

RETURN OF SERVICE CONTRACT

BETWEEN:

**Her Majesty the Queen in right of the
Province of British Columbia as represented
by the Minister of Health**

(the “Ministry”/“the Ministry of Health”)

AND:

DR.

(the “Participant”)

(the “Parties”)

WHEREAS: The Ministry of Health wishes to ensure there are enough, and the right mix of physicians now and in the future for a sustainable, affordable, publicly-funded health system;

And whereas the Ministry of Health agrees to fund the Participant’s Postgraduate Medical Education in exchange for the Participant providing medical services for a time and in a place where needed;

And whereas the Participant is currently enrolled in the Postgraduate Medical Education in the area of _____ at the University of British Columbia; and

And whereas upon his/her completion of the Postgraduate Medical Education Program and upon acquiring a certificate of registration from the College of Physicians and Surgeons of British Columbia that allows the Participant to practise medicine in the province, the Participant is prepared to provide _____ services to a Health Authority in the Province of British Columbia.

THEREFORE:

In consideration of the mutual covenants and agreements contained in this Contract and for other good and valuable consideration, the receipt of which is expressly acknowledged, the Parties agree as follows:

Article 1 Interpretation

1.1 Definitions in this Contract:

“Addendum” means the Addendum to this Contract which contains terms and conditions of the Post-Residency Practice that forms the return of service between the Participant and the Health Authority, and is also described as the Return of Service Addendum;

“Assessment” means an evaluation in a supervised clinical setting, of up to 4 months in duration, of the Participant's academic and clinical skills prior to starting Postgraduate Medical Education with the Faculty of Medicine, University of British Columbia;

“Certificate of Registration” means registration with the CPSBC that allows the Participant to practise medicine in British Columbia, other than the certificate of registration which allowed the Participant to enrol in Postgraduate Medical Education,

“CPSBC” means the College of Physicians and Surgeons of British Columbia;

“Faculty of Medicine” means the Faculty of Medicine at the University of British Columbia;

“Full Time Basis” means what the Participant and the Health Authority determine it means and describe in the Addendum;

“Health Authority” means a Health Authority so named and created under the *Health Authority Act* RSBC 1996, c.180, and includes the Provincial Health Services Authority established under the *Society Act*, RSBC 1996, c.433;

“Main Part” means this Contract except for the Schedules and the Addendum;

“Medical Practice” includes but is not limited to areas of medicine in which the Participant practises, the facility in which the Participant practises medicine, the community in which the Participant practises medicine, and

the amount of time during which the Participant practises medicine each week;

"Notice" means any notice or other communication required to be given under this Contract;

"PARBC Agreement" means the agreement between the Professional Association of Residents of British Columbia and the Health Employers Association of British Columbia as it exists and as it is amended from time to time;

"Postgraduate Medical Education" means the residency position that is funded under this Contract;

"RCPSC" means the Royal College of Physicians and Surgeons of Canada;

"Payment" means the payment made by the Ministry of Health to the University of British Columbia, Faculty of Medicine as described at Article 3.1

"Program" means the Return of Service Program.

"Return of Service Program" means the Return of Service Program described in Schedule 1.

"Return of Service" means the Return of Service described in Article 5.1.

- 1.2. References to provisions in this Contract are to provisions in the Main Part, unless otherwise specified.

Article 2 Participation

- 2.1. The Participant shall participate in the Return of Service Program, subject to the terms of this Contract. The Participant specifically acknowledges that the Participant has read Schedule 1 and will be bound by each of its terms.

Article 3 Costs

- 3.1 The Ministry of Health will pay \$108,000 per annum to the Faculty of Medicine of the University of British Columbia for costs of the Participant's Postgraduate Medical Education. At its sole discretion, the Ministry may pay more than \$108,000 per annum for a Participant but the repayment amount as identified in Article 4 and Schedule 1 is fixed at \$108,000 for each year of the Participant's Postgraduate Medical Education.

Article 4 Repayment

- 4.1 Subject to Article 8, the Payment will be repayable by the Participant on demand, and the amount of the repayment outstanding at any time will bear interest at the Prime rate as it is announced from time to time by the Canadian Imperial Bank of Commerce on Canadian dollar commercial loans.
- 4.2. The Ministry will forgive the entire amount paid by the Ministry under subparagraph 3.1, if the Participant fulfils all of the material terms of this Contract including the Addendum.
- 4.3 The Ministry may forgive all or some of the amount paid by the Ministry under Schedule 1, paragraph 6(a) and some or all of the interest as specified in paragraph 4.1 and paragraph 8.6, if the Participant becomes gravely ill and is unable to complete his or her contractual obligations or dies before completing his/her obligations under this Contract.

Article 5 Return of Service

- 5.1 Upon successful completion of his or her Postgraduate Medical Education, the Participant shall practise medicine on a Full-Time Basis in the area of practice for which the Participant has been trained and licenced in his/her Postgraduate Medical Education, according to the terms of the Return of Service Addendum.
- 5.2 The length of the Participant's Return of Service shall be calculated as one year of service on a Full-Time Basis returned for every year of Postgraduate Medical Education received, up to a maximum of three years.
- 5.3 The process by which the Participant is assigned to a Health Authority and community where he/she will provide Return of Service is described at Schedule 2. The Participant acknowledges that Schedule 2 forms part of this Contract, and that the Participant is bound by the requirements in it.
- 5.4 The Participant will complete the Return of Service Addendum in consultation with the Health Authority.
- 5.5 The term of the Participant's Return of Service shall commence at a time agreed to by the Participant and the Health Authority, but in any event the term shall commence no later than three (3) months from the date on which the CPSBC issues to the Participant a certificate of registration as described at Article 7.1

- 5.6 The Participant shall provide the Ministry with the executed Return of Service Addendum at least 30 days prior to completing Postgraduate Medical Education.

Article 6 Change in Practice

- 6.1 The Participant shall not change his or her Medical Practice during the term of the Return of Service Contract from that specified in subparagraph 5.1 and in the Return of Service Addendum, except in accordance with subparagraph 6.2.
- 6.2 Nothing in subparagraph 6.1 prevents the Health Authority, with the approval of the Ministry, from approving changes to the Participant's Medical Practice or to revise the Addendum.

Article 7 Licenses and Qualifications

- 7.1 No later than one month after successfully completing the Postgraduate Medical Education, the Participant shall apply to the CPSBC for a Certificate of Registration and for any other documents necessary to practise medicine in British Columbia.
- 7.2 Immediately upon receipt of the Certificate of Registration, the Participant shall provide a copy of the Certificate of Registration to the Ministry.
- 7.3 Nothing in this Contract, including the Addendum, shall in any way obligate the Health Authority to grant or renew the appointment of the Participant to its Medical Staff or the privileges of the Participant at a facility within the Health Authority.

Article 8 Breaches

- 8.1 In addition to any other provision in this Contract, and for greater certainty, the Participant shall be in breach of this Contract if the Participant:
- (a) Does not begin the Postgraduate Medical Education, in which case the Ministry may terminate the Contract on the day after the day that Participant was to have begun the Postgraduate Medical Education.
 - (b) Begins but does not complete the Postgraduate Medical Education, in which case the Ministry may terminate the Contract on the day after the day that the Participant last participated in the Postgraduate Medical Education.
 - (c) Has not applied for the necessary documents as required under subparagraph 7.1.

- (d) Has not submitted to the Ministry an Addendum signed with the Health Authority in accordance with subparagraph 5.6, unless no Health Authority agrees to sign the Addendum.
 - (e) Does not begin to provide the Return of Service in accordance with the Addendum in which case the Ministry may terminate the Contract on the day after the day that the Participant was to have begun the Return of Service.
 - (f) Does not complete the Return of Service, in which case the Ministry may terminate the Contract on the day after the day that the Participant last returned service.
 - (g) Is no longer legally entitled to practise medicine in British Columbia, in which case the Ministry may terminate the Contract on the day after the day that the Participant is no longer legally entitled to practise medicine in British Columbia.
 - (h) Changes his or her Medical Practice, except in accordance with subparagraph 6.2.
 - (i) Fails to comply with any requirement in Schedule 1 or Schedule 2.
 - (j) Fails to comply with the requirements contained in the Return of Service Addendum.
- 8.2 The Ministry may terminate this Contract by giving Notice in writing to the Participant if one or more of the following has occurred:
- (a) A breach of any term described in subparagraph 8.1
 - (b) Any other circumstance arises which in the opinion of the Ministry, acting reasonably, prevents the Participant from fulfilling his or her Return of Service obligations appropriately.
 - (c) The Participant has breached any other term of this Contract.
- 8.3 For the purposes of subparagraph 8.2 other circumstances may include, but are not limited to, revocation or restriction of the Participant's hospital privileges consistent with the applicable hospital by-laws respecting non-renewal for discipline, competency or wilful disobedience on the part of the Participant, where applicable, but not because of Health Authority need; criminal conviction of the Participant; or any suspension, revocation, or imposition of terms, conditions or limitations on the Participant's Certificate of Registration issued by the CPSBC which is not covered by subparagraph 8.1(g).

- 8.4 For the purposes of subparagraph 8.2, the Contract terminates on the date set out in the Notice, or the date that the Notice is deemed to have been received under Article 16, whichever is later.
- 8.5 If this Contract is terminated, the Participant shall immediately repay to the Ministry, in Canadian currency, the amount set out in Schedule 1.
- 8.6 If this Contract is terminated, interest on the repayment shall accrue beginning on the date on which the Ministry began payments under paragraph 4.
- 8.7 Interest will be calculated on the outstanding amount repayable at the rate and in the manner calculated in subparagraph 4.1.
- 8.8 Within 30 days following the termination of the Contract, the Participant shall repay the full amount owing as described under subparagraphs 8.5 and 8.6. If the Participant fails to pay the full amount owing by this date, the Ministry may refer the matter to any other person or entity, for the purpose of collection.
- 8.9 Where in the opinion of the Ministry the Participant owes a debt to the Ministry as set out in this Contract, the Ministry may retain, by way of deduction or set-off, out of any money that is due and payable to the Participant under this Contract including the Addendum, all or part of such money as the Ministry sees fit in the circumstances.

Article 9 Dispute Resolution

- 9.1 A dispute between the IMG and either or both of Health Authority and the Ministry regarding the interpretation, application or operation of either or both of the Contract or the Addendum, will be resolved through the dispute resolution process set out in this section.
- 9.2 Either the IMG or Ministry or the Health Authority may initiate the dispute resolution process in respect of a dispute arising out of the Contract.
- 9.3 Either the IMG or the Health Authority may initiate the dispute resolution process in respect of a dispute arising out of the Addendum.
- 9.4 Where the matter arises out of the Contract, the dispute resolution procedure is:
 - (a) Step one - an informal discussion occurs between the IMG and the Health Authority or between the IMG and the designated representative of the Ministry for administration of IMG Contracts to attempt to resolve the matter.

- (b) Step two:
 - (i) if the matter is initiated between the IMG and the Health Authority and is not resolved through the informal discussion, either of the IMG or Health Authority puts the complaint in writing with full particulars to the Ministry of Health, or
 - (ii) Where the dispute is directly between the IMG and the Ministry, the party raising the dispute puts the complaint in writing with full particulars to the other party;
- (c) Step three - the Ministry responds within 14 calendar days of receiving the complaint from the IMG or the Health Authority with its proposal for resolution of the issue; where the complaint is alleged by the Ministry against the IMG, the IMG must respond in writing within 14 days from receipt of the complaint;
- (d) Step four - if the Ministry's answer is unacceptable to the IMG, or the IMGs' answer is unacceptable to the Ministry the Ministry and the IMG will agree on a mediator within 14 calendar days.

9.5 Where the matter arises out of the Addendum, the dispute resolution procedure is:

- (a) Step one - informal discussion occurs between the IMG and the IMG contract administrator for the Health Authority;
- (b) Step two:
 - (i) if the IMG raises the issue and the dispute is not resolved at Step 1, the IMG submits the complaint in writing with full particulars to the IMG contract administrator for the Health Authority;
 - (ii) if the Health Authority raises the issue and the dispute is not resolved at Step 1, the Health Authority submits the complaint in writing with full particulars to the IMG;
- (c) Step three- within 14 calendar days, the Health Authority responds in writing to the IMG or the IMG responds in writing to the Health Authority;
- (d) Step four:
 - (i) where the dispute is raised by the IMG and the IMG does not accept the response from the Health Authority, the IMG has 14 calendar days to advise the Health Authority of an intention to proceed to mediation;
 - (ii) where the dispute is raised by the Health Authority and the Health Authority does not accept the response from the IMG, the Health Authority has 14 calendar days to advise the IMG of its intention to proceed to mediation;

(e) Step five - within 14 calendar days from when Health Authority receives notice of an intention to proceed to mediation, the parties will name a mediator.

- 9.6. If the parties are unable to resolve a dispute arising out of either the Contract or the Addendum through mediation or are unable to agree on a mediator, the dispute will be referred to the first available of the following:
- i. Murray Clemens
 - ii. Brian Foley
 - iii. Colin Taylor
- to act as an arbitrator and issue a final and binding decision to resolve the dispute.
- 9.7 Each party will pay 50% of the cost of the mediation process and/or the dispute resolution panel process;
- 9.8 The dispute resolution process established under 9.6 is an arbitration agreement for the purpose of the *Commercial Arbitration Act*.
- 9.9 The decision of the arbitrator is final and conclusive and no party to the contract will challenge the decision in court or otherwise, except as permitted under the *Commercial Arbitration Act*.

Article 10 Reporting

- 10.1 If the Ministry asks for information relating to this Contract, including but not limited to a report or documentation concerning the performance of the Participant's obligations, or a report or documentation concerning any other matter under or relating to this Contract, the Participant will provide this information as soon as practicable.

Article 11 Amendments

- 11.1 This Contract shall not be amended except by prior written agreement between the Ministry and the Participant.

Article 12 Relationship of the Parties

- 12.1 The Participant's relationship with the Ministry shall, during the term of this Contract, be that of an independent contractor. Nothing in this Contract shall be construed to constitute the Participant as a partner, joint venture, employee or agent of the Ministry for any purpose.

Article 13 Enforceability and Severability

- 13.1 If a court or other lawful authority of competent jurisdiction declares any provision of this Contract invalid, illegal or unenforceable, this Contract shall continue in full force and effect with respect to all other provisions.

All rights and remedies under such other provisions shall survive any such declaration.

Article 14 No Waiver Unless in Writing

14.1 No waiver of any breach of this Contract shall operate as a waiver of any similar subsequent breach or of the breach of any other provision of this Contract. No provision of this Contract shall be deemed to be waived and no breach excused unless such waiver or consent excusing the breach is in writing and signed by the party that is purporting to have given such waiver or consent. No delay or omission on the part of any party to this Contract shall operate as a waiver of any such right. No waiver or failure to enforce any provision of the Contract shall in any way affect the validity of the Contract or any part of it.

Article 15 Assignment or Transfer

15.1 Neither this Contract, nor any of the rights or obligations of the parties arising under this Contract, shall be transferable or assignable by any party to any third party without the prior written consent of the other party.

Article 16 Notice

16.1 A Notice given or required to be given under this Contract will be in writing and will be delivered personally or by courier, or sent by postage prepaid mail or by facsimile addressed to the other party at the address set out below or at such other address as either party later designates to the other party in writing. Notice by mail need not be by certified or registered mail.

To the Ministry of Health:

c/o **Beverly MacLean-Alley**
Health Human Resource Planning (Physicians)
Ministry of Health
2-1, 1515 Blanshard Street
Victoria BC V8W 3C8

To the Participant.

Article 17: Miscellaneous

17.1 This Contract shall be governed by and construed in accordance with the laws of British Columbia.

- 17.2 Except to the extent otherwise expressly stated in this Contract, the rights and remedies of the parties are cumulative and are in addition to, and not in substitution for, any rights and remedies provided by law or in equity.
- 17.3 This Contract shall operate to the benefit of and be binding upon the parties to the Contract and their respective successors.
- 17.4 Each party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Contract that the other parties may reasonably require for the purposes of giving effect to this Contract.
- 17.5 Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.
- 17.6 Any reference in this Contract to any statute is a reference to that statute as amended, restated or re-enacted from time to time.
- 17.7 For greater certainty, subparagraphs 4.2, s. 5.1, s.8, s.9, s.10 as well as any subparagraph, which by its nature or context is intended to survive the termination of this Contract, shall survive the termination of this Contract.
- 17.8 Neither party shall be liable for damages caused by delay or failure to perform its obligations under the Contract where such delay or failure is caused by an event beyond its reasonable control. The Parties agree that an event shall not be considered beyond one's reasonable control if a reasonable person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the Parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism, and lawful act by a public authority but shall not include the insufficiency of funds or failure to make any payment required hereunder. If a party seeks to excuse itself from its obligations under this Contract due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) business days, the other party may immediately terminate the Contract by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the Contract, at law or in equity.
- 17.9 Time is of the essence of this Contract.

Article 18 Entire Agreement

18.1 This Contract and all documents contemplated by or delivered under or in connection with this Contract, constitute the entire agreement between the Parties with respect to the subject matter of this Contract and supersede all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or oral, express or implied, statutory or otherwise.

SIGNED AND DELIVERED by or on behalf of the Participant

SIGNED AND DELIVERED by the Ministry by an authorized representative of the Ministry of Health

(Participant)

(Name)

(Please Print Name)

(Please Print Name)

Address:

Address:

Date: _____

Date: _____

SCHEDULE 1

Return of Service Program

1. This Schedule applies to Participants in the IMG Assessment and Postgraduate Medical Education Program.
2. The Return of Service Program for International Medical Graduates is composed of the Assessment, the Postgraduate Medical Education and a two/three-year period of Return of Service, in accordance with the terms of this Contract.
3. During the full period of the Participant's Postgraduate Medical Education, the Ministry shall pay the costs associated with the Participant's Postgraduate Medical Education, including the Participant's salary and benefits at the rate, and covered by the terms, specified in the Professional Association of Residents of BC (PARBC) Agreement, as that rate and those terms apply during the term of the Participant's Postgraduate Medical Education.
4. The funding referred to in paragraph 3 herein will be provided on a monthly basis, and will be payable when the Participant accepts a position with the IMG Assessment and Return of Service Program, and signs the Contract, excluding the Addendum portion.
5. For the purposes of subparagraph 5.2 of this Contract, the length of the Participant's Return of Service shall be two to three years (two years for family practitioners, three years for specialists).
6. If this Contract is terminated, the Participant shall repay to the Ministry:
 - (a) The sum of \$108,000 for every year of full time Postgraduate Medical Education. For the purposes of this Contract, a "year of full-time Post Graduate Medical Education" means commencing July 1 of the academic year as established by the University of British Columbia for such studies;
 - (b) Interest as determined by the Province of British Columbia on overdue accounts as described in subparagraphs 8.6 and 8.7 of the Contract.

SCHEDULE 2

The following procedure will be used to facilitate contact between Participant and recruiters for the return of service placement, when and how that determination shall be made:

- (a) The Ministry shall provide the Participant with:
 - contact information for Health Authority recruiters
 - contact information for Health Match BC
 - long-list of rural communities listed on the *Subsidiary Agreement for Physicians in Rural Practices (RSA)*.
 - short-list of priority communities identified by Health Authorities for the purpose of returning service
- (b) The Participant shall provide Health Match BC with their electronic contact information to ensure they receive timely e-information on practice vacancies in BC.
- (c) The Participant shall provide the Health Authority recruiters with their electronic contact information to enable two-way communication required for matching the Participant with a practice/community and the signing of the Return of Service Addendum.
- (d) Health Authority recruiters shall provide the Participant with information regarding practice vacancies in their respective health authorities and the appropriate contact information for physician practices and interviews.
- (e) The distribution of the Return of Service positions is described in the Return of Service Program policy document.
- (f) The Participant shall submit the completed Addendum to the Ministry at least 30 days prior to completing Postgraduate Medical Education.
- (g) The Ministry shall review the Addendum and shall indicate to the Participant in writing whether the Ministry approves or denies the proposed return of service.
- (h) Where the Ministry does not approve the return of service proposal, the Ministry shall provide a reasonable time for the Participant to enter a new agreement with the Health Authority and to provide a new or revised Addendum.
- (i) Where the Ministry approves the Participant's return of service proposal, the Ministry shall send the Participant written confirmation of the approval.

ADDENDUM

RETURN OF SERVICE ADDENDUM

BETWEEN:

_____ (the "Health Authority")

(Community: _____)

AND:

(the "Participant")

(the "Parties")

WHEREAS:

The Participant has entered into a Return of Service Contract dated _____ with the Ministry of Health to which this Addendum is attached;

AND WHEREAS:

The Participant desires to enter an agreement with the Health Authority to fulfill the Participant's commitment to provide the Return of Service contemplated in the Return of Service Contract;

AND WHEREAS:

The Health Authority is prepared to assist in the education of the Participant in the area of practice of _____.

THEREFORE THE PARTIES AGREE:

1. This Addendum is made pursuant to subparagraph 2.1 of the Return of Service Contract to provide medical services as required in his/her return of service commitment to the Ministry under the Return of Service Contract.
2. The Participant acknowledges that this Addendum is subject to the Return of Service Contract and any breach of this Addendum is a breach of the Return of Service Contract.
3. Any term not specifically defined in this Addendum shall be the same as in the Return of Service Contract referred to above.

4. The Participant must apply for appointment to the medical staff of the _____ Health Authority with clinical privileges appropriate to the Participant's practice in accordance with the appointment criteria and processes of the _____ Health Authority. If the Participant fails to achieve appointment to the Health Authority medical staff because the _____ Health Authority cannot, in its sole opinion, meet its obligations to the Participant in providing the necessary resources to support the Participant's practice, the Participant must apply for appointment to the medical staff of another Health Authority.

5. The Participant will provide services in accordance with subparagraphs 5.1 and 5.2 of the Return of Service Contract.

6. When the Participant begins providing services, he/she will devote _____ (*describe "full time basis"*) to providing services in the specialty for which he/she received his/her Postgraduate Medical Education. This Return of Service commitment will continue for [insert number] _____ years from the date on which it commences.

7. Without limiting the generality of the services to be provided by the Participant in the area of practice of _____, the Participant and the Health Authority have jointly developed and agreed to the following service deliverables which further define the service needs of the _____ Health Authority:
(List service deliverables)

Start Date: _____

8. This Addendum shall not be amended except by prior written agreement between the Parties.

9. In order to comply with the Participant's return of service commitments in the Return of Service Contract, the Participant must submit to the Ministry a completed copy of this Addendum signed by the Participant and the Health Authority in accordance with section 5.4 and 5.5 of the Return of Service Contract.

Signature Return of Service Participant

Date

Print Name of Participant

Signature Health Authority

Date

Print Name

Approval of Ministry

Date

Print Name