



Terms and conditions
for inbound
internships

Prepared by Hall & Wilcox

Prepared on 17 December 2008

Terms and conditions for inbound internships

Contents

1.	Term of the agreement	5
1.1	Commencement of the agreement	5
1.2	Termination of the agreement	5
2.	Introductory service	5
2.1	Application form confirmation	5
2.2	Facilitation of internship	6
2.3	Internship particulars	6
2.4	Confirmation of internship particulars	6
2.5	Failure to agree	7
2.6	Termination in certain circumstances	7
2.7	Failure to facilitate	7
3.	Payment	7
3.1	Deposit	7
3.2	Non-refundable deposit	7
3.3	Final payment and accommodation rental	8
3.4	Visa application fee acknowledgement	8
3.5	Refund of visa application fee	8
3.6	Bank fees	8
4.	416 Visa application	9
4.1	Application of this clause	9
4.2	Intern's endeavours	9
4.3	Professional Pathways Australia's involvement	9
4.4	Provision of 416 Visa	9
4.5	Projected date of visa approval	9
4.6	No undertakings as to obtaining visa	9
4.7	Termination for want of visa	9
4.8	Retention of moneys	9
4.9	Act acknowledgement	10
5.	Accommodation service	10
5.1	Accommodation service	10
5.2	Payment for accommodation	10
5.3	Standard of accommodation	10
5.4	Shared house	10
5.5	Shared room	11
5.6	Accommodation location	11
5.7	Homestay accommodation	11
5.8	Change of accommodation	11
5.9	Additional fees	11
5.10	Termination of tenancy	11
5.11	Liability of Professional Pathways Australia	11

6.	Insurance	12
6.1	Intern to obtain travel insurance	12
6.2	Intern to provide evidence	12
6.3	Insurance policy to Professional Pathways Australia's satisfaction	12
6.4	Internship about to commence	12
7.	Intern's obligations and responsibilities	12
7.1	Intern's obligations	12
7.2	Intern's responsibilities	13
8.	Cancellations by Interns	13
8.1	Cancellation prior to internship agreement date	13
8.2	Cancellation by intern after internship agreement date	13
8.3	Cancellation after internship commencement date	13
8.4	Intern's acknowledgment	13
9.	Cancellation of internship by host company	14
9.1	Professional Pathways Australia	14
9.2	No fault of intern	14
9.3	Pro rata refund	14
9.4	Professional Pathways Australia assistance	14
10.	Rights of intern	14
10.1	Allegations by intern	14
10.2	Professional Pathways Australia to investigate	15
10.3	Professional Pathways Australia's determinations	15
10.4	Agreement of intern	15
10.5	Termination of internship	15
10.6	Right to repayment	15
11.	Termination	15
11.1	Professional Pathways Australia's right to terminate	15
11.2	Intern's right to terminate	16
11.3	Automatic termination	16
11.4	Effect of termination	16
11.5	Intern's acknowledgment	17
12.	Indemnity	17
13.	Exclusion of liability	17
14.	Intern's warranty	17
15.	Internship not employment	17
16.	Partnership assistance	18

17.	Entire agreement	18
18.	Force majeure	18
18.1	Force majeure	18
18.2	Termination for force majeure	18
18.3	Obligation to pay money	18
19.	Governing law and jurisdiction	18
19.1	Governing law	18
19.2	Jurisdiction	18
20.	Inconsistency	19
20.1	Documents forming the entire agreement	19
20.2	Order of interpretation	19
20.3	Special conditions	19
21.	Notices	19
21.1	General	19
21.2	When effective	19
21.3	Addresses for notices	20
21.4	Requirements for electronic messages	20
22.	Relationship between parties	20
23.	Rights, powers and remedies cumulative	20
24.	Severability	20
25.	Time of the essence	21
26.	Waiver	21
26.1	No waiver	21
26.2	Waiver must be in writing	21
27.	Deemed acceptance by the Intern	21
28.	Definitions and interpretation	21
28.1	Definitions	21
28.2	Interpretation	24
	Schedule 1 - Internship particulars	26

Terms and conditions for inbound internships

Parties

Professional Pathways Australia ACN 064 031 714 of
Level 11, 190 Queen Street, Melbourne, Victoria, Australia 3000.

The intern whose details are specified in the application form (intern)

The parties agree:

1. Term of the agreement

1.1 *Commencement of the agreement*

This agreement will commence when Professional Pathways Australia receives from the intern a completed application form under clause a.

1.2 *Termination of the agreement*

This agreement will end on the internship termination date or as otherwise terminated in accordance with the provisions of this agreement.

2. Introductory service

2.1 *Application form confirmation*

a. To be considered for an internship, a candidate must submit:

- i. an application form to Professional Pathways Australia
- ii. Curriculum Vitae (CV) and motivation letter
- iii. documentary evidence to Professional Pathways Australia's satisfaction that:
 - the intern holds a visa (unless the Intern states where required in the application form that he or she does not have a Visa)
 - the intern has sufficient funds to cover all living and travel expenses (including payment of a return airfare to the intern's country of residence) for the estimated internship period.

b. Professional Pathways Australia will request amendments or additional information (including academic records which the application form

requires the intern to submit) to the application form or documentation sent to it by the intern under clause a.

- c. If any amendments and/or additional information is required, Professional Pathways Australia will notify the Intern within 10 business days of Professional Pathways Australia receiving the application form and documentation from the intern under clause a.
- d. The intern must make any amendments and/ or provide any additional information sought by Professional Pathways Australia under clause 2.1c.
- e. Professional Pathways Australia will notify the intern when it deems that the application form is satisfactorily completed and all information required under the application form has been provided.
- f. At any time following the commencement of this agreement and prior to Professional Pathways Australia giving the intern a notice under clause 2.1e, Professional Pathways Australia may terminate this agreement by giving notice to the intern and thereafter will not be under any obligation to further consider or process any application form provided to it by the intern.

2.2 *Facilitation of Internship*

Subject to clause 2.6, Professional Pathways Australia must use reasonable endeavours to facilitate the Internship in accordance with the application form within 90 business days of providing the notice under clause 2.1e.

2.3 *Internship Particulars*

Professional Pathways Australia will, if its endeavours to facilitate the internship under clause 2.2 so permit, provide the intern with proposed internship particulars and the parties will use best endeavours to agree to the internship particulars within 20 business days of receipt of the proposed internship particulars by the intern.

2.4 *Confirmation of internship particulars*

- a. Upon agreement being reached under clause 2.3, Professional Pathways Australia will complete and provide two copies of the internship particulars to the intern
- b. Within two business days of receipt of the internship particulars, the intern must sign and return both copies of the internship particulars to Professional Pathways Australia
- c. Within ten business days of Professional Pathways Australia receiving internship particulars signed by the intern, Professional Pathways Australia will execute, date and provide to the intern an original internship particulars as signed by the parties.

2.5 *Failure to agree*

- a. Subject to clause 2.5 b, if the parties are unable to reach agreement in the time provided in clause 2.3 regarding the contents of the internship particulars, then either party may terminate this agreement
- b. The intern acknowledges that if he or she does not agree with the terms of the internship particulars that are materially consistent with the application form, this agreement will terminate and Professional Pathways Australia will retain the non-refundable deposit.

2.6 *Termination in certain circumstances*

If the intern does not accept more than two proposed internships as set out in documents provided to the intern under clause 2.3, or if in the course of facilitating the internship under clause 2.2 the intern is not accepted for an internship by more than two prospective host companies (and whether the intern is interviewed by such prospective host companies or not), Professional Pathways Australia may terminate this agreement by giving notice to the intern.

2.7 *Failure to facilitate*

If Professional Pathways Australia cannot facilitate the internship within the time provided in clause 2.2, this agreement will automatically terminate unless extended by mutual agreement. If this agreement terminates under clauses 2.6 or 2.7, Professional Pathways Australia will retain the non-refundable deposit.

3. **Payment**

3.1 *Deposit*

The intern must pay to Professional Pathways Australia within five business days of receiving from Professional Pathways Australia the notification in clause 2.1e:

- a. the deposit
- b. if the intern requires a 416 Visa in accordance with clause 4 of this agreement, the visa application fee.

3.2 *Non-refundable deposit*

In no event will the non-refundable deposit be repayable by Professional Pathways Australia to the intern. The intern acknowledges that the non-refundable deposit is a valid estimation of costs incurred and work undertaken by Professional Pathways Australia under the introductory service provided by Professional Pathways Australia from the commencement of this agreement until its termination.

3.3 *Final payment and accommodation rental*

The intern must pay Professional Pathways Australia:

- a. the final payment
- b. the accommodation rental,

on or before the date noted in the internship particulars.

3.4 *Visa application fee acknowledgement*

The intern acknowledges that:

- a. the visa application fee represents a fee payable by the intern to DIAC in conjunction with an application to DIAC for a 416 Visa which is non refundable by DIAC
- b. nothing in this agreement requires the intern to pay Professional Pathways Australia any amount, fee or reward for Professional Pathways Australia:
 - i. giving any immigration assistance
 - ii. making immigration representations within the meaning of section 282 (4) of the Act.
- c. Professional Pathways Australia is not required to hold the visa application fee once received from the intern in trust, and may combine these funds with any other funds or money.

3.5 *Refund of Visa application fee*

- a. In no event will the visa application fee be repayable by Professional Pathways Australia to the intern after the amount paid for the visa application fee has been sent by Professional Pathways Australia to DIAC in accordance with clause 4.4
- b. If this agreement is terminated before the amount paid for the visa application fee has been sent to DIAC by Professional Pathways Australia, Professional Pathways Australia will reimburse the intern for the amount it has received from the intern in respect of the visa application fee.

3.6 *Bank fees*

The intern shall bear the cost of any bank fees or charges in relation to any payments provided for in this clause 3. If any of these charges are levied on Professional Pathways Australia, Professional Pathways Australia will invoice the intern for these amounts.

4. 416 Visa application

4.1 *Application of this clause*

This clause 4 will only apply to this agreement if the intern does not hold a Visa and has stated this where required in the application form.

4.2 *Intern's endeavours*

The intern must use best endeavours to obtain a 416 Visa including attending all interviews, (including telephone interviews), signing all forms and documents, and providing all photos and doing all matters and things that are reasonably necessary in order to obtain a 416 Visa, provided that the Intern:

- a. is not required in any circumstances to perform Professional Pathways Australia's obligations under clause 4.4
- b. will not be in breach of its obligations under this clause arising from any failure of Professional Pathways Australia to perform its obligations under clause 4.4.

4.3 *Professional Pathways Australia's involvement*

Professional Pathways Australia may undertake, where it reasonably deems appropriate, any clerical work, translation or interpretation services in relation to the intern's application to DIAC for a 416 Visa.

4.4 *Provision of 416 Visa*

Once completed, Professional Pathways Australia will send to DIAC the intern's application for a 416 Visa together with the visa application fee.

4.5 *Projected date of visa approval*

The projected date of approval is an estimated date only and Professional Pathways Australia makes no representations, undertakings or warranties that the intern will obtain a 416 Visa on or before this date.

4.6 *No undertakings as to obtaining visa*

- a. Professional Pathways Australia makes no representations, warranties or undertakings that the intern will be able to obtain a 416 Visa
- b. Professional Pathways Australia is not liable to the intern if the intern is unable to obtain a 416 Visa.

4.7 *Termination for want of visa*

If the intern is unable to obtain a 416 Visa by the projected date of approval, either party may terminate this agreement by giving notice to the other.

4.8 *Retention of moneys*

If this agreement is terminated in accordance with clause 4.7, Professional Pathways Australia will retain the non-refundable deposit and will refund:

- a. the balance of the deposit and the final payment to the intern
- b. the accommodation rental
- c. the visa application fee if clause 3.5 b applies.

4.9 *Act acknowledgement*

The parties acknowledge that:

- a. Professional Pathways Australia is not a Registered Migration Agent
- b. Professional Pathways Australia is prohibited under the Act from giving immigration assistance to the intern
- c. nothing in this agreement requires Professional Pathways Australia to give the intern any immigration assistance.

5. **Accommodation service**

5.1 *Accommodation service*

Following the internship agreement date, Professional Pathways Australia must use reasonable endeavours to arrange the accommodation in respect of the internship.

5.2 *Payment for accommodation*

All rental payments other than the accommodation rental will be made by the intern as directed by Professional Pathways Australia or the accommodation's landlord.

5.3 *Standard of accommodation*

The standard of the accommodation will be in accordance with the usual standards of basic student accommodation in the country noted in Australia unless item 13 notes otherwise.

5.4 *Shared house*

The intern acknowledges if the internship particulars notes that the accommodation is a shared house, that such arrangement may include any of the following:

- a. sharing with one or more persons of any nationality or gender
- b. sharing with a couple
- c. sharing with other travellers/ interns.

- 5.5 *Shared room*
The intern acknowledges that if the internship particulars notes that the accommodation is a shared room arrangement, such arrangement may include two beds or more in one room depending upon the accommodation provided.
- 5.6 *Accommodation location*
Professional Pathways Australia must use best endeavours to procure that the accommodation is not located more than one and a half hours (by public transport) from the host company.
- 5.7 *Homestay accommodation*
If item 15 notes the accommodation is Homestay accommodation, the intern acknowledges that the standard of this accommodation will be in accordance with the usual standards of student household accommodation in Australia.
- 5.8 *Change of accommodation*
Save for in the circumstances set out in clause 5.10, the intern must give a minimum of notice to Professional Pathways Australia to change accommodation as noted in item 16 of the internship particulars, failing which the intern will forego any rentals or monies paid which are referable to this notice period. In no event will the intern be entitled to a refund of the accommodation rental.
- 5.9 *Additional fees*
The intern acknowledges that the landlord of the accommodation may require payment in addition to rental for cleaning, linen, security keys, bond or other items the payment for which will be the responsibility of the intern. The intern will be directly liable to the landlord for any damage to the accommodation arising from any act or omission of the intern.
- 5.10 *Termination of tenancy*
Unless otherwise agreed by Professional Pathways Australia, if the intern wishes to change the accommodation, he/ she will be responsible for making all arrangements for this change (including but not limited to complying with all his/ her obligations to the accommodation's landlord and finding new accommodation).
- 5.11 *Liability of Professional Pathways Australia*
- a. Professional Pathways Australia makes no representations, warranties or undertakings as to the condition or state of the accommodation.
 - b. in no event is Professional Pathways Australia liable to the intern arising from the termination of any tenancy agreement regarding the accommodation or as a result of the state or condition of the accommodation or any death, injury or loss suffered or incurred by the intern in relation to the accommodation by whatever reason or cause.

6. Insurance

6.1 *Intern to obtain travel insurance*

An intern must obtain comprehensive travel insurance, which policy must insure the intern on an indemnity basis for death and personal injury, physical or mental illness, public liability for an amount regarding any one event of not less than \$2 million, hospital cover, and transportation to the Intern's country of residence.

6.2 *Intern to provide evidence*

No less than ten business days prior to the internship commencement date, the intern must provide to Professional Pathways Australia a certificate of currency or other evidence Professional Pathways Australia reasonably deems acceptable in relation to the insurance requirements of clause 6.1.

6.3 *Insurance policy to Professional Pathways Australia's satisfaction*

The travel insurance obtained by the intern under clause 6.1 must be to Professional Pathways Australia's reasonable satisfaction (including with an insurer which Professional Pathways Australia reasonably approves). If Professional Pathways Australia notifies the intern it is not reasonably satisfied with the insurance policy, the intern must immediately obtain an insurance policy to Professional Pathways Australia's reasonable satisfaction.

6.4 *Internship about to commence*

The intern acknowledges that the internship will not commence until such time as the intern has complied with its obligations under clauses 6.1 to 6.3.

7. Intern's obligations and responsibilities

7.1 *Intern's obligations*

The intern must:

- a. attend any and all interviews, including telephone interviews, arranged by the Professional Pathways Australia or its agents in respect of the internship or otherwise
- b. attend the offices of the host company in relation to the internship in accordance with and at the times and days as noted in the internship particulars or as otherwise directed and comply with all rules, policies, instructions and requirements of the host company
- c. observe and respect Australian culture and comply with all laws and regulations of Australia (including but not limited to all laws in relation to the Visa or the 416 Visa)
- d. abide by all rules, policies and regulations of the landlord or manager of the accommodation

- e. if the internship particulars in item 17 note the intern will undertake training or provide services in a workplace, the intern will perform this training or provide these services in the workplace at a high standard and with all due skill, care and attention with regard to the level of knowledge, experience or education the intern has represented to Professional Pathways Australia he or she possesses.

7.2 *Intern's responsibilities*

Notwithstanding the intern's obligations under clause 2.1 a. ii, the intern is responsible and liable for:

- a. payment of a return airfare to the intern's country of residence and all other transport costs to, from and within Australia
- b. all health and medical expenses incurred by the intern (and whether the intern is entitled to be indemnified under any insurance policies the intern is required to take out under clause 6.1)
- c. all living expenses for the duration of the intern's stay in Australia (including, but not limited to, the internship period).

8. Cancellations by interns

8.1 *Cancellation prior to internship agreement date*

Prior to the internship agreement date, the intern may give notice to Professional Pathways Australia cancelling the internship. Professional Pathways Australia will retain the non-refundable deposit.

8.2 *Cancellation by intern after internship agreement date*

Should the intern cancel the internship after the internship agreement date and prior to the internship commencement date full fees are payable to Professional Pathways Australia, as are set out in the internship particulars.

8.3 *Cancellation after internship commencement date*

Should the intern cancel the internship on or after the internship commencement date Professional Pathways Australia will be entitled to retain all payments made by the intern under clause 3 of this agreement.

8.4 *Intern's acknowledgment*

The intern acknowledges that the amounts Professional Pathways Australia is entitled to retain for cancellation of the internship under this clause 8 constitutes a valid pre-estimate of costs incurred and services rendered by Professional Pathways Australia up to the date of cancellation.

9. Cancellation of internship by host company

9.1 *Professional Pathways Australia*

Subject to clause 9.4, if the host company cancels the internship prior to the internship termination date due to or alleging fault by the intern, the internship will be deemed completed and Professional Pathways Australia will be entitled to retain all monies paid to it by the intern under clause 3.

9.2 *No fault of intern*

If the internship is cancelled by the host company prior to the internship termination date other than in the circumstances of clause 9.1, Professional Pathways Australia will, subject to DIAC approval (if required) to the variation or provision of a new visa or 416 Visa, use its best endeavours to find a substitute internship subject to the agreement of the intern to the substituted arrangements, where after clauses 10.4 and 10.5 of this agreement will apply.

9.3 *Pro rata refund*

If the agreement is terminated under clause 9.2, the intern will be entitled to a pro rata repayment of a percentage of the final payment minus the non-refundable visa application fee equal to the percentage of the remaining internship period as at the date of termination.

9.4 *Professional Pathways Australia assistance*

If the host company cancels the internship under clause 9.1, subject to DIAC approval (if required) to the variation or provision of a new visa or 416 Visa, Professional Pathways Australia may arrange for a substitute internship for the benefit of the intern which if agreed to by the intern, will be deemed to constitute a continuance of the internship and the internship particulars will be amended accordingly to reflect these arrangements.

10. Rights of intern

10.1 *Allegations by intern*

In the event that the intern alleges during the course of the internship that:

- a. he/ she is the victim of any sexual harassment, bullying, racial or religious vilification
- b. the host company substantially fails to provide the internship as noted in the internship particulars
- c. the language spoken at the offices of the host company is not the language as noted in the internship particulars
- d. if the internship particulars notes the internship is to be remunerated and the intern has not been paid for a period exceeding seven days from when such money is due and payable then, the intern will notify Professional Pathways Australia by providing a detailed written statement of the

allegations of any of the events referred to in clauses 10.1a to 10.1d above.

10.2 *Professional Pathways Australia to investigate*

Professional Pathways Australia must use best endeavours to investigate the intern's allegations referred to in clause 10.1. The intern acknowledges that Professional Pathways Australia is at liberty to make inquiries of any appropriate persons or parties including the host company. The intern will cooperate and make himself/ herself available in the process of Professional Pathways Australia's investigations.

10.3 *Professional Pathways Australia's determinations*

In the event Professional Pathways Australia reasonably determines that the intern's allegations in clause 10.1 are made out and satisfy the requirements of this clause, Professional Pathways Australia shall notify the intern that the internship has concluded where after Professional Pathways Australia will use best endeavours to facilitate a substitute internship subject to the agreement of the intern to the substitute arrangements.

10.4 *Agreement of intern*

In the event that the intern agrees to the substituted arrangements in clause 10.3, these arrangements will be deemed to constitute a continuance of the internship and the internship particulars shall be amended accordingly to reflect these arrangements.

10.5 *Termination of Internship*

In the event that a substituted internship cannot be agreed under clause 10.3, the parties agree that this agreement will terminate.

10.6 *Right to repayment*

If this agreement is terminated under clause 10.5, the intern will be entitled to a refund of all monies paid to Professional Pathways Australia under clause 3, save the non-refundable deposit and the visa application fee.

11. Termination

11.1 *Professional Pathways Australia's right to terminate*

In addition to any other rights of termination granted to Professional Pathways Australia under this agreement, Professional Pathways Australia may terminate this agreement, with immediate effect, by giving notice to the intern at any time if:

- a. the intern breaches this agreement and the breach is not capable of remedy
- b. the intern breaches this agreement and the breach is capable of remedy but the intern fails to remedy the breach within ten business days of the date of written notice of the breach from the intern

- c. the intern is subject to an insolvency event
- d. the intern fails to make payments on or before the due date of any payments provided for in clause 3
- e. the intern fails to provide Professional Pathways Australia with evidence of insurance in accordance with clause 6.2 before the date provided for in that clause
- f. the intern breaches the warranty contained in clause 13.

11.2 *Intern's right to terminate*

In addition to any other rights of termination granted to the intern under this agreement, the intern may terminate this agreement by giving notice to Professional Pathways Australia at any time if:

- a. Professional Pathways Australia breaches this agreement and the breach is not capable of remedy
- b. Professional Pathways Australia breaches this agreement and the breach is capable of remedy but Professional Pathways Australia fails to remedy the breach within ten business days of the date of written notice of the breach from the intern
- c. Professional Pathways Australia is subject to an insolvency event.

11.3 *Automatic termination*

The agreement will automatically terminate:

- a. upon the expiry of any period of notice of cancellation of the internship given by the intern under clause 8
- b. if the host company cancels the internship under clause 9.1.

11.4 *Effect of termination*

- a. If this agreement is terminated, then in addition to any other rights or remedies provided for by law each party is released from its obligations under this agreement, other than in relation to any obligations intended to survive the termination of this agreement
- b. Each party retains any rights, entitlements or remedies it has accrued before termination
- c. If this agreement is terminated for whatever reason or cause, under no circumstances will Professional Pathways Australia be liable to the intern for any losses, costs or inconvenience suffered or incurred by the intern

arising from such termination, including but not limited to, any return airfares

- d. If Professional Pathways Australia terminates this agreement under clause 11.1, Professional Pathways Australia will be entitled to retain all monies paid by the intern under clause 3 up to the date of termination.

11.5 *Intern's acknowledgment*

The intern acknowledges the amounts Professional Pathways Australia is entitled to retain under clause 11.4d constitute a valid pre-estimate of the costs incurred and services rendered by Professional Pathways Australia up to the date of termination of the agreement by Professional Pathways Australia under clause 11.1.

12. **Indemnity**

The intern indemnifies Professional Pathways Australia in respect of any claim, action, proceeding, judgment or demand made or brought by or against Professional Pathways Australia or in respect of any loss, liability, cost expense, damage, charge or penalty suffered by Professional Pathways Australia arising out of:

- a. any action or omission by the intern
 - b. any breach of the terms of this agreement by the intern
 - c. the internship.
-

13. **Exclusion of liability**

Save for rights of refunds of payments made by the intern under clause 3 as provided for in this agreement, Professional Pathways Australia, to the fullest extent permissible by law, excludes all and any of its liability to the intern (including but not limited to indirect or consequential loss) and whether under this agreement or otherwise.

14. **Intern's warranty**

The intern warrants that any and all information, statements and representations made by the intern to Professional Pathways Australia under this agreement (and whether contained in the application form or otherwise) will be accurate, correct, true, complete and not misleading or deceptive or likely to mislead or deceive.

15. **Internship not employment**

Unless stated to the contrary in the internship particulars, the relationship between the intern and the host company will not be deemed to be one of employment.

16. Partnership assistance

The intern acknowledges that Professional Pathways Australia may sub-contract or arrange for an affiliate or business partner to assist it or perform any of the services or any of Professional Pathways Australia's obligations under this agreement, provided always that such arrangements will not diminish Professional Pathways Australia's obligations to the intern or adversely affect any of the rights of the intern under this agreement.

17. Entire agreement

This agreement constitutes the entire agreement between the parties about its subject matter and supersedes all previous communications, representations, understandings or agreements between the parties on the subject matter.

18. Force majeure

18.1 *Force majeure*

Subject to clause 18.3, a party will not be liable for any failure or delay to perform its obligations under this agreement if that failure or delay is due to circumstances beyond that party's reasonable control.

18.2 *Termination for force majeure*

If that delay or failure to perform exceeds ten business days, a party may immediately terminate this agreement by written notice to the other party.

18.3 *Obligation to pay money*

This clause 18 does not relieve or suspend a party's obligation to pay money.

19. Governing law and jurisdiction

19.1 *Governing law*

This agreement is governed by the law in force in the state of Victoria, Australia.

19.2 *Jurisdiction*

The parties submit to the non exclusive jurisdiction of courts of the state of Victoria and any courts that may hear appeals from those courts about any proceedings in connection with this agreement.

20. Inconsistency

20.1 *Documents forming the entire agreement*

The entire agreement between the parties is comprised of the following documents:

- a. the internship particulars
- b. the terms and conditions
- c. the application form.

20.2 *Order of interpretation*

If there is any inconsistency between the documents forming part of or contemplated by the entire agreement between the parties, then the provisions should be read in order of the following priority and interpreted as follows:

- a. the provisions of the internship particulars prevail to the extent of the inconsistency
- b. if the inconsistency is between the terms and conditions and the application form, the provisions of the terms and conditions will prevail to the extent of the inconsistency.

20.3 *Special conditions*

Without derogating from the generality of clause 20.2, any special conditions which relate to the internship will be contained in item 18 of the internship particulars.

21. Notices

21.1 *General*

Subject to clause 21.4, unless this agreement expressly states otherwise, a notice, consent, approval, waiver or other communication (*notice*) in connection with this agreement must be in writing and signed by the sender or a person authorised by the sender. A notice may be given by hand delivery, prepaid post, facsimile or by electronic message to the recipient's current address for service for notices as set out in this agreement or as amended by notice from time to time.

21.2 *When effective*

A notice given under clause 21.1 will be deemed to be received:

- a. if hand delivered, at the time of delivery

- b. if sent by pre-paid post, three business days after the date of posting or seven business days after the date of posting if posted to or from a place outside Australia
- c. if sent by facsimile, when the sender's fax machine produces a report confirming the successful transmission of the entire notice including the relevant number of pages and the correct destination fax machine number or name of recipient
- d. if sent by electronic message, when the sender receives an automated message confirming delivery or eight hours after the message has been sent (as recorded on the device from which the sender sent the message) unless the sender receives an automated message that the electronic message was not delivered or the sender knows or reasonably should know that there is a network failure and accordingly knows or suspects that the electronic message was not delivered,

unless a notice is received after 5.00 pm on a business day in the place of receipt or at any time on a non business day, in which case, that notice is deemed to have been received at 9.00 am on the next business day.

21.3 *Addresses for notices*

The addresses and details for delivery of notices are noted in the internship particulars.

21.4 *Requirements for electronic messages*

A sender is not required to sign a notice in the form of an electronic message unless this agreement otherwise provides.

22. **Relationship between parties**

This agreement does not create a relationship of employment, agency, partnership or joint venture between the parties.

23. **Rights, powers and remedies cumulative**

The rights, powers and remedies given in this agreement are in addition to other rights, powers and remedies given by law independently of this agreement.

24. **Severability**

If any provision of this agreement is void, voidable by a party, unenforceable, invalid or illegal and would not be so if a word or words were omitted, then that word or those words are to be severed and if this cannot be done, the entire provision is to be severed from this agreement without affecting the validity or enforceability of the remaining provisions of this agreement.

25. **Time of the essence**
Time is of the essence in this agreement.

26. **Waiver**

26.1 *No waiver*
No failure to exercise or delay in exercising any right given by or under this agreement to a party constitutes a waiver and the party may still exercise that right in the future.

26.2 *Waiver must be in writing*
Waiver of any provision of this agreement or a right created under it must be in writing signed by the party giving the waiver and is only effective to the extent set out in that written waiver.

27. **Deemed acceptance by the intern**
The intern is deemed to have accepted these terms and conditions by paying the deposit and providing to Professional Pathways Australia the completed application form.

28. **Definitions and interpretation**

28.1 *Definitions*

In this agreement:

416 Visa	a 416.222(b) special programs visa pursuant to the <i>Migration Regulations 1994</i> (Cth)
Accommodation	the accommodation as noted in item 6 of the internship particulars
Accommodation rental	the rental payable by the intern for the accommodation for the initial period noted in item 12 of the internship particulars
Accommodation service	the service of Professional Pathways Australia procuring accommodation for the intern in relation to the internship as set out in clause 5
Act	the <i>Migration Act 1958</i> (Cth)
Agreement	the agreement between Professional Pathways Australia and the intern being made up of the application form, these Terms and Conditions and the internship particulars

Application form	the application form for internship to be completed by a prospective intern to which this agreement is linked on the website
Business day	a day that is not a Saturday, Sunday or public holiday in Melbourne, Australia
Deposit	the deposit noted in the application form
DIAC	the Department of Immigration and Citizenship of the Commonwealth Government of Australia
Final payment	final payment as noted in item 4 of the internship particulars
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and associated legislation as amended from time to time and words and expressions defined in the GST Act and used in this agreement have the meanings given to them in the GST Act
Homestay accommodation	the intern being accommodated in a household with members of that household in the country noted in item 13 of the internship particulars
Host company	the person or entity noted in the internship particulars with whom the Intern shall undertake the internship
Immigration assistance	has the meaning as is defined in section 276 of the Act
Insolvency event	in relation to a body corporate, a liquidation or winding up, the appointment of a controller, administrator, receiver, manager or similar insolvency administrator to a party or any substantial part of its assets or the entering into a scheme or arrangement with creditors or, in relation to an individual, becoming bankrupt or entering into a scheme or arrangement with creditors, or in relation to a body corporate or an individual, the occurrence of any event that has a substantially similar effect to any of the above events
Internship	industry or work related experience to be undertaken by the Intern in Australia, initially as stated in the application form and thereafter as noted in any agreed internship particulars as evidenced under clause 2.4b
Internship	the date as determined under clause 2.4c on which

agreement date	Professional Pathways Australia dates the particulars of the internship
Internship commencement date	the date the Internship commences as noted in the internship particulars
Internship particulars	the proposed particulars provided by Professional Pathways Australia to the intern in the form as set out in Schedule 1 and thereafter, as, and if agreed, under clause 2.3
Internship period	the period commencing on the internship commencement date and ending on the internship termination date
Internship termination date	the date that the internship terminates as noted in the internship particulars
Introductory service	the processing of an application form as completed by an intern under clause 2.1 and facilitation (and attempts to facilitate) by Professional Pathways Australia of an internship with a workplace as is further set out in clause 2
Non-refundable deposit	that part of the deposit as noted as being a non-refundable deposit in the application form
Visa application fee	the fee noted in item 5 of the internship particulars payable by an applicant to DIAC in order to obtain a 416 Visa
Professional Pathways Australia	a business unit of Monash College Pty Ltd ABN 64 064 031 714 of level 11, 190 Queen Street, Melbourne, Victoria, Australia 3000
Projected date of approval	the projected date of approval noted in the internship particulars, being the projected date upon which the Intern will obtain a 416 Visa
Registered migration agent	an individual registered as a migration agent under section 286 of the Act
Services	the introductory service and accommodation service
Terms and conditions	the terms and conditions of the internship as set out in this document
Visa	any and all visas, permits, immigration approvals or the

like (other than a 416 Visa) which permits the intern to undertake the internship in Australia

Website means Professional Pathways Australia's website at www.professionalpathwaysaustralia.com.au

28.2 *Interpretation*

In this agreement, headings are inserted for convenience only and do not affect the interpretation of this agreement and unless the context otherwise requires:

- a. the singular includes the plural and vice versa
- b. a gender includes the other gender
- c. if a word or phrase is defined, its other grammatical forms have a corresponding meaning
- d. the meaning of general words is not limited by specific examples introduced by 'includes', 'including', 'for example', 'such as' or similar expressions
- e. a reference to a document or instrument, including this agreement, includes all of its clauses, paragraphs, recitals, parts, schedules and annexures and includes the document or instrument as amended, varied, novated, supplemented or replaced from time to time
- f. a reference to a statute, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them
- g. a party includes the party's successors and permitted transferees and assigns and if a party is an individual, includes executors and personal legal representatives
- h. a reference to a person includes an individual, a partnership, a corporation or other corporate body, a joint venture, a firm, a trust, an association (whether incorporated or not), a government and a government authority or agency
- i. no provision of this agreement will be construed to the disadvantage of a party merely because that party was responsible for the preparation of the agreement or the inclusion of the provision in the agreement
- j. all monetary amounts are in Australian dollars, unless otherwise stated and a reference to payment means payment in Australian dollars

- k. if the day on or by which something must be done is not a business day, that thing must be done on the next business day

- l. a reference in this agreement to a person's knowledge, awareness or any similar phrase is deemed to be a reference to the knowledge and awareness of that person after conducting a reasonably comprehensive investigation.

Terms and conditions for inbound internships

Schedule 1 - Internship particulars

-
- 1 Internship commencement date
(clause 28)
#
-
- 2 Internship termination date
(clause 28)
#
-
- 3 Host company
(clause 28)
-
- 4 Final payment
(clause 28)
##note amount and date for payment##
-
- 5 Visa application fee
(clause 28)
#
-
- 6 Accommodation
(clause 28)
#
-
- 7 Projected date of approval
(clause 28)
#
-
- 8 Amounts of payments retained by Professional Pathways Australia
(clause 8.2)
###should include various periods and amounts##
-
- 9 Language
(clause 10.1c) (if any)
#

10 Remuneration
(clause 10.1d) (if any)
#

11 Notices general
(clause 21)
Professional Pathways Australia:
Postal Intern:
Email Address Professional Pathways Australia:
Email Address Intern:
Fax Number Professional Pathways Australia:
Fax Number Intern:

12 Accommodation payment
(clause 5.2)
##includes the amount and rental period.

13 Standard of accommodation
(clause 5.3) - Optional
#

14 Accommodation shared house/ room
(clause 5.4 and 5.5) - Optional
#

15 Homestay accommodation - optional
(clause 5.7)
#

16 Period of notice to change accommodation
(clause 5.8)
#

17 Description of internship
(clause 7.1e)

#[This should contain a detailed description of the duties of the Intern and the nature of the experience and role that will be undertaken as well as a statement at the end that some of these role descriptions may

change or be amended by the host company and that there may be other or different roles or tasks that the intern may be required to carry out.]

#[All amounts noted here and in the application form should note the amount plus GST, except for any amounts which are paid as wages to the Intern as an employee of the host company.]

#[Please refer to clause 15 re whether the relationship between the host company and the intern is one of employment and state in this item if this is the case]

18 **Special conditions**
(clause 20.3)

#[If there are any particular requirements regarding the Internship which are contrary or additional to the terms and conditions, these can be placed under this item.]