

## DEED of Agreement Variation

This Deed of Agreement Variation is made on the 12<sup>th</sup> day of August 2004

Between

COMMONWEALTH OF AUSTRALIA ('the Commonwealth'), as represented by the Department of Health and Ageing ('the Department');

AND

HUNTER AREA HEALTH SERVICE (ABN 79 596 857 838), a body corporate incorporated under the *Health Services Act 1997* of New South Wales and having its address at Lookout Road, New Lambton Heights NSW 2305 ('HAHS');

AND

HUNTER URBAN DIVISION OF GENERAL PRACTICE LIMITED (ABN 27 061 783 015) and having its registered office at 3<sup>rd</sup> Floor, 123 King Street, Newcastle, NSW 2300 ('the Participant')

Whereas:

- A: The Parties entered into the Agreement dated 28 February 2003 (the "Principal Agreement")
- B: Clause 1.6 of the Principal Agreement states that subject to clause 1.10 no variation of this Agreement is binding unless agreed in writing between the Parties.
- C: The Parties now wish to vary the Principal Agreement. This is the second variation to the Agreement, the first being agreed and signed on 1 August 2003.

The Principal Agreement is varied as follows:

1. Delete Clause 1.10 and substitute the following:  
"1.10 The Parties acknowledge that from time to time the Department may review the amount and availability of insurance GPs will be required to effect and maintain under Item H of the Schedule. If the Department is satisfied that the amount of insurance required by Item H should be varied, and is satisfied that the varied amount would be available generally to GPs in the Hunter Region, after consultation with the Participant and HAHS the Commonwealth may send notice to the Participant and HAHS advising the new amount of insurance GPs will be required to effect and maintain under Item H. Such variation will take effect, without more, on the date stated in the notice."
2. Delete Clause 3.1A in its entirety and substitute the following:
  - 3.1A(1) For the purpose of Clause 3.1A, 'Operating Costs' means the Operating Costs set out in the Budget at Item B2, and 'Group' means a list of related expenditure line items identified as a 'Group' in the Operating Costs Budget.
  - 3.1A(2) Subject to the following subclauses, the Participant must perform the Service according to the Budget.
  - 3.1A(3) The Participant is not permitted to commit or expend funds on Operating Costs in excess of the Total Operating Costs stated in Item B2.

3.1A(4) Over the term of the Agreement, the Participant is permitted to vary the total funds for each Group by up to a maximum of ten per cent of the Group Budget for that Group specified in Item B2, **provided** that the total Operating Costs are not increased.

3.1A(5) The Participant agrees that all income generated by the Service, including interest earned on Funds provided under this Agreement, Workers Compensation and overseas patients attending the Service, and deputising, will be used to meet the Operating Costs of the Service.

3.1A(6) It is agreed that the Participant will provide the Department with written notification:

(i) of any actual or expected overrun in the total Operating Costs and the steps it proposes to take to bring the operational expenses back within the total Operating Costs; or

(ii) if the income generated by the Service is less than the expected amount identified in the Budget at Item B, and any resultant shortfall cannot be covered through savings in Operating Costs.

In the event that any steps taken in (i) above do not bring the operational expenses for the Service back within the total Operating Costs budget, or the income generated by the Service is insufficient to meet the actual costs of the Service, the Participant may write to the Department requesting written approval for the allocation of all or part of the Risk Premium component (Item B4)) of the Budget to meet the overrun or shortfall. In the written request the Participant must:

(a) indicate the cause of the Operating Costs overrun ((i) above) or reduction in expected income ((ii) above);

(b) detail what steps have been taken to bring the operational expenses back within the total Operating Costs Budget;

(c) provide full justification for the quantum of the Risk Premium amount being sought.

3.1A(7) The Department will consider any request received from the Participant under Clause 3.1A(6) and advise its decision to the Participant in writing. If such a request to utilise the Risk Premium is approved by the Department, a variation to the contract will be prepared and forwarded to the Participant with the Department's written notification. Such a variation will amend the Operating Costs of the budget, and also reduce the available Risk Premium by the amount of that variation.

3.1A(8) The Participant agrees that it will not use Risk Premium funds for any purpose that has not been approved in writing by the Department.

3.1A(9) The Department may at its discretion reduce or not make a payment of Funds (or advise the Hunter Area Health Service that it may reduce or not make a payment of Funds) where it forms the reasonable opinion that the full payment is not required by the Participant because the income generated by the Service is greater than the expected amount identified in the Budget at Item B. It is agreed that any reduction in the Funds payable by the Commonwealth and the HAHS will be in the same proportion as the funds payable by the Commonwealth and the HAHS.

3. Delete Clause 5.4(c) and substitute the following:

"5.4(c) a financial statement specifying the manner in which, and the purposes for which, any Funds paid by the Department and HAHS and any income generated by the Service under this Agreement have been expended, including any variances made to the budget in accordance with clause 3.1A(1)-(4) and 3.1A(6)-(8), accompanied by supporting documentation. This financial statement must list all individual line items for each Group in the Operating Costs budget

