

The Royal Children's Hospital Melbourne
50 Flemington Road
Parkville Victoria 3052 Australia
TELEPHONE +61 3 9345 5522
www.rch.org.au



Volunteer Service Agreement

The Royal Children's Hospital
The Humour Foundation



Contents

| | | |
|-----------|---|----------|
| 1 | DEFINITIONS AND INTERPRETATION | 1 |
| 1.1 | Definitions..... | 1 |
| 1.2 | Relationship of the parties..... | 1 |
| 2 | TERM | 1 |
| 3 | VOLUNTEER SERVICES | 2 |
| 3.1 | Volunteer Warranties..... | 2 |
| 3.2 | Provision of Volunteer Services | 2 |
| 3.3 | Provision of Information..... | 3 |
| 4 | PERSONNEL | 3 |
| 4.1 | Registration of Visiting Volunteers..... | 3 |
| 4.2 | Responsibility for Visiting Volunteers | 3 |
| 4.3 | Request for Removal of a Visiting Volunteer | 3 |
| 5 | RCH RESPONSIBILITIES..... | 3 |
| 6 | REPRESENTATIVES..... | 4 |
| 7 | CONFIDENTIALITY, PRIVACY AND PUBLICITY | 4 |
| 7.1 | Confidentiality and privacy | 4 |
| 7.2 | Publicity..... | 5 |
| 8 | EXCLUSION OF LIABILITY | 5 |
| 9 | DISPUTE RESOLUTION | 5 |
| 10 | TERMINATION | 5 |
| 10.1 | Termination for convenience..... | 5 |
| 10.2 | Termination for cause..... | 5 |
| 11 | THE VOLUNTEER GROUP'S INTELLECTUAL PROPERTY..... | 6 |
| | THE SCHEDULE - CONTRACT DETAILS..... | 8 |

Volunteer Service Agreement

PARTIES

The Royal Children's Hospital ABN 35 655 720 546 (**RCH**)

The Humour Foundation ABN 14 073 675 457 (**the Volunteer Group**)

RECITALS

- (a) RCH is a health service established under the *Health Services Act 1988* (Vic) and provides paediatric health services.
- (b) RCH permits various charities and other parties to access areas of the hospital for the purposes of providing volunteer support services to children and families.
- (c) RCH has approved the Volunteer Group to attend the hospital to provide the Volunteer Services specified in Item 3 of the Schedule on the terms and conditions set out in this agreement.

OPERATIVE PROVISIONS

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this agreement, unless the contrary intention appears from the context:

- (a) **Service Location** means the location set out in Item 4 of the Schedule within the hospital where Visiting Volunteers are permitted to provide the Volunteer Services on behalf of the Volunteer Group.
- (b) **Visiting Volunteer** means any person, whether paid or unpaid, who is recruited and trained by the Volunteer Group and who will attend the Service Location to provide the Volunteer Services on behalf of the Volunteer Group.
- (c) **Visiting Volunteer Program** or **VVP** means the program under which volunteer groups are approved and visiting volunteers registered to provide volunteer support services at RCH.
- (d) **Visiting Volunteer Program Procedure** means the RCH procedure which all volunteer groups and visiting volunteers must comply with, as amended from time to time, the current version of which is annexed to this agreement as 'Annexure A'.
- (e) **Volunteer Services** means the services permitted to be performed by the Volunteer Group pursuant to this agreement as set out in Item 3 of the Schedule; and
- (f) **VVP Coordinator** means the RCH staff member responsible for the VVP.

1.2 Relationship of the parties

- (a) The relationship between the RCH and the Volunteer Group is that of principal and independent contractor. This agreement does not create a partnership, employment, agency, fiduciary or any other relationship, except the relationship of contracting parties.
- (b) Neither the Volunteer Group nor any Visiting Volunteers may represent themselves as an employee, partner or agent of the RCH in any circumstances or that they have any authority to enter into any agreement or incur any liability on behalf of the RCH. Neither the RCH nor any RCH employees or agents may represent themselves as an employee, partner or agent of the Volunteer Group in any circumstances or that they have any authority to enter into any agreement or incur any liability on behalf of the Volunteer Group.
- (c) The Volunteer Group acknowledges and agrees that this is not an exclusive engagement and the RCH and its Related Parties may permit another party to attend the hospital and provide similar Volunteer Services but may not permit any other group to use the name Clown Doctors™ in describing their service.

2 TERM

- (a) This agreement commences on the date set out in Item 1 of the Schedule 1st February 2015 and will end on the date set out in Item 2 of the Schedule 1st February 2017 unless otherwise terminated in accordance with clause 9.

3 VOLUNTEER SERVICES

3.1 Volunteer Warranties

The Volunteer Group warrants that:

- (a) it and each of its directors, officers, employees, agents and contractors (including all Visiting Volunteers) and any Related Entities (as that term is defined in the Corporations Act) (collectively **Related Parties**) are of good fame and character;
- (b) it knows of no reason why its entry into this agreement presents any risk whatsoever to the RCH's reputation or to the safety of its patients and visitors;
- (c) it is not aware of any current, pending or threatened legal proceedings or any investigations by any government agency or regulator against the Volunteer Group or its Related Parties; and
- (d) it is financially viable and has sufficient financial backing to provide the Volunteer Services for the term of this agreement.

3.2 Provision of Volunteer Services

- (a) The Volunteer Group agrees to provide the Volunteer Services during the term of this agreement:
 - (i) at the Service Location and within the timeframes specified in Item 4 of The Schedule;
 - (ii) in accordance with:
 - (A) the terms and conditions contained in this agreement;
 - (B) all reasonable directions of the RCH;
 - (C) the Visiting Volunteer Program Procedure and all other relevant Hospital By Laws, rules, policies and procedures, copies of which will be made available; and
 - (D) all laws, regulations or licence conditions of any kind applying to the performance of the Volunteer Services including but not limited to the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, *Occupational Health and Safety Act 1985 (Vic)* and procedures, standards and codes of practice that apply in relation to the provision of the Volunteer Services;
 - (iii) in a manner that causes no undue interruption to the work of the RCH's staff, students or invitees; and
 - (iv) in a manner that causes no inconvenience, interruption or distress to any of the RCH's patients, families or visitors.
- (b) In the course of providing the Volunteer Services throughout the term of this Agreement, the Volunteer Group agrees to:
 - (i) hold any authorisations, permits and licences required under any law to perform the Volunteer Services;
 - (ii) promptly notify the RCH of any fact or matter which may impact its ability to provide the Volunteer Services safely;
 - (iii) promptly notify of any fact or matter which may significantly affect the financial viability or solvency of the Volunteer Group;
 - (iv) promptly notify the RCH of any dispute or matter which may result in legal proceedings or any regulatory or government investigation being initiated against the Volunteer Group or any of its Related Parties during the term of this agreement;
 - (v) immediately inform the RCH of anything of which it becomes aware which may impact on the appropriateness of a particular Visiting Volunteer continuing to provide the Volunteer Services, including any criminal investigations or charges (and warrants that it will have the Visiting Volunteer's prior consent to the disclosure of such information to the RCH);
 - (vi) promptly notify the RCH of any new Visiting Volunteers during the term and any Visiting Volunteers who will no longer be providing the Volunteer Services;
 - (vii) keep the RCH regularly informed of all other matters of which it becomes aware which may impact on the RCH or present a risk to the RCH and/or its patients and families; and
- (c) The Volunteer Group will ensure that all Visiting Volunteers understand and comply with the Volunteer Group's obligations under this agreement (in particular, the requirements of sub-clauses 3.2(a), 4.1(b) and clause 7) and the Visiting Volunteer Program Procedure.

3.3 Provision of Information

- (a) At any time during the term of this agreement, the RCH may ask the Volunteer Group to provide information relating to the Volunteer Services, the Volunteer Group's financial position, the Volunteer Group's processes and procedures or any other information which the RCH reasonably requires to ensure that the RCH's relationship with the Volunteer Group under this agreement or the provision of the Volunteer Services by the Volunteer Group does not present a risk to the RCH and/or its patients and visitors. The Volunteer Group agrees to cooperate with any such reasonable request by the RCH.
- (b) The RCH may, at its absolute discretion, suspend the Volunteer Group's and Visiting Volunteers' permission to attend the Service Location to provide the Volunteer Services until the information requested under clause 3.3(a) has been provided and the RCH is satisfied that this agreement and/or provision of the Volunteer Services by the Volunteer Group does not present any risk to the RCH or its patients and visitors.

4 PERSONNEL

4.1 Registration of Visiting Volunteers

- (a) By the Commencement Date, the Volunteer Group must ensure that the RCH has a complete list of all Visiting Volunteers.
- (b) No Visiting Volunteer will be permitted access to the Service Location until he or she has complied with all registration requirements to the VVP Coordinator's satisfaction, including passing a police check and a working with children check, copies of which must be provided on request.

4.2 Responsibility for Visiting Volunteers

- (a) The Volunteer Group is entirely responsible for:
 - (i) ensuring that all Visiting Volunteers comply with the terms of this agreement, including sub-clauses 3.2(a), 4(b) and clause 7;
 - (ii) ensuring that Visiting Volunteers are careful, skilled, qualified, experienced and competent to provide the Volunteer Services;
 - (iii) the employment, engagement and conditions of service of all Visiting Volunteers; and
 - (iv) ensuring that all Visiting Volunteers are adequately supervised and properly perform their duties at all times.
- (b) The Volunteer Group warrants that it is registered as an employer in accordance with the requirements of the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic) and that its insurance arrangements relating to its employees are and will remain current during the contract period. On request by the RCH, the Volunteer Group must provide the RCH with evidence of this registration and these arrangements.

4.3 Request for Removal of a Visiting Volunteer

- (a) If the RCH forms the belief that a Visiting Volunteer presents a risk to the RCH and/or its patients and visitors, it will notify the Volunteer Group in writing of its reasons for this belief.
- (b) If the Volunteer Group receives a notice from the RCH in accordance with sub-clause 4.3(a), the Volunteer Group will ensure that the Visiting Volunteer does not attend the Service Location until the parties have discussed the issue and the RCH has consented.

5 RCH RESPONSIBILITIES

During the Term, the RCH agrees to:

- (a) allow the Visiting Volunteers to provide the Volunteer Services at the Service Location at the times set out in Item 4 of the Schedule, provided that they have complied with any requirements set out in the Visiting Volunteer Program Procedure regarding registration and sign-in;
- (b) permit the Volunteer Group and the Visiting Volunteers to have reasonable access to other premises and staff facilities as is reasonably necessary and appropriate for the provision of the Volunteer Services;
- (c) provide the VVP Coordinator as the designated staff member responsible for the orientation and management of Visiting Volunteers;
- (d) ensure that requests for registration of a new Visiting Volunteer are processed as promptly as possible;

- (e) provide Visiting Volunteers with orientation to the hospital, including emergency training and other training in accordance with the Visiting Volunteer Program Procedure; and
- (f) provide Visiting Volunteers with a copy of the Visiting Volunteer Program Procedure, explain sign-in requirements and respond to any queries.

6 REPRESENTATIVES

Each party appoints the representatives to act on their behalf and be their primary point of contact in relation to this agreement. Unless a party agrees otherwise all dealings with that party should only be with their representative. As at the date of this agreement each party's representatives are set out in Items 5 and 6 of The Schedule.

7 CONFIDENTIALITY, PRIVACY AND PUBLICITY

7.1 Definitions

In this clause:

Confidential Information means information that:

- (a) is by its nature confidential;
- (b) is designated by a parties as confidential;
- (c) the parties know or ought to know is confidential; or
- (d) the terms of this agreement and all information about the parties, their employees, agents, policies and operations which is made available or which becomes known during the term of this agreement or as a result of executing this agreement,

but does not include information which:

- (e) is or becomes public knowledge other than by breach of this agreement; or
- (f) has been independently developed or acquired by a party otherwise than as a result of a breach of confidence or subject to any obligation of confidence.

Privacy Laws means:

- (g) *Privacy and Data Collection Act* 2014 (Vic) and the Information Privacy Principles contained in that Act;
- (h) the *Health Records Act* 2001 (Vic) and the Health Privacy Principles contained in that Act;
- (i) the *Health Services Act* 1988 (Vic) and, in particular, section 141 of that Act; and
- (j) any other applicable law relating to privacy or privacy code that applies to either of the Parties (including any voluntary code that a party has elected to comply with).

7.2 Confidentiality and privacy

- (a) The Volunteer Group agrees to, and to ensure that the Visiting Volunteers agree to:
 - (i) keep the confidential information of the RCH and its Related Parties confidential and secure;
 - (ii) only disclose the information of the RCH and its Related Parties to its employees, contractors and advisors who need to have access to the information for the purpose of this agreement and provided it does so subject to the confidentiality restrictions under this agreement;
 - (iii) comply with the Privacy Laws and the RCH's Privacy Policy and Guidelines as amended from time to time in respect of any personal or health information held or accessed in connection with this agreement;
 - (iv) comply with the reasonable directions of the RCH and any applicable laws regarding the treatment of the RCH's Confidential Information, personal and health information (including security and privacy requirements);
 - (v) comply with any request which the RCH may make in writing to the Volunteer Group, from time to time, which may be reasonably required to ensure the RCH complies with its obligations arising under the Privacy Laws;
 - (vi) take all reasonable measures in accordance with any applicable laws and standards to protect the security and integrity of the RCH's Confidential Information and any personal or health information including preventing unauthorised access to that information; and
 - (vii) immediately notify the RCH if it becomes aware of a breach of this clause 7.

- (b) If requested by the other party, each party agrees to return or destroy all copies of the Confidential Information of the other party. However, both parties may retain copies of that information to the extent necessary to meet any regulatory or internal governance or reasonable record keeping requirements.

7.3 Publicity

Except to the extent that any disclosure is required by law, the Volunteer Group will not disclose or otherwise publicise the existence or terms of this agreement or any aspect of its relationship with the RCH, without the RCH's prior written consent.

8 EXCLUSION OF LIABILITY

- (a) To the extent permitted by law, the RCH has no liability to the Volunteer Group or the Visiting Volunteers under this agreement nor will it be liable upon any claim by any third party arising out of or in any way in connection with the provision of the Volunteer Services by the Volunteer Group.

9 DISPUTE RESOLUTION

- (a) If a dispute arises in connection with this agreement, excluding a dispute in connection with termination of this agreement pursuant to clause 10, the parties shall adhere to the following procedures:
- (i) The party claiming that a dispute has arisen must notify the other party in writing and include in the notice ("**Notice of Dispute**") sufficient details to enable that party to understand the nature and extent of the dispute.
 - (ii) In the first instance, representatives of each party shall meet and use all reasonable endeavours to resolve the dispute in an expeditious and informal manner.
 - (iii) If resolution is not achieved within 5 Business Days of service of the Notice of Dispute or such other agreed time, the parties must refer the dispute to a mediator to be appointed jointly by the parties ("**Mediation Notice**").
 - (iv) If the parties do not agree on a mediator within 5 Business Days after service of the Mediation Notice, a mediator is to be appointed by the President of the Law Institute of Victoria.
 - (v) The mediation will be conducted in accordance with the Institute of Arbitrators and Mediators Australia, Rules for the Mediation of Commercial Disputes.
- (b) Parties may only commence legal proceedings (other than proceedings seeking urgent interlocutory relief) when the mediator gives written notice that he or she considers that it is no longer productive to continue the mediation.
- (c) Nothing in this clause 9 will prevent a party from seeking interlocutory relief.

10 TERMINATION

10.1 Termination for convenience

Either party may terminate this agreement in whole or part with 3 months notice for convenience by providing written notice to the other party.

10.2 Termination for cause

- (a) Either party may immediately terminate this agreement by notice in writing in any of the following circumstances:
- (i) the other party is in breach of its obligations set out in this agreement and does not rectify the breach (to the extent that it can be rectified) for 7 days after receiving a written notice from the terminating party specifying the breach and requiring it to be rectified;
 - (ii) the other party commits a substantial breach of this agreement, or a breach of this agreement which cannot be rectified; or
 - (iii) there has been a consistent failure on the part of the other party to meet the requirements of this agreement which it does not rectify (to the extent that it can be rectified) for 14 days after receiving a written notice from the first-named party specifying its concerns and what is required to rectify the failure.

- (b) The RCH may immediately terminate this agreement by notice in writing in any of the following circumstances:
- (i) the Volunteer Group commits any offence or does any act or fails to do any act which in the reasonable opinion of the RCH is of such a nature as to be likely to seriously harm the RCH's reputation or significantly affect the capacity of the Volunteer Group to discharge its obligations under this agreement; or
 - (ii) if the RCH Representative has formed the reasonable view that the health or safety of the patients or the reputation of the RCH is at risk as a result of or in connection with the provision of the Volunteer Services by the Volunteer Group.

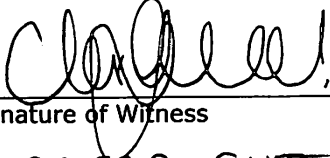
11 THE VOLUNTEER GROUP'S INTELLECTUAL PROPERTY

- 11.1** The RCH agrees that it will not by reason of this agreement or its performance have or obtain any claim, ownership, right, title, licence or other interest in the Volunteer Group's intellectual property.
- 11.2** All intellectual property rights are confidential information and will not at any time be directly or indirectly disclosed or communicated to any person during the term of this agreement or following the termination of this agreement unless authorised by the Volunteer Group or required by law or court order.

EXECUTED as an agreement

Date: _____

Executed for and on behalf of **The Royal Children's Hospital** by its authorised officer in the presence of:



Signature of Witness

CHARISSA GUEST

Name of Witness



Signature JAYNE DULLARD

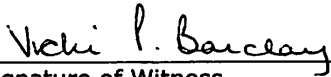
Executive Director Communications

Name The Royal Children's Hospital

11-2-15

Date

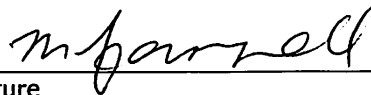
Executed for and on behalf of **The Humour Foundation** by its duly authorised representative in the presence of:



Signature of Witness

VICKI BARCLAY

Name of Witness



Signature

Melinda Farrell

Name

19.2.15

Date

SCHEDULE 1 - CONTRACT DETAILS

| Item | Description | Details |
|--------|---|--|
| Item 1 | Commencement Date | 1 February 2015 |
| Item 2 | Expiry Date | 1 February 2017 |
| Item 3 | Description of Volunteer Services | Entertainment and distraction by Clown Doctors™ |
| Item 4 | Time and place for delivery of the Volunteer Services | Monday – Sunday Morning and afternoon Wards: Various inpatient and outpatient areas |
| Item 5 | RCH Representative | Jayne Dullard, Executive Director, Communications 50 Flemington Road, Parkville, Victoria 3052 Telephone: 03 9345 4906 Fax: 03 9345 5050 email: jayne.dullard@rch.org.au |
| Item 6 | Volunteer Group Representative | Melinda Farrell, General Manager Level 1, 28 Bridge Street, Pymble, New South Wales, 2073 Telephone: 1300 486 687 Fax: 02 8978 4599 email: melinda.farrell@clowndoctors.org.au |