

RETURN OF SERVICE CONTRACT

- DRAFT-

BETWEEN:

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

(the “Province”)

AND:

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(the “Participant”)

(the “Parties”)

WHEREAS: The Province wishes to ensure there are a sufficient number and the appropriate variety of physicians now and in the future for a sustainable, affordable, publicly-funded health system;

And whereas the Province agrees to fund the Participant’s Postgraduate Medical Education in exchange for the Participant providing medical services for a specified time and in a community where needed;

And whereas the Participant has been accepted into a Postgraduate Medical Education residency position with a return of service attached, in the area of _____ at the University of British Columbia;

And whereas upon completion of the Postgraduate Medical Education and upon acquiring a Certificate of Registration from the College of Physicians and Surgeons of British Columbia the Participant is prepared to provide _____ services to a Health Authority-identified practice vacancy in a community of need, for the period of time and on the basis set out herein.

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” or “Return of Service Addendum” means the Addendum to this Contract which contains terms and conditions of the Return of Service between the Participant and the Health Authority;

“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;

“Distributed Site” means the residency site located outside of Vancouver, associated with the UBC Family Medicine Residency Program; the Participant’s Return of Service is linked to the Health Authority in which their Distributed Site is located. Participants training at the Prince George site must fulfil their Return of Service in Northern Health Authority; Participants training at the Victoria or Strathcona sites must fulfil their Return of Service in Vancouver Island Health Authority; Participants training at the Vancouver Fraser or Surrey-South Fraser sites must fulfil their Return of Service in Fraser Health Authority; Participants training at the Kelowna, Kamloops, or Kootenay Boundary/Trail sites must fulfil their Return of Service in Interior Health Authority; and Participants training at the Coastal site must fulfil their Return of Service in Vancouver Coastal Health Authority.

“Full Time Basis” means what the Participant and the Health Authority determine it to mean as described in the Addendum and must continue for the duration of the identified return of service period;

“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, and any of its branch societies;

"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;

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

"Repayment Amount" means Repayment Amount defined in Article 4.1;

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

"Return of Service" means the Return of Service described in Article 5;

"St. Paul's Hospital Site" means the UBC Family Medicine Residency Program's main International Medical Graduate (IMG)-Site located at St. Paul's Hospital in downtown Vancouver and is not a Distributed Site. IMG Participants at this site fulfil their Return of Service throughout British Columbia based on the distribution quota further described in the Return of Service Policy Document.

- 1.2. References to provisions in this Contract are to provisions in the main body of the Contract, unless otherwise specified.

Article 2 Participation

- 2.1. The Participant shall participate in the Return of Service program, and will complete the Return of Service, subject to the terms of this Contract.
- 2.2. The Participant's training in Family Medicine means meeting the competencies required for certification by the College of Family Physicians of Canada which can include basic competence in emergency medicine as required by rural return of service communities
- 2.3. The Participant's Specialty training means meeting the competencies required for certification by the Royal College of Physicians and Surgeons of Canada.

Article 3 Program Costs

- 3.1 The Province will pay the University of British Columbia's Faculty of Medicine for the costs of the Participant's Postgraduate Medical Education, including the Participant's salary and benefits at the rate, and covered by the terms, specified in the Resident Doctors of BC Collective Agreement, as that rate and those terms apply during the term of the Participant's Postgraduate Medical Education.

Article 4 Repayment on Termination

- 4.1 **In the event that this Contract is terminated for any reason before the Participant has completed the Postgraduate Medical Education Program and the Return of Service in full, the Participant will pay to the Province the amount set out below that corresponds to the Participant's area of practice, plus any interest incurred on that amount from the date the Participant first signed this Contract (the "Repayment Amount"):**

- **Family Medicine \$480,375**
- **Internal Medicine: \$835,085**
- **Paediatrics: \$796,085**
- **Psychiatry: \$897,581**

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- 4.2 The interest referred to in Article 4.1 will be at the prime rate as it is announced from time to time by the Canadian Imperial Bank of Commerce on Canadian dollar commercial loans.
- 4.3 The Parties agree that the Repayment Amount is a reasonable pre-estimation of the damages that the Province will suffer in the event that the Contract is terminated before the Participant has completed the Return of Service in full, recognizing that:
- (a) It will cost the Province at least the amount set out in Table 1 below that corresponds to fund the Participant's postgraduate medical education;
 - (b) It will cost the Province approximately \$8,000 to administer the Participant's placement in the community;
 - (c) A replacement participant will be required for the Return of Service community and the Province will have to pay the amounts referred to in (a) and (b) above to educate and to administer the placement of the replacement Participant;

- (d) It takes approximately one year to fill a vacancy in an average community of need in British Columbia, and can take much longer in some communities. There will be added costs for the Province to ensure that comparable services are provided in the Return of Service community during this time period, and such costs can be difficult to identify;
- (e) By completing the residency program, the Participant will become eligible to practice medicine in British Columbia, and to bill the Medical Services Plan (MSP) for the provision of health services. If the Participant does not complete the Return of Service in full in the identified Return of Service community, the Participant will be in breach of this Agreement. Any health services that the Participant provides elsewhere in British Columbia in breach of this Agreement, including any MSP billings in relation to those health services, will give rise to further damages, costs, and expenses to the Province, flowing from the Participant's breach of this Agreement. The Province has calculated that, in the 2015-16 fiscal year the average annual income per full time equivalent (FTE) for family physicians/ general practitioners, internists, paediatricians and psychiatrists with a return of services are as follows:

COSTS ASSOCIATED WITH BREACH OF CONTRACT				
	Family Medicine	Internal Medicine	Paediatrics	Psychiatry
Postgraduate medical education plus interest	\$239,375	\$493,085	\$493,085	\$625,581
Cost to administer placement in ROS community	\$8,000	\$8,000	\$8,000	\$8,000
Average annual income per FTE	\$233,000	\$334,000	\$295,000	\$264,000

- 4.4 As of the date of first signing this Contract, the Participant warrants and represents to the Province, and acknowledges and confirms that the Province is relying upon such warranties and representations in entering into the Contract, that:
- (a) The Participant has every intention to complete the Return of Service in full and has no knowledge of any material fact or matter not disclosed to the Province that might prevent the Participant from completing the Return of Service in full as contemplated by this Contract; and
- (b) The Participant accepts and acknowledges that the Province will suffer losses if the Participant does not complete the Return of Service in full.

- 4.5 Within 30 days following the Contract termination referred to in Article 4.1, the Participant shall pay to the Province the Repayment Amount in full. If the Participant fails to pay the full amount owing by this date, the Province may refer the matter to any other person or entity, for the purpose of collection.
- 4.6 The Province may forgive some or all of the Repayment Amount, if the Participant becomes gravely ill and is unable to complete the contractual obligations or dies before completing their obligations under this Contract.

Article 5 Return of Service

- 5.1 Upon successful completion of the Postgraduate Medical Education, the Participant shall practise medicine on a Full-Time Basis in the clinical discipline for which the Participant has been trained and licenced in their 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. In the event that the Participant becomes unable to practise medicine on a Full-Time Basis during the Return of Service term for any reason, the running of the Return of Service term will be postponed until such time as the Participant resumes the practice of medicine on a Full-Time Basis.
- 5.3 The Province will determine the process by which the Participant is assigned to a Health Authority and community where he/she will provide Return of Service. The Participant will follow this process as communicated by the Province to the Participant.
- 5.4 The Participant must arrange a Return of Service placement with designated Health Authority recruiters during the final year of Postgraduate Medical Education.
- 5.5 The Participant will complete the Return of Service Addendum in consultation and with the agreement of the Health Authority.
- 5.6 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

- 5.7 The Participant will execute the Return of Service Addendum and deliver it to the designated Health Authority recruiter within 14 days of accepting a position with a medical practice offering the Return of Service opportunity.
- 5.8 The Participant will provide the Province 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 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 Province, 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 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 Province may terminate the Contract on the day after the day the Participant was to have begun the Postgraduate Medical Education;
 - (b) begins but does not complete the Postgraduate Medical Education, in which case the Province may terminate the Contract on the day after the day the Participant last participated in the Postgraduate Medical Education;

- (c) has not complied with subparagraph 7.1;
- (d) has not submitted to the Province an executed Addendum in accordance with subparagraph 5.8, 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 Province 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 Province may terminate the Contract on the day after the day the Participant last returned service;
- (g) is no longer legally entitled to practise medicine in British Columbia, in which case the Province may terminate the Contract on the day after the day 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 follow the process described in 5.1; or
- (j) fails to comply with the requirements contained in the Return of Service Addendum.

8.2 The Province 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 Province; 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 that is not covered by subparagraph 8.1(g).

- 8.4 For the purposes of subparagraph 8.2(b), 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 15, whichever is later.

Article 9 Reporting

- 9.1 If the Province 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 10 Amendments

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

Article 11 Relationship of the Parties

- 11.1 The Participant's relationship with the Province 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 Province for any purpose.

Article 12 Enforceability and Severability

- 12.1 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 13 No Waiver Unless in Writing

- 13.1 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 14 Assignment or Transfer

- 14.1 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 15 Notice

- 15.1 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 Province:

c/o **BC Ministry of Health**
Attention: _____
Clinical Integration, Regulation and Education Division
P.O. Box 9650
Stn. Prov. Gov't
Victoria BC V8W 9P4

To the Participant:

- 15.2 Where Notice is delivered to the recipient's address set out in Article 15.1: (a) by hand, it will be deemed to be received on the date of its delivery; (b) by prepaid post, it will be deemed to be received on the fifth business day following its mailing; or (c) by facsimile, it will be deemed to be received on the date of transmission if transmitted during the recipient's normal business hours, or on the following business day if transmitted outside of the recipient's normal business hours.

- 15.3 Either party may from time to time give Notice to the other party of a substitute address or fax number which from the date of such Notice is given will supersede any previous address or fax number specified for the party giving Notice.

Article 16: Miscellaneous

- 16.1 This Contract shall be governed by and construed in accordance with the laws of British Columbia.
- 16.2 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.
- 16.3 This Contract shall operate to the benefit of and be binding upon the parties to the Contract and their respective successors.
- 16.4 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.
- 16.5 Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.
- 16.6 Any reference in this Contract to any statute is a reference to that statute as amended, restated or re-enacted from time to time.
- 16.7 For greater certainty, Articles 4, 8, 9 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.
- 16.8 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.

16.9 Time is of the essence of this Contract.

Article 17 Entire Agreement

17.1 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.

Article 18 Legal Advice

18.1 The Participant acknowledges that he/she has the right to obtain independent legal advice before signing this agreement and hereby confirms that he/she has obtained that advice or does not wish to seek or obtain independent legal advice.

SIGNED AND DELIVERED by or on behalf of the Participant

SIGNED AND DELIVERED by the Province by an authorized representative of the Minister of Health

(Participant)

(Name)

(Please Print Name)

(Please Print Name)

Address:

Address:

Date: _____

Date: _____

ADDENDUM

RETURN OF SERVICE ADDENDUM

BETWEEN:

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(the “Health Authority”)

(Community: _____)

AND:

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(the “Participant”)

(the “Parties”)

WHEREAS:

The Participant has entered into a Return of Service Contract with the Province 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 Articles 2 and 5 of the Return of Service Contract for the Participant to provide medical services as required in his/her Return of Service commitment to the Province under the Return of Service Contract.
2. The Participant acknowledges that this Addendum is subject to the Return of Service Contract and any breach by the Participant 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 Article 5 of the Return of Service Contract.
6. When the Participant begins providing services, he/she will devote a minimum of _____ (define "full time" i.e. specify expected hours per week or hours per year) providing health authority identified public MSP billable services from the date on which the Return of Service commences, and must continue for the duration of the identified return of service period. Participant must provide services in the specialty for which he/she received his/her Postgraduate Medical Education.
7. The Return of Service commitment will continue for _____ **years** of practice on a Full-Time Basis from the date on which it commences.
8. 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: _____

9. This Addendum shall not be amended except by prior written and signed agreement between the Health Authority, the Participant, and the representative of the Minister of Health.
10. In order to comply with the Participant's commitments in the Return of Service Contract, the Participant must submit to the Province a completed

copy of this Addendum signed by the Participant and the Health Authority in accordance with section 5.8 of the Return of Service Contract.

Signature Return of Service Participant

Date

Print Name of Participant

Signature Health Authority

Date

Print Name

Approval of the Province (authorized representative of the Minister of Health)

Date

Print Name