Liability Act 2003* (Qld) Ch 2, Pt 2;

(g) *Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001* (SA) Pt 3;

(h) *Wrongs Act 1958* (Vic) Pt IVAA ;

(i) *Civil Liability Act 2002* (Tas) Part 9A;

(j) *Civil Liability Act 2002* (WA) Pt 1F;

(k) *Corporations Act 2001* (Cth);

(l) *Competition and Consumer Act 2010* (Cth);

(m) *Trade Practices Act 1974* (Cth) and State-based Fair Trading legislation to the extent that such

legislation would apply to any matter arising out of this Agreement;

(The *Trade Practices Act 1974* (Cth) may apply to things done up to 31 December 2010)

(n) *Australian Securities and Investments Commission Act 2001* (Cth),

and any like legislation, all as may be amended from time to time, or as repealed and replaced with substantially equivalent legislation.

14.2 In this Contract:

(a) a reference to a party includes that party's executors, administrators, successors and permitted assigns;

(b) the singular includes the plural and vice versa and words importing a gender include every other gender;

(c) 'including' and 'includes' are not words of limitation;

(d) a requirement to do anything includes a requirement to cause that thing to be done and a requirement not to do anything includes a requirement to prevent that thing being done;

(e) a reference to '\$' or 'dollar' is a reference to Australian currency; and

(f) a reference to any legislation, delegated legislation or statutory instrument ('**Legislation**') includes that Legislation as in force from time to time.

14.3 In performing this Contract, both parties must act reasonably and in good faith.

14.4 To avoid doubt, and despite anything contained in this Contract, the obligations of clauses 4, 5, 6, 7, 8, 10 and 12, and the consequences of termination under clause 11, are continuing obligations and will not cease on the completion, expiry or termination of this Contract.

**This Contract is made between the AHPRA and the Contractor.**

**Date:**            /            /20

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

.....  
Signature

.....  
Name and position

.....  
Signature of witness

.....  
Name of witness

.....  
Date signed

**Signed by the Contractor** in accordance with s.127(1) of the *Corporations Act 2001* by the persons named below who warrant that they are authorised to sign for the Contractor:

.....  
Signature

.....  
Name and position

.....  
Signature

.....  
Name and position

.....  
Signature of witness

.....  
Name of witness

.....  
Date signed

**SCHEDULE 1**

- 1 Contractor** Name: #  
ABN: #  
Address (contact for notices sent under this Contract):  
Tel: #  
Fax: #  
e-mail: #
  
- 2 Project** [# insert title]
  
- 3 Services to be provided to AHPRA** [# Insert brief description of the Services to be provided. If this is not practicable, attach a Schedule 1A setting out a project brief and insert these words here: 'As set out in the project brief in Schedule 1A')  
  
# If the Services are to be performed by a particular key person, insert this requirement in the description of the Services.]  
Start date for providing the Services: #  
End date: #
  
- 4 Fees and Expenses** Fees payable for the Services [#insert 'and goods' if relevant]:  
[# Insert fixed amount or fee schedule – as set out immediately below]  
(a) \$Total fixed [agreed] amount of \$ **Xx** in the following instalments:  
(b) **Xx**  
(c) **Xx**  
(All Fees are GST inclusive – cl.2.4)  
  
Expenses: [# as required – if not required insert 'Not Applicable' here]  
(a) Travel – AHPRA to arrange economy flights where required and agreed in advance.  
(b) Accommodation - AHPRA to arrange where required and agreed in advance.  
(c) Other - #.  
(For GST in relation to Expenses, see cl.3.2)
  
- 5 Key Person** Name:#.....  
(clause 1.6) Tel:..... Fax:.....  
e-mail:.....
  
- 6 Contract Managers** (a) Contractor:# .....  
(clause 13.6) Tel:..... Fax:.....  
e-mail: .....  
(b) AHPRA:#.....  
Tel:..... Fax:.....  
e-mail: .....

**7 Insurance**  
(clause 10.8)

Please indicate insurance coverage:

Management liability:            yes     no     Amount of cover:

Miscellaneous Civil Liability:    yes     no     Amount of cover:

Amount of Professional Indemnity Insurance    Amount of cover:

(if cover greater than \$2,000,000 required)

Other (specify type of insurance and amount of cover):

.....  
.....  
.....



**SCHEDULE 2 – AHPRA RFT**

[#Insert AHPRA RFT]

**SCHEDULE 3 – CONTRACTOR’S RESPONSE TO RFT**

[#Insert Contractor’s response to RFT]

## Attachment



## CONFIDENTIALITY DEED

### BACKGROUND

1. The Australian Health Practitioner Regulation Agency ('**AHPRA**') administers the *Health Practitioner Regulation National Law* ('**the National Law**').
2. [#insert name of Contractor] ('**the Contractor**') has agreed to provide services to AHPRA ('**the Services**').
3. The Contractor has engaged you to help it provide the Services.
4. The National Law imposes strict confidentiality requirements on people who obtain information for the purposes of that Law.

### DUTY OF CONFIDENTIALITY

5. You acknowledge that you have a duty to keep any confidential information of AHPRA's you obtain in providing the Services secure and not to disclose it except for the purpose of providing the Services.
6. You promise that you will:
  - a. keep confidential any of AHPRA's confidential information (including documents and things you hear or see) that you obtain in the course of providing the Services;
  - b. continue to keep this information confidential after you finish providing the Services; and
  - c. tell the Contractor as soon as possible if AHPRA's confidential information is improperly disclosed, or there is a risk that this might happen.
7. Your obligations under this Deed will not be breached if: you are legally required to disclose information; AHPRA consents to the disclosure; or it is reasonably necessary to disclose information to provide the Services.
8. This Deed is governed by the laws of Victoria.

**Signed sealed and delivered as a Deed**

.....  
Signature of person receiving AHPRA information

.....  
Name

.....  
Signature of witness

.....  
Name of witness

.....  
Date signed