South African Society of Anaesthesiologists

Clinical Service Provider Facilities Group Agreement

Between

Anaesthetist

With Practice Number & HPCSA Number: _____

As Clinical Service Provider ("CSP")

AND

_____
Company registration number
_____

Registered name of Facilities Group (FG)

(As a Company owning/ managing or having a controlling interest in a group of healthcare facilities)

AND APPLICABLE TO

The delivery of Medical Care within the facilities owned/ governed by the Facilities Group (FG).

Agreement ID (Practice Number/Reference Number of Agreement type/Month/Year):

Initiation Date of Agreement: _____ Termination date of Agreement: _____

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1. Definitions

In this Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings:

1.1. **Agreement** means the agreement contained in this document, including all annexures hereto.

1.2. **Anaesthetist** means a medical doctor that participates in, or delivers anaesthesia and medical care in a facility governed by this agreement.

1.3. **CMS** means the Council for Medical Schemes, a statutory body established by the Medical Schemes Act.

1.4. **CSP** means Clinical Service Provider as an individual independent practitioner, named herein as signatory and with indicated registration number for independent practice with the Health Professions Council of South Africa. In terms of this contract CSP may be used interchangeably with Anaesthetist.

1.5. **Electronic signature** denotes any means of auditable electronic response from the CSP to the FG that provides for the ability to accept, reject or raise specific points in respect of a proposed term of the Agreement.

1.6. **Facility** means any facility that is owned, operated by or controlled by the FG.

1.7. **FG** means _____, registration number _____ and refers to the controlling entity over facilities or an affiliate in which the CSP works and therefore the facility/ies in which this Agreement will have force and effect. The affiliates refer to the other divisions in the _____ Group e.g. _____.

1.8. **HPCSA** means the Health Professionals Council of South Africa, a statutory body established in terms of the Health Professions Act, No. 56 of 1974.

1.9. **Locum** means "Locum tenens" as understood in terms of the Health Professions Council of South Africa Ethical Rules and includes a healthcare provider who works in the place of the regular healthcare provider in a particular referenced circumstance.

1.10. **Medical Schemes Act** means the Medical Schemes Act, No. 131 of 1998.

1.11. **Parties** means the parties to this agreement.

1.12. **Peer Review** means peer review conducted in collaboration with SASA as per the SASA Peer Review Policy, as amended from time to time. The FG will be updated on the amendments with CSP having access to updates on the SASA website.

1.13. **Practicing Privileges** means permission granted by the FG to the CSP to provide medical and related patient care services in its facilities within a specific scope of practice, based on the individual's education, professional license, experience, competence, ability, health, and judgment.

1.14. **PPBU** denotes Private Practice Business Unit of SASA unless otherwise specified.

1.15. **Quality** means "healthcare quality" as put forward by the Institute of Medicine which includes the following six aims defined:

1.15.1. **Safe**: Avoiding harm to patients from the care that is intended to help them.

1.15.2. **Effective**: Providing services based on scientific knowledge to all who could benefit and refraining from providing services to those not likely to benefit (avoiding underuse and misuse, respectively).

1.15.3. **Patient-centred**: Providing care that is respectful of and responsive to individual patient preferences, needs, and values and ensuring that patient values guide all clinical decisions.

1.15.4. **Timely**: Reducing waits and sometimes harmful delays for both those who receive and those who give care.

1.15.5. **Efficient**: Avoiding waste, including waste of equipment, supplies, ideas, and energy.

1.15.6. **Equitable**: Providing care that does not vary in quality because of personal characteristics such as gender, age, race, ethnicity, geographic location, and socioeconomic status.

1.16. **SASA** means the South African Society of Anaesthesiologists.

1.17. **SASA Peer Review Policy** means the policy established and adopted by SASA that enables a robust and objective mechanism to evaluate and adjudicate on a SASA member's conduct and practice with the intention to educate, improve and advance the practice of anaesthesia in the profession.

1.18. **Signature** means physical or electronic Signature.

1.19. **Signature Date** means the date of signature of this Agreement by the Party last signing in time.

1.20. In this Agreement -

1.20.1. clause headings and the heading of the Agreement are for convenience only and are not to be used in its interpretation;

1.20.2. an expression which denotes -

1.20.2.1. any gender includes the other genders;

1.20.2.2. a natural person includes a juristic person and vice versa;

1.20.2.3. the singular includes the plural and vice versa;

1.20.2.4. a Party includes a reference to that Party's successors in title and assigns allowed at law; and

1.20.2.5. a reference to a consecutive series of two or more clauses is deemed to be inclusive of both the first and last-mentioned clauses.

1.20.2.6. Any reference in this Agreement to –

1.20.2.7. "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;

1.20.2.8. "laws" means all constitutions; statutes; regulations; by-laws; codes;

ordinances; decrees; rules; judicial, arbitral, administrative, ministerial, departmental or regulatory judgements, orders, decisions, rulings, or awards; policies; voluntary restraints; guidelines; directives; compliance notices; abatement notices; agreements with, requirements of, or instructions by any government body; and the common law, and "law" shall have a similar meaning and

1.20.2.9. "person" means any person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality.

1.20.2.10. The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.

1.20.2.11. Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in this clause 1 or elsewhere in this Agreement, shall be given effect to as if it were a substantive provision in the body of the Agreement.

1.20.2.12. Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement.

1.20.2.13. Unless otherwise provided, defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.

1.20.2.14. A reference to any statutory enactment shall be construed as a reference to that enactment as at the Signature Date and as amended or substituted from time to time.

1.20.2.15. Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.

1.20.2.16. The rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply.

1.20.2.17. No provision of this Agreement shall (unless otherwise stipulated) constitute a

stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Agreement.

1.20.2.18. The use of any expression in this Agreement covering a process available under South African law, such as winding-up, shall, if any of the Parties is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.

1.20.2.19. Any reference in this Agreement to "this Agreement" or any other agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.

1.20.2.20. In this Agreement the words "clause" or "clauses" and "annexure" or "annexures" refer to clauses of and annexures to this Agreement.

2. Objectives of the Clinical Service Provider - Facilities Group Agreement

2.1. Promote and enable ethical and clinical protection for patients by ensuring that the CSP is held accountable to practice that is:

2.1.1. in accordance with the HPCSA Ethical Rules of practice.

2.1.2. in accordance with the laws of the Republic of South Africa.

2.1.3. in accordance with SASA, and academic best practice guidelines and SASA's coding and private practice guidelines.

2.1.4. subject to clinical outcomes, process and activity measures as guided by SASA.

2.1.5. subject to objective Peer Review under the auspices of SASA.

2.1.6. facilitative of exposing patients to medical professionals who are best suited to deliver care in the professional's respective speciality/ domain.

2.2. Ensure patients are provided care that is:

2.2.1. in accordance with clause 2.1 above.

2.2.2. free from exposure to over-servicing or inefficiencies and perversely incentivised care as may be generally understood or defined.

2.2.3. free from exposure to under-servicing and perversely incentivised care as may be generally understood or defined.

2.3. Ensure the CSP can conduct practice:

2.3.1. with clinical autonomy (having regard to 2.1.3. and 2.4.1 and 2.4.2 respectively).

2.3.2. Free from perverse incentives that drive underservicing or over-servicing.

2.3.3. with empowerment to engage with the FG or local facility within which they work within a working agreement that governs their professional – facility relationship in which the parties conduct business.

2.4. Ensure that facilities and facility groups:

2.4.1. are able to participate in the design and implementation of team based, ethically and legally compliant care systems that incentivises best value care to all participating parties in keeping with the principles outlined in clause 2 of this Agreement.

2.4.2. are able to participate in monitoring and reporting on Quality measures that will allow for Peer Review and improvement of care where identified deficiencies exist.

2.4.3. are able to access data that will identify at risk patient populations which in itself will allow for interventions that limit peri-operative complications thereby avoiding unnecessary morbidity and costs.

2.4.4. are able to participate in a bilateral agreement with CSPs that enables transparent processes, data sharing, responsibility and accountability to quality patient care and each other.

2.5. Ensures that this Agreement:

2.5.1. enables governance of the relationship between the FG and CSP, in a spirit of joint accountability and responsibility for quality care of patients.

2.5.2. is subject to periodic update and annual review by SASA and the named FG participating in the Agreement.

2.5.3. recognises the benefits of the CSP - facility relationship in achieving cost effective, sustainable Quality patient care and outcomes.

2.5.4. enables mitigation of legal exposure to all parties including reputational harm through collaborative engagement and promotion of the precepts in 2.1 and 2.2.

2.5.5. ensures patient safety is paramount and not threatened in any way.

3. Time Restriction

3.1. This Agreement shall commence on _____ (**"the Effective Date"**), notwithstanding the Signature Date.

3.2. The Parties agree to review the duration of this Agreement and the terms thereof on or before _____ (three months) prior to the expiry and in perpetuity after signature of this agreement. This Agreement will be for an initial period of 3 (three) calendar years (the year of signature and 2 (two) calendar years thereafter). Any extended period may not exceed 3 (three) years.

3.3. The review process contemplated in this clause shall occur annually (every year) in perpetuity, should there be a mutual desire to do so, and the review process shall be conducted within the time-frames contemplated in this clause 3.2. For the avoidance of doubt, this means that all reviews must commence before _____ (three months prior to expiry) and must conclude on or before _____ (two months prior to expiry) in each year of the Agreement's existence.

3.4. If the Parties are unable to reach consensus on the reviewed terms before the relevant _____ deadline, this Agreement shall terminate at the end of the existing agreement period. A "runoff" period of 3 (three) months may be requested (and will not be unreasonably withheld) by either Party in the interests of continuity of patient care and access to professional services. Any extension and/ or amended terms (which for the avoidance of doubt, may entail an amendment to this Agreement, including any annexure) shall be agreed to and recorded in writing.

4. Early Termination

4.1. Notwithstanding clauses 3 and 7, this Agreement shall be terminated forthwith in the event that the HPCSA or any other regulatory or statutory body formally and validly determines that the terms of this Agreement contravene the ethical rules of the HPCSA or such other regulatory or statutory body.

4.2. Notwithstanding the commencement of this Agreement any party may, on its own accord or if requested by the HPCSA or any other regulatory and/or statutory body, engage with such body

regarding the terms of this Agreement provided that –

4.2.1. prior notice of such engagement is provided to the other; and

4.2.2. the Parties explore opportunities to co-operate with each other to address any matter of mutual interest viz-a-viz the HPCSA or such other regulatory body.

5. The Clinical Service Provider Agrees to/ that:

5.1. The CSP agrees that Practicing Privileges are required to be obtained from the FG prior to being entitled to provide medical services at any facility under the control of the FG.

5.2. In order to obtain Practicing Privileges, the CSP is required to submit the required data attached hereto as Annexure A to the FG with relevant supporting documents.

5.3. Practice in accordance with and apply the most clinically appropriate care guided by the relevant SASA Practice Guidelines and/or Internationally Published Guidelines for professional services delivered.

5.3.1. In the interests of patient safety and in accordance with FG requirements, all anaesthetists are expected, at a minimum, to hold a qualification of a Diploma in anaesthesia and be registered as a General Practitioner in independent practice with the HPCSA. In circumstances, were obtaining a Diploma in Anaesthesia may not be possible, formal application for exception to a provision or provisions of these clauses may be applied for and may be approved by the FG.

5.3.2. Specifically where conflict arises owing to unique FG or facility guidelines that are not aligned to SASA Practice guidelines and/ or local speciality specific guidelines and/ or internationally published guidelines for professional services delivered, the CSP will be expected to practice in accordance with SASA formally endorsed FG policy or procedure that is distributed and available on a dedicated SASA and FG webpage for reference, by both the FG and SASA to the CSP.

5.4. Submit to Peer Review through the SASA Peer Review Process upon request by the FG and with prior agreement by SASA.

5.5. In the event the CSP is suspected or accused of errant practice or behaviour, Practicing Privileges may be suspended by the FG. Formal FG investigation and review must be initiated within 14 business days with notification to SASA of such investigation and/ or SASA Peer Review involvement and where required, report to the HPCSA. Continued suspension or termination of Practicing Privileges cannot take place without formal FG

investigation and in accordance with 5.6. Examples of such errant practice or behaviour may include (but may not be limited to):

5.5.1. Termination, suspension or specific limitation of practice by the HPCSA;

5.5.2. Abusive behaviour or harassment;

5.5.3. Impairment related to substance abuse, age or medical conditions;

5.5.4. Repeated failure/ refusal to comply with SASA-FG endorsed policies or procedures that actually or potentially affect patient care and only after counselling and consultation with the CSP.

5.5.5. Failure to register and/or maintain registration with the HPCSA.

5.5.6. Failure to obtain and maintain suitable professional indemnity and liability insurance and cover.

5.5.7. Failure of Healthcare Professionals in the employ of government who wish to conduct Remunerative Work Outside the Public Service ("RWOPS") to obtain the requisite approval granted by the Department of Health ("DOH") for such Healthcare Professional to conduct RWOPS.

5.5.8. Failure to conduct practice in accordance with the ethical rules of the HPCSA, the National Health Act and/ or the Health Professions Act and other laws of the Republic as may apply.

5.5.9. Suspension of the CSP by any other facility group.

5.6. The FG reserves the right to suspend privileges in a fair and equitable manner. The FG shall, at all times, act in a reasonable manner and in good faith.

5.7. In agreement with the procedural specialist (e.g. surgeon, gastro-enterologist) that the CSP practices with, provide emergency and after-hours cover to the particular specialist either directly, within a practice or ensure that the procedural specialist is informed as to when after-hours / emergency cover will not be available to him/ her. The onus then remains on the procedural specialist to ensure he/ she has the pre-requisite anaesthesia services cover when the CSP is not available and cover has not been provided for.

5.8. Should s/he procure the services of a Locum to provide medical care in terms of services governed by this Agreement, the CSP must be satisfied that such Locum either:

5.8.1. Has a valid and active agreement with the FG that governs the services contemplated in this Agreement (for the avoidance of doubt the agreement need not be this Agreement and can be an alternate agreement entered into by the FG and the Locum), or

5.8.2. For Locums without a valid Agreement, the CSP will ensure that the Locum is of equivalent or higher anaesthetic qualification, has indemnity cover and is current and registered with the HPCSA.

5.8.3. Locums that provide cover for more than 10 working days per 6 month period who do not have an Agreement in place are expected to approach the FG and conclude an agreement to continue providing anaesthesia services in any of the FG facilities.

5.9. Document and Keep contemporaneous records of patient interactions, treatment and intraoperative vital signs as outlined in the SASA Practice Guidelines, HPCSA rules, applicable legislation and FG-SASA agreed to variables in the interests of quality patient care. In the interest of patient safety, the CSP will ensure that all treatment, prescriptions, and interventions that may impact clinical care in the post-operative environment are clearly communicated in writing in the patient's file or post-operative prescription chart.

5.9.1. All patients will be handed over to appropriate post-operative care in accordance with SASA Practice Guidelines.

5.9.2. All notes, vital signs and any other patient data captured by the anaesthetist are accepted to be doctor – patient notes, are considered confidential and governed by the rules of the HPCSA.

5.9.3. Haemodynamic printouts or electronic collection of data collected by the facility concerned as documentation of patient vital signs during the anaesthetic delivered can only be collected by the facility with:

5.9.3.1. prior patient and anaesthetist consent.

5.9.3.2. confidential, clear and identifiable patient details on every printout collected and/or

5.9.3.3. confidential, clear and identifiable patient details linked to any electronic data collected and aligned to 5.9.3.1.

5.9.3.4. any patient data collected that would reasonably be considered to be part of the patient – doctor notes may only be reviewed by or shared with any party

other than the CSP or patient directly with prior written consent of the patient and when shared, with notification to the CSP concerned (this includes legal representatives of the facility group).

5.9.4. Any electronic medical record data requiring CSP time and intervention that is not considered to be part of delivering routine clinical care (e.g. patient prescription) or may require additional time by the CSP, may only be requested and required with the express agreement of SASA.

5.9.4.1. The CSP will ensure attendance at training made available by the FG to enable use of the FG's electronic medical record system prior to/ during practice within a facility, if or when the electronic medical record is implemented.

5.9.5. All medical records stored or reproduced by the FG will be accompanied by a disclaimer that indicates the notes generated may not be the entire patient record, are subject to amendment and may contain inaccuracies inherent to electronic data collection and capture.

5.9.6. In the event the patient or CSP refuses to provide consent for collection of patient data or patient vital signs during anaesthesia care, the CSP undertakes to collect and maintain patient specific records in alignment with 5.9 and will be made available on patient request. Furthermore, the CSP undertakes to provide copies of the patient record to the facility timeously, with prior patient consent, if so reasonably requested.

5.10. Consent all patients timeously, in accordance with SASA Private Practice and Practice guidelines and HPCSA ethical guidelines and the laws of the Republic of South Africa.

5.11. Ensure the CSP's practice and documentation as it relates to patient care in the FG is in accordance with relevant legislation that governs practice including but not limited to the Protection of Personal Information Act (POPI), the Consumer Protection Act (CPA) and the National Health Act.

5.12. S/he shall share with SASA such information that SASA may from time to time reasonably require to enable peer review and the promotion of Quality of care relating to –

5.12.1. the provision of care contemplated in this Agreement;

5.12.2. the Quality standards applicable to the provision of such services; and

5.12.3. reasonable request for information as may be needed.

5.13. The FG is permitted to share CSP specific clinical and administrative information with SASA which would include giving effect to the Peer Review mechanism contemplated in 2.1.5 and 5.12 above.

5.14. While this Agreement is in force, this Agreement:

5.14.1. Will be given effect to with reference to any team principles and arrangements pursuant to which this Agreement may have been concluded, provided that in the event of a conflict between this Agreement and the team principles and arrangements, the provisions of this Agreement will apply in a manner that -

5.14.1.1. underscores the provision of Quality healthcare as defined in clause 1.11;

5.14.1.2. ensures that the health and wellbeing of the patient is of principal importance; and also

5.14.1.3. protects the clinical autonomy of the CSP.

5.15. Permits the FG to provide a signed CSP-FG Agreement to SASA within 10 days of concluding the CSP-FG Agreement with the CSP.

5.16. Recognises that this agreement with the FG with societal oversight is not intended to be coercive or anti-competitive. On this basis the CSP will ensure, to effect the objectives of the Agreement and ensure societal collaboration, support and oversight of the particular CSP Agreement, that he/ she is either a member in good standing with the society (SASA), or procures an annual Agreement for administrative services directly from SASA to cover the cost of services provided by the society as detailed in this Agreement. Alternatively, the CSP may utilise existing Practicing Privileges documents available from the FG and not participate in this Agreement.

6. The Facilities Group (FG) agrees to/that:

6.1. Ensure that all equipment provided for use in their facilities is serviced and maintained according to manufacturer specifications and requirements and maintained in good order.

6.1.1. Wherever possible provide an on-site appropriately trained clinical technologist to attend to equipment servicing, troubleshooting and assist with escalating, following up and effecting repairs on equipment reported problematic in a timeous manner.

6.1.2. The FG will provide timeous feedback to CSP who formally report faults as well as follow up to ensure satisfactory resolution is reached.

6.1.3. Ensure that necessary quality and quantity of equipment is available to cater for the needs of each facility/ complex in respect of anaesthesia monitoring and delivery (e.g. nerve stimulators for blocks and neuromuscular blockade monitoring, video laryngoscopy etc.)

6.1.4. In the event equipment quality or quantity is compromised due to circumstances beyond the control of the facility (e.g. servicing and spares), endeavour to source loan replacements or ensure the CSP is informed timeously to either delay or cancel planned patients or make alternative arrangements.

6.1.5. Adhere to the SASA Practice Guidelines with respect to equipment as far as is practically possible.

6.2. The FG recognises the value of clinical autonomy, independent responsibility and liability, team agreements and working relationships between CSP and procedural specialists/ surgeons related to the provision of care within the CSP's practice and discipline. This recognition is premised on the fact that patient quality care requires team collaborative care across disciplines, the facility and the patients' involvement in their care. Specifically, the FG undertakes to respect these principles and to ensure that the CSP will not be coerced or forced to contravene any ethical rules of the HPCSA or any legislative framework that governs ethical medical practice.

6.3. Ensure the CSP is afforded access to drugs in accordance with the SASA Practice Guidelines as well as drugs preferred by the practicing professional and/or patient as far as is practically possible. Specifically, the use of generic drugs should be discussed on a local facility level on an individual basis with the precepts of economic sustainability in mind in keeping with best patient care. Where a CSP specifically requests particular drugs in writing this is to be provided in accordance with relevant legislation and regulations.

6.3.1. In the event that the FG is of the opinion that the practitioner request is unreasonable, outside of direct engagement with the practitioner, the FG is required to approach SASA for comment and/ or mediation with respect to a particular request.

6.3.2. Any request for comment or mediation is acknowledged to be premised on the presupposition that patient safety, quality of care and clinician principal responsibility to the patient is primarily recognised.

6.4. The FG shall ensure, as far as possible, that sufficient quantity of appropriately qualified and trained staff are provided in all areas where the CSP will be providing care to patients. While not exhaustive, this includes the operating theatres, recovery room, remote operating theatres and recovery rooms under FG control, procedural areas, satellite/ unattached theatres and wards.

6.4.1. All staff provided will be in accordance with relevant regulations and legislation as gazetted or published.

6.4.2. In the event quality or quantity of staff is reported to be lacking, the FG undertakes to timeously investigate and provide feedback on remedial action to be taken to ensure the protection of quality patient care.

6.4.3. In circumstances where disagreement exists between the CSP and the facility, such disagreement will be escalated to the FG head office and SASA for discussion and action in accordance with the SASA-FG Agreement.

6.5. The FG undertakes to ensure the CSP and discipline of anaesthesia is subject to fair and professional treatment within the facility as is extended to other specialities working within its facilities.

6.6. The CSP will be afforded access to all patient records that the CSP is required to provide care to as it relates to his/ her involvement in the patient's care and in the patient's best interest.

6.7. The FG undertakes, and in accordance with the POPI Act and relevant legislation, to share procedural and diagnostic information that may be required to ensure the CSP is able to accurately code and report for services to enable patients to be reimbursed by their chosen medical scheme.

6.8. Electronic data generated, captured and stored by equipment owned by the FG is:

6.8.1. Subject to patient doctor confidentiality and governed by the rules of the HPCSA as well as the POPI Act.

6.8.2. Entirely the responsibility of the FG with the attendant requirements of the POPI act.

6.9. The FG undertakes to ensure that doctor-patient records are securely stored in accordance with the requirements of the POPI Act and that the CSP will have real-time access to his/ her specific doctor patient records electronically or in hard copy, or within 24 hours of requesting same post patient discharge.

6.10. Any electronic medical record data requiring user intervention is accepted to be required to be entered by FG employees by default.

6.11. Where training of the CSP is specifically required or expected by the FG:

6.11.1. The FG will ensure that training on FG specific electronic medical or health record systems will be made available at various times and in a format convenient and to accommodate the CSP. Training attendance will be recorded by the FG.

6.11.2. The FG commits to engage SASA on any training time expected to be spent by the CSP and wherever possible, ensure mutual agreement by SASA in terms of reasonable necessity and time to be spent. Any terms of such training from SASA or the FG must be documented prior to agreement.

6.11.3. Where patient safety concerns are elucidated, the FG will ensure appropriate investigation and remedial action as required and communication to the clinician body as indicated while ensuring that patient safety is protected and not compromised.

6.12. The FG will ensure that facilities' unit managers and their superiors will be bound to report any CSP discipline incident to oversight structures within the FG where such incident is reasonably believed to have or had any effect on patient safety. The intention is to enable the FG to investigate and action remedies to avoid any compromise of safety with respect to future patient care.

6.13. In the event the CSP formally reports incidents with respect to patient safety or quality care, the FG undertakes to timeously investigate and provide formal report and feedback to the CSP and SASA as to what findings, recommendations and actions (if any) are to be taken to address and resolve the concerns in the report. These may include but not necessarily be limited to incidents or issues relating to staff, equipment, drugs, administration and quality of care. Where appropriate, suspension of services will be actioned until such time as investigation confirms the absence of compromise to patient quality care (which may occur before the investigation is complete).

6.14. Ensure that at least one member of each facility Physician Advisory Board (PAB) is occupied by, or at a minimum advertised to the CSP discipline within each facility. Through this representative, the CSP should be enabled to access data as published periodically by the facility as to events such as incidence of surgical site infection, patient complications, "never events", Antibiotic use and stewardship, nosocomial infections and perioperative complications.

6.15. In accordance with the SASA-FG agreement, the FG is bound to oversight with respect to the CSP-FG agreement that:

6.15.1. Allows for registration and Agreement at head office level for the CSP.

6.15.2. Sharing of quality reports with SASA by facility that includes necessary evaluative data such as staff qualifications and number, and reports as mentioned in 6.14. Transparency to poor performing facilities and measures to improve same may be confidentially shared in an effort to enable SASA to assist in promoting measures that will improve patient quality care in respective facilities.

6.15.3. Peer review and/ or commitment to mediation by the FG and SASA where this may be necessary to achieve the intentions and undertakings in this agreement.

6.15.4. Commitment by the FG and SASA to investigate evidence-based reports relating to patient care, conduct, impairment, ethical infringement, under or over servicing, inefficiencies and other reportable events.

6.16. Store the signed versions of this Agreement, including all Annexures, in safe data storage.

6.17. Will ensure that the CSP will have access to comprehensive lists of CSPs party to the FG Agreement from SASA as provided by the FG for the purposes of enabling effective sourcing of Locums. These lists will only be used for this purpose by the CSP in patients' best interests, in service of this Agreement and in accordance with the requirements of the Protection of Personal Information Act.

6.18. The FG will provide the CSP with a signed copy of this Agreement.

6.19. This Agreement:

6.19.1. Will henceforth be the agreement governing the relationship between the FG and the CSP, as well as the relationship between local facilities governed by the FG and the CSP.

6.19.2. Will be given effect to with reference to any team principles and arrangements pursuant to which this Agreement is concluded, provided that in the event of a conflict between this Agreement and the team principles and arrangements, the provisions of this Agreement will apply in a manner that –

6.19.2.1. Underscores the provision of Quality health care as defined in clause 1.15;

6.19.2.2. Ensures that the health and wellbeing of the patient is of principal importance; and also

6.19.2.3. Protects the clinical autonomy of the CSP.

6.20. The FG and CSP agrees that as at the date of this Agreement and while in force, any prior agreement with the FG and CSP had in place is superseded by this Agreement.

6.21. Undertake to ensure that this Agreement and its annexures are compliant with the Ethical Rules of the HPCSA and the Department of Health and that the Agreement is in accordance with relevant legislation of the Republic of South Africa.

7. Dispute Resolution

7.1. During any dispute, including a dispute as to the validity of the Agreement, it is mutually agreed that the matter will be referred to a mediator by the authorised representatives of both Parties. To this end, each of the Parties shall appoint a representative to meet (or virtually through via video-conference) in order to resolve the matter in dispute. The meeting will be conducted in such manner and with the object to promote a consensual resolution of the dispute in question at the discretion of the Parties.

7.2. All disputes arising out of or relating to this Agreement including disputes as to the meaning or interpretation of any provision of this Agreement, shall first be resolved or attempted to be resolved by the Parties through bona fide discussion within 30 (thirty) days of such dispute having been declared in writing by any of the Parties.

7.3. Nothing will, however, prevent a party from obtaining relief on an urgent basis from a court of competent jurisdiction within the 30 (thirty) days during which the Parties will endeavor to settle a dispute on an amicable basis.

7.4. Should the Parties be unable to resolve the dispute in accordance with clause 7.1 either Party may approach the appropriate court for the appropriate relief or enter into Arbitration by mutual agreement.

8. Termination

8.1. This Agreement will terminate by effluxion of time, except in the event of breach as contemplated in clause 9. Unless this agreement is either suspended or terminated in writing by the FG (in accordance with 5.6 of this Agreement) or suspended or terminated by the CSP, the agreement shall continue until the next renewal date.

8.2. The CSP may terminate this agreement by providing the FG with 1 (one) calendar month's written notice.

9. Breach

9.1. The following will constitute a breach of the terms of the Agreement:

9.1.1. A failure of a Party to participate and deliver on their responsibilities as set out in this Agreement.

9.1.2. A Party acts outside of the laws of the Republic of South Africa or the rules and guidelines of the HPCSA.

9.1.3. Termination in accordance with 5.6 of this Agreement

9.2. In the event of breach, the following remedy is agreed to be pursued:

9.2.1. A Party may notify the other Party in writing (includes electronic mail) that they consider the Agreement to have been breached by that Party.

9.2.2. The notified Party will have 5 business days to formally respond to the breach notification.

9.2.3. The notified party will have 20 business days to address and remedy the breach. A satisfactory remedy of the breach will be confirmed by the Parties in writing.

9.2.4. Upon notification of the breach in terms of clause 9.2.1, either of the Parties may immediately suspend services in terms of this Agreement until satisfactory resolution of the alleged breach is reached.

9.3. In the event no remedy is achieved, the Parties may either:

9.3.1. Agree to attempt mediation through the assistance of SASA or if appropriate, any other accredited alternative dispute resolution agency as may be agreed to by the Parties, or

9.3.2. Terminate the Agreement with immediate effect post the 20 business days period.

9.4. In the event that the FG and SASA terminate the SASA- FG Agreement, the FG undertakes to immediately notify the CSP.

9.5. This Agreement shall automatically terminate in the event that the SASA-FG Agreement should terminate.

10. Insurance/ Indemnity

The CSP shall, for the duration of this Agreement, undertake to take out, and at all times maintain, the applicable insurance/ indemnity with a reputable insurer, to protect its respective interests, against any potential risk and liabilities that may arise as a result of or in connection with professional services and/ or conduct.

11. Data Protection

11.1. Each Party is responsible for complying with its respective obligations under applicable privacy and data protection laws governing the collecting, processing, and sharing of personal information.

11.2. Each Party remains solely responsible for determining the purposes and means of processing of personal information under this Agreement, including that such processing will not place the other party in breach of any applicable privacy and data protection laws or stated requirements.

11.3. Each Party undertakes to implement measures to detect and/or prevent unauthorised access to its information technology systems and particularly in respect of protecting the integrity of and preventing unauthorised access to any Confidential Information belonging to the Disclosing Party that it has in its possession or under its control.

11.4. The Parties each acknowledge that either of them may, on reasonable notice, investigate the steps the other party is taking to comply with any applicable privacy anddata protection laws.

11.5. Each Party hereby indemnifies and holds harmless the other Party, its Affiliates and their respective staff, successors, cessionaries and assignees, from any and all losses, costs, expenses and damage, including consequential losses and damage as well as penalties and fines arising from the Party's non-compliance with the provisions of thisclause and any relevant data protection legislation.

11.6. The obligations contained in this clause shall endure, even after the termination of this Agreement for whatever reason.

12. Anti-Bribery and Anti-Corruption

12.1. The Parties warrant that for the duration of this Agreement, they will comply with all laws and regulations applicable in South Africa relating to the prevention and combating of bribery, corruption and money laundering ("**Anti-Corruption Laws**"). In particular, the Parties undertake not to:

12.2. pay, promise to pay or offer to pay, any commission, success fee, bribe, pay off or kickback related to the Agreement that violates any Anti-Corruption Regulations or enter into any agreement pursuant to which any such commission, success fee, bribe, pay off or kickback may, or will at any time, be paid; or

12.3. offer, promise or give any undue pecuniary or other advantage, whether directly or indirectly to any public official, with the intent of influencing the actions or decisions of such official in performance of his/her official duties, with the purpose of obtaining or retaining business or other improper benefit or advantage.

12.4. Any breach by either Party of the provisions of this clause will be a material breach of this Agreement and shall entitle either Party to cancel this Agreement immediately on notice to other Party.

13. General

13.1. **Whole Agreement**

13.1.1. This Agreement constitutes the whole of the Agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on any of the Parties.

13.1.2. This Agreement supersedes and replaces any and all agreements between the Parties

and undertakings given to or on behalf of the Parties in relation to the subject matter hereof.

13.2. **Variations to be in Writing**

No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Agreement will be of any force or effect unless in writing and signed by the Parties.

13.3. **No Indulgences**

No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this Agreement and no single or partial exercise of any right by any Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by that Party or operate as a waiver or a novation of or otherwise affect any of its rights in terms of or arising from this Agreement or estop or preclude it from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. Failure or delay on the part of any Party in exercising any right, power or privilege under this Agreement will not constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

13.4. **No Waiver or Suspension of Rights**

No waiver, suspension or postponement by any Party of any right arising out of or in connection with this Agreement shall be of any force or effect unless in writing and signed by such Party. Any such waiver, suspension or postponement will be effective only in the specific instance and for the purpose given.

13.5. **Compliance with Applicable Laws**

The Parties shall in respect of all matters arising from this Agreement comply with all Laws and requirements of their respective local or other authorities that are applicable to provisions of this Agreement, including obtaining and maintaining valid and applicable licences, permits and authorisations.

13.6. **Provisions Severable**

All provisions and the various clauses of this Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other.

Any provision or clause of this Agreement which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

13.7. **Relationship between the parties and independence of the parties**

13.7.1. Save as otherwise provided herein neither Party shall be entitled to bind the other Party to any obligation of any nature whatsoever or to incur any liability on behalf of the other Party, whether in contract or otherwise.

13.7.2. Both Parties agree to co-operate with each other in good faith towards achieving the objectives of this Agreement and will take all reasonable action to ensure that the terms and conditions of this Agreement are effectively executed, to enable both Parties to derive full benefit of this Agreement.

13.7.3. Nothing in this Agreement shall give either Party any exclusivity over the other Party.

13.8. **Confidentiality**

13.8.1. Notwithstanding the cancellation or termination of this Agreement, neither Party ("**Receiving Party**") shall, at any time after the conclusion of this Agreement, disclose to any person or use in any manner whatever the other Party's Confidential Information, provided that the Receiving Party may disclose the other Party's Confidential Information and the existence and contents of this Agreement -

13.8.1.1. to the extent required by law (other than in terms of a contractual obligation of the Receiving Party);

13.8.1.2. to, and permit the use thereof by, its employees, representatives and professional advisers to the extent strictly necessary for the purpose of implementing or enforcing this Agreement or obtaining professional advice or conducting its business, it being specifically agreed that any disclosure or use by any such employee, representative or adviser of such confidential or other

information for any other purpose shall constitute a breach of this clause by the Receiving Party; and

13.8.1.3. the provisions of this clause shall cease to apply to any Confidential Information of a Party which –

13.8.1.4. is or becomes generally available to the public other than as a result of abreach by the Receiving Party of its obligations in terms of this clause;

13.8.1.5. is also received by the Receiving Party from a third party who did not acquiresuch Confidential Information subject to any duty of confidentiality in favour of the other Party; or

13.8.1.6. was known to the Receiving Party prior to receiving it from the other Party.

13.9. **Continuing Effectiveness of Certain Provisions**

The expiration or termination of this Agreement shall not affect such provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

13.10. **No Assignment**

Neither this Agreement nor any part, share or interest herein nor any rights or obligations hereunder may be ceded, delegated or assigned by any Party without the prior signed written consent of the other Party, save as otherwise provided herein.

13.11. **Limitation of Liability**

13.11.1. The Parties hereby indemnify each other and hold each other harmless against all claims, damages, losses, costs and other liabilities howsoever directly orindirectly arising from or in connection with any breach of the provisions of this Agreement, unless caused as a result of any negligence, gross negligence, or wilfulmisconduct by the respective Party.

13.11.2. The Parties hereby warrant that the performance of the obligations in terms of this Agreement will not infringe the rights of any third party (including any

copyrightor other Intellectual Property right) and the Parties hereby indemnify each other and hold each other harmless against all losses, damages, actions, proceedings, liabilities and/or claims of any nature whatsoever and howsoever arising which may be suffered or incurred by or be made against the respective Party by reason of any breach of this warranty.

13.11.3. This clause shall survive the termination of this Agreement.

13.12. **Costs**

Except as otherwise specifically provided herein, each Party will bear and pay its own legal costs and expenses of and incidental to the negotiation, drafting, preparation and implementation of this Agreement.

14. Signature

14.1. This Agreement is signed by the Parties on the dates and at the places indicated below.

14.2. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the date of Signature of the Party last signing one of the counterparts.

14.3. The persons signing this Agreement in a representative capacity warrant their authority to do so.

14.4. The Parties record that it is not required for this Agreement to be valid and enforceable that a Party shall have its Signature of this Agreement verified by a witness.

15. Notices

15.1. The Parties choose as their *domicilia citandi et executandi* for all purposes under this Agreement the following physical addresses and in respect of notices or other documents or communications of whatsoever nature, the following addresses:

FG

Physical Address: _____

E-mail address: _____

Tel:_____

CSP

Physical Address: _____

E-mail address: _____

Tel:_____

15.2. Either Party shall be entitled from time to time, by giving written notice to the other, to vary its domicilium to any other address within the Republic of South Africa which is not a post office or *poste restante*.

15.3. Any notice given by either Party to the other ("**addressee**") which is delivered by hand between the hours of 09:00 and 17:00 on any Business Day to the addressee's physical *domicilium* for the time being shall be deemed to have been received by the addressee at the time of delivery.

15.4. Any notice given by either Party to the other which is successfully transmitted by electronic mail to the addressee's e-mail *domicilium* for the time being shall be deemed (unless the contrary is proved by the addressee) to have been received by the addressee on the day immediately succeeding the date of successful transmission thereof.

15.5. This clause shall not operate so as to invalidate the giving or receipt of any written notice which is actually received by the addressee other than by a method referred to in this clause.

15.6. Any notice in terms of or in connection with this Agreement shall be valid and effective only if in writing and if received or deemed to be received by the addressee.

15.7. This Agreement will in all respects be governed by and construed in accordance with the laws of the RSA.

15.8. The Parties consent and submit to the jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg and all appeal courts therefrom in any dispute arising from or in connection with this Agreement.

Declaration

We the undersigned, accept all terms and conditions as stipulated in this Agreement including all annexures to this document, as evidenced by our signatures on each page of this Agreement and at the end of each annexure.

Signed on _____ at _____

_____

On behalf of Clinical Services Provider

Name:_____
Designation:_____

_____

On behalf of _____

Name:_____
Designation:_____

Annexure A

The CSP agrees to provide the FG with verifiable proof of the following upon first signature of this agreement:

1. Certified copy of a valid identity document or passport.
2. Residential, postal and email addresses.
3. Contact details including office number, cellular telephone number and emergency contact number (if different from the aforementioned).
4. Health Professions Council of South Africa membership/ registration number and proof of up-to-date registration.
    4.1. If a particular qualification or sub speciality is not listed on the HPCSA website, confirmatory evidence of qualifications and licenses demonstrating the approved and registered scope of practice that may be performed by the applicant.
5. Relevant experience and qualifications and other information as may reasonably be requested including a CV and certified copies of qualifications not listed on the HPCSA website.
6. Declaration whether the CSP has been convicted of a crime (Criminal record) or the subject of any investigation or proceedings by any hospital, professional or regulatory body in South Africa or any other country that has either resulted in termination or suspension of practicing privileges or disqualified/ suspended the CSP from practice of his/ her profession or been required to practice subject to specific limitations.
7. Evidence of, and if limited in cover the amount of cover, of current professional indemnity or insurance and an undertaking to maintain such indemnity/ insurance while working in facilities owned or managed by the FG.
8. If employed by a provincial health department or other employer, provide evidence that the employer has approved CSP work in the facility aligned to the employer's regulations and contract of employment with the CSP.
9. Confirmation that the CSP nominates SASA as the professional society that the CSP nominates to participate in the administration of this Agreement, peer review should it be required, and represent the CSP's interests as it relates to practicing privileges and this agreement if required with the FG.

The CSP agrees to update the FG within 14 days of any changes to points 2,3,4,6,7,8 and 9.
As part of the FG's annual credentialing process, the CSP agrees to provide proof of professional indemnity/liability insurance cover, approval by the DOH to conduct RWOPS (where applicable) and proof of HPCSA registration if this is not available on the HPCSA iRegister or equivalent portal.

Initials of CSP signatory **Initials of FG signatory**