

**HEALTH CARE VOUCHER SCHEME  
DEFINITIONS, AND TERMS AND CONDITIONS OF AGREEMENT**

**PREAMBLE**

- (A) The Government as represented by the Director of Health may invite health care providers of the categories set out in paragraph (B) to enrol in the HCVS as it thinks fit and may reject any application for enrolment at its absolute discretion.
- (B) Categories of Health Care Providers -
- (a) a registered medical practitioner within the meaning of the Medical Registration Ordinance (Cap. 161) who holds a valid practising certificate issued under that Ordinance;
  - (b) a registered dentist within the meaning of the Dentists Registration Ordinance (Cap. 156) who holds a valid practising certificate issued under that Ordinance;
  - (c) a registered Chinese medicine practitioner within the meaning of the Chinese Medicine Ordinance (Cap. 549) who either:
    - (i) holds a valid practising certificate issued under that Ordinance; or
    - (ii) is registered under section 85 of that Ordinance;
  - (d) a registered chiropractor within the meaning of the Chiropractors Registration Ordinance (Cap. 428) who holds a valid practising certificate issued under that Ordinance;
  - (e) a registered nurse within the meaning of the Nurses Registration Ordinance (Cap. 164) who holds a valid practising certificate issued under that Ordinance;

- (f) an enrolled nurse within the meaning of the Nurses Registration Ordinance (Cap. 164) who holds a valid practising certificate issued under that Ordinance;
  - (g) a medical laboratory technologist registered under the Supplementary Medical Professions Ordinance (Cap. 359) (“SMPO”) who holds a valid practising certificate issued under the SMPO;
  - (h) an occupational therapist registered under the SMPO who holds a valid practising certificate issued under the SMPO;
  - (i) a physiotherapist registered under the SMPO who holds a valid practising certificate issued under the SMPO;
  - (j) a radiographer registered under the SMPO who holds a valid practising certificate issued under the SMPO; and
  - (k) an optometrist registered under the SMPO (in Part I of the register) who holds a valid practising certificate issued under the SMPO.
- (C) If a health care provider’s application to enrol in the HCVS is accepted by the Government, the health care provider and the Medical Organization specified in the health care provider’s application are required to observe all the terms and conditions set out in this Agreement.

## **OPERATIVE PART**

### **DEFINITIONS**

#### **1. Transaction Documents**

The transaction documents of the HCVS comprise the following:

- (a) an application form (in Appendix A to the Covering Notes for Application to Enrol in the HCVS, Vaccination Subsidy Schemes and Primary Care Directory (“Covering Notes”)) (“the Application Form”);

- (b) authority for payment to a bank (in Appendix B to the Covering Notes) (“the Authority for Payment to a Bank”);
  - (c) this Definitions, and Terms and Conditions of Agreement;
- (collectively, the “Transaction Documents”).

## 2. Definitions

The following terms or expressions appearing in the Covering Notes and the Transaction Documents shall have the meanings assigned to them below, unless otherwise defined or the context otherwise requires:

“**Agreement**” means the agreement made by the Government with the Enrolled Health Care Provider or “EHCP” and his Associated Organization (if any) under the HCVS on the terms and conditions set out in:

- (a) this Definitions, and Terms and Conditions of Agreement;
- (b) the Authority for Payment to a Bank; and
- (c) where the context permits or requires, the Application Form submitted by the EHCP and his Associated Organization (if any);

“**Associated Organization**” means the Medical Organization specified in the Application Form of the EHCP for enrolment in the HCVS and in the notification issued by the Government in respect of the EHCP;

“**Consent of Voucher Recipient**” means a form prescribed by the Director of Health to be signed by a Voucher Recipient by which the Voucher Recipient indicates his consent and authorizes the use of Voucher to settle the EHCP Fees;

“**eHealth (Subsidies) Account**” means an account established by an Eligible Person with the Government in the eHealth System (Subsidies) whereby he will be provided with the amount of Voucher he is entitled to under the HCVS during the Scheme Term;

**“eHealth System (Subsidies)”** means the computer information system designated and provided by the Government from time to time for creation of eHealth (Subsidies) Accounts, use of Voucher by Voucher Recipients and other purposes relating to the HCVS;

**“Eligible Person”** means a person who is entitled to receive Voucher under the HCVS and:

- (a) prior to 1 July 2017 is a person aged 70 or above in any calendar year during the Scheme Term; or
- (b) from 1 July 2017 onwards is a person aged 65 or above in any calendar year during the Scheme Term,

who holds a valid Hong Kong Identity Card within the meaning of the Registration of Persons Ordinance (Cap. 177) or a valid Certificate of Exemption within the meaning of the Immigration Ordinance (Cap. 115);

**“Enrolled Health Care Provider” or “EHCP”** means the health care provider within the categories specified by the Government and whose application to enrol in the HCVS is accepted by the Government;

**“EHCP Account”** means an account created in the eHealth System (Subsidies) which is assigned to the EHCP upon his successful enrolment in the HCVS for the purpose of enabling the creation of eHealth (Subsidies) Account and the use of Voucher by a Voucher Recipient;

**“EHCP Fees”** means the fees charged by the EHCP or his Associated Organization for the health care services provided by the EHCP to a Voucher Recipient;

**“HCVU”** means the Health Care Voucher Unit of the Department of Health of the Government;

**“Health Care Voucher Scheme” or “HCVS”** means a scheme under which the Government provides all Eligible Persons each year with an amount of Voucher as the Government may specify to partially subsidize their use of primary health care services in the private sector and which commenced on 1 January 2009 and continued until 31 December 2013 as a pilot scheme and

thereafter became a recurrent scheme which will continue until a date to be specified by the Government;

**“Medical Organization”** means

- (a) an organization (whether incorporated or not) which employs or engages a health care provider to provide health care services to any person;
- (b) an organization (whether incorporated or not):
  - (i) under whose name a health care provider provides health care services to any person; and
  - (ii) of which the health care provider is the sole proprietor, partner, shareholder, director or officer (other than in a capacity referred to in (a) above);

**“Nominated Account”** means a bank account which is maintained under the name of the EHCP or his Associated Organization and is specified by the EHCP and his Associated Organization in the Authority for Payment to a Bank signed by the EHCP and his Associated Organization and submitted to the Government;

**“SMPO”** means the Supplementary Medical Professions Ordinance (Cap. 359);

**“Scheme Commencement Date”** means 1 January 2009;

**“Scheme Equipment”** means any hardware, devices or other equipment provided to the EHCP for the purpose of facilitating the EHCP’s use of the eHealth System (Subsidies);

**“Scheme Licence”** means the licence granted to the EHCP to use any software in relation to the use of the eHealth System (Subsidies);

**“Scheme Term”** means the period commencing from the Scheme Commencement Date to a date (both dates inclusive) specified by the Government pursuant to the Agreement;

“*Unused Voucher*” means any Voucher that an Eligible Person is entitled to but is not used by a Voucher Recipient in any calendar year during the Scheme Term;

“*Voucher*” means an electronic voucher issued by the Government for use by a Voucher Recipient under HCVS, such voucher being backed by payment by the Government in accordance with the terms and conditions of the Agreement; and

“*Voucher Recipient*” means an Eligible Person for whom an eHealth (Subsidies) Account has been established.

### **3. Rules of Interpretation**

In each document of the Transaction Documents, unless otherwise provided or the context otherwise requires:

- (a) any word or expression to which a specific meaning has been attached in a particular document of the Transaction Documents shall bear such meaning whenever it appears in the other documents of the Transaction Documents;
- (b) words importing the singular include the plural and vice versa and words importing a gender include all other genders;
- (c) reference to any enactment, order, regulation or other similar instrument includes the enactment, order, regulation or instrument as amended from time to time by any subsequent enactment, order, regulation or instrument;
- (d) reference to a statute includes all subsidiary legislation made under the statute;
- (e) reference to a person includes an individual, a firm, partnership, corporation, government, governmental body, authority, agency, unincorporated body of persons or associations, corporations and any organizations whether or not having separate legal personality;

- (f) reference to a month or a monthly period refers to a calendar month and reference to a year or an annual period refers to a calendar year;
- (g) reference to a section, clause, sub-clause, paragraph, sub-paragraph, appendix or attachment by number or by letter in a document of the Transaction Documents shall be construed (unless the context otherwise requires) as a reference to the section, clause, sub-clause, paragraph, sub-paragraph, appendix or attachment of that number or letter contained in that document;
- (h) headings are inserted for convenience of reference only and shall not in any way vary, limit or extend the interpretation of any document of the Transaction Documents;
- (i) reference to time and dates shall be construed as a reference to Hong Kong time and dates;
- (j) any negative obligation imposed on any party shall be construed as if it were also an obligation not to permit or suffer the act or thing in question and any positive obligation imposed on any party shall be construed as if it were also an obligation to procure that the act or thing in question be done;
- (k) the words “include” and “including” shall be construed without limitation to the words following them; and
- (l) in case of inconsistency, the English version of the Transaction Documents shall prevail over the Chinese version.

## **TERMS AND CONDITIONS**

1. In consideration of the Government agreeing to meet payment of Voucher in accordance with the terms and conditions of the Agreement, the EHCP and his Associated Organization (if any) jointly and severally undertake and agree to observe the terms and conditions of the Agreement.
2. The EHCP and his Associated Organization shall inform HCVU immediately of any changes in any information or document submitted to the Government in relation to the HCVS (including any information contained in the Application Form submitted by the EHCP).

### **Termination and Expiry**

3. The Government may terminate the Agreement on giving the EHCP 7 Days' prior written notice without attracting any liability to the EHCP or his Associated Organization. Such notices shall be deemed to have been duly given or made as follows:
  - (a) if sent by personal delivery, upon delivery at the address of the EHCP;
  - (b) if sent by post, four (4) Days (for local post) and seven (7) Days (for overseas post) after the date of posting;
  - (c) if sent by facsimile, when dispatched with confirmed receipt as evidenced by the transmission report generated at the end of the transmission of such facsimile by the facsimile machine used for such transmission; and
  - (d) if sent by email, when actually received in a form readable by the addressee.

References to "Day" in this Clause 3 mean calendar day (including Saturday, Sunday and public holidays in Hong Kong, unless otherwise stated).



4. The Agreement shall terminate forthwith upon occurrence of any of the following events:
- (a) where the EHCP is enrolled in the HCVS in the capacity of a registered medical practitioner within the meaning of the Medical Registration Ordinance (Cap. 161), the EHCP ceases to be so registered or is suspended from practising as such a registered medical practitioner;
  - (b) where the EHCP is enrolled in the HCVS in the capacity of a registered dentist within the meaning of the Dentists Registration Ordinance (Cap. 156), the EHCP ceases to be so registered or is suspended from practising as such a registered dentist;
  - (c) where the EHCP is enrolled in the HCVS in the capacity of a registered Chinese medicine practitioner within the meaning of the Chinese Medicine Ordinance (Cap. 549), the EHCP ceases to be so registered or is suspended from practising as such a registered Chinese medicine practitioner;
  - (d) where the EHCP is enrolled in the HCVS in the capacity of a registered chiropractor within the meaning of the Chiropractors Registration Ordinance (Cap. 428), the EHCP ceases to be so registered or is suspended from practising as such a registered chiropractor;
  - (e) where the EHCP is enrolled in the HCVS in the capacity of a registered nurse within the meaning of the Nurses Registration Ordinance (Cap. 164), the EHCP ceases to be so registered or is suspended from practising as such a registered nurse;
  - (f) where the EHCP is enrolled in the HCVS in the capacity of an enrolled nurse within the meaning of the Nurses Registration Ordinance (Cap. 164), the EHCP ceases to be so registered or is suspended from practising as such an enrolled nurse;
  - (g) where the EHCP is enrolled in the HCVS in the capacity of a medical laboratory technologist registered under the SMPO, the EHCP ceases to be so registered or is suspended from practising as such a registered medical laboratory technologist;

- (h) where the EHCP is enrolled in the HCVS in the capacity of an occupational therapist registered under the SMPO, the EHCP ceases to be so registered or is suspended from practising as such a registered occupational therapist;
  - (i) where the EHCP is enrolled in the HCVS in the capacity of a physiotherapist registered under the SMPO, the EHCP ceases to be so registered or is suspended from practising as such a registered physiotherapist;
  - (j) where the EHCP is enrolled in the HCVS in the capacity of a radiographer registered under the SMPO, the EHCP ceases to be so registered or is suspended from practising as such a registered radiographer; and
  - (k) where the EHCP is enrolled in the HCVS in the capacity of an optometrist registered under the SMPO (in Part I of the register), the EHCP ceases to be so registered or is suspended from practising as such a registered optometrist.
5. The Government may at any time terminate the Agreement forthwith by written notice to the EHCP if:
- (a) the Government has reasonable grounds to believe that the EHCP has failed to provide health care services which are not limited to the health care services provided under this Agreement in a professional manner or is otherwise guilty of professional misconduct or malpractice; or
  - (b) the EHCP or his Associated Organization fails to comply with any provision in the Agreement or with any direction or requirement given by the Government or Director of Health in relation to the HCVS.
6. Upon the termination of the Agreement, the EHCP shall immediately cease to be a health care provider enrolled in the HCVS.
7. Immediately upon the EHCP ceasing to be a health care provider enrolled in the HCVS:

- (a) the Government shall have no obligation to pay any Voucher used to settle the EHCP Fees of the EHCP if such EHCP Fees are incurred by a Voucher Recipient on or after the date on which the EHCP ceases to be a health care provider enrolled in the HCVS ;
- (b) the EHCP and his Associated Organization shall:
  - (i) remove all software provided by the Government to him for the purpose of the HCVS from the computer system used by him and/or his Associated Organization;
  - (ii) return to the Government all Scheme Equipment provided by the Government to him for the purpose of the HCVS;
  - (iii) cease to use or otherwise input any data into the eHealth System (Subsidies);
  - (iv) remove the logo referred to in Clause 47 and return to the Government the logo and any security tool provided by the Government for accessing the eHealth System (Subsidies);
  - (v) not create, or offer or procure any Eligible Person to create, any eHealth (Subsidies) Account;
  - (vi) not procure or permit any Eligible Person to complete or execute any Consent of Voucher Recipient or any other forms or documents that may be prescribed by the Government or the Director of Health in relation to the HCVS;
  - (vii) comply with all directions and requirements made by the Government which are required to give effect to the cessation of the EHCP as a health care provider enrolled in the HCVS; and
- (c) the Scheme Licence shall terminate forthwith.

8. Any terms and conditions of the Agreement, including this Clause, Clauses 33, 35, 45 and 46, capable of being performed or observed notwithstanding the termination of the Agreement shall survive the termination and shall remain in full force and effect after the termination.

## **eHealth System (Subsidies)**

9. Upon successful enrolment in the HCVS, the EHCP shall subscribe to an eHealth System (Subsidies) prescribed by the Director of Health for the HCVS on the terms set out below and in the manner specified by the Director of Health within 21 days of a notice issued by the Director of Health to this effect.

## **Creation of eHealth (Subsidies) Account**

10. If an Eligible Person requests the EHCP to create an eHealth (Subsidies) Account for him, the EHCP shall first ascertain if an eHealth (Subsidies) Account has already been created in respect of that Eligible Person. If no such account has been created, the EHCP shall create an eHealth (Subsidies) Account for that Eligible Person.
11. In creating an eHealth (Subsidies) Account for an Eligible Person, the EHCP shall comply with the following procedures:
  - (a) collect from the Eligible Person his personal particulars (including his name and Hong Kong Identity Card number or the serial number of a Certificate of Exemption issued by the Immigration Department) and verify such information by checking the Hong Kong Identity Card or Certificate of Exemption produced by the Eligible Person;
  - (b) if the EHCP is reasonably satisfied that the personal particulars provided are correct, explain to the Eligible Person the purpose for which his personal data is collected and used; and
  - (c) log on his own EHCP Account in the eHealth System (Subsidies) and input the required information of the Eligible Person in the eHealth System (Subsidies).
12. The EHCP shall, prior to the creation of an eHealth (Subsidies) Account for an Eligible Person, obtain from the Eligible Person a valid and effective consent to the use and transfer of the Eligible Person's personal data for the purpose of creating an eHealth (Subsidies) Account and for the administration and monitoring of the HCVS, including but not limited to verification by electronic

means of the personal data obtained with the database of the Immigration Department.

13. The EHCP shall declare via the eHealth System (Subsidies) that consent from the Eligible Person referred to in Clause 12 has been obtained for each eHealth (Subsidies) Account created.

### **Equipment and Software**

14. Save as otherwise expressly provided in the Agreement or specified by the Government, the EHCP and his Associated Organization shall provide all computer hardware, software, equipment, machinery, devices and facility and obtain all utilities necessary for access to and use of the eHealth System (Subsidies).
15. The Government may provide the EHCP with Scheme Equipment and grant or procure the grant of a Scheme Licence to the EHCP on such terms and conditions as the Government may specify from time to time.
16. The EHCP shall use the eHealth System (Subsidies) solely for the purpose of enabling the creation of eHealth (Subsidies) Accounts and the use of Vouchers by Voucher Recipients to settle the EHCP Fees for the health care services he provided.
17. The Associated Organization shall not, and the EHCP shall procure that his Associated Organization will not, use or deal with the eHealth System (Subsidies), the Scheme Equipment, the Scheme Licence and any eHealth (Subsidies) Accounts for any purposes other than those specified in Clause 16 unless with prior written consent of the Government.
18. The EHCP and his Associated Organization acknowledge that Scheme Equipment and Scheme Licence may be subject to the proprietary rights of third parties.
19. The EHCP and his Associated Organization shall be responsible for any liabilities arising out of the EHCP's and his Associated Organization's use of the Scheme Equipment and the Scheme Licence.

20. The EHCP and his Associated Organization shall not make any modifications to the Scheme Equipment or the Scheme Licence unless the prior written consent of the Government has been obtained.

### **Use of Voucher**

21. Notwithstanding Clauses 27 and 28, the EHCP shall make available the use of Voucher by Voucher Recipients to settle the EHCP Fees once an eHealth (Subsidies) Account is created in the manner set out in Clauses 11, 12 and 13 above.
22. If a Voucher Recipient notifies the EHCP that he will use Voucher to settle the EHCP Fees after provision of health care service by the EHCP to the Voucher Recipient, the EHCP shall obtain from the Voucher Recipient a completed and signed Consent of Voucher Recipient.
23. On condition that:
- (a) a Voucher Recipient has received health care services provided by the EHCP and signed a Consent of Voucher Recipient by which he authorizes the EHCP to use Voucher to settle the EHCP Fees;
  - (b) the EHCP Fees are not less than the value of one Voucher;
  - (c) the total value of the Voucher authorized by the Voucher Recipient for settlement of the EHCP Fees is equal to or less than the EHCP Fees; and
  - (d) the total value of the Voucher proposed to be used by the Voucher Recipient does not exceed the total value of Unused Voucher of that Voucher Recipient,

the EHCP shall undertake and perform the following duties to accept the Voucher Recipient's use of the Voucher to settle all or part of the EHCP Fees:

- (i) log on his own EHCP account in the eHealth System (Subsidies);
- (ii) request the Voucher Recipient to produce his Hong Kong Identity Card or Certificate of Exemption issued by the Immigration Department for verification of his personal particulars;

- (iii) search and retrieve the record of the Voucher Recipient in the manner provided in the eHealth System (Subsidies);
  - (iv) confirm with the Voucher Recipient the amount of Voucher that he agrees to use;
  - (v) check the balance of the Voucher remaining unused in the eHealth (Subsidies) Account of the Voucher Recipient;
  - (vi) input all information required by the eHealth System (Subsidies);
  - (vii) give a copy of the Notice on Use of Health Care Voucher attached to the Consent of Voucher Recipient to the Voucher Recipient for retention; and
  - (viii) make a claim for the use of the amount of Voucher agreed by the Voucher Recipient through the eHealth System (Subsidies) within 7 calendar days counting from the date of provision of the related health care services to the Voucher Recipient.
24. The EHCP shall ensure that the total value of the Voucher used by a Voucher Recipient to settle the EHCP Fees does not exceed the amount of the EHCP Fees.
25. The EHCP and his Associated Organization shall not demand payment of the EHCP Fees from a Voucher Recipient who consents to use Voucher to settle the EHCP Fees unless:
- (a) the EHCP Fees exceeds the total value of the Voucher so used by the Voucher Recipient, in which event, the EHCP and his Associated Organization shall only collect from the Voucher Recipient the excess amount; or
  - (b) no confirmation is generated by the eHealth System (Subsidies) on the use of Voucher or the transaction on the use of Voucher through the eHealth System (Subsidies) has otherwise failed.

26. Neither the EHCP nor his Associated Organization shall enter into any agreement or arrangement with an Eligible Person or a Voucher Recipient which has the effect of:
- (a) modifying any provision in any forms or documents prescribed by the Director of Health for the purpose of or in relation to the HCVS or any terms and conditions in the Agreement; or
  - (b) sharing the value of any Voucher with the Eligible Person or the Voucher Recipient.

### **Payment by the Government**

27. The Government will within 7 days after the creation of an eHealth (Subsidies) Account in accordance with the Agreement verify whether the person for whom the eHealth (Subsidies) Account has been created:
- (a) holds a valid Hong Kong Identity Card or a valid Certificate of Exemption issued by the Immigration Department; and
  - (b)
    - (i) prior to 1 July 2017 is aged 70 or above in any calendar year during the Scheme Term; or
    - (ii) from 1 July 2017 onwards is aged 65 or above in any calendar year during the Scheme Term.

Such verification will be conducted on the basis of the information input into the eHealth System (Subsidies). If the Government has reasonable grounds to believe that the person fails to meet the condition in (a) or (b) above, the Government will remove the eHealth (Subsidies) Account from the eHealth System (Subsidies) and notify the EHCP who has assisted in the creation of the eHealth (Subsidies) Account.

28. If the Government is satisfied that the person for whom an eHealth (Subsidies) Account has been created meets the conditions in Clause 27(a) and (b), the Government shall indicate in that eHealth (Subsidies) Account that the eHealth (Subsidies) Account has been validated by the Government.



29. Subject to Clauses 7(a), 33 and 35(b), within 30 days after the last date of each month in the Scheme Term, the Government shall pay the EHCP or the Associated Organization the amount of Voucher used by a Voucher Recipient in that month in the manner provided in Clause 23, provided that the eHealth (Subsidies) Account of the Voucher Recipient has been validated under Clause 28.
30. The payment by the Government under Clause 29 shall be made by crediting the Nominated Account. An acknowledgement of such crediting issued by the bank with which the Nominated Account is maintained shall be deemed to be a receipt issued by the EHCP and the Associated Organization of the sum so credited and shall be conclusive evidence of due payment of such sum by the Government to the EHCP or the Associated Organization.
31. Subject to Clause 32, a Voucher Recipient is entitled to receive, starting from the calendar year in which he becomes eligible under the HCVS, such amount of Voucher allocated during the Scheme Term as follows:
- (a) for the period from the Scheme Commencement Date to 31 December 2011, Voucher of a total value of HK\$250 per annum;
  - (b) for the period from 1 January 2012 to 31 December 2012, Voucher of a total value of HK\$500;
  - (c) for the period from 1 January 2013 to 31 December 2013, Voucher of a total value of HK\$1,000;
  - (d) for the period from 1 January 2014 to 31 December 2014, Voucher of a total value of HK\$2,000, given that HK\$1,000 of which will only be deposited in his eHealth (Subsidies) Account on 7 June 2014;
  - (e) from 1 January 2015 up to a date prescribed by the Government, Voucher of a total value of HK\$2,000 per annum. For a Voucher Recipient aged 65 to 69 in 2017, Voucher will be deposited in his eHealth (Subsidies) Account on 1 July 2017 provided that his eHealth (Subsidies) Account has been established on or before the same date. For a Voucher Recipient aged 70 or above in 2017, the Voucher will be deposited in his eHealth (Subsidies) Account on 1 January 2017

provided that his eHealth (Subsidies) Account has been established on or before that date; and

- (f) after the prescribed date, such amount of Voucher that the Government may decide.
32. Unused Voucher shall be carried forward for use in the remaining term of the Scheme Term and the Unused Voucher that may be carried forward each calendar year shall be of such amount so that the aggregate amount of Unused Voucher together with the Voucher that a Voucher Recipient is entitled to receive in the following calendar year shall not as at 1 January of the following calendar year exceed the accumulation limit prescribed by the Government.
33. The Government shall have no obligation to pay the EHCP or his Associated Organization the value of any Voucher if any information provided by the EHCP to the Government under or in relation to the HCVS is at any time found to be incomplete, untrue or inaccurate or if the EHCP or his Associated Organization fails to provide information required by the Government for verifying the use of Voucher or is in breach of any provisions in any documents of the Transaction Documents.
34. The EHCP and his Associated Organization shall not pay any Voucher Recipient all or part of the amount paid or payable by the Government to the EHCP or the Associated Organization pursuant to the Agreement.
35. Notwithstanding any provision herein, if the Government certifies at any time that the Government has overpaid the EHCP or an Associated Organization, the Government may:
- (a) deduct such overpaid amount from any sums which may thereafter be payable by the Government to the EHCP or his Associated Organization; or
  - (b) direct the EHCP or the Associated Organization to forthwith repay the Government the amount overpaid on a date specified by the Government, in which case, the Government has the right to withhold any sums due to the EHCP or the Associated Organization under Clause 29 until the EHCP or the Associated Organization has fully paid the overpaid amount.

36. Neither the EHCP nor his Associated Organization may charge any person any fees for creating an eHealth (Subsidies) Account or using an eHealth (Subsidies) Account.

### **Directions**

37. The EHCP and his Associated Organization shall comply with all directions given by the Director of Health or the Government or any employee, officer or agent of the Government from time to time under the Agreement or in relation to the HCVS.
38. If the EHCP or his Associated Organization fails to comply with any terms or conditions of the Agreement or any direction referred to in Clause 37, without prejudice to the right of the Government to issue a notice under Clause 3 or 5, the Government may by notice in writing to the EHCP or the Associated Organization require the EHCP or the Associated Organization to make good or rectify the non-compliance by the date specified and in accordance with the requirements provided in the notice and the EHCP and his Associated Organization shall comply with such requirements.

### **Information and Keeping of Records**

39. The EHCP shall keep the Government immediately informed of any changes or proposed changes to his status as a person registered under the relevant legislation by which he is entitled to enrol in the HCVS.
40. Without prejudice to Clause 39, the EHCP shall notify the Government forthwith of his becoming aware of:
- (a) any action taken (or proposed to be taken) or any order made (proposed to be made) to remove his name from a register maintained pursuant to the relevant legislation if the presence of his name in the register entitles him to enrolment in the HCVS;
  - (b) any action, disciplinary proceeding or inquiry being taken against him by any person; or

- (c) any complaints filed or claims made (whether or not legal action is threatened) against him for any act, negligence, misconduct or malpractice.
41. The EHCP shall provide the Government with such information as requested by the Government in relation to any of the matters referred to in Clause 39 or 40.
  42. The EHCP and his Associated Organization shall keep proper and full record of all Consent of Voucher Recipient completed or signed by Voucher Recipients at the premises where the EHCP practises his profession as stated in Section (E) of Part II of the Application Form submitted by him until the expiry of 7 complete financial years of the Government from the calendar year in which the relevant reimbursements are made to the EHCP or his Associated Organization or until any dispute between the parties in relation to the HCVS is settled or adjudicated, whichever is the later.
  43. The EHCP and his Associated Organization shall submit to HCVU complete, true and accurate information as required in the Authority for Payment to a Bank.
  44. The EHCP and his Associated Organization warrant and undertake with continuing effect that all information and documents provided by each of them to the Government from time to time under or in relation to the HCVS (including the data input by each of them on the eHealth System (Subsidies)) are true, accurate and complete.
  45. The Government, the Director of Health or any person authorized by the Director of Health may by prior notice to the EHCP or his Associated Organization attend any premises at reasonable hours to inspect any information or record kept or required to be kept by the EHCP or the Associated Organization under the Agreement, and/or to ascertain whether the terms and conditions of the Agreement are complied with.
  46. The EHCP and his Associated Organization shall fully co-operate with and give all assistance required by the Government, the Director of Health or the authorized person for the administration and monitoring of the HCVS. The EHCP and his Associated Organization shall submit information or record required by the Director of Health for purposes related to the HCVS or under

the Agreement and shall ensure that the Government, the Director of Health and the authorized person are given free and uninterrupted access to such information and record and to the premises at which such information and record are kept. The EHCP and the Associated Organization shall, if so requested by the Government, the Director of Health or the authorized person, provide them with copies of the information and record they specify.

### **Logo and Publication**

47. Upon successful enrolment in the HCVS, the Government will provide the EHCP with a logo. Subject to Clause 7, the EHCP and his Associated Organization shall at all times display the logo at the premises specified by the Director of Health. Neither the EHCP nor his Associated Organization shall make any copies of the logo or display the logo at any places other than at that specified by the Director of Health.
48. The Government may use any personal data of the EHCP for the purposes set out in the Statement of Purpose in the Application Form or any document of the Transaction Documents. The EHCP and his Associated Organization further agree that the Government may publish any or both of their names and the particulars of their practice at any time for the purpose of the HCVS, Primary Care Directory and/or other Government programmes to promote primary care.

### **Government Disclaimer**

49. The Government does not warrant or represent that:
  - (a) its title to and property in the eHealth System (Subsidies), the Scheme Equipment or the Scheme Licence are free and unencumbered;
  - (b) the eHealth System (Subsidies), the Scheme Equipment or the Scheme Licence is free from defects in materials, design and workmanship;
  - (c) the use of the eHealth System (Subsidies), the Scheme Equipment or the Scheme Licence will meet the EHCP's or his Associated Organization's data processing requirements, the requirements of the HCVS or the requirements of any machine, equipment or hardware or software used

or to be used by the EHCP or his Associated Organization in relation to the eHealth System (Subsidies); or

(d) the operation of the eHealth System (Subsidies), the Scheme Equipment or the Scheme Licence will be uninterrupted or error free.

50. The Government shall not be liable to the EHCP or his Associated Organization for any claims, actions, investigations, demands, proceedings brought or instituted against the EHCP or his Associated Organization, or responsible for any liabilities, compensation, damages, loss, costs, charges or expenses arising out of or in connection with the EHCP's enrolment in the HCVS, the use of the eHealth System (Subsidies), the Scheme Equipment or the Scheme Licence, or inability to receive from the Government payment of any Voucher that a Voucher Recipient consents to use to settle the EHCP Fees, which the EHCP or his Associated Organization may sustain or incur.

### **Confidentiality**

51. The EHCP and his Associated Organization undertake and agree to keep all information provided by the Government in relation to the HCVS confidential. Neither the EHCP nor his Associated Organization shall disclose any such information to any person without the prior written consent of the Government.

### **Indemnity**

52. The EHCP and his Associated Organization shall jointly and severally indemnify and keep the Government fully and effectively indemnified from and against:

(a) any and all claims, actions, investigations, demands, proceedings brought or instituted against the Government; and

(b) any and all liabilities, compensation, damages, loss, costs, charges and expenses (including but not limited to legal and other costs, charges, and expenses arising out of or in connection with any claim, action or proceeding instituted by, or against, the Government) which the Government may sustain or incur,

which arise directly or indirectly from, or as a result of, or in connection with, or which relate in any way to:

- (i) any non-compliance by the EHCP, his Associated Organization, or any employees, agents or sub-contractors of the EHCP or his Associated Organization with any terms and conditions of the Agreement; or
  - (ii) the negligence, recklessness, omission, default, act or misconduct on the part of the EHCP or his Associated Organization, or any employees, agents or sub-contractors of the EHCP or his Associated Organization in the use, operation or implementation of the eHealth System (Subsidiaries); or
  - (iii) the data or information input by the EHCP or his Associated Organization or any employees, agents or sub-contractors of the EHCP or his Associated Organization in the eHealth System (Subsidiaries); or
  - (iv) the enrolment of the EHCP in the HCVS.
53. Without prejudice to Clause 52, any act, default, neglect or omission of any sub-contractor or the employee or agent of the EHCP or his sub-contractor shall be deemed to be the act, default, neglect or omission of the EHCP, and any act, default, neglect or omission of any employee, agent or any sub-contractor of an Associated Organization shall be deemed to be the act, default, neglect or omission of the Associated Organization.
54. The EHCP and his Associated Organization shall do all such things and execute such deeds, instruments, transfer or other documents as may be necessary or desirable in order to give full effect to the terms and conditions of the Agreement.
55. The Agreement shall be governed by and construed in accordance with the laws of Hong Kong and the EHCP and his Associated Organization shall irrevocably and unconditionally submit to the exclusive jurisdiction of any of the courts of Hong Kong.

56. Nothing in the Agreement will fetter or prejudice the exercise by the Government of any discretion or right it has under any law.
57. Neither the EHCP nor his Associated Organization shall represent himself as an employee, servant, agent or partner of the Government or that it has any authority to make any commitments on the Government's behalf.
58. Neither the EHCP nor his Associated Organization shall, without the prior written consent of the Government, assign or otherwise dispose of or transfer or sub-contract any of his interests, rights, benefits and obligations under the Agreement in whole or in part.
59. The Government may at any time vary or supplement any terms or conditions of the Agreement by giving prior written notice to the EHCP and his Associated Organization.
60. Any term or condition of the Agreement that is determined to be invalid or unenforceable shall be void to the extent required by the applicable law and enforced as so limited and such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms and conditions of the Agreement which shall remain in full force and effect.

### **Anti-bribery**

61. The EHCP and his Associated Organization, as well as any employees, agents or sub-contractors of the EHCP or his Associated Organization shall observe the Prevention of Bribery Ordinance (Cap. 201). All of them are prohibited from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance in relation to the HCVS.