**Explanatory Notes**

These notes have been drawn up to accompany the template Rotation Agreement which has been developed for use by the employers of foundation trainee pharmacists (“Trainees”) with organisations offering to provide placements or “rotations” to their trainees. The use of the agreement is optional.

These notes are not intended to provide a comprehensive guide to the template Rotation Agreement. Instead, the notes are designed to signpost users to some of the key clauses in the agreement and to provide an explanation for the approach taken to some of the drafting.

**Context**

The template agreement is based on the standard placement agreement which was published with the NHS Education Funding Agreement 2024-27. The agreement may therefore be familiar to organisations which use/ have previously used the standard placement agreement. Users of the template may not be, and do not need to be, a party to an NHS Education Funding Agreement or the standard placement agreement in order to use the template.

**Business Days/ Business Hours**

Stakeholder feedback on the draft agreement included comments/ queries about the definitions of “Business Days” and “Business Hours,” with stakeholders noting that these days/ times may not reflect the days/ times during which the Trainees will be expected to attend their Rotations. However, the defined terms of “Business Days” and “Business Hours” are used in certain clauses of the agreement to stipulate timescales which need to be complied with. They do not relate to the days/ times for the Rotations. The days/ times at which a Trainee is expected to attend their Rotation should be agreed between the Rotation Provider and the Trainee and recorded in a separate agreement between the Rotation Provider and the Trainee. If the days or times of the Rotation are different to the terms of the contract between the Employer and the Trainee, the Employer may need to make some consequential changes to the Trainee’s employment contract to reflect these.

**Consideration**

In order for a contract to be legally enforceable, “something” (usually payment) needs to be given by the purchaser in return for the goods or services delivered by the provider under the contract. That “something” is known, legally, as “consideration”.

The Employer and the Rotation Provider may agree that the Employer will pay the Rotation Provider a fee (the “Charges”) for providing the training places for its Trainees, in which case the fee will be the consideration. However, there may be scenarios where the Employer and the Rotation Provider reach alternative arrangements e.g. a Trainee swap (see further under the heading of “payment” below). To ensure that there is consideration for the Services, even where no payment is being made, Clause 3.1 refers to the payment of the nominal sum of £1. The payment of a nominal sum as consideration is a legal construct and the sum does not actually need to be transferred between the parties. Where there is a substantive Charge for the Services, then reference to the £1 sum will be removed and payments will be made in accordance with the agreement reached between the Rotation Provider and the Employer.

**Term**

The agreement will commence on the “Commencement Date” (being the date agreed by the parties) and will continue in force until it is terminated. The reason for taking this approach is because feedback received from stakeholders in relation to the first draft of the template agreement was that they would not want to have to enter into a new agreement every 12 months, for example, to cover new Trainees. Drafting the agreement in this way also means that it can accommodate rotations of different lengths.

The parties will need to complete Schedule 2 to the agreement with the names of the Trainees who will be undertaking rotations, in what practice sector, the start and end date of each Trainee’s rotation. This Schedule may be updated by agreement of the parties, from time to time and as required, to include the names of any new Trainees (with any corresponding changes to Schedule 1 - Services and Milestones - and Schedule 3 – Payment, as agreed).

**Payment**

It will be for the parties to agree whether the Employer will pay the Rotation Provider a fee for providing rotations for the Trainees. If the Employer is going to pay a fee to the Rotation Provider, details of the amount of the fee and the timing of payments will need to be set out in Schedule 3.

The parties may agree other arrangements (instead of payment), such as agreeing to provide Rotations for each other’s Trainees to facilitate cross-sector training and partnership working. Details of any such arrangements should also be set out in Schedule 3.

**Meetings and Review**

Clause 8 requires the parties to work together to ensure that, for example, they meet the requirements of NHS England and other regulators, provide support to the Trainees, engage with any required quality assurance processes and monitor the progress of the Trainees. The Clause does not prescribe a particular frequency for meetings or a specific process for dealing with any concerns, noting that the rotations that may be covered by the agreement will vary in length and so what will be appropriate for one agreement may not be for another. The parties may agree a specific schedule for meetings or action plan process, as required.

**Management Issues**

During a rotation, the Rotation Provider will have day-to-day control of the Trainee’s activities, but the Trainee will remain employed by the Employer and the Employer will continue to be responsible for dealing with any “Management Issues" relating to the Trainee. This is dealt with in Clause 9, which also sets out how any disciplinary and fitness to practise issues are to be dealt with.

**Leave**

Clause 10 deals with notification requirements for leave. A Trainee will continue to notify its Employer where it needs to take any sick leave, with the Employer notifying the Rotation Provider. The Rotation Provider may agree with the Trainees that they will notify the Rotation Provider directly, in addition to notifying their Employer.

**Liability and Insurance**

Clause 13 sets out requirements regarding insurance. Many rotation providers (such as GPs, community pharmacy providers and FTs/ Trusts) will already have in place insurance for matters such as clinical negligence, public liability and employers’ liability.

Clause 14 contains a set of reciprocal indemnities whereby the Employer and the Rotation Provider each agree to indemnify the other party where that party suffers loss as a result of the first party’s negligence, act, omission or breach of the Rotation Agreement.

Clause 14.2 reflects the fact that the Rotation Provider is responsible for the delivery of the training and should have in place appropriate insurance to cover any loss occasioned through its failure to supervise. In the event of a claim being made against the Employer (for example asserting vicarious liability for the action of their Trainee under your supervision), this clause is designed to protect the Employer.

**Data**

Both parties will want to ensure that their privacy policies reflect the fact that they will be processing, and sharing, data about the Trainees.

**Termination**

Clause 15.1 enables the Rotation Agreement to be terminated at any time by agreement of the parties.

If the parties have agreed rotations but:

* the Employer no longer requires the rotations for some or all of its Trainees; or
* the Rotation Provider no longer wishes to, or is no longer able to, provide rotations for some or all of the Trainees,

the relevant party is required to notify the other party at least three months prior to the commencement of the relevant rotations.

The agreement also contains termination rights for certain breaches, financial reasons etc. There is also a right to terminate the agreement in respect of a particular rotation, if a Trainee leaves the Employer’s employment or notifies the Employer that it does not wish to continue with a rotation.

It should be noted that the agreement does not deal with the repayment of a portion of any fees, in the event that the agreement is terminated in respect of some or all of the Trainees. If this may be required, this should be dealt with in Schedule 3.