

INSTITUTE FOR SAFETY, COMPENSATION AND RECOVERY RESEARCH (ISCRR)

MONASH EMPLOYEE CONFIDENTIALITY AND PRIVACY DEED

Deed made the date shown below.

By: _____ [name]

Of _____ [address] ("Employee")

In favour of: **MONASH UNIVERSITY** of Wellington Road, Clayton Victoria 3800 ("Monash");

WHEREAS

- A. The Employee is employed by Monash for the Purpose, and Confidential information of Monash, ISCRR, TAC and WorkSafe will be provided to or otherwise come to the attention or into the possession of the Employee in the course of the performance of the Purpose.
- B. It is important that information of a confidential nature received, obtained or created in the course of the performance of the Purpose, whether in oral, visual, written, material, non-material or some other form be kept confidential at all times subject to the provisions of this Deed.
- C. Monash operates in Victoria as a tertiary education institution and is bound by the Victorian information privacy laws in its handling of personal information.
- D. The Employee is required by Monash to conduct all dealings with personal information collected by the Employee or provided to the Employee by Monash, ISCRR, TAC or WorkSafe in accordance with obligations applicable to Monash under the information privacy laws, as provided for in this Agreement.
- E. It is therefore a condition of the Employee being or continuing to be employed by Monash for the Purpose that the Employee execute this Confidentiality and Privacy Deed.

THIS DEED WITNESSES:

1. Interpretation

In this Deed, subject to any contrary intention expressed in this Deed, the following definitions apply:

Confidential Information means all information collected by or provided to or coming to the attention of the Employee in the course of carrying out the Purpose, including without limitation trade secrets, business and research information and plans, research sponsor and sponsor contact lists, methodologies, financial, marketing, technical, scientific or commercial information of or relating to Monash or its related entities and associates, or of or relating to ISCRR, TAC or WorkSafe, which information is by its nature confidential or is marked as confidential, proprietary or restricted, or is unmarked as such but treated as confidential, proprietary or restricted at the time of disclosure;

A reference to the Confidential Information includes any part of it.

ISCRR means the Institute for Safety, Compensation and Recovery Research established as a collaboration between Monash, TAC and WorkSafe;

Purpose means to carry out work for the ISCRR research project described in the Schedule, as directed and in accordance with the Employee's terms of employment;

TAC means the Transport Accident Commission established by the Transport Accident Act 1986;

WorkSafe means the Victorian Work Cover Authority established by the Accident Compensation Act 1985.

2. Confidentiality

2.1 The Employee undertakes and agrees:

- (a) not to use the Confidential Information for purposes other than as agreed by Monash or as shall be reasonably appropriate for the Purpose;
- (b) to hold in strict confidence all Confidential Information and not to disclose it to anyone other than persons within Monash and ISCRR on a 'need to know' basis, unless, and to the extent only, that disclosure is required for the Purpose.

2.2. Exempted from the obligations in clause 2.1 shall be information which:

- (a) is in the public domain at the time of disclosure;
- (b) is published or otherwise becomes part of the public domain through no fault of the Employee;
- (c) was in the possession of the Employee prior to disclosure, as shown by prior written records, and not subject to an obligation of confidentiality;
- (d) became available from an external third party (not being a party to whom the Purpose relates) who did not impose any obligation of confidentiality in disclosing it; or
- (e) is required to be disclosed by law.

2.3 Neither this Deed nor any conduct in the course of performance of the Purpose will convey or confer any existing or future intellectual property rights to the Employee, nor any property, right or other interest in or in relation to the Confidential Information to the Employee.

3. Privacy

3.1 In this clause 3:

- (a) "IPP" means an Information Privacy Principle in the *Information Privacy Act 2000 (Vic)* and "HPP" means a Health Privacy Principle in the *Health Records Act 2001 (Vic)*;
- (b) "personal information" means information or an opinion (including information or an opinion forming part of a database) that is recorded in any form and whether true or not, about an individual whose identity is apparent or can reasonably be ascertained and includes health information and sensitive information;
- (c) "health information" means information or an opinion about the physical, mental or psychological health or disability of an individual at any time, an individual's expressed wishes about future provision of health services to him or her, a health service provided or to be provided to an individual that is also personal information and includes other personal information collected to provide a health service (eg name, address) and information about donation of body parts, organs or body substances and genetic information;
- (d) "sensitive information" means personal information about an individual's race or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual preferences or practices or criminal record.

3.2 The obligations in this clause apply to all personal information which the Employee:

- (a) receives from Monash, ISCR, TAC or WorkSafe for any reason, whether directly or indirectly; or
- (b) receives, creates, accesses or holds in connection with the Purpose.

3.3 The Employee must handle personal information in accordance with the Information Privacy Principles in the *Information Privacy Act 2000 (Vic)* and the Health Privacy Principles in the *Health Records Act 2001 (Vic)* and any code of practice made under these Acts.

3.4 In particular, the Employee must:

- (a) except as otherwise permitted by IPP 2 or HPP 2, not collect, use or disclose personal information about an individual for a purpose other than the primary purpose of collection unless the individual consents to the use or disclosure or the use or disclosure is required by or authorised under law;
- (b) take reasonable steps to protect the personal information the Employee holds from misuse and loss and from unauthorised access, modification or disclosure;
- (c) take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose; and
- (d) refer all requests for access to personal information and information management policies to the CEO of ISCR.

3.5 Nothing in this clause limits the ability of the Employee to provide personal information to Monash.

3.6 Where the Employee discloses any personal information to any person other than to a Monash employee involved in ISCR, the Employee must ensure that the person is made aware that the personal information is personal information and that the third party is under legal obligations to protect that personal information as if the third party were bound by the provisions of this Clause 3.

3.7 This clause applies regardless of whether the personal information, the Employee or any person to whom the Employee discloses personal information are located in or outside Victoria.

3.8 The Employee also agrees to comply with the secrecy provisions in section 131 of the *Transport Accident Act 1986 (Vic)* and section 243 of the *Accident Compensation Act 1985 (Vic)* set out in Attachment A as if the Employee were bound by them directly.

4. **Survival**

4.1 Upon request of Monash or cessation of the Employee’s involvement in the Purpose, the Employee undertakes promptly to deliver up all documents, information or materials that comprise Confidential Information or personal information.

4.2 The obligations in this Deed shall survive the cessation of the Employee’s employment with Monash.

Executed by the Employee the day and year set out below.

SIGNED Sealed and Delivered)
by _____)
(Employee name) (Employee signature)

in the presence of:)

.....
Witness

Date:.....

SCHEDULE.

Purpose:

To undertake research and/or associated tasks in relation to the attached ISCR-approved Project Plan, as directed by the Project Leader.
(PL to attach Project Plan)

ATTACHMENT A.

Transport Accident Act 1986 (Vic)

131 Secrecy provisions

(1) A person—

- (a) who is, or has at any time been, appointed for the purposes of this Act; or
- (b) who is, or has at any time been, engaged as a member of the staff of the Commission; or
- (c) is, or has at any time been, authorised to perform or exercise any function or power of, or any function or power on behalf of, the Commission under this or any other Act—

must not, except to the extent necessary to perform duties under this or any other Act, or to perform or exercise such a function or power, either directly or indirectly—

- (d) make a record of, or divulge or communicate to any person, any information—
 - (i) that identifies or could lead to the identification of any person; and
 - (ii) that is or was acquired by the person by reason of being or having been so appointed, engaged or authorised; or
- (e) make use of any such information—

for any purpose other than the performance of duties or the performance or exercise of that function or power.

Penalty: 10 penalty units.

(2) Nothing in subsection (1) precludes a person from—

- (a) producing a document to a court in the course of criminal proceedings or in the course of any proceeding under this Act; or
- (b) divulging or communicating to a court in the course of any proceedings referred to in paragraph (a) any matter or thing coming under the notice of the person in the performance of duties under this or any other Act or in the performance of a function or the exercise of a power referred to in that subsection; or
- (c) producing a document or divulging or communicating information relating to a worker who is or has received compensation under the **Accident Compensation Act 1985** to the WorkSafe Victoria, or an authorised insurer or self-insurer within the meaning of that Act; or

- (caa) producing a document or divulging or communicating information to a private health insurer that has made an application under section 76A, being a document or information that relates to the application; or
- (ca) producing a document or divulging or communicating information to a person who has responsibility for the administration of a welfare, benefit or compensation scheme of a State or Territory or the Commonwealth; or
- (cb) producing a document or divulging or communicating information to a regulatory body as authorised by section 131A; or
- (d) producing a document or divulging or communicating information to the Australian Statistician; or
- (e) producing a document or divulging or communicating information to any special commission (within the meaning of the **Evidence (Commissions) Act 1982**) where—
 - (i) the Commission has received a request in writing for information from the special commission; and
 - (ii) the Minister has given written approval to the Commission of the communication of that information; and
 - (iii) the Commission has given to that person written approval of the communication of that information; or
- (f) producing a document or divulging or communicating information that is required or permitted by any Act to be produced, divulged or communicated, as the case may be if, where the document or information relates to the personal affairs of another person, that other person has given consent in writing.

Accident Compensation Act 1985 - SECT 243

Secrecy provisions applying to Act except Parts 6 and 7

243. Secrecy provisions applying to Act except [Parts 6](#) and [7](#)

(1) Subject to this section, a person who is, or has at any time been-

- (aa) a member of the Board;
- (a) appointed for the purposes of this Act;
- (b) engaged as a member of the staff of the Authority; or
- (c) authorized to perform or exercise any function or power of the Authority or any function or power on behalf of the Authority-

shall not, except to the extent necessary to perform official duties, or to perform or exercise such a function or power, either directly or indirectly, make a record of, or divulge or communicate to any person, any information that is or was acquired by the person by reason of being or having been so appointed, engaged or authorized, or make use of any such information, for any purpose other than the performance of official duties or the performance or exercise of that function or power. Penalty: 100 penalty units.

(2) Nothing in subsection (1) precludes a person from-

(a) producing a document to a court in the course of criminal proceedings or in the course of any proceeding under this Act;

(aa) producing a document or divulging information to a Conciliation Officer, a Medical Panel, the Magistrates' Court, the Tribunal or the County Court with respect to a matter arising under this Act;

(ab) producing a document or divulging information to a medical practitioner nominated or appointed under section 99AAA to prepare a proposal for a co-ordinated care program;

(b) divulging or communicating to a court in the course of any proceedings referred to in paragraph (a) any matter or thing coming under the notice of the person in the performance of official duties or in the performance of a function or the exercise of a power referred to in that subsection;

(c) producing a document or divulging or communicating information to-

(i) the Secretary to the Department of Innovation, Industry and Regional Development;

(ia) the Secretary to the Department of Treasury and Finance;

(ib) the Coroners Court;

* * * * *

(iii) the Public Advocate;

(iiia) the Commissioner of State Revenue;

(iv) the Transport Accident Commission;

(iva) a person who has responsibility for the administration of a welfare, benefit or compensation scheme of a State or Territory or the Commonwealth;

(ivab) a corresponding Authority;

(ivac) an authority, department or public body, within the meaning of the [Financial Management Act 1994](#), which has functions in relation to particular accident compensation matters arising under this Act or any other Act;

(ivb) the National Occupational Health and Safety Commission;

(v) the Australian Statistician; or

(va) the Board or committee of management (by whatever name called) of a statutory superannuation scheme within the meaning of the Superannuation Benefits Act 1977; or

(vi) any special commission (within the meaning of the [Evidence \(Commissions\) Act 1982](#)) where-

(A) the Authority has received a request in writing for information from the special commission;

(B) the Minister has given written approval to the Authority of the communication of that information; and

(C) the Authority has given to that person written approval of the communication of that information; or

(vii) a committee of the Parliament; or

(viii) a person or body approved by the Governor in Council; or

(d) producing a document or disclosing information which is required or permitted to be produced or disclosed by or under this Act or any other Act.

(2A) The Minister must cause a report of requests for the approval of persons or bodies by the Governor in Council under subsection (2)(c)(viii) to be laid before each House of the Parliament within 14 sitting days of that House after 30 June in each year.

(3) The report must include the following matters in respect of each request-

(a) the name of the person sought to be approved;

(b) the reason for the request;

(c) the date of the request;

(d) whether the request was approved or refused.

(4) Nothing in this section authorises a person to divulge or communicate any information acquired by the person in the performance of a duty or exercise of a power under the [Occupational Health and Safety Act 2004](#).