

**DEED FOR THE PROVISION OF
OVERSEAS STUDENT HEALTH COVER**

between:

**THE COMMONWEALTH OF AUSTRALIA
as represented by the
DEPARTMENT OF HEALTH AND AGED CARE**

and:

[INSERT NAME OF INSURER]

THIS DOCUMENT HAS BEEN RELEASED UNDER
THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH

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PARTIES

THE COMMONWEALTH OF AUSTRALIA as represented by the Department of Health and Aged Care ABN 83 605 426 759 ('the **Commonwealth**')

and

[INSERT FULL ENTITY NAME OF INSURER] ABN [insert ABN of the Insurer] ('the **Insurer**')

RECITALS

- A. The Insurer is a private health insurer registered, or taken to be registered, under Division 3 of Part 2 of the *Private Health Insurance (Prudential Supervision) Act 2015* (Cth) for the purposes of conducting health insurance business and health related business.
- B. The Commonwealth requires the provision of health insurance cover to Overseas Students, which has the following as its purposes:
 - (a) to ensure that the cost of health insurance does not serve as a disincentive to prospective Overseas Students choosing to study in Australia;
 - (b) to ensure that Overseas Students and their Dependants have access to affordable medical and hospital treatment while studying in Australia;
 - (c) to minimise the risk of personal financial crisis for Overseas Students requiring medical and hospital treatment;
 - (d) to minimise the risk of bad debt to hospitals, medical practitioners, other health professionals, and other healthcare providers;
 - (e) to ensure that the costs of providing health services to Overseas Students are clearly attributable;
 - (f) to ensure that there is no, or minimal, cost to the Australian taxpayer for the provision of health services to Overseas Students; and
 - (g) to ensure that a level of service is available enabling Overseas Students accessibility and a clear understanding of their benefits.
- C. The Insurer has agreed to provide OSHC to Overseas Students on the terms and conditions set out below.

OPERATIVE PROVISIONS OF DEED

1 DEFINITIONS AND INTERPRETATION OF DEED

1.1 Definitions

'Act' means the *Private Health Insurance Act 2007* (Cth).

'Agency' has the same meaning as given to it in the Privacy Act.

'Arrival in Australia' means the point in time that an Overseas Student or a Dependant is first in Australia, with the Overseas Student holding a valid Student Visa.

'Assisted Reproductive Services' has the same meaning and scope of cover as Schedule 5 of the Complying Product Rules.

'Australian Privacy Principle' or **'APP'** has the same meaning as given to it in the Privacy Act.

'Benefit Requirement Rules' means the *Private Health Insurance (Benefit Requirements) Rules 2011* (Cth) made in accordance with section 333-20 of the Act.

'Business Day' means, in relation to the doing of any action in a place, any day other than a Saturday, Sunday, or public holiday in the place where the act is to be performed.

'Calendar Year' means the period from 1 January to 31 December.

'Chronic Disease Management Program' has the same meaning as subrule 12(1) of the Health Insurance Business Rules.

'Complying Product Rules' means the *Private Health Insurance (Complying Product) Rules 2015* made in accordance with section 333-20 of the Act.

'Confidential Information' means information and material that:

- (a) by its nature is confidential;
- (b) the disclosing Party designates as confidential; or
- (c) the receiving Party knows or ought to know is confidential,

but does not include information or material that is or becomes public knowledge other than by breach of this Deed or any other confidentiality obligations.

'Contracted Service Provider' has the same meaning as given to it in the Privacy Act.

'Deed' means this document entitled 'Deed for the Provision of Overseas Student Health Cover' as amended from time to time, including its Schedules.

'Dependant' means:

- (a) a Partner; and
- (b) any Dependant Children.

'Dependant Child' means a child, adopted child or step-child of an Overseas Student or their Partner, where such child, adopted child or step-child is an eligible family member for the purposes of a Student Visa.

'Eligible Data Breach' means an 'Eligible Data Breach' as defined in the Privacy Act.

'Emergency Treatment' means the treatment of any of the following conditions:

- (a) a risk of serious morbidity or mortality and requiring urgent assessment and resuscitation;
- (b) suspected acute organ or system failure;
- (c) an illness or injury where the viability of function of a body part or organ is acutely threatened;
- (d) a drug overdose, toxic substance or toxin effect;
- (e) psychiatric disturbance whereby the health of the patient or other people is at immediate risk;
- (f) severe pain where the viability or function of a body part or organ is suspected to be acutely threatened;
- (g) acute haemorrhaging in need of urgent assessment and treatment; or
- (h) a condition that requires immediate admission to avoid imminent morbidity or mortality,

in Australia which is confirmed by a Medical Practitioner appointed by the Insurer to be the case, having due regard to, and considering, any information that is provided by the treating Medical Practitioner of the relevant person at the time.

'Financial Year' means the period 1 July to 30 June.

'Health Benefits Fund Policy Rules' means the *Private Health Insurance (Health Benefits Fund Policy) Rules 2015* (Cth) made in accordance with section 333-20 of the Act.

'Health Insurance Business Rules' means the *Private Health Insurance (Health Insurance Business) Rules 2018* (Cth) made in accordance with section 333-20 of the Act.

'Home Affairs' means the Commonwealth Department of Home Affairs or another department that has responsibility for the processing and issuing of a Student Visa.

'Insured Group' is specified as:

- (a) the Overseas Student only;
- (b) the Overseas Student and their Partner;
- (c) the Overseas Student and their Dependant Children; or
- (d) the Overseas Student, a Partner and their Dependant Children.

'Medical Practitioner' has the same meaning as in the *Health Insurance Act 1973* (Cth).

'Medicare Benefits Schedule' means the table consisting of the tables prescribed under sections 4, 4AA and 4A of the *Health Insurance Act 1973* (Cth).

'OSHC' means the overseas student health cover.

'OSHC Product' means an insurance product issued by an Insurer that is:

- (a) an Overseas Student Health Insurance Contract; or
- (b) any other similar insurance policy or health cover, which:
 - (i) covers the same treatments;

- (ii) provides benefits worked out the same way; and
- (iii) has terms and conditions no less disadvantageous than those found in an Overseas Student Health Insurance Contract.

'Overseas Student' has the same meaning as given to it in rule 18 of the Health Insurance Business Rules.

'Overseas Student Health Insurance Contract' has the same meaning as given to it in rule 18 of the Health Insurance Business Rules.

'Partner' means a spouse or de facto partner of an Overseas Student, where such spouse or de facto partner is an eligible family member for the purposes of a Student Visa.

'Party' means a party to this Deed.

'Personal Information' has the same meaning as given to it in the Privacy Act.

'Pharmaceutical Benefits Schedule' means the pharmaceutical items prescribed in the *National Health Act 1953* (Cth) and the *National Health (Listing of Pharmaceutical Benefits) Instrument 2012* (Cth).

'Pre-existing Condition' has the same meaning as given to it by section 75-15(1) and (2) of the Act.

'Privacy Act' means the *Privacy Act 1988* (Cth).

'Privacy Commissioner' means any of the information officers appointed under, and performing the 'privacy functions' as defined in, the *Australian Information Commissioner Act 2010* (Cth).

'Prostheses Rules' means the *Private Health Insurance (Prostheses) Rules (No. 1) 2022* made in accordance with section 333-20 of the Act.

'Risk Equalisation Administration Rules' mean the *Private Health Insurance (Risk Equalisation Administration) Rules 2015* (Cth) made in accordance with section 333-25 of the Act.

'Risk Equalisation Levy Rules' means the *Private Health Insurance (Risk Equalisation Levy) Rules* (Cth) made in accordance with section 10A of the *Private Health Insurance (Risk Equalisation Levy) Act 2003* (Cth).

'Risk Equalisation Policy Rules' means the *Private Health Insurance (Risk Equalisation Policy) Rules 2015* (Cth) made in accordance with section 333-20 of the Act.

'Rules' means the rules devised by the Insurer which set out its requirements in relation to the provision of an OSHC Product that an Overseas Student or their Dependants must comply with.

'Schedule' means a schedule to this Deed.

'Student Visa' has the same meaning as given to it by sub-section 5(1) of the *Migration Act 1958* (Cth).

1.2 In this Deed Poll, unless the contrary intention appears:

- (a) words in the singular include the plural and vice versa;
- (b) words importing a gender include any other gender;
- (c) another grammatical form of a defined word or expression has a corresponding meaning;

- (d) headings are inserted for convenience and do not affect the interpretation of this Deed;
- (e) a reference to the words 'including' and 'for example' in any form is not to be construed or interpreted as words of limitation;
- (f) a reference to legislation is to that legislation (including its sub-ordinate legislation) as substituted, amended or consolidated from time to time; and
- (g) a rule of construction does not apply to the disadvantage of a Party just because that Party was responsible for the preparation of this Deed or any part of it.

1.3 This Deed may be executed in any number of counterparts and the counterparts taken together constitute one and the same instrument.

1.4 This Deed is, or is to be construed as, a written agreement between the Insurer and the Commonwealth for the purposes of the definition of 'overseas student health insurance contract' in sub rule 18(2) of the Health Insurance Business Rules made under section 333-20 of the Act.

2 TERM OF THE DEED

2.1 This Deed shall commence on 1 July 2022 and shall expire on 30 June 2024 unless:

- (a) this Deed is terminated in accordance with clause 21 or 22.
- (b) both Parties, by written agreement reached no later than 3 months prior to 30 June 2024, extend the period for the provision of OSHC for a maximum of 1 year until 30 June 2025.

3 BASE COVERAGE AND BENEFITS THAT MUST BE PAID BY THE INSURER

3.1 The Insurer must offer a base OSHC Product that is made available for each category of Insured Group, which must include, as a minimum, the base coverage benefits as set out in clause 3.2.

3.2 Subject to acceptance by the Insurer that a valid OSHC claim has been made under a base OSHC Product, the Insurer agrees to pay base coverage benefits to the Overseas Student and their Dependants for the health and health-related services, at a rate at least equivalent to the rates, as set out in Schedule 1.

3.3 Under a base product, the Insurer must not pay benefits for services set out in Schedule 1 if they are listed under sections (b), (c) and (d) of Schedule 2.

3.4 In addition to the base coverage benefits provided under clause 3.2, the Insurer may offer, and make available, a higher level of benefits payable under a base OSHC Product, where those benefits are for ambulance cover, Medicare Benefits Schedule services, Chronic Disease Management Programs, hospital treatment, and hospital-substitute treatment. For clarity, these additional benefits do not make the base OSHC Product an OSHC Product with additional coverage as referred to in clause 4.

3.5 In addition to the base coverage benefits provided under clause 3.2, the Insurer may offer, and make available, a higher level of benefits payable and scope of cover under a base OSHC product, where those benefits are for pharmaceutical items listed under the Pharmaceutical Benefits Scheme or for items listed in the Australian Register of Therapeutic Goods.

3.6 In respect of any base OSHC Product, the Insurer must:

- (a) ensure that the Overseas Student and their Dependants have national coverage across all States and Territories;

- (b) ensure that the Rules for the base OSHC Product are not inconsistent with, or contrary to, the Health Insurance Business Rules, the Health Benefits Fund Policy Rules, or the terms and conditions of this Deed;
- (c) ensure that each Dependant:
 - (i) receives the same levels of cover; and
 - (ii) has the same benefits payable,
 at least equal to those the Overseas Student has;
- (d) ensure that any benefits payable under a base OSHC Product do not exceed the actual costs incurred by an Overseas Student or their Dependents;
- (e) fully inform the Overseas Student or their Dependents of all instances, that the Insurer is made aware of, where:
 - (i) extra fees and charges; and
 - (ii) out-of-pocket expenses,
 could be incurred by an Overseas Student or their Dependant for services provided to them under a base OSHC Product; and
- (f) disclose to the Overseas Student or their Dependents what is excluded from a base OSHC Product, including the exclusions set out in Clause 5.

3.7 For clarity, the benefits payable, as set out in this clause 3, apply only to base OSHC Products that have commenced during the term of this Deed.

4 ADDITIONAL COVERAGE AND BENEFITS THAT MAY BE PAID BY THE INSURER

- 4.1 The Insurer may offer an OSHC Product with additional coverage that is made available for each category of Insured Group which will include any of the additional coverage benefits payable as set out in clause 4.2 and the base coverage in clause 3.
- 4.2 Subject to acceptance by the Insurer that a valid OSHC claim has been made under an OSHC Product with additional coverage, the Insurer agrees to pay benefits to the Overseas Student and their Dependents for the health and health-related services as set out in Schedule 2.
- 4.3 In respect of any OSHC Product with additional coverage, the Insurer must:
 - (a) ensure that the Overseas Student and their Dependents have national coverage across all States and Territories;
 - (b) ensure that the Rules for the OSHC Product with additional coverage are not inconsistent with, or contrary to, the Health Insurance Business Rules, the Health Benefits Fund Policy Rules, or the terms and conditions of this Deed;
 - (c) ensure that each Dependant:
 - (i) receives the same levels of cover; and
 - (ii) has the same benefits payable,
 at least equal to those the Overseas Student has;

- (d) ensure that any benefits payable under an OSHC Product with additional coverage do not exceed the actual costs incurred by the Overseas Student or their Dependants;
- (e) fully inform the Overseas Student or their Dependants, of all instances that the Insurer is made aware of, where:
 - (i) extra fees and charges; and
 - (ii) out-of-pocket expenses,
 could be incurred by the Overseas Student or their Dependants for services and treatment provided to them under an OSHC Product with additional coverage;
- (f) disclose to the Overseas Student or their Dependants what is excluded from an OSHC Product with additional coverage, including the exclusions set out in Clause 5; and
- (g) ensure that the services covered by an OSHC Product with additional coverage is in addition to, and does not replace or diminish, the levels of cover and the benefits payable under a base OSHC Product.

4.4 For clarity, the benefits payable, as set out in this clause 4, apply only to OSHC Products with additional coverage that have commenced during the term of this Deed.

5 EXCLUSIONS THAT MUST NOT BE PAID BY THE INSURER

5.1 In every OSHC Product, the Insurer must expressly exclude, and not pay any benefits for, the health and health-related services as set out in Schedule 3.

6 WAITING PERIODS

6.1 The Overseas Student and their Dependants are not entitled to make an OSHC claim for a benefit payable under an OSHC Product until a waiting period for that claim, as set out in Schedule 4, has lapsed.

7 PERIODS AND TYPE OF COVER

7.1 The Insurer acknowledges that evidence of continuous OSHC for the duration of the Student Visa is:

- (a) a pre-requisite before a Student Visa may be granted by Home Affairs; and
- (b) an ongoing condition for the Student Visa to remain valid.

7.2 The Insurer agrees to provide an OSHC product to the Overseas Student and their Dependants by way of continuous cover for the duration of the Student Visa as follows:

- (a) the Overseas Student will notify the Insurer of the period of cover required;
- (b) upon payment of the premium, the Insurer will provide an OSHC Product to the Overseas Student and their Dependants for that notified period of cover;
- (c) the Overseas Student will make an application to Home Affairs for a Student Visa;
- (d) Home Affairs will consider the application for the Student Visa once an OSHC Product has been provided for the notified period of cover; and
- (e) upon a Student Visa being approved by Home Affairs, the Insurer will ensure that the Overseas Student and their Dependants will have an appropriate OSHC product for the duration of the Student Visa granted by Home Affairs.

- 7.3 If an application for an extension of the Student Visa has been approved by Home Affairs, the Insurer agrees to extend the OSHC product for the duration of the extended Student Visa upon payment of the additional premium for that extended period.

8 PREMIUMS

- 8.1 The Insurer agrees that one premium will apply for each Insured Group, for each OSHC product.
- 8.2 The Insurer may offer a maximum percentage discount of 12 per cent, in accordance with subrule 2, 3 and 4 of Rule 6 of the Complying Product Rules. The discount is applicable to an Overseas Student at the time the Overseas Student first purchases a policy from the Insurer.
- 8.3 The Insurer must not apply an excess to OSHC products.
- 8.4 The Commonwealth will not underwrite the operations of OSHC and any claims made under any OSHC Products.
- 8.5 If the Insurer proposes to change the premiums charged for an OSHC Product, the Insurer must apply to the Commonwealth for approval of the change in the approved form, such application to be received by the Commonwealth no later than 30 days prior to the date on which the premium change is to take effect.
- 8.6 The Department will consult with Insurers about the approved form.
- 8.7 The Commonwealth will notify the Insurer of its approval to the proposed premium increase unless it is satisfied that the proposed increase is contrary to the public interest.
- 8.8 Subject to clause 8.7, the Insurer must notify the Commonwealth of any premium change implementation, such notification to occur no later than the first day on which the change is to take effect.

9 PREMIUM REFUNDS

- 9.1 The Insurer must not refund any premiums paid (whether in full or in part) except in accordance with Schedule 5.

10 POLICY CHANGES

- 10.1 The Insurer may provide other policy change options, including extensions, suspensions or changes to the policy start date, if evidence is provided for the following:
- (a) an Overseas Student or their Dependant is not residing in Australia at the expected policy start date; or
 - (b) An Overseas Student or their Dependant is not residing in Australia during a period of OSHC purchased from the Insurer.
- 10.2 If the Insurer is made aware that the Overseas Student and their Dependant has not purchased the correct Insured Group OSHC Product, the Insurer can facilitate a policy transfer as follows:
- (a) the Insurer must notify and provide the Overseas Student and their Dependant with a reasonable period to undertake corrective action on their OSHC Product;
 - (b) if the Overseas Student and their Dependant fails to respond and undertake corrective action, the Insurer can transfer the OSHC policy or policies to the appropriate OSHC policy and issue a revised invoice, if required;
 - (c) upon receipt of payment, the Insurer will re-issue policy documentation as per clause 11.1 and credit any waiting periods as per Schedule 4.

- 10.3 Subject to clause 10.2, the Insurer can withhold benefits payable for services listed in Schedule 1 and 2 if the Overseas Student and their Dependant does not respond and provide payment to the revised invoice within a reasonable period.

11 POLICY DOCUMENTS AND MEMBERSHIP CARDS

- 11.1 If an Overseas Student purchases an OSHC Product with the Insurer, the Insurer must provide the Overseas Student with all disclosure documentation (whether digital or physical) relating to the OSHC Product, including:
- (a) a copy of the policy document;
 - (b) a copy of the policy schedule, including the names and other details of Dependents covered;
 - (c) a copy of the relevant Rules;
 - (d) a summary of what the Overseas Student's duties, responsibilities and obligations are;
 - (e) a summary of what the Overseas Student's benefit entitlements are; and
 - (f) a summary of what extra fees and charges, and out-of-pocket expenses, apply to the services and treatments offered.
- 11.2 In addition to clause 11.1, the Insurer must provide a physical membership card to the Overseas Student or their Dependents when one is requested by the Overseas Student or their Dependents.

12 OSHC IN HEALTH BENEFITS FUND

- 12.1 Both Parties acknowledge that OSHC is 'health-related business' as defined in section 131-15 of the Act and the Insurer agrees to include OSHC business in a health benefits fund conducted by the Insurer and to deal with the health benefits fund in accordance with the Act.
- 12.2 Both Parties acknowledge that benefits paid out under OSHC are not 'eligible benefits' as defined in the Risk Equalisation Policy Rules and that risk equalisation (as defined in Part 6-7 of the Act), the *Private Health Insurance (Risk Equalisation Levy) Act 2003*, the Risk Equalisation Levy Rules, and the Risk Equalisation Administration Rules does not apply to OSHC.
- 12.3 Both Parties acknowledge that the Insurer must comply with the community rating requirements in relation to OSHC as set out in rule 9 of the Health Benefits Fund Policy Rules.

13 RULES

- 13.1 Any Rules produced by the Insurer concerning the operation of the OSHC shall not be inconsistent with the Health Insurance Business Rules, the Health Benefits Fund Policy Rules or the terms of this Deed.
- 13.2 The Insurer must ensure that the Rules are publicly available and easily accessible by policy holders.
- 13.3 The Commonwealth may request the Insurer to change or remove all or any of the Rules where it forms the opinion (acting reasonably) that the Rules require change or removal, such request to be made as follows:
- (a) the Commonwealth must first notify the Insurer in writing of its reasons for seeking that change or removal;
 - (b) after having been notified under clause 13.3(a), the Insurer must provide to the Commonwealth its written response within 21 days advising whether it agrees to the proposed change or removal, or not;

- (c) If the Insurer rejects the proposed change or removal (in whole or part), it must also provide to the Commonwealth its reasons for doing so, at the same time when giving its written response under clause 13.3(b); and
- (d) If no written response is received, the Commonwealth may proceed to make a request to change or remove the Rules; or
- (e) If a written response is received, the Commonwealth will consider the written response and reasons for rejection (if any are provided). After consideration, the Commonwealth may proceed to make a request to change or remove the Rules, unless the reason for rejection is a commercial decision of the Insurer.

If a request for change or removal is made in accordance with this clause 13.3, then the Insurer must implement that change to, or removal of, any or all of the Rules.

14 CONSULTATIVE GROUP

- 14.1 The Commonwealth may establish a consultative group to consider issues and make recommendations in relation to OSHC and this Deed.
- 14.2 If a consultative group is established, the Insurer agrees to participate in meetings and, subject to clauses 17 and 18, provide all reasonable information and assistance to the consultative group as requested by the Commonwealth.

15 INFORMATION TO BE PROVIDED

- 15.1 The Insurer agrees to publish, no later than the first day on which they take effect, the following information:
 - (a) in respect of each OSHC Product, a copy of the policy document and other product information; and
 - (b) the Rules.
- 15.2 Subject to clause 17, the Insurer agrees to provide the Commonwealth with copies of its product information, forms, brochures, Rules, or agreements with third parties that assist with product promotions, and other information within 14 days after the Commonwealth has made the request.

16 SUBCONTRACTORS

- 16.1 The Insurer shall not, without prior written approval of the Commonwealth, subcontract the performance of any part of the OSHC. In giving written approval, the Commonwealth may impose such terms and conditions it considers are reasonable.
- 16.2 Despite any approval given by the Commonwealth, the Insurer is fully responsible for:
 - (a) determining the suitability of a subcontractor for the services proposed to be carried out by the subcontractor; and
 - (b) ensuring that those services meet the requirements of this Deed; and
 - (c) the proper and timely performance of the OSHC services, notwithstanding that the Insurer has subcontracted the performance of any part of those services to a subcontractor.

17 CONFIDENTIALITY

- 17.1 A Party must not, without the prior written consent of the other Party, disclose any Confidential Information of the other Party to a third party.
- 17.2 The obligations on the Parties under this clause 17 will not be taken to have been breached where the Confidential Information is required to be disclosed:
- (a) by law;
 - (b) to the relevant Ministers, including the staff and personnel in their offices; or
 - (c) to a House of Parliament, including any Committees.

18 NOTIFIABLE DATA BREACHES

- 18.1 If the Insurer becomes aware that there are reasonable grounds to suspect that there may have been an Eligible Data Breach in relation to any Personal Information held by the Insurer for the purposes of this Deed or the provision of OSHC, the Insurer agrees to:
- (a) notify the Department in writing as soon as possible, which must be no later than within 3 days of becoming aware; and
 - (b) carry out an assessment in accordance with the requirements of the Privacy Act unless otherwise directed by the Commonwealth.
- 18.2 Where the Insurer is aware that there are reasonable grounds to believe there has been, or where the Department notifies the Insurer that there has been, an Eligible Data Breach in relation to any Personal Information held by the Insurer as a result of this Deed or the provision of OSHC, the Insurer must:
- (a) take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any of the individuals to whom the Personal Information relates;
 - (b) unless otherwise directed by the Department, take all other action necessary to comply with the requirements of the Privacy Act; and
 - (c) take any other action as reasonably directed by the Department.

19 PROTECTION AND USE OF PERSONAL INFORMATION

- 19.1 At the time an OSHC Product is first purchased by an Overseas Student, the Insurer agrees:
- (a) to use reasonable endeavours to obtain permission from the Overseas Student and Dependants (if applicable) to be permitted to provide; and
 - (b) if obtained, to provide,
their names and contact details to Home Affairs within 14 days, as required by law or upon request by Home Affairs, after the Overseas Student has:
 - (c) received a premium refund; or
 - (d) cancelled their OSHC Product,
- advising Home Affairs of such premium refund or OSHC Product cancellation (as the case may be) having occurred.

- 19.2 When dealing with any Personal Information held for the purposes of this Deed or the provision of OSHC, the Insurer agrees:
- (a) to use or disclose Personal Information obtained during the course of providing OSHC pursuant to this Deed, only for the purposes of providing OSHC;
 - (b) not to do any act or engage in any practice which if done or engaged in by an agency, would be a breach of an APP;
 - (c) to notify individuals whose Personal Information the Insurer holds, that complaints about acts or practices of the Insurer may be investigated by the Privacy Commissioner who has power to award compensation against the Insurer in appropriate circumstances;
 - (d) comply with the obligations contained in the APPs that apply to the Insurer;
 - (e) not to use or disclose Personal Information or engage in an act or practice that would breach an APP or a RAC (registered APP code), whichever is applicable to the Insurer, unless the activity or practice is engaged in for the purpose of discharging, directly or indirectly, an obligation under this Deed, and the activity or practice which is authorised by this Deed is inconsistent with the APP or RAC, whichever is applicable to the Insurer;
 - (f) to comply with any request under section 95C of the Privacy Act;
 - (g) to immediately notify the Department if the Insurer becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 19, whether by the Insurer or any subcontractor;
 - (h) to comply with any directions, guidelines, determinations or recommendations of the Privacy Commissioner to the extent that they are consistent with the requirements of this clause 19;
 - (i) to ensure that any officers, employees or agents of the Insurer who are required to deal with Personal Information for the purposes of this Deed and the provision of OSHC are made aware of the obligations of the Insurer set out in this clause 19; and
 - (j) not use or disclose any Personal Information, obtained from the Department, for the purposes of direct marketing.
- 19.3 The Insurer agrees to ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Deed imposes on the subcontractor the same obligations as the Insurer has under this clause 19, including the requirement in relation to subcontracts.
- 19.4 The Insurer indemnifies the Department in respect of any loss, liability or expense suffered or incurred by the Department which arises directly or indirectly from a breach of any of the obligations of the Insurer under this clause 19, or a subcontractor under the subcontract provisions referred to in clause 19.4.
- 19.5 The Insurer's obligations under this clause 19 are in addition to, and do not restrict, any obligations it may have under the Privacy Act or any privacy codes or privacy principles contained in, authorised by or registered under any law including any such privacy codes or principles that would apply to the Insurer but for the application of this clause.
- 19.6 The Insurer acknowledges that it may be treated as a Contracted Service Provider.

20 INDEMNITY

- 20.1 The Insurer agrees to indemnify and to hold harmless and defend the Commonwealth (including its officers, employees and agents) from and against any:
- (a) loss (including legal costs and expenses on a solicitor/own client basis); or
 - (b) liability,
- incurred or suffered by the Commonwealth (including its officers, employees and agents) arising from any claim, suit, demand, action or proceeding made or brought by any person against the Commonwealth (including its officers, employees and agents) where such loss or liability was caused by:
- (c) any breach of this Deed; or
 - (d) any wilful, unlawful or negligent act or omission of the Insurer (including its officers, employees, agents or subcontractors) in connection with this Deed.
- 20.2 The Insurer's liability to indemnify the Commonwealth (including its officers, employees and agents) under clause 20.1 shall be reduced proportionately to the extent that any act or omission of the Commonwealth (including its officers, employees and agents) contributed to the loss or liability.
- 20.3 To the extent permitted by law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Insurer under or in connection with this Deed.

21 TERMINATION FOR CONVENIENCE AND REDUCTION

- 21.1 In addition to any other right the Commonwealth has under this Deed, the Commonwealth, using its best endeavours to give at least 60 days' notice, may:
- (a) terminate this Deed for convenience; or
 - (b) reduce the scope of the OSHC,
- immediately by giving notice to the Insurer.
- 21.2 If this Deed is terminated or reduced in scope under clause 21.1, the Commonwealth is only liable for any reasonable costs incurred by the Insurer which are directly attributable to the termination or reduction.
- 21.3 Upon receipt of a notice of termination or reduction the Insurer shall:
- (a) stop work as specified in the notice;
 - (b) take all available steps to minimise loss resulting from that termination or reduction; and
 - (c) in the case of reduction in the scope of the OSHC, continue work on that part of the OSHC not affected by the notice.

22 TERMINATION FOR DEFAULT

- 22.1 A Party may, by notice in writing to the other Party, terminate this Agreement with effect on and from the date specified in the termination notice where the other Party:
- (a) breaches a provision of this Deed and fails to remedy that breach within the period stated in a notice to remedy. The period stated in the notice to remedy must be reasonable (but in any event no less than 14 days), having regard to the nature of the breach and the time realistically required to remedy that breach; or

(b) breaches a provision of this Deed and such a breach is not capable of being remedied at all.

22.2 If the Insurer goes into liquidation, the Commonwealth may terminate this Deed immediately by giving notice to the Insurer.

22.3 This clause 22 is in addition to, and does not affect, any other right of action or remedy which has accrued or which may accrue in favour of a Party.

23 NOTICES

23.1 A Party giving a notice under this Deed must:

- (a) do so in writing; and
- (b) address it to the address for notices of the other Party as set out in Schedule 6, unless a change of address for notice is notified by a Party to the other Party in writing from time to time.

23.2 A notice is deemed to be received:

- (a) if delivered by hand – upon delivery at the relevant address;
- (b) if sent by post – upon delivery to the relevant address; or
- (c) if transmitted electronically – when received by the addressee.

24 DISPUTE RESOLUTION

24.1 Subject to clause 24.3, the Parties agree not to commence any legal proceedings in respect of any dispute arising under this Deed, which has not been resolved by informal discussion, until the procedure provided by clause 24.2 has been followed.

24.2 The Parties agree that any dispute arising during the course of this Deed will be dealt with as follows:

- (a) the Party claiming that there is a dispute will send the other Party a written notice setting out the nature of the dispute;
- (b) the Parties will try to resolve the dispute through direct negotiation by persons who they have given authority to resolve the dispute;
- (c) the Parties have fourteen (14) days from the receipt of the notice to reach a resolution or to agree that the dispute is to be submitted to mediation or some alternative dispute resolution procedure; and
- (d) if:
 - (i) there is no resolution of the dispute;
 - (ii) there is no agreement on submission of the dispute to mediation or some alternative dispute resolution procedure; or
 - (iii) there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within sixty (60) days of the submission, or such extended time as the Parties may agree in writing before the expiration of the sixty (60) days,

then either Party may commence legal proceedings.

- 24.3 For clarity, this clause 24 does not apply where either Party commences legal proceedings for interlocutory relief.

25 GENERAL

Waiver

- 25.1 A waiver of any provision of this Deed must be in writing and signed by the waiving Party to be effective.
- 25.2 A waiver by a Party of a breach of this Deed by the other Party will not be deemed to be a waiver in respect of any other breach or of any subsequent breach by the other Party.

No Relationship

- 25.3 A Party is not by virtue of this Deed, or for any purpose, an employee, partner or agent of the other Party, or invested with any power or authority to bind or represent the other Party.

Further Action

- 25.4 Each Party must do all acts and things (including execute documents) necessary, or desirable, to give effect to this Deed when requested by the other Party to do so.

Assignment and Novation

- 25.5 A Party must not assign, novate or otherwise transfer any or all of its rights arising out of this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld.

Governing Law and Jurisdiction

- 25.6 This Deed is governed by the laws of the Australian Capital Territory and the Commonwealth of Australia. The Parties irrevocably submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and the Commonwealth of Australia.

Entire

- 25.7 This Deed is the entire agreement between the Parties in relation to the OSHC and supersedes all previous agreements, understandings and negotiations in relation to the OSHC.

Variation

- 25.8 No agreement or understanding varying or extending this Deed, including any additional or different terms or conditions communicated by one Party to the other Party, will be legally binding upon either Party unless it is agreed in writing and signed by both Parties.

Costs

- 25.9 Each Party agrees to bear its own legal costs, expenses and disbursements in connection with the negotiation and execution of this Deed.

Survival

- 25.10 In addition to any provisions which by their nature survive expiry or termination, clauses 15.1(c), 16, 17, 18, 19 and 20 will survive the expiry or termination of this Deed.

Counterparts

- 25.11 This Deed may be executed in a number of counterparts. All counterparts together will be taken to constitute one instrument. A Party may execute this Deed by signing any counterpart.

Electronic signing

- 25.12 A Party may sign this Deed electronically and bind itself accordingly. The Party signing electronically warrants and represents to the other Party (upon which the other Party relies) that:

- (a) each of the persons signing have the full power and authority to sign this Deed in this way;
- (b) the signatures appearing in this document are authentic; and

when signed, this Deed will be legally binding on it.

Severance

- 25.13 Any reading down or severance of a particular provision in this Deed does not affect the validity of the other provisions of this Deed.

THIS DOCUMENT HAS BEEN RELEASED UNDER
THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH

EXECUTED AS A DEED

SIGNED, SEALED AND DELIVERED for and on behalf of the Commonwealth of Australia as represented by the **Department of Health and Aged Care** ABN 83 605 426 759 by a duly authorised representative:

 Name of authorised representative (print)

 Name of witness (print)

 Signature of authorised representative

 Signature of witness

 Date

SIGNED, SEALED AND DELIVERED by [INSERT NAME OF COMPANY] ABN [insert ABN] in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by:

 Name of Director (print)

 Name of Director/Company Secretary (print)

 Signature of Director

 Signature of Director/Company Secretary

 Date

 Date

THIS DOCUMENT HAS BEEN RELEASED UNDER
THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH

SCHEDULE 1**Services and Rates for Base Coverage**

The table below sets out the category of services and treatments, and their rates:

Services	Rate
(a) Ambulance services	100 per cent of the charge for transport by an ambulance provided by or under an arrangement with an approved ambulance service, when medically necessary for admission to hospital or for emergency treatment.
(b) Pharmaceutical items (for OSHC Products commencing prior to the implementation date of the Insurer's premium change that occurs after 1 July 2022)	Reimbursement of amounts paid for items on the Pharmaceutical Benefits Scheme that exceed the Pharmaceutical Benefits Scheme co-payment for general patients: <ul style="list-style-type: none"> (i) for an Overseas Student only: up to \$50.00 per pharmaceutical item with a minimum total benefit of \$300.00 per Calendar Year; and (ii) for each of the other Insured Group categories: up to \$50.00 per pharmaceutical item with a minimum total benefit of \$600.00 per Calendar Year.
(c) Pharmaceutical items (for OSHC Products commencing on or from the implementation date of the Insurer's premium change that occurs after 1 July 2022)	Reimbursement of amounts paid for items on the Pharmaceutical Benefits Scheme that exceed the Pharmaceutical Benefits Scheme co-payment for general patients: <ul style="list-style-type: none"> (i) for an Overseas Student only: up to \$50.00 per pharmaceutical item with a minimum total benefit of \$500.00 per Calendar Year; and (ii) for each of the other Insured Group categories: up to \$50.00 per pharmaceutical item with a minimum total benefit of \$1,000.00 per Calendar Year.
(d) Out-of-hospital medical services	85 per cent of the fee as listed on the Medicare Benefits Schedule.
(e) In-hospital medical services	100 per cent of the fee as listed on the Medicare Benefits Schedule.
(f) Private hospital services	If there is a contract between the Insurer and private hospital, the amounts as specified in the contract. If there is no contract between the Insurer and the private hospital, then the applicable minimum benefit as set out in the Benefit Requirement Rules.
(g) Public hospital services	100 per cent of charges raised by the public hospital for services charged at a rate determined by the relevant State or Territory health authority to a patient who is not eligible for Medicare in respect of: <ul style="list-style-type: none"> (i) admitted patient shared ward accommodation, intensive care and same day services; (ii) post-operative services; (iii) accident and emergency department charges; and (iv) outpatient department charges.
(h) Surgically implanted prostheses	No gap prostheses and gap permitted prostheses as listed in the Prostheses Rules.

SCHEDULE 2**Services and Rates for Additional Coverage**

The table below sets out the category of services and treatments, and their rates:

Services	Rate
(a) General treatment services as defined in section 121-10 of the Act	As determined by the Insurer.
(b) Assisted Reproductive Services	The relevant rate as per Schedule 1.
(c) Services and treatment arranged in advance of the start date of an OSHC Product.	The relevant rate as per Schedule 1.
(d) Medical repatriation of an Overseas Student and their Dependants to their home country, including necessary medical treatment en route from Australia.	As determined by the Insurer.

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SCHEDULE 3

Exclusions

The table below sets out the category of excluded services and treatments:

Excluded services and treatments	
(a)	Services and treatment rendered outside of Australia, including treatment rendered whilst travelling to or from Australia (unless a medical repatriation service covered under Schedule 2)
(b)	Services and treatment where the medical expenses for the service are for a compensable injury or illness for which the patient's insurer or compensation agency has accepted liability
(c)	Services and treatment that is not medically necessary

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BY THE DEPARTMENT OF HEALTH

SCHEDULE 4**Waiting Periods**

The table below sets out the waiting periods for benefits payable under an OSHC Product:

Benefits payable for	Waiting Period
(a) Out-of-hospital services claimed for items on the Medicare Benefits Schedule under: (i) Group A1; (ii) Group A2; (iii) Sub-groups 2 and 10 of Group A7; (iv) Group A22; (v) Group A23; (vi) Sub-groups 1 and 2 of Group A40; and (vii) Group A46.	Nil
(b) Emergency Treatment	Nil
(c) Hospital treatment or hospital-substitute treatment that is psychiatric care, except for Emergency Treatment	Maximum of 2 months from the OSHC start date
(d) Hospital treatment or hospital-substitute treatment that is for a pregnancy related condition, except for Emergency Treatment	Maximum of 12 months from the OSHC start date
(e) Hospital treatment or hospital-substitute treatment that is for a Pre-existing Condition, including any secondary conditions or disabilities directly arising a Pre-existing Condition, except for Emergency Treatment	Maximum of 12 months from the OSHC start date
(f) Any other service in Schedule 1 not listed Schedule 4	Maximum of 2 months from the OSHC start date

For clarity, a waiting period served under a previous OSHC Product will be off set against, or credited towards, the waiting period of a new OSHC Product, provided there is continuous cover.

SCHEDULE 5

Premium Refunds

The table below sets out the events and amounts of premium refunds:

Events	Refundable amount
(a) The Overseas Student has failed to Arrive in Australia to take up studies and will not come at all.	Paid premium amount to be refunded in full, less a reasonable processing fee (if any).
(b) The Overseas Student has failed to Arrive in Australia due to a delay, but eventually Arrives in Australia	Paid premium amount to be refunded on a pro rata basis for the period of delay calculated from the date of the Student Visa until the actual date of arrival in Australia, less a reasonable processing fee (if any).
(c) The Overseas Student has paid the premium on the basis a Student Visa will be granted by Home Affairs but is refused entry.	Paid premium amount to be refunded in full, less a reasonable processing fee (if any).
(d) The Overseas Student has paid the premium of an extended stay on the basis the Student Visa will be extended by Home Affairs but is refused an extension.	Paid premium amount in relation to the extension to be refunded in full, less a reasonable processing fee (if any).
(e) For reasons beyond the control of the Overseas Student, the Overseas Student is required to cease studies and leave Australia before the expiry of the Student Visa.	Paid premium amount to be refunded on a pro rata basis for the period of absence from Australia calculated from the departure date until the expiry date of the Student Visa, less a reasonable processing fee (if any).
(f) The Overseas Student has been granted permanent residence in Australia, or an Australian visa (other than a Student Visa).	Paid premium amount to be refunded on a pro rata basis for the period left on the Student Visa calculated from the date of permanent residency or the date of the Australian visa (other than a Student Visa) until the expiry date of the Student Visa, less a reasonable processing fee (if any).
(g) The Overseas Student can prove to the Insurer that they were not residing in Australia for a continuous period of 3 months or more whilst holding a valid Student Visa.	Paid premium amount to be refunded on a pro rata basis for the period of absence whilst not residing in Australia, less a reasonable processing fee (if any).
(h) The Overseas Student can provide proof of OSHC taken out and paid for with another insurer which overlaps with the same period covered by the Insurer.	Paid premium amount to be refunded on a pro rata basis for the overlapped period during which a new OSHC cover with another insurer was in place, less a reasonable processing fee (if any).
(i) Due to administrative changes that adjust the period of OSHC beyond the dates required for the Overseas Student's Student Visa.	Paid premium amount to be refunded on a pro rata basis for the period of absence calculated until the expiry date of the Student Visa, less a reasonable processing fee (if any).

For clarity, where the Overseas Student has Dependents, the refundable amount will also include paid premium amounts for the Dependents.

SCHEDULE 6**Address for Notices**

The table below sets out each Party's address for notice:

For the Commonwealth	For the Insurer
Department of Health and Aged Care Private Health Industry Branch Medical Benefits Division GPO Box 9848 Canberra ACT 2601 Australia Email: OSHC@health.gov.au	Please insert details

THIS DOCUMENT HAS BEEN RELEASED UNDER
THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH

DEED

between

THE COMMONWEALTH OF AUSTRALIA

as represented by

THE DEPARTMENT OF HEALTH

and

in relation to

**THE PROVISION OF OVERSEAS STUDENT HEALTH
COVER**

CONTENTS

1. Interpretation and Operation of Deed
2. Period of the Deed
3. Rules
4. OSHC in Health Benefits Fund
5. Membership Cards
6. Premiums and Refunds
7. Benefits Payable by the Insurer
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10. Consultative Group
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12. Confidentiality
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ANNEXURES

1. Insurer's OSHC Products
2. Insurer's Forms
3. Insurer's Brochures
4. Insurer's Rules in relation to OSHC
5. Insurer's Other Relevant Documents

THIS DEED is made on the ----- day of----- 2016

between

THE COMMONWEALTH OF AUSTRALIA ('the Commonwealth') ABN: 83 605 426 759 as represented by the Department of Health ('the Department')

and

being a private health insurer registered, or taken to be registered, under Division 3 of Part 2 of the *Private Health Insurance (Prudential Supervision) Act 2015* for the purposes of conducting health insurance business and health related business ('the Insurer').

WHEREAS

1. The Commonwealth requires the provision of health insurance to Overseas Students, which has the following as its purposes:
 - (a) to ensure that the cost of health insurance does not serve as a disincentive to prospective Overseas Students coming to Australia to study;
 - (b) to ensure that Overseas Students and the Dependants of Overseas Students have access to affordable medical and hospital treatment while studying in Australia;
 - (c) to minimise the risk of personal financial crisis for Overseas Students requiring medical treatment;
 - (d) to minimise the risk of bad debt to hospitals, doctors and other health professionals;
 - (e) to ensure the costs of providing health services to government sponsored students are clearly attributable;
 - (f) to ensure that there is no, or minimal, cost to the Australian taxpayer for the provision of health services to Overseas Students; and
 - (g) to ensure that a level of service is available enabling Overseas Students accessibility and a clear understanding of their benefits.
2. The Insurer has offered to provide OHSC to Overseas Students.
3. The Commonwealth has accepted the Insurer's offer on the terms and conditions appearing herein.
4. This Deed is a written agreement between the Insurer and the Commonwealth for the purposes of the definition of 'overseas student health insurance contract' in sub rule 18(2) of the Health Insurance Business Rules made under section 333-20 of the Act.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. INTERPRETATION AND OPERATION OF DEED

‘Act’ means the *Private Health Insurance Act 2007*.

‘Bridging Visa’ has the meaning given by subsection 5(1) of the *Migration Act 1958*.

‘Complying Product Rules’ means the *Private Health Insurance (Complying Product) Rules* made in accordance with section 333-20 of the Act.

‘Dependant’ means a person who is :

- (a) a spouse or de facto partner of an Overseas Student; or
- (b) a child or step-child of an Overseas Student who is unmarried and has not turned 18.

‘DIBP’ means the Department of Immigration and Border Protection.

‘Emergency Treatment’ means the treatment of any of the following conditions:

- a risk of serious morbidity or mortality and requiring urgent assessment and resuscitation; or
- suspected acute organ or system failure; or
- an illness or injury where the viability of function of a body part or organ is acutely threatened; or
- a drug overdose, toxic substance or toxin effect; or
- psychiatric disturbance whereby the health of the patient or other people is at immediate risk; or
- severe pain where the viability or function of a body part or organ is suspected to be acutely threatened; or
- acute haemorrhaging and requiring urgent assessment and treatment; or
- a condition that requires immediate admission to avoid imminent morbidity or mortality.

‘Financial Year’ means the period 1 July to 30 June.

‘Health Benefits Fund Policy Rules’ means the *Private Health Insurance (Health Benefits Fund Policy) Rules* made in accordance with section 333-20 of the Act.

‘Health Insurance Business Rules’ means the *Private Health Insurance (Health Insurance Business) Rules* made in accordance with section 333-20 of the Act.

‘insured group’ means the groups as set out in rule 5(1)(a) of the Complying Product Rules.

‘Medical Practitioner’ has the same meaning as in the *Health Insurance Act 1973*.

‘Medicare Benefits Schedule’ means the table consisting of the tables prescribed under sections 4, 4AA and 4A of the *Health Insurance Act 1973*.

‘OSHC’ means overseas student health cover under which the Insurer offers Overseas Student Health Insurance Contracts to Overseas Students with the benefits set out in clause 7.

'OSHC product' means all Overseas Student Health Insurance Contracts issued by the Insurer:

- (a) that cover the same treatments;
- (b) that provide benefits worked out the same way; and
- (c) whose terms and conditions are the same as each other.

'Overseas Student' has the same meaning as in Rule 18 of the Health Insurance Business Rules, that is:

- (a) a person who is the holder of a Student Visa; or
- (b) a person who:
 - (i) is an applicant for a Student Visa; and
 - (ii) is the holder of a Bridging Visa; and
 - (iii) was, immediately before being granted the Bridging Visa, the holder of a Student Visa.

'Overseas Student Health Insurance Contract' has the same meaning as in Rule 18 of the Health Insurance Business Rules.

'Party' or 'Parties' means a party or the parties to this Deed.

'Prostheses Rules' means the *Private Health Insurance (Prostheses) Rules* made in accordance with section 333-20 of the Act.

'Reserves' means the amount of contributions received by the Insurer less the amounts it has paid out for benefits and administration costs.

'Risk Equalisation Administration Rules' mean the *Private Health Insurance (Risk Equalisation Administration) Rules* made in accordance with section 333-25 of the Act.

'Risk Equalisation Policy Rules' means the *Private Health Insurance (Risk Equalisation Policy) Rules* made in accordance with section 333-20 of the Act.

'Risk Equalisation Levy Rules' means the *Private Health Insurance Risk Equalisation Levy Rules* made in accordance with the *Private Health Insurance (Risk Equalisation Levy) Act 2003*

'Rules' means the rules devised by the Insurer which sets out its requirements in relation to the provision of OSHC and with which a member must comply.

'Student Visa' has the meaning given by subsection 5(1) of the *Migration Act 1958*.

- 1.2 Unless the contrary intention appears, a reference in this Deed to rules made under the Act is a reference to those rules as in force from time to time.

2. PERIOD OF THE DEED

- 2.1 This Deed shall commence on 1 July 2016 and shall expire on 30 June 2021 unless:
 - (a) this Deed is terminated in accordance with clause 16 or 17,

- (b) both Parties, by written agreement reached no later than 3 months prior to 30 June 2021, extend the period for the provision of OSHC for a maximum of 1 year from 30 June 2021.

3. RULES

- 3.1 Any Rules produced by the Insurer concerning the operation of the OSHC shall not be inconsistent with the Health Insurance Business Rules, the Health Benefits Fund Policy Rules or the terms of this Deed and will be made available to OSHC members upon request.
- 3.2 The Insurer will provide the Department with a copy of the Rules at least 14 days prior to the proposed date of the Rules coming into effect.
- 3.3 Both Parties acknowledge that the Department, in its sole discretion, can require the Rules to be altered, amended or abandoned. Subject to subclause 6.7, the Department will not unreasonably require an alteration, amendment or abandonment of any Rule which is a commercial decision of the Insurer.

4. OSHC IN HEALTH BENEFITS FUND

- 4.1 Both Parties note that OSHC is 'health-related business' as defined in section 131-15 of the Act and the Insurer agrees to include OSHC business in a health benefits fund conducted by the Insurer and to deal with the health benefits fund in accordance with the Act.
- 4.2 Both Parties note that benefits paid out under OSHC are not 'eligible benefits' as defined in the, Risk Equalisation Policy Rules and that risk equalisation (as defined in Part 6-7 of the Act, the *Private Health Insurance (Risk Equalisation Levy) Act 2003*, the Risk Equalisation Levy Rules and the Risk Equalisation Administration Rules does not apply to OSHC.
- 4.3 The Commonwealth will not underwrite the operations of OSHC.
- 4.4 Both Parties note that the Insurer must comply with the community rating requirements in relation to OSHC as set out in rule 9 of the Health Benefits Fund Policy Rules.
- 4.5 Both Parties agree that the premiums payable under OSHC must, at all times, generate adequate income to enable the requirements of this Deed to be met.
- 4.6 The Insurer agrees to provide the Department with supporting information and documentation upon request. Such information and documentation may include but is not limited to:
- (a) claims expenditure;
 - (b) claims experience;
 - (c) income generated by premiums;
 - (d) administration costs; and
 - (e) state of Reserves.

5. MEMBERSHIP CARDS

- 5.1 The Insurer must provide each Overseas Student who enters into OSHC with the Insurer with a membership card which clearly indicates that the Overseas Student is covered by OSHC.
- 5.2 Provided the contribution and relevant information to enable the membership to be established has been received by the Insurer, the membership card is to be provided to the Overseas Student within 4 weeks of entering into OSHC with the Insurer.

6. PREMIUMS AND REFUNDS

- 6.1 The Insurer agrees that one premium shall be set for each insured group, for each of the OSHC products offered, which covers Overseas Students from all States and Territories.
- 6.2 The Insurer may offer more than one type of OSHC product covering Overseas Students from each insured group described in subclause 6.1. In accordance with clause 7.6, each OSHC product may provide benefits above the minimum benefits set out in clause 7.1.
- 6.3 The Insurer agrees that its OSHC products that cover an Overseas Student and Dependants of the Overseas Student will provide coverage for the Overseas Student and any Dependants of the Overseas Student whilst residing in Australia.
- 6.4 The Insurer should limit an increase in its OSHC premiums to once during each Financial Year with the increase being announced by 30 September of the current Financial Year and the increase to take effect in the same Financial Year. Except as provided for in subclause 6.5, the approval of the Department is not required for one increase in any Financial Year in an insured group premium.
- 6.5 Insurers must seek prior approval from the Department for any proposed increase in the premium of any OSHC product that covers more than one person if that increase would result in that premium being more than twice the premium for an equivalent OSHC product that covers only one person.
- 6.6 Should the Insurer be required to increase its OSHC premiums more than once in a Financial Year it must obtain the approval of the Department prior to any second or subsequent increase being implemented.
- 6.7 When seeking a second increase in a Financial Year to its OSHC premiums the Insurer must submit, in addition to its application, the information and documentation listed in subclause 4.6. The Department will only approve a second increase in the premium if the Insurer can demonstrate that its Reserves are such that there is an immediate prospect of the Insurer being unable to meet the requirements of this Deed. The Department will advise the Insurer of its decision within one month of the date of the Insurer's application.
- 6.8 The Insurer must not refund any premiums unless:
 - (a) an Overseas Student has not come to Australia to take up studies and an application is made to the Insurer whereupon the full amount of the premium shall be refunded;

- (b) an Overseas Student has paid the premium on the basis of an extended stay but the extension of authorised stay was not granted by DIBP and an application has been made to the Insurer;
- (c) an Overseas Student is obliged to cease studies and leave Australia before the end of a period of approved stay for reasons beyond the control of the Overseas Student and an application has been made for a refund of an amount equal to the balance of cover for which premiums have been paid;
- (d) an Overseas Student has been granted permanent residence in Australia, or an Australian visa (other than a Student Visa), and an application has been made for a refund of an amount equal to the balance of cover for which premiums have been paid from the date that permanent residence or other visa was granted;
- (e) an Overseas Student can prove to the Insurer that they were not resident in Australia for a continuous period of 3 months or more but whilst holding a valid Student Visa; or
- (f) an Overseas Student can provide proof of OSHC provided by another insurer which includes the period covered by the Insurer.

6.9 Any fee charged by the Insurer for processing refunds will be noted in the Rules.

6.10 At the time OSHC is first purchased, the Insurer agrees to use its best endeavours to obtain an Overseas Student's permission to provide their name and contact details to DIBP if the Overseas Student has their premium refunded for whatever reason, or the Overseas Student cancels their policy.

6.11 The Insurer agrees, where an Overseas Student has given his or her permission to do so, to provide DIBP with the name and contact details of any Overseas Student, if that Overseas Student receives a premium refund for whatever reason or has cancelled their OSHC.

7. BENEFITS PAYABLE BY THE INSURER

7.1 The Insurer must pay benefits to an Overseas Student or a Dependant of the Overseas Student, upon acceptance by the Insurer that a valid OSHC claim has been made, for the following services and at a rate at least equivalent to the rates (if any) set out below:

- (a) out-of-hospital medical services – the benefit amount as listed in the Medicare Benefits Schedule;
- (b) in-hospital medical services – 100% of the Medicare Benefits Schedule fee;
- (c) public hospital – admitted patient in shared ward hospital accommodation, same day services, accident and emergency and outpatient medical and post-operative services – the rate determined by State and Territory health authorities for services charged to a patient who is not an Australian resident;
- (d) surgically implanted prostheses – no gap prostheses and gap permitted prostheses as listed in the Prostheses Rules;

- (e) private hospital/registered day hospital facility – 100% of the charges for all insurable costs raised by a contracted hospital with a minimum of shared ward accommodation;
- (f) benefits for expenses exceeding the equivalent of the current Pharmaceutical Benefits Scheme patient contribution for general beneficiaries, up to \$50 per pharmaceutical item, prescribed and dispensed by a registered practitioner recognised by the health fund with a maximum benefit of \$300 per calendar year per single membership and \$600 per family membership; and
- (g) ambulance services – 100% of the charge for transport by an ambulance provided by or under an arrangement with an approved ambulance service when medically necessary for admission to hospital or for emergency treatment.

- 7.2 No waiting periods will apply to claims except as stated in clause 8.
- 7.3 The Insurer shall fully inform an Overseas Student of instances where extra charges could be incurred by the Overseas Student for services provided to the Overseas Student or a Dependant of the Overseas Student, for instance, in cases where the Overseas Student or the Dependant of the Overseas Student was treated in a non-contracted hospital.
- 7.4 The benefits payable under OSHC are not to exceed the costs incurred by an Overseas Student or a Dependant of the Overseas Student.
- 7.5 Any OSHC product that covers an Overseas Student must provide benefits to a Dependant of the Overseas Student to the same level as the benefits payable to the Overseas Student.
- 7.6 The Insurer may offer a higher level of benefits under an OSHC product as determined by the Insurer in addition to the benefits set out in subclause 7.1. The additional cover must only be related to the provision in Australia of the services or treatments listed in subrule 18(2) of the Health Insurance Business Rules to an Overseas Student or a Dependant of the Overseas Student.
- 7.7 Each OSHC product must comply with the benefits payable as set out in subclause 7.1.
- 7.8 The Insurer must offer one OSHC product which does not offer any additional benefits to the matters set out in subclause 7.1 and which does not pay benefits for matters referred to in subclause 8.1.
- 7.9 The Insurer will ensure that information for each OSHC product will be made publicly available.

8. BENEFITS NOT PAYABLE

- 8.1 Under OSHC, the Insurer is not required to pay benefits for:
 - (a) services and treatment rendered as part of an assisted reproductive program, including but not limited to in-vitro fertilisation;

- (b) treatment rendered outside of Australia, whether or not in connection with a course of study and including treatment necessary en route to or from Australia;
 - (c) treatment arranged in advance of an Overseas Student's or a Dependant of the Overseas Student's arrival in Australia;
 - (d) treatment rendered to an Overseas Student or a Dependant of the Overseas Student in the first twelve months after arrival in Australia where that treatment is for a pre-existing condition (other than a pre-existing condition of a psychiatric nature). This exclusion does not apply where a Medical Practitioner certifies, and the Insurer agrees, that an Overseas Student or a Dependant of the Overseas Student required Emergency Treatment in Australia. The Insurer will not unreasonably withhold its agreement;
 - (e) treatment rendered to an Overseas Student or a Dependant of the Overseas Student in the first two months after arrival in Australia where that treatment is for a pre-existing condition of a psychiatric nature. This exclusion does not apply where a Medical Practitioner certifies, and the Insurer agrees, that an Overseas Student or a Dependant of the Overseas Student required Emergency Treatment in Australia. The Insurer will not unreasonably withhold its agreement;
 - (f) treatment of secondary conditions or disabilities directly arising from the conditions or disabilities to which subclause 8.1(d) applies will be treated in accordance with the provisions of subclause 8.1(d);
 - (g) treatment rendered to an Overseas Student or a Dependant of the Overseas Student for a pregnancy related condition in the first twelve months after arrival of the Overseas Student or the Dependant of the Overseas Student in Australia. This exclusion does not apply where a Medical Practitioner certifies, and the Insurer agrees, that an Overseas Student or the Dependant of the Overseas Student required Emergency Treatment in Australia. The Insurer will not unreasonably withhold its agreement;
 - (h) transportation of an Overseas Student or a Dependant of the Overseas Student into or out of Australia in any circumstance;
 - (i) services and treatment which are covered by compensation or damages, entitlements or payments of any kind; and
 - (j) elective cosmetic surgery.
- 8.2 In regard to matters not referred to in subclauses 7.1 and 8.1, the maximum period of time that an Overseas Student or a Dependant of the Overseas Student is not entitled to a benefit under an OSHC product is two months.
- 8.3 For the purposes of clause 8 of this Deed, 'arrival in Australia' means the point in time that an Overseas Student or a Dependant of the Overseas Student is first in Australia and the Overseas Student holds a Student Visa.
- 8.4 For the purpose of clause 8 of this Deed, an Overseas Student or a Dependant of the Overseas Student insured under an Overseas Student Health Insurance Contract has a **'pre-existing condition'** if:

- (a) the Overseas Student or the Dependant of the Overseas Student has an ailment, illness or condition; and
- (b) in the opinion of a Medical Practitioner appointed by the Insurer that issued the Overseas Student Health Insurance Contract, the signs or symptoms of that ailment, illness or condition existed at any time in the period of 6 months ending on the day on which the Overseas Student or the Dependant of the Overseas Student arrived in Australia. In forming this opinion, the Medical Practitioner must have regard to any information in relation to the ailment, illness or condition that the Medical Practitioner who treated the ailment, illness or condition gives him or her.

9. PERIODS OF COVER

- 9.1 It is a Student Visa requirement that evidence of continuous OSHC for the proposed duration of the Student Visa be provided to DIBP before a Student Visa will be granted. The duration of the Student Visa will be determined by the length of OSHC purchased.
- 9.2 The Insurer agrees to provide OSHC to an Overseas Student for the proposed duration of the Student Visa that the Overseas Student intends to apply for as advised by that Overseas Student, up to a maximum of 5 years.

10. CONSULTATIVE GROUP

- 10.1 The Commonwealth may establish a Consultative Group to consider issues and make recommendations in relation to OSHC and the Deed.
- 10.2 If a Consultative Group is established, the Insurer agrees to participate in meetings as reasonably required by the Commonwealth.

11. ENTIRE AGREEMENT AND VARIATION

- 11.1 This Deed constitutes the entire agreement between the Parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the Parties with respect to the subject matter of this Deed.
- 11.2. No agreement or understanding varying this Deed shall be legally binding upon either party unless in writing and signed by both parties.

12. SUBCONTRACTORS

- 12.1 The Insurer shall not, without prior written approval of the Commonwealth, subcontract the performance of any part of the OSHC. In giving written approval, the Commonwealth may impose such terms and conditions as it thinks fit.
- 12.2 The Insurer shall be fully responsible for the performance of the OSHC notwithstanding that the Insurer has subcontracted the performance of any part of those services.
- 12.3 Despite any approval given by the Commonwealth, the Insurer shall be responsible for ensuring the suitability of a subcontractor for the work proposed to be carried out and for ensuring that such work meets the requirements of the Deed.

13. CONFIDENTIALITY

- 13.1 Both Parties agree not to disclose to any person other than the other Party, any confidential information relating to this Deed.
- 13.2 Both Parties agree not to disclose to any person other than the other Party, any information which is confidential to the other Party.
- 13.3 Either Party shall have the right to request the other Party to sign a Deed of Confidentiality in relation to a specific piece of confidential information.
- 13.4 The obligations on the Parties under this clause 13 will not be taken to have been breached where the information referred to is legally required to be disclosed.
- 13.5 This clause 13 will survive the expiration or termination of this Deed.

14. PROTECTION OF PERSONAL INFORMATION

- 14.1 In this clause 14, "personal information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
- 14.2 The Insurer agrees with respect to the provision of OSHC to:
 - (a) use personal information held in connection with the Deed only for the purposes of fulfilling its obligations under the Deed;
 - (b) take all reasonable measures to ensure that personal information in its possession or control in connection with this Deed is protected against loss and unauthorised access, use, modification or disclosure;
 - (c) comply with those Australian Privacy Principles which concern the security, use and disclosure of personal information to the extent that the content of those principles apply to the types of activities the Insurer is undertaking under the Deed, as if the Insurer were a record-keeper as defined in the *Privacy Act 1988*;
 - (d) co-operate with any reasonable demands or inquiries made by the Department on the basis of the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* including, but not limited to, a request from the Department to comply with a guideline concerning the handling of personal information;
 - (e) ensure that any person who has an access level which would enable that person to obtain access to any personal information is made aware of, and undertakes in writing, to observe the Australian Privacy Principles and other obligations referred to in this clause 14;
 - (f) comply insofar as is practicable with any policy guidelines laid down by the Commonwealth or issued by the Privacy Commissioner from time to time relating to the handling of personal information;
 - (g) comply as far as practicable with any reasonable direction of the Commonwealth to observe any recommendation of the Privacy Commissioner

relating to any acts or practices of the Insurer that the Privacy Commissioner considers breaches the obligations in this clause 14; and

- (h) indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth arising out of or in connection with a breach of the obligations of the Insurer under this clause 14 or any misuse of personal information by the Insurer or any disclosure by the Insurer in breach of an obligation of confidence whether arising under the *Privacy Act 1988* or otherwise.

- 14.3 The indemnity referred to in clause 14.2(h) shall survive the expiration or termination of this Deed.

15. INDEMNITY

- 15.1 Subject to the provisions of this Deed, the Insurer shall at all times indemnify and hold harmless the Commonwealth, its officers, employees and agents (in this clause 15 referred to as "those indemnified") from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Insurer, its officers, employees, agents or subcontractors in connection with this Deed.

- 15.2 The Insurer's liability to indemnify the Commonwealth under clause 15.1 shall be reduced proportionately to the extent that any act or omission of the Commonwealth or its officers, employees or agents contributed to the loss or liability.

- 15.3 The indemnity referred to in clause 15.1 shall survive the expiration or termination of this Deed.

16. TERMINATION AND REDUCTION

- 16.1 The Commonwealth using its best endeavours to give at least 60 days notice, may at any time by written notice, terminate this Deed, or reduce the scope of the OSHC. If this Deed is so terminated or reduced in scope, the Commonwealth shall be liable only for any reasonable costs incurred by the Insurer and directly attributable to the termination or reduction.

- 16.2 Upon receipt of a notice of termination or reduction the Insurer shall:

- (a) stop work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that termination or reduction; and
- (c) in the case of reduction in the scope of the OSHC, continue work on that part of the OSHC not affected by the notice.

17. DEFAULT

- 17.1 If either party is in default under this Deed on account of the failure to perform or observe any obligation or undertaking to be performed or observed on its part under this Deed, the party not in default may, subject to subclause 17.2, by notice in writing to the other party, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.
- 17.2 Where the default is capable of being remedied, a party shall not exercise its rights of termination under subclause 17.1 unless it has first given to the other party notice in writing specifying the default and requiring the other party to remedy it within the time (being not less than 10 business days) specified in the notice and the default is not remedied within the time allowed.
- 17.3 If the Insurer goes into liquidation or a receiver or receiver and manager or mortgagee's or chargee's agent is appointed or, in the case of an individual, becomes bankrupt or enters into a scheme of arrangement with creditors, the Commonwealth may, by notice in writing, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

18. DISPUTE RESOLUTION

- 18.1 Subject to subclause 18.4, before resorting to external dispute resolution mechanisms, the parties shall attempt to settle by negotiation any dispute in relation to this Deed including by referring the matter to personnel who may have authority to intervene and direct some form of resolution.
- 18.2 If a dispute is not settled by the parties within 10 business days of one party first sending to the other party written notice that they are in dispute, the dispute may be the subject of court proceedings or may be submitted to some alternative dispute resolution mechanisms as may be agreed in writing between the parties.
- 18.3 Notwithstanding the existence of a dispute, each party shall continue to perform its obligations under this Deed.
- 18.4 A party may commence court proceedings relating to any dispute arising from this Deed at any time where that party seeks urgent interlocutory relief.
- 18.5 This clause 18 shall survive the expiration or termination of this Deed.

19. ASSIGNMENT AND NOVATION

- 19.1 The Insurer shall not assign, in whole or in part, its rights and obligations under this Deed without the prior written approval of the Commonwealth.
- 19.2 The Insurer shall not consult with any other person or body for the purposes of entering into an arrangement which will require novation of the Deed without first consulting the Commonwealth.

20. SEVERABILITY

- 20.1 Each provision of this Deed and each part thereof shall, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason then that provision or part (as the case may be) shall be severed and the remainder shall be read and construed as if the severable provision or part had never existed.

21. APPLICABLE LAW

- 21.1 This Deed shall be governed by and construed in accordance with the laws of the Australian Capital Territory and the parties agree, subject to the Deed, that the Courts of that Territory shall have jurisdiction to entertain any action in respect of, or arising out of, this Deed.

22. NOTICES

- 22.1 Any notice, request or other communication to be given or served pursuant to this Deed shall be in writing and dealt with as follows:
- (a) if given by the Insurer to the Commonwealth - addressed and forwarded to the Assistant Secretary, Private Health Insurance Branch;
 - (b) if given by the Commonwealth to the Insurer - signed by the Commonwealth and forwarded to the Insurer at the address indicated at the commencement of this Deed.
- 22.2 Any notice, request or other communication shall be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is transmitted electronically a copy is to be sent to the addressee by pre-paid post.
- 22.3 Any notice, request or other communication will be deemed to have been received:
- (a) if delivered by hand, on the date of delivery;
 - (b) if sent by pre-paid post within Australia, upon the expiration of two business days after the date on which it was sent; and
 - (c) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

SIGNED AS A DEED

Signed, sealed and delivered by
THE COMMONWEALTH OF AUSTRALIA by:

.....
(Printed name)

.....
(Signature)

in the presence of

.....
(Printed name)

.....
(Signature)

.....
(Date)

Signed, sealed and delivered by
----- **LIMITED** by:

.....
(Printed name)

.....
(Signature)

a duly authorised officer of:

in the presence of

.....
(Printed name)

.....
(Signature)

.....
(Date)

DEED

between

THE COMMONWEALTH OF AUSTRALIA

as represented by

THE DEPARTMENT OF HEALTH AND AGEING

and

in relation to

**THE PROVISION OF OVERSEAS STUDENT HEALTH
COVER**

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1. Insurer's OSHC Products
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THIS DEED is made on the ----- day of----- 2011

between

THE COMMONWEALTH OF AUSTRALIA ('the Commonwealth') ABN: 83 605 426 759 as represented by the Department of Health and Ageing ('the Department')

and

 being a private health insurer registered, or taken to be registered, under Part 4-3 of the Act for the purposes of conducting health insurance business and health related business ('the Insurer').

WHEREAS

1. The Commonwealth requires the provision of health insurance to Overseas Students, which has the following as its purposes:
 - (a) to ensure that the cost of health insurance does not serve as a disincentive to prospective Overseas Students coming to Australia to study;
 - (b) to ensure that Overseas Students and the Dependants of Overseas Students have access to affordable medical and hospital treatment while studying in Australia;
 - (c) to minimise the risk of personal financial crisis for Overseas Students requiring medical treatment;
 - (d) to minimise the risk of bad debt to hospitals, doctors and other health professionals;
 - (e) to ensure the costs of providing health services to government sponsored students are clearly attributable;
 - (f) to ensure that there is no, or minimal, cost to the Australian taxpayer for the provision of health services to Overseas Students; and
 - (g) to ensure that a level of service is available enabling Overseas Students accessibility and a clear understanding of their benefits.
2. The Insurer has offered to provide OHSC to Overseas Students.
3. The Commonwealth has accepted the Insurer's offer on the terms and conditions appearing herein.
4. This Deed is a written agreement between the Insurer and the Commonwealth for the purposes of the definition of 'overseas student health insurance contract' in sub rule 18(2) of the Health Insurance Business Rules made under section 333-20 of the Act.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. INTERPRETATION AND OPERATION OF DEED

'Act' means the *Private Health Insurance Act 2007*.

'Bridging Visa' has the meaning given by subsection 5(1) of the *Migration Act 1958*.

'Complying Product Rules' means the *Private Health Insurance (Complying Product) Rules* made in accordance with section 333-20 of the Act.

'Dependant' means a person who is :

- (a) a spouse or de facto partner of an Overseas Student; or
- (b) a child or step-child of an Overseas Student who is unmarried and has not turned 18.

'DIAC' means the Department of Immigration and Citizenship.

'Emergency Treatment' means the treatment of any of the following conditions:

- a risk of serious morbidity or mortality and requiring urgent assessment and resuscitation; or
- suspected acute organ or system failure; or
- an illness or injury where the viability of function of a body part or organ is acutely threatened; or
- a drug overdose, toxic substance or toxin effect; or
- psychiatric disturbance whereby the health of the patient or other people is at immediate risk; or
- severe pain where the viability or function of a body part or organ is suspected to be acutely threatened; or
- acute haemorrhaging and requiring urgent assessment and treatment; or
- a condition that requires immediate admission to avoid imminent morbidity or mortality.

'Financial Year' means the period 1 July to 30 June.

'Health Benefits Fund Policy Rules' means the *Private Health Insurance (Health Benefits Fund Policy) Rules* made in accordance with section 333-20 of the Act.

'Health Insurance Business Rules' means the *Private Health Insurance (Health Insurance Business) Rules* made in accordance with section 333-20 of the Act.

'insured group' means the groups as set out in rule 5(1)(a) of the Complying Product Rules.

'Medical Practitioner' has the same meaning as in the *Health Insurance Act 1973*.

'OSHC' means overseas student health cover under which the Insurer offers Overseas Student Health Insurance Contracts to Overseas Students with the benefits set out in clause 7.

'OSHC product' means all Overseas Student Health Insurance Contracts issued by the Insurer:

- (a) that cover the same treatments;
- (b) that provide benefits worked out the same way; and
- (c) whose terms and conditions are the same as each other.

'Overseas Student' has the same meaning as in Rule 18 of the Health Insurance Business Rules, that is:

- (a) a person who is the holder of a Student Visa; or
- (b) a person who:
 - (i) is an applicant for a Student Visa; and
 - (ii) is the holder of a Bridging Visa; and
 - (iii) was, immediately before being granted the Bridging Visa, the holder of a Student Visa.

'Overseas Student Health Insurance Contract' has the same meaning as in Rule 18 of the Health Insurance Business Rules.

'Party' or 'Parties' means a party or the parties to this Deed.

'Reserves' means the amount of contributions received by the Insurer less the amounts it has paid out for benefits and administration costs.

'Rules' means the rules devised by the Insurer which sets out its requirements in relation to the provision of OSHC and with which a member must comply.

'Student Visa' has the meaning given by subsection 5(1) of the *Migration Act 1958*.

- 1.2 Unless the contrary intention appears, a reference in this Deed to rules made under the Act is a reference to those rules as in force from time to time.

2. PERIOD OF THE DEED

- 2.1 This Deed shall commence on 1 July 2011 and shall expire on 30 June 2016 unless:
 - (a) this Deed is terminated in accordance with clauses 15 or 16;
 - (b) both Parties, by written agreement reached no later than 3 months prior to 30 June 2016, extend the period for the provision of OSHC for a maximum of 1 year from 30 June 2016.

3. RULES

- 3.1 Any Rules produced by the Insurer concerning the operation of the OSHC shall not be inconsistent with the Health Insurance Business Rules, the Health Benefits Fund Policy Rules or the terms of this Deed and will be made available to OSHC members upon request.
- 3.2 The Insurer will provide the Department with a copy of the Rules at least 14 days prior to the proposed date of the Rules coming into effect.
- 3.3 Both Parties acknowledge that the Department, in its sole discretion, can require the Rules to be altered, amended or abandoned. Subject to subclause 6.7, the Department will not unreasonably require an alteration, amendment or abandonment of any Rule which is a commercial decision of the Insurer.

4. OSHC IN HEALTH BENEFITS FUND

- 4.1 Both Parties note that OSHC is 'health-related business' as defined in section 131-15 of the Act and the Insurer agrees to include OSHC business in a health benefits fund conducted by the Insurer and to deal with the health benefits fund in accordance with the Act.
- 4.2 Both Parties note that benefits paid out under OSHC are not 'eligible benefits' as defined in the *Private Health Insurance (Risk Equalisation Policy) Rules* made in accordance with section 333-20 of the Act, and that risk equalisation (as defined in Part 6-7 of the Act, the *Private Health Insurance (Risk Equalisation Levy) Act 2003*, the *Private Health Insurance (Risk Equalisation Levy) Rules* made in accordance with section 10A of the *Private Health Insurance (Risk Equalisation Levy) Act 2003*, and the *Private Health Insurance (Risk Equalisation Administration) Rules* made in accordance with section 333-25 of the Act), does not apply to OSHC.
- 4.3 The Commonwealth will not underwrite the operations of OSHC.
- 4.4 Both Parties note that the Insurer must comply with the community rating requirements in relation to OSHC as set out in the Health Benefits Fund Policy Rules.
- 4.5 Both Parties agree that the premiums payable under OSHC must, at all times, generate adequate income to enable the requirements of this Deed to be met.
- 4.6 The Insurer agrees to provide the Department with supporting information and documentation upon request. Such information and documentation may include but is not limited to:
 - (a) claims expenditure;
 - (b) claims experience;
 - (c) income generated by premiums;
 - (d) administration costs; and
 - (e) state of Reserves.

5. MEMBERSHIP CARDS

- 5.1 The Insurer must provide each Overseas Student who enters into OSHC with the Insurer with a membership card which clearly indicates that the Overseas Student is covered by OSHC.
- 5.2 Provided the contribution and relevant information to enable the membership to be established has been received by the Insurer, the membership card is to be provided to the Overseas Student within 4 weeks of entering into OSHC with the Insurer.

6. PREMIUMS AND REFUNDS

- 6.1 The Insurer agrees that one premium shall be set for each insured group, for each of the OSHC products offered, which covers Overseas Students from all States.

- 6.2 The Insurer may offer more than one type of OSHC product covering Overseas Students from each insured group described in subclause 6.1. In accordance with clause 7.6, each OSHC product may provide benefits above the minimum benefits set out in clause 7.1.
- 6.3 The Insurer agrees that its OSHC products that cover an Overseas Student and Dependants of the Overseas Student will provide coverage for the Overseas Student and any Dependants of the Overseas Student whilst residing in Australia.
- 6.4 The Insurer should limit an increase in its OSHC premiums to once during each Financial Year with the increase being announced by 30 June of the current Financial Year and the increase to take effect in the following Financial Year. Except as provided for in subclause 6.5, the approval of the Department is not required for one increase in any Financial Year in an insured group premium.
- 6.5 Insurers must seek prior approval from the Department for any proposed increase in the premium of any OSHC product that covers more than one person if that increase would result in that premium being more than twice the premium for an equivalent OSHC product that covers only one person.
- 6.6 Should the Insurer be required to increase its OSHC premiums more than once in a Financial Year it must obtain the approval of the Department prior to any second or subsequent increase being implemented.
- 6.7 When seeking a second increase in a Financial Year to its OSHC premiums the Insurer must submit, in addition to its application, the information and documentation listed in subclause 4.6. The Department will only approve a second increase in the premium if the Insurer can demonstrate that its Reserves are such that there is an immediate prospect of the Insurer being unable to meet the requirements of this Deed. The Department will advise the Insurer of its decision within one month of the date of the Insurer's application.
- 6.8 The Insurer must not refund any premiums unless:
- (a) an Overseas Student has not come to Australia to take up studies and an application is made to the Insurer whereupon the full amount of the premium shall be refunded;
 - (b) an Overseas Student has paid the premium on the basis of an extended stay but the extension of authorised stay was not granted by DIAC and an application has been made to the Insurer;
 - (c) an Overseas Student is obliged to cease studies and leave Australia before the end of a period of approved stay for reasons beyond the control of the Overseas Student and an application has been made for a refund of an amount equal to the balance of cover for which premiums have been paid;
 - (d) an Overseas Student has been granted permanent residence in Australia, or an Australian visa (other than a Student Visa), and an application has been made for a refund of an amount equal to the balance of cover for which premiums have been paid from the date that permanent residence or other visa was granted;

- (e) an Overseas Student can prove to the Insurer that they were not resident in Australia for a continuous period of 3 months or more but whilst holding a valid Student Visa; or
- (f) an Overseas Student can provide proof of OSHC provided by another insurer which includes the period covered by the Insurer.

6.9 Any fee charged by the Insurer for processing refunds will be noted in the Rules.

6.10 At the time OSHC is first purchased, the Insurer agrees to use its best endeavours to obtain an Overseas Student's permission to provide their name and contact details to DIAC if the Overseas Student has their premium refunded for whatever reason, or the Overseas Student cancels their policy.

6.11 The Insurer agrees, where an Overseas Student has given his or her permission to do so, to provide DIAC with the name and contact details of any Overseas Student, if that Overseas Student receives a premium refund for whatever reason or has cancelled their OSHC.

7. BENEFITS PAYABLE BY THE INSURER

7.1 The Insurer must pay benefits to an Overseas Student or a Dependant of the Overseas Student, upon acceptance by the Insurer that a valid OSHC claim has been made, for the following services and at a rate at least equivalent to the rates (if any) set out below:

- (a) out-of-hospital medical services – the benefit amount as listed in the Medicare Benefits Schedule;
- (b) in-hospital medical services – 100% of the Medicare Benefits Schedule fee;
- (c) public hospital – admitted patient in shared ward hospital accommodation, same day services, accident and emergency and outpatient medical and post-operative services – the rate determined by State and Territory health authorities for services charged to a patient who is not an Australian resident;
- (d) surgically implanted prostheses – no gap prostheses and gap permitted prostheses as listed in the *Private Health Insurance (Prostheses) Rules 2009 (No 1)*;
- (e) private hospital/registered day hospital facility – 100% of the charges for all insurable costs raised by a contracted hospital with a minimum of shared ward accommodation;
- (f) benefits for expenses exceeding the equivalent of the current Pharmaceutical Benefits Scheme patient contribution for general beneficiaries, up to \$50 per pharmaceutical item, prescribed and dispensed by a registered practitioner recognised by the health fund with a maximum benefit of \$300 per calendar year per single membership and \$600 per family membership; and
- (g) ambulance services – 100% of the charge for transport by an ambulance provided by or under an arrangement with an approved ambulance service when medically necessary for admission to hospital or for emergency treatment.

- 7.2 No waiting periods will apply to claims except as stated in clause 8.
- 7.3 The Insurer shall fully inform an Overseas Student of instances where extra charges could be incurred by the Overseas Student for services provided to the Overseas Student or a Dependant of the Overseas Student, for instance, in cases where the Overseas Student or the Dependant of the Overseas Student was treated in a non-contracted hospital.
- 7.4 The benefits payable under OSHC are not to exceed the costs incurred by an Overseas Student or a Dependant of the Overseas Student.
- 7.5 Any OSHC product that covers an Overseas Student must provide benefits to a Dependant of the Overseas Student to the same level as the benefits payable to the Overseas Student.
- 7.6 The Insurer may offer a higher level of benefits under an OSHC product as determined by the Insurer in addition to the benefits set out in subclause 7.1. The additional cover must only be related to the provision in Australia of the services or treatments listed in paragraph 18(2) of the Health Insurance Business Rules to an Overseas Student or a Dependant of the Overseas Student.
- 7.7 Each OSHC product must comply with the benefits payable as set out in subclause 7.1.
- 7.8 The Insurer must offer one OSHC product which does not offer any additional benefits to the matters set out in subclause 7.1 and which does not pay benefits for matters referred to in subclause 8.1.
- 7.9 The Insurer will ensure that information for each OSHC product will be made publicly available.

8. BENEFITS NOT PAYABLE

- 8.1 Under OSHC, the Insurer is not required to pay benefits for:
 - (a) services and treatment rendered as part of an assisted reproductive program, including but not limited to in-vitro fertilisation;
 - (b) treatment rendered outside of Australia, whether or not in connection with a course of study and including treatment necessary en route to or from Australia;
 - (c) treatment arranged in advance of an Overseas Student's or a Dependant of the Overseas Student's arrival in Australia;
 - (d) treatment rendered to an Overseas Student or a Dependant of the Overseas Student in the first twelve months after arrival in Australia where that treatment is for a pre-existing condition (other than a pre-existing condition of a psychiatric nature). This exclusion does not apply where a Medical Practitioner certifies, and the Insurer agrees, that an Overseas Student or a Dependant of the Overseas Student required Emergency Treatment in Australia. The Insurer will not unreasonably withhold its agreement;

- (e) treatment rendered to an Overseas Student or a Dependant of the Overseas Student in the first two months after arrival in Australia where that treatment is for a pre-existing condition of a psychiatric nature. This exclusion does not apply where a Medical Practitioner certifies, and the Insurer agrees, that an Overseas Student or a Dependant of the Overseas Student required Emergency Treatment in Australia. The Insurer will not unreasonably withhold its agreement;
 - (f) treatment of secondary conditions or disabilities directly arising from the conditions or disabilities to which subclause 8.1(d) applies will be treated in accordance with the provisions of subclause 8.1(d);
 - (g) treatment rendered to an Overseas Student or a Dependant of the Overseas Student for a pregnancy related condition in the first twelve months after arrival of the Overseas Student or the Dependant of the Overseas Student in Australia. This exclusion does not apply where a Medical Practitioner certifies, and the Insurer agrees, that an Overseas Student or the Dependant of the Overseas Student required Emergency Treatment in Australia. The Insurer will not unreasonably withhold its agreement;
 - (h) transportation of an Overseas Student or a Dependant of the Overseas Student into or out of Australia in any circumstance;
 - (i) services and treatment which are covered by compensation or damages, entitlements or payments of any kind; and
 - (j) elective cosmetic surgery.
- 8.2 In regard to matters not referred to in subclauses 7.1 and 8.1, the maximum period of time that an Overseas Student or a Dependant of the Overseas Student is not entitled to a benefit under an OSHC product is two months.
- 8.3 For the purposes of clause 8 of this Deed, 'arrival in Australia' means the point in time that an Overseas Student or a Dependant of the Overseas Student is first in Australia and the Overseas Student holds a Student Visa.
- 8.4 For the purpose of clause 8 of this Deed, an Overseas Student or a Dependant of the Overseas Student insured under an Overseas Student Health Insurance Contract has a '**pre-existing condition**' if:
- (a) the Overseas Student or the Dependant of the Overseas Student has an ailment, illness or condition; and
 - (b) in the opinion of a Medical Practitioner appointed by the Insurer that issued the Overseas Student Health Insurance Contract, the signs or symptoms of that ailment, illness or condition existed at any time in the period of 6 months ending on the day on which the Overseas Student or the Dependant of the Overseas Student arrived in Australia. In forming this opinion, the Medical Practitioner must have regard to any information in relation to the ailment, illness or condition that the Medical Practitioner who treated the ailment, illness or condition gives him or her.

9. PERIODS OF COVER

- 9.1 It is a Student Visa requirement that evidence of continuous OSHC for the proposed duration of the Student Visa be provided to DIAC before a Student Visa will be granted. The duration of the Student Visa will be determined by the length of OSHC purchased.
- 9.2 The Insurer agrees to provide OSHC to an Overseas Student for the proposed duration of the Student Visa that the Overseas Student intends to apply for as advised by that Overseas Student, up to a maximum of 5 years.

10. ENTIRE AGREEMENT AND VARIATION

- 10.1 This Deed constitutes the entire agreement between the Parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the Parties with respect to the subject matter of this Deed.
- 10.2. No agreement or understanding varying or extending this Deed shall be legally binding upon either party unless in writing and signed by both parties.

11. SUBCONTRACTORS

- 11.1 The Insurer shall not, without prior written approval of the Commonwealth, subcontract the performance of any part of the OSHC. In giving written approval, the Commonwealth may impose such terms and conditions as it thinks fit.
- 11.2 The Insurer shall be fully responsible for the performance of the OSHC notwithstanding that the Insurer has subcontracted the performance of any part of those services.
- 11.3 Despite any approval given by the Commonwealth, the Insurer shall be responsible for ensuring the suitability of a subcontractor for the work proposed to be carried out and for ensuring that such work meets the requirements of the Deed.

12. CONFIDENTIALITY

- 12.1 Both Parties agree not to disclose to any person other than the other Party, any confidential information relating to this Deed.
- 12.2 Both Parties agree not to disclose to any person other than the other Party, any information which is confidential to the other Party.
- 12.3 Either Party shall have the right to request the other Party to sign a Deed of Confidentiality in relation to a specific piece of confidential information.
- 12.4 The obligations on the Parties under this clause 12 will not be taken to have been breached where the information referred to is legally required to be disclosed.
- 12.5 This clause 12 will survive the expiration or termination of this Deed.

13. PROTECTION OF PERSONAL INFORMATION

13.1 In this clause 13, "personal information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

13.2 The Insurer agrees with respect to the provision of OSHC to:

- (a) use personal information held in connection with the Deed only for the purposes of fulfilling its obligations under the Deed;
- (b) take all reasonable measures to ensure that personal information in its possession or control in connection with this Deed is protected against loss and unauthorised access, use, modification or disclosure;
- (c) comply with those Information Privacy Principles which concern the security, use and disclosure of personal information to the extent that the content of those principles apply to the types of activities the Insurer is undertaking under the Deed, as if the Insurer were a record-keeper as defined in the *Privacy Act 1988*;
- (d) co-operate with any reasonable demands or inquiries made by the Department on the basis of the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* including, but not limited to, a request from the Department to comply with a guideline concerning the handling of personal information;
- (e) ensure that any person who has an access level which would enable that person to obtain access to any personal information is made aware of, and undertakes in writing, to observe the Information Privacy Principles and other obligations referred to in this clause 13;
- (f) comply insofar as is practicable with any policy guidelines laid down by the Commonwealth or issued by the Privacy Commissioner from time to time relating to the handling of personal information;
- (g) comply as far as practicable with any reasonable direction of the Commonwealth to observe any recommendation of the Privacy Commissioner relating to any acts or practices of the Insurer that the Privacy Commissioner considers breaches the obligations in this clause 13; and
- (h) indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth arising out of or in connection with a breach of the obligations of the Insurer under this clause 13 or any misuse of personal information by the Insurer or any disclosure by the Insurer in breach of an obligation of confidence whether arising under the *Privacy Act 1988* or otherwise.

13.3 The indemnity referred to in clause 13.2(h) shall survive the expiration or termination of this Deed.

14. INDEMNITY

- 14.1 Subject to the provisions of this Deed, the Insurer shall at all times indemnify and hold harmless the Commonwealth, its officers, employees and agents (in this clause 14 referred to as "those indemnified") from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Insurer, its officers, employees, agents or subcontractors in connection with this Deed.
- 14.2 The Insurer's liability to indemnify the Commonwealth under clause 14.1 shall be reduced proportionately to the extent that any act or omission of the Commonwealth or its officers, employees or agents contributed to the loss or liability.
- 14.3 The indemnity referred to in clause 14.1 shall survive the expiration or termination of this Deed.

15. TERMINATION AND REDUCTION

- 15.1 The Commonwealth using its best endeavours to give at least 60 days notice, may at any time by written notice, terminate this Deed, or reduce the scope of the OSHC. If this Deed is so terminated or reduced in scope, the Commonwealth shall be liable only for any reasonable costs incurred by the Insurer and directly attributable to the termination or reduction.
- 15.2 Upon receipt of a notice of termination or reduction the Insurer shall:
- (a) stop work as specified in the notice;
 - (b) take all available steps to minimise loss resulting from that termination or reduction; and
 - (c) in the case of reduction in the scope of the OSHC, continue work on that part of the OSHC not affected by the notice.

16. DEFAULT

- 16.1 If either party is in default under this Deed on account of the failure to perform or observe any obligation or undertaking to be performed or observed on its part under this Deed, the party not in default may, subject to subclause 16.2, by notice in writing to the other party, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.
- 16.2 Where the default is capable of being remedied, a party shall not exercise its rights of termination under subclause 16.1 unless it has first given to the other party notice in writing specifying the default and requiring the other party to remedy it within the time (being not less than 10 business days) specified in the notice and the default is not remedied within the time allowed.
- 16.3 If the Insurer goes into liquidation or a receiver or receiver and manager or mortgagee's or chargee's agent is appointed or, in the case of an individual, becomes bankrupt or enters into a scheme of arrangement with creditors, the Commonwealth may, by notice in writing, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

17. DISPUTE RESOLUTION

- 17.1 Subject to subclause 17.4, before resorting to external dispute resolution mechanisms, the parties shall attempt to settle by negotiation any dispute in relation to this Deed including by referring the matter to personnel who may have authority to intervene and direct some form of resolution.
- 17.2 If a dispute is not settled by the parties within 10 business days of one party first sending to the other party written notice that they are in dispute, the dispute may be the subject of court proceedings or may be submitted to some alternative dispute resolution mechanisms as may be agreed in writing between the parties.
- 17.3 Notwithstanding the existence of a dispute, each party shall continue to perform its obligations under this Deed.
- 17.4 A party may commence court proceedings relating to any dispute arising from this Deed at any time where that party seeks urgent interlocutory relief.
- 17.5 This clause 17 shall survive the expiration or termination of this Deed.

18. ASSIGNMENT AND NOVATION

- 18.1 The Insurer shall not assign, in whole or in part, its rights and obligations under this Deed without the prior written approval of the Commonwealth.
- 18.2 The Insurer shall not consult with any other person or body for the purposes of entering into an arrangement which will require novation of the Deed without first consulting the Commonwealth.

19. SEVERABILITY

- 19.1 Each provision of this Deed and each part thereof shall, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason then that provision or part (as the case may be) shall be severed and the remainder shall be read and construed as if the severable provision or part had never existed.

20. APPLICABLE LAW

- 20.1 This Deed shall be governed by and construed in accordance with the laws of the Australian Capital Territory and the parties agree, subject to the Deed, that the Courts of that Territory shall have jurisdiction to entertain any action in respect of, or arising out of, this Deed.

21. NOTICES

- 21.1 Any notice, request or other communication to be given or served pursuant to this Deed shall be in writing and dealt with as follows:
- (a) if given by the Insurer to the Commonwealth - addressed and forwarded to the Assistant Secretary, Private Health Insurance Branch;
 - (b) if given by the Commonwealth to the Insurer - signed by the Commonwealth and forwarded to the Insurer at the address indicated at the commencement of this Deed.
- 21.2 Any notice, request or other communication shall be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is transmitted electronically a copy is to be sent to the addressee by pre-paid post.
- 21.3 Any notice, request or other communication will be deemed to have been received:
- (a) if delivered by hand, on the date of delivery;
 - (b) if sent by pre-paid post within Australia, upon the expiration of two business days after the date on which it was sent; and
 - (c) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

SIGNED AS A DEED

Signed, sealed and delivered by
THE COMMONWEALTH OF AUSTRALIA by:

.....
(Printed name)

.....
(Signature)

in the presence of

.....
(Printed name)

.....
(Signature)

.....
(Date)

Signed, sealed and delivered by
----- **LIMITED** by:

.....
(Printed name)

.....
(Signature)

a duly authorised officer of:

in the presence of

.....
(Printed name)

.....
(Signature)

.....
(Date)

DEED

between

THE COMMONWEALTH OF AUSTRALIA

as represented by

THE DEPARTMENT OF HEALTH AND AGEING

and

AUSTRALIAN HEALTH MANAGEMENT GROUP LTD

in relation to

**THE PROVISION OF OVERSEAS STUDENT HEALTH
COVER**

CONTENTS

1. Interpretation and Operation of Deed
2. Period of the Deed
3. Rules
4. OSHC to be Self Funded
5. Membership Cards
6. Membership Contributions and Refunds
7. Benefits Payable by the Organisation
8. Benefits not Payable
9. Premiums
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11. Entire Agreement and Variation
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13. Confidentiality
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15. Indemnity
16. Termination and Reduction
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18. Dispute Resolution
19. Assignment and Novation
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ANNEXURES

1. Organisation's OSHC Policy
2. Organisation's Forms
3. Organisation's Brochures
4. Organisation's Rules in relation to OSHC
5. Organisation's Other Relevant Documents

THIS DEED is made the SEVENTH day of DECEMBER 2005
between

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

and

AUSTRALIAN HEALTH MANAGEMENT GROUP LTD (ACN 003 683 298) of 10
Richardson Street, Wollongong NSW 2500 being an organisation registered under Part VI
of the *National Health Act 1953* for the purposes of conducting a health benefits fund ('the
Organisation')

WHEREAS

1. The Commonwealth of Australia requires the provision of Overseas Student Health Cover, which has the following as its purposes:
 - (a) to ensure that the cost of health insurance does not serve as a disincentive to prospective overseas students coming to Australia to study;
 - (b) to ensure that overseas students and their accompanying dependants have access to affordable medical and hospital treatment while studying in Australia;
 - (c) to minimise the risk of personal financial crisis for overseas students requiring medical treatment;
 - (d) to minimise the risk of bad debt to hospitals, doctors and other health professionals;
 - (e) to ensure the costs of providing health services to government sponsored students are clearly attributable;
 - (f) to ensure that there is no, or minimal, cost to the Australian taxpayer for the provision of health services to overseas students; and
 - (g) to ensure that a level of service is available enabling overseas students accessibility and a clear understanding of their benefits.
2. The Organisation has offered to provide the Overseas Student Health Cover.
3. The Commonwealth has accepted the Organisation's offer on the terms and conditions appearing herein.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. INTERPRETATION AND OPERATION OF DEED

'Bridging Visa' has the meaning given by subsection 5(1) of the *Migration Act 1958*.

'Dependant' in relation to a person under 18 years of age, means wholly or substantially dependent on another person for financial, psychological or physical support. Once a Dependant reaches 18 years of age, he/she ceases to be a

Dependant for the purposes of OSHC and may wish to seek other health insurance options.

'Extra OSHC' means the level of cover determined and offered by the Organisation in addition to OSHC;

'Medical Practitioner' has the same meaning as in the *Health Insurance Act 1973*;

'OSHC' means Overseas Student Health Cover under which the Organisation offers to an Overseas Student the benefits set out in clause 7 but does not offer the benefits set out in clause 8;

'Overseas Student' has the same meaning as in regulation 48 of the *National Health Regulations 1954*, that is:

- (a) a person who is the holder of a student visa; or
- (b) a person who:
 - (i) is an applicant for a student visa; and
 - (ii) is the holder of a bridging visa; and
 - (iii) was, immediately before being granted the bridging visa, the holder of a student visa.

'Reserves' means the amount of contributions received by the Organisation less the amounts it has paid out for benefits and administration costs;

'Rules' means the rules devised by the Organisation which sets out its requirements in relation to the provision of OSHC and with which a member must comply;

'Student Visa' has the meaning given by subsection 5(1) of the *Migration Act 1958*.

- 1.2 In the event of any inconsistency between this Deed and the Annexures, the provisions of this Deed shall prevail.

2. PERIOD OF THE DEED

- 2.1 This Deed shall commence on 1 January 2006 and shall expire on 31 December 2010 unless:

- (a) this Deed is terminated in accordance with clauses 16 or 17;
- (b) both Parties, by written agreement reached no later than 3 months prior to 31 December 2010, extend the period for the provision of OSHC for a maximum of 1 year from 31 December 2010.

3. RULES

- 3.1 Any Rules produced by the Organisation concerning the operation of the OSHC shall not be inconsistent with the terms of this Deed and will be made available to OSHC members upon request.
- 3.2 The Organisation will provide the Department with a copy of the Rules at least 14 days prior to the proposed date of the Rules coming into effect.
- 3.3 Both Parties acknowledge that the Department, in its sole discretion, can require the Rules to be altered, amended or abandoned. Subject to subclause 6.4, the Department will not unreasonably require an alteration, amendment or abandonment of any Rule which is a commercial decision of the Organisation.

4. OSHC TO BE SELF FUNDED

- 4.1 The Commonwealth will not underwrite the operations of the OSHC nor will the Organisation be permitted to fund the operations of OSHC from the provision of its other services.
- 4.2 Both parties agree that Reserves held under the OSHC are to be considered as one national pool rather than individual State pools for those Organisations which operate in more than one State.
- 4.3 Both Parties agree that the premiums payable under the OSHC must, at all times, generate adequate income to enable the requirements of this clause to be met.
- 4.4 The Organisation agrees to provide the Department with supporting information and documentation upon request. Such information and documentation may include but is not limited to:
- (a) claims expenditure;
 - (b) claims experience;
 - (c) income generated by premiums;
 - (d) administration costs; and
 - (e) state of reserves.

5. MEMBERSHIP CARDS

- 5.1 The Organisation must provide each Overseas Student with a membership card which clearly indicates that the holder/s are covered by OSHC.
- 5.2 Provided the contribution and relevant information to enable the membership to be established has been received by the Organisation, the membership card is to be provided to the Overseas Student within 4 weeks.

6. MEMBERSHIP CONTRIBUTIONS AND REFUNDS

- 6.1 The Organisation agrees that the family membership contribution rate shall not be more than double the single contribution rate.
- 6.2 The Organisation should limit an increase in its OSHC contribution rates to once during each financial year with the increase being announced by 30 June of the current financial year and the increase to take effect in the following financial year. Department approval is not required for one increase in contribution rates.

- 6.3 However, should the Organisation be required to increase its OSHC contribution rates more than once in a financial year it must obtain the approval of the Department prior to any second or subsequent increase being implemented.
- 6.4 When seeking a second increase in a financial year in its OSHC contribution rates the Organisation must submit, in addition to its application, the information and documentation listed in subclause 4.4. The Department will only approve a second increase in the contribution rate if the Organisation can demonstrate that its Reserves are such that there is an immediate prospect of the Organisation being unable to meet the requirements of clause 4 to be self-funded. The Department will advise the Organisation of its decision within one month of the date of the Organisation's application.
- 6.5 The Organisation is not required to refund any contributions unless;
- (a) an Overseas Student has not come to Australia to take up studies and an application is made to the Organisation whereupon the full amount of the contribution shall be refunded;
 - (b) an Overseas Student has paid the contributions on the basis of an extended stay but the extension of authorised stay was not granted by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) and an application has been made to the Organisation;
 - (c) an Overseas Student is obliged to cease studies and leave Australia before the end of a period of approved stay for reasons beyond the control of the Overseas Student and an application has been made for a refund of an amount equal to the balance of cover for which contributions have been paid;
 - (d) an Overseas Student has been granted permanent residence in Australia and an application has been made for a refund of an amount equal to the balance of cover for which contributions have been paid from the date that permanent residence was granted;
 - (e) a Dependant or an Overseas Student can prove to the Organisation that they were not resident in Australia for a continuous period of 3 months or more but whilst holding a valid Student Visa; or
 - (f) an Overseas Student can provide proof of OSHC provided by another organisation which includes the period covered by the Organisation.
- 6.6 Any fee charged by the Organisation for processing refunds will be noted in the Organisation's Rules.

7. BENEFITS PAYABLE BY THE ORGANISATION

- 7.1 The Organisation must pay benefits to a Dependant or an Overseas Student, upon acceptance by the Organisation that a valid OSHC claim has been made, for the following services and at a rate at least equivalent to the rates (if any) set out below:

- (a) out-of- hospital medical services – the benefit amount as listed in the Medicare Benefits Schedule.

- (b) in-hospital medical services – 100% of the Medicare Benefits Schedule fee;
- (c) public hospital - admitted patient in shared ward hospital accommodation, same day services, accident and emergency and outpatient medical and post-operative services - the rate determined by State and Territory health authorities for services charged to a patient who is not an Australian resident;
- (d) surgically implanted prostheses - no gap prostheses and gap permitted prostheses as listed in the Determination made under subsections 73AAG(6) and (7) of the *National Health Act 1953*.
- (e) private hospital/registered day hospital facility – 100% of the charges for all insurable costs raised by a contracted hospital with a minimum of shared ward accommodation;
- (f) benefits for expenses exceeding the equivalent of the current PBS patient contribution for general beneficiaries, up to \$50 per pharmaceutical item, prescribed and dispensed by a registered practitioner recognised by the health fund with a maximum benefit of \$300 per calendar year per single membership and \$600 per family membership;
- (g) ambulance services – 100% of the charge for transport by an ambulance provided by or under an arrangement with an approved ambulance service when medically necessary for admission to hospital or for emergency treatment.

7.2 No waiting periods will apply to claims except as stated in clause 8.

7.3 The Organisation shall fully inform the an Overseas Student of instances where extra charges could be incurred by the Overseas Student for services provided to the Overseas Student or a Dependant of that Overseas Student. For instance, in cases where the Overseas Student or Dependant was treated in a non-contracted hospital.

7.4 The benefits payable under OSHC are not to exceed the costs incurred by a Dependant or an Overseas Student.

8. BENEFITS NOT PAYABLE

8.1 Under OSHC, the organisation must not pay benefits for:

- (a) services and treatment rendered as part of an assisted reproductive program, including but not limited to in-vitro-fertilisation;
- (b) treatment rendered outside of Australia, whether or not in connection with a course of study and including treatment necessary en route to or from Australia;
- (c) treatment arranged in advance of the Dependant's or Overseas Student's arrival in Australia;
- (d) treatment rendered to a Dependent or Overseas Student in the first twelve months after arrival in Australia where that treatment is for a medical condition in existence prior to that arrival. This exclusion does not apply where a Medical Practitioner certifies, and the Organisation agrees, that the Dependent or Overseas Student required emergency treatment or treatment for a life-

threatening condition in Australia. The Organisation will not unreasonably withhold its agreement;

- (e) where application was made for a Student Visa by an on-shore applicant, who previously did not hold a Student Visa, treatment rendered to a Dependent or Overseas Student in the first twelve months after purchase of OSHC where that treatment is for a medical condition in existence prior to the purchase of OSHC. This exclusion does not apply where a Medical Practitioner certifies, and the Organisation agrees, that the Dependent or Overseas Student required emergency treatment or treatment for a life-threatening condition in Australia. The Organisation will not unreasonably withhold its agreement;
 - (f) treatment of secondary conditions or disabilities directly arising from the conditions or disabilities to which subclause 8.1(d) and 8.1(e) applies will be treated in accordance with the provisions of subclause 8.1(d) and 8.1(e) respectively;
 - (g) treatment for a pregnancy related condition for a Dependant or an Overseas Student where the Overseas Student's visa is for less than 3 months. This exclusion does not apply where the Dependant or Overseas Student arrived on a previous visa and the total period of continuous stay is 3 months or longer, ie pregnancy is not to be treated as a pre-existing condition. If an Overseas Student on an initial visa of less than 3 months duration obtains a new Student Visa to increase their stay for 3 months or more then this exclusion ceases from the date of issue of the second visa and pregnancy is not to be treated as a pre-existing condition;
 - (h) transportation of a Dependant or Overseas Student into or out of Australia in any circumstance;
 - (i) services and treatment which are covered by compensation and damages provisions of any kind unless such services, treatment or transportation are covered by the Extra OSHC; and
 - (j) elective cosmetic surgery.
- 8.2 However, an Organisation may pay benefits for matters referred to in clause 8.1 under Extra OSHC.

9. PREMIUMS

- 9.1 The Organisation agrees that one premium shall be set which covers students from all States with membership categories consistent with those set out in the *National Health Act 1953*.
- 9.2 The Organisation agrees that its family cover for OSHC and Extra OSHC will provide coverage for the Overseas Student and any Dependant whilst a resident in Australia.
- 9.3 Premiums must be paid on or before the commencement date of the Student Visa.

10. PERIODS OF COVER

- 10.1 The Organisation agrees that the minimum period for which it shall provide cover is the duration of the Student Visa or 12 months, whichever is shorter, unless a medical condition verified by a Medical Practitioner acquired during the term of the Student Visa has resulted in the Overseas Student being unfit to travel home.

- 10.2 The Organisation agrees that, at the option of the Overseas Student, the maximum period of cover that it can provide is the length of the Overseas Student's Student Visa. Overseas Students are encouraged to take out cover for the length of their visa should they wish to pay at their discretion in advance for cover longer than that required by Clause 10.1.
- 10.3 It is a Student Visa requirement that OSHC must be continuous for the term of the Student Visa. If an Overseas Student allows their OSHC to lapse whilst on a Student Visa, and wishes to renew their OSHC during the duration of that Student Visa, the Organisation must require the Overseas Student to pay the premiums that the Overseas Student would have paid had the Overseas Student not allowed the OSHC to lapse.
- 10.4 If an Overseas Student, who has allowed their OSHC to lapse, renews their OSHC with an Organisation during the duration of their Student Visa, that Organisation is not obliged to pay the benefits listed in 7.1 that are incurred by the Overseas Student during the period that the Overseas Student allowed their OSHC to lapse.
- 10.5 The Organisation must inform an Overseas Student that has allowed their OSHC to lapse and who wishes to renew their OSHC during the duration of their Student Visa, that the premium payable by that Overseas Student does not entitle the Overseas Student to benefits listed in 7.1, payable by the Organisation, for fees and charges that are incurred by the Overseas Student during the period that the Overseas Student allowed their OSHC to lapse.
- 10.6 Notwithstanding clause 8, no additional waiting periods will apply to claims made by an Overseas Student that has allowed their OSHC to lapse whilst on a Student Visa and who has since renewed their OSHC with an Organisation during the duration of that Student Visa.
- 10.7 For the purpose of Clause 10, 'Student Visa' includes a Bridging Visa of the type referred to in the definition of Overseas Student.

11. ENTIRE AGREEMENT AND VARIATION

- 11.1 This Deed constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Deed.
- 11.2 No agreement or understanding varying or extending this Deed shall be legally binding upon either party unless in writing and signed by both parties.

12. SUBCONTRACTORS

- 12.1 The Organisation shall not, without prior written approval of the Commonwealth, subcontract the performance of any part of the OSHC. In giving written approval, the Commonwealth may impose such terms and conditions as it thinks fit.
- 12.2 The Organisation shall be fully responsible for the performance of the OSHC notwithstanding that the Organisation has subcontracted the performance of any part of those services.
- 12.3 Despite any approval given by the Commonwealth, the Organisation shall be responsible for ensuring the suitability of a subcontractor for the work proposed to be carried out and for ensuring that such work meets the requirements of the Deed.

13. CONFIDENTIALITY

- 13.1 Both Parties agree not to disclose to any person other than the other Party, any confidential information relating to this Deed.
- 13.2 Both Parties agree not to disclose to any person other than the other Party, any information which is confidential to the other Party.
- 13.3 Either Party shall have the right to request the other Party to sign a Deed of Confidentiality in relation to a specific piece of confidential information.
- 13.4 The obligations on the Parties under this clause 13 will not be taken to have been breached where the information referred to is legally required to be disclosed.
- 13.5 This clause 13 will survive the expiration or termination of this Deed.

14. PROTECTION OF PERSONAL INFORMATION

- 14.1 In this clause 14, "personal information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
- 14.2 The Organisation agrees with respect to the provision of OSHC to:
 - (a) use personal information held in connection with the Deed only for the purposes of fulfilling its obligations under the Deed;
 - (b) take all reasonable measures to ensure that personal information in its possession or control in connection with this Deed is protected against loss and unauthorised access, use, modification or disclosure;
 - (c) comply with those Information Privacy Principles which concern the security, use and disclosure of personal information to the extent that the content of those principles apply to the types of activities the Organisation is undertaking under the Deed, as if the Organisation were a record-keeper as defined in the *Privacy Act 1988*;
 - (d) co-operate with any reasonable demands or inquiries made by the Department on the basis of the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* including, but not limited to, a request from the Department to comply with a guideline concerning the handling of personal information;
 - (e) ensure that any person who has an access level which would enable that person to obtain access to any personal information is made aware of, and undertakes in writing, to observe the Information Privacy Principles and other obligations referred to in this clause 14;
 - (f) comply insofar as is practicable with any policy guidelines laid down by the Commonwealth or issued by the Privacy Commissioner from time to time relating to the handling of personal information;
 - (g) comply as far as practicable with any reasonable direction of the Commonwealth to observe any recommendation of the Privacy Commissioner

relating to any acts or practices of the Organisation that the Privacy Commissioner considers breaches the obligations in this clause 14; and

- (h) indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth arising out of or in connection with a breach of the obligations of the Organisation under this clause 14 or any misuse of personal information by the Organisation or any disclosure by the Organisation in breach of an obligation of confidence whether arising under the *Privacy Act 1988* or otherwise.

- 14.3 The indemnity referred to in clause 14.2(h) shall survive the expiration or termination of this Deed.

15. INDEMNITY

- 15.1 Subject to the provisions of this Deed, the Organisation shall at all times indemnify and hold harmless the Commonwealth, its officers, employees and agents (in this clause 15 referred to as "those indemnified") from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Organisation, its officers, employees, agents or subcontractors in connection with this Deed.

- 15.2 The Organisation's liability to indemnify the Commonwealth under clause 15.1 shall be reduced proportionately to the extent that any act or omission of the Commonwealth or its officers, employees or agents contributed to the loss or liability.

- 15.3 The indemnity referred to in clause 15.1 shall survive the expiration or termination of this Deed.

16. TERMINATION AND REDUCTION

- 16.1 The Commonwealth using its best endeavours to give at least 60 days notice, may at any time by written notice, terminate this Deed, or reduce the scope of the OSHC. If this Deed is so terminated or reduced in scope, the Commonwealth shall be liable only for any reasonable costs incurred by the Organisation and directly attributable to the termination or reduction.

- 16.2 Upon receipt of a notice of termination or reduction the Organisation shall:

- (a) stop work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that termination or reduction; and
- (c) in the case of reduction in the scope of the OSHC, continue work on that part of the OSHC not affected by the notice.

17. DEFAULT

17.1 If either party is in default under this Deed on account of the failure to perform or observe any obligation or undertaking to be performed or observed on its part under this Deed, the party not in default may, subject to subclause 17.2, by notice in writing to the other party, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

17.2 Where the default is capable of being remedied, a party shall not exercise its rights of termination under subclause 17.1 unless it has first given to the other party notice in writing specifying the default and requiring the other party to remedy it within the time (being not less than 10 business days) specified in the notice and the default is not remedied within the time allowed.

17.3 If the Organisation goes into liquidation or a receiver or receiver and manager or mortgagee's or chargee's agent is appointed or, in the case of an individual, becomes bankrupt or enters into a scheme of arrangement with creditors, the Commonwealth may, by notice in writing, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

18. DISPUTE RESOLUTION

18.1 Subject to subclause 18.4, before resorting to external dispute resolution mechanisms, the parties shall attempt to settle by negotiation any dispute in relation to this Deed including by referring the matter to personnel who may have authority to intervene and direct some form of resolution.

18.2 If a dispute is not settled by the parties within 10 business days of one party first sending to the other party written notice that they are in dispute, the dispute may be the subject of court proceedings or may be submitted to some alternative dispute resolution mechanisms as may be agreed in writing between the parties.

18.3 Notwithstanding the existence of a dispute, each party shall continue to perform its obligations under this Deed.

18.4 A party may commence court proceedings relating to any dispute arising from this Deed at any time where that party seeks urgent interlocutory relief.

18.5 This clause 18 shall survive the expiration or termination of this Deed.

19. ASSIGNMENT AND NOVATION

19.1 The Organisation shall not assign, in whole or in part, its rights and obligations under this Deed without the prior written approval of the Commonwealth.

19.2 The Organisation shall not consult with any other person or body for the purposes of entering into an arrangement which will require novation of the Deed without first consulting the Commonwealth.

20. SEVERABILITY

20.1 Each provision of this Deed and each part thereof shall, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason then that provision or part (as the case may be) shall be severed and the remainder shall be read and construed as if the severable provision or part had never existed.

21. APPLICABLE LAW

21.1 This Deed shall be governed by and construed in accordance with the laws of the Australian Capital Territory and the parties agree, subject to the Deed, that the Courts of that Territory shall have jurisdiction to entertain any action in respect of, or arising out of, this Deed.

22. NOTICES

22.1 Any notice, request or other communication to be given or served pursuant to this Deed shall be in writing and dealt with as follows:

- (a) if given by the Organisation to the Commonwealth - addressed and forwarded to the Assistant Secretary, Private Health Insurance Branch;
- (b) if given by the Commonwealth to the Organisation - signed by the Commonwealth and forwarded to the Organisation at the address indicated at the commencement of this Deed.

22.2 Any notice, request or other communication shall be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is transmitted electronically a copy is to be sent to the addressee by pre-paid post.

22.3 Any notice, request or other communication will be deemed to have been received:

- (a) if delivered by hand, on the date of delivery;
- (b) if sent by pre-paid post within Australia, upon the expiration of two business days after the date on which it was sent; and
- (c) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

THIS DOCUMENT HAS BEEN RELEASED UNDER
THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH

SIGNED AS A DEED

Signed, sealed and delivered by
THE COMMONWEALTH OF AUSTRALIA by:

s47F

(Printed name)

s47F

(Signature)

in the presence of

s47F

(Printed name)

s47F

(Signature)

Signed, sealed and delivered by

s47F

(Printed name)

s47F

(Signature)

a duly authorised officer of

**AUSTRALIAN HEALTH
MANAGEMENT GROUP LIMITED**
ACN 003 683 298
... LOCKED BAG 1, WOLLONGONG 2521 (ACN.....)
A Registered Health Benefits Organisation

in the presence of

s47F

Justice of the Peace
Reg No 105121

(Printed name)

s47F

(Signature)

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DEED

between

THE COMMONWEALTH OF AUSTRALIA

as represented by

THE DEPARTMENT OF HEALTH AND AGEING

and

AUSTRALIAN HEALTH MANAGEMENT GROUP

in relation to

**THE PROVISION OF OVERSEAS STUDENT HEALTH
COVER**

THIS DOCUMENT HAS BEEN RELEASED UNDER
THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH

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1. Organisation's OSHC Policy
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THIS DEED is made the 2nd day of December 2002
between

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

and

AUSTRALIAN HEALTH MANAGEMENT GROUP (ABN 96 003 683 298) of

10 Richardson Street, Wollongong NSW 2500 ('the Organisation').

WHEREAS

1. The Commonwealth of Australia requires the provision of Overseas Student Health Cover, which has the following as its purposes:
 - (a) to ensure that the cost of health insurance does not serve as a disincentive to prospective overseas students coming to Australia to study;
 - (b) to ensure that overseas students and their accompanying family members have access to affordable medical and hospital treatment while studying in Australia;
 - (c) to minimise the risk of personal financial crisis for overseas students requiring medical treatment;
 - (d) to minimise the risk of bad debt to hospitals, doctors and other health professionals;
 - (e) to ensure the costs of providing health services to government sponsored students are clearly attributable;
 - (f) to ensure that there is no, or minimal, cost to the Australian taxpayer for the provision of health services to overseas students; and
 - (g) to ensure that a level of service is available enabling overseas students accessibility and a clear understanding of their benefits.
2. The Organisation has offered to provide the Overseas Student Health Cover.
3. The Commonwealth has accepted the Organisation's offer on the terms and conditions appearing herein.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. INTERPRETATION AND OPERATION OF DEED

'Dependant' in relation to a person under 18 years of age, means wholly or substantially dependent on another person for financial, psychological or physical support;

'Extra OSHC' means the level of cover determined and offered by the Organisation in addition to OSHC and Optional OSHC;

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'Medical Practitioner' has the same meaning as in the *Health Insurance Act 1973*;

'OSHC' means Overseas Student Health Cover under which the Organisation offers to an Overseas Student the benefits set out in clause 7 but does not offer the benefits set out in clause 8;

'Optional OSHC' means Overseas Student Health Cover which the Organisation may choose to offer to:

- (a) dependents and students from overseas who:
 - (i) are undertaking a short-term informal course; and
 - (ii) have been issued with a Visitor's Visa ; or
- (b) any other group which the Department determines could be offered Optional Overseas Student Health Cover;

'Overseas Students' means:

- (a) non-Australian residents with a current Student Visa; or
- (b) students from New Zealand; or
- (c) expatriate Australian students who are ineligible for cover by Medicare.

'Reserves' means the amount of contributions received by the Organisation less the amounts it has paid out for benefits and administration costs;

'Rules' means the rules devised by the Organisation which sets out its requirements in relation to the provision of OSHC and with which a member must comply;

'Student Visa' means a student visa issued under regulations made under the *Migration Act 1958*; and

'Visitor's Visa', by whatever title, means a visitor's visa issued under regulations made under the *Migration Act 1958*.

- 1.2 In the event of any inconsistency between this Deed and the Annexures, the provisions of this Deed shall prevail.

2. PERIOD OF THE DEED

- 2.1 This Deed shall commence on 1 January 2002 and shall expire on 31 December 2005 unless:

- (a) this Deed is terminated in accordance with clauses 16 or 17;
- (b) both Parties, by written agreement reached no later than 3 months prior to 31 December 2005, extend the period for the provision of OSHC for a maximum of 1 year from 31 December 2005.

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3. RULES

- 3.1 Any Rules produced by the Organisation concerning the operation of the OSHC shall not be inconsistent with the terms of this Deed and will be made available to OSHC members upon request.
- 3.2 The Organisation will provide the Department with a copy of the Rules at least 14 days prior to the proposed date of the Rules coming into effect.
- 3.3 Both Parties acknowledge that the Department, in its sole discretion, can require the Rules to be altered, amended or abandoned. Subject to subclause 6.4, the Department will not unreasonably require an alteration, amendment or abandonment of any Rule which is a commercial decision of the Organisation.

4. OSHC TO BE SELF FUNDED

- 4.1 The Commonwealth will not underwrite the operations of the OSHC nor will the Organisation be permitted to fund the operations of OSHC from the provision of its other services.
- 4.2 Both parties agree that Reserves held under the OSHC are to be considered as one national pool rather than individual State pools for those Organisations which operate in more than one State.
- 4.3 Both Parties agree that the premiums payable under the OSHC must, at all times, generate adequate income to enable the requirements of this clause to be met.
- 4.4 The Organisation agrees to provide the Department with supporting information and documentation upon request. Such information and documentation may include but is not limited to:
- (a) claims expenditure;
 - (b) claims experience;
 - (c) income generated by premiums;
 - (d) administration costs; and
 - (e) state of reserves.

5. MEMBERSHIP CARDS

- 5.1 The Organisation must provide each Overseas Student with a membership card which clearly indicates that the holder/s are covered by OSHC.
- 5.2 Provided the contribution and relevant information to enable the membership to be established has been received by the Organisation, the membership card is to be provided to the Overseas Student within 4 weeks.

6. MEMBERSHIP CONTRIBUTIONS AND REFUNDS

- 6.1 The Organisation agrees that the family membership contribution rate shall not be more than double the single contribution rate.
- 6.2 The Organisation should limit an increase in its OSHC contribution rates to once during each financial year with the increase being announced by 30 June of the current financial year and the increase to take effect in the following financial year.

- 6.3 Should the Organisation be required to increase its OSHC contribution rates more than once in a financial year it must obtain the approval of the Department prior to any second or subsequent increase being implemented.
- 6.4 When seeking an increase in its OSHC contribution rates the Organisation must submit, in addition to its application, the information and documentation listed in subclause 4.4. The Department will only approve an increase in the contribution rate if the Organisation can demonstrate that its Reserves are such that there is an immediate prospect of the Organisation being unable to meet the requirements of clause 4 to be self-funded. The Department will advise the Organisation of its decision within one month of the date of the Organisation's application.
- 6.5 The Organisation is not required to refund any contributions unless;
- (a) an Overseas Student has not come to Australia to take up studies and an application is made to the Organisation whereupon the full amount of the contribution shall be refunded;
 - (b) an Overseas Student has paid the contributions on the basis of an extended stay but the extension of authorised stay was not granted by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) and an application has been made to the Organisation;
 - (c) an Overseas Student is obliged to cease studies and leave Australia before the end of a period of approved stay for reasons beyond the control of the Overseas Student and an application has been made for a refund of an amount equal to the balance of cover for which contributions have been paid;
 - (d) an Overseas Student has been granted permanent residence in Australia and an application has been made for a refund of an amount equal to the balance of cover for which contributions have been paid from the date that permanent residence was granted;
 - (e) a Dependant or an Overseas Student can prove to the Organisation that they were not resident in Australia for a continuous period of 3 months or more but whilst holding a valid Student Visa; or
 - (f) an Overseas Student can provide proof of OSHC provided by another organisation which includes the period covered by the Organisation.
- 6.6 Any fee charged by the Organisation for processing refunds will be noted in the Organisation's Rules.

7. BENEFITS PAYABLE BY THE ORGANISATION

- 7.1 Benefits payable by the Organisation to a Dependant or an Overseas Student, upon acceptance by the Organisation that a valid OSHC or Optional OSHC claim has been made, are:
- (a) out-of- hospital medical services – 85% of the Medicare Benefits Schedule fee where those services are provided in accordance with the requirements of the Medicare Benefits Schedule;
 - (b) in-hospital medical services – 100% of the Medicare Benefits Schedule fee;

- (c) public hospital - admitted patient in shared ward hospital accommodation, same day services, accident and emergency and outpatient medical and post-operative services - the rate determined by State and Territory health authorities for services charged to a patient who is not an Australian resident;
- (d) surgically implanted prostheses as listed in the Department's Prosthesis List (schedule 5 of the Determination under Schedule 1, paragraph bj of the *National Health Act 1953*);
- (e) private hospital/registered day hospital facility - 100% of the charges for all insurable costs raised by a contracted hospital with a minimum of shared ward accommodation;
- (f) benefits for expenses exceeding the equivalent of the current PBS patient contribution for general beneficiaries, up to \$50 per pharmaceutical item, prescribed and dispensed by a registered practitioner recognised by the health fund with a maximum benefit of \$150 per calendar year per single membership and \$150 per person to a maximum of \$300 per family membership;
- (g) ambulance services - 100% of the charge for transport by an ambulance provided by or under an arrangement with an approved ambulance service when medically necessary for admission to hospital or for emergency treatment.

7.2 No waiting periods will apply to claims except as stated in clause 8.

7.3 The Organisation shall fully inform the Dependent or Overseas Student of instances where extra charges could be incurred. For instance, in cases where the Dependent or Overseas Student was treated in a non-contracted hospital.

8. **BENEFITS NOT PAYABLE**

8.1 Under OSHC, the organisation must not pay benefits for:

- (a) services and treatment rendered as part of an assisted reproductive program, including but not limited to in-vitro-fertilisation;
- (b) treatment rendered outside of Australia, whether or not in connection with a course of study and including treatment necessary en route to or from Australia;
- (c) treatment arranged in advance of the Dependant's or Overseas Student's arrival in Australia;
- (d) treatment rendered to a Dependant or Overseas Student in the first twelve months after arrival in Australia where that treatment is for a medical condition or disability in existence prior to that arrival. This exclusion does not apply where a Medical Practitioner certifies, and the Organisation agrees, that the Dependent or Overseas Student required emergency or unforeseen treatment in Australia. The Organisation will not unreasonably withhold its agreement;
- (e) treatment of secondary conditions or disabilities directly arising from the conditions or disabilities to which subclause 8.1(d) applies will be treated in accordance with the provisions of subclause 8.1(d);

- (f) treatment for a pregnancy related condition for a Dependant or an Overseas Student where the Overseas Student's visa is for 3 months duration or less. This exclusion does not apply where the Dependant or Overseas Student arrived on a previous visa and the total period of continuous stay is greater than 3 months. If an Overseas Student on an initial visa of less than 3 months duration obtains a new Student Visa to increase their stay beyond 3 months then this exclusion ceases from the date of issue of the second visa;
- (g) transportation of a Dependant or Overseas Student into or out of Australia in any circumstance; and
- (h) services and treatment which are covered by compensation and damages provisions of any kind unless such services, treatment or transportation are covered by the Extra OSHC.

8.2 However, an Organisation may pay benefits for matters referred to in clause 8.1 under Extra OSHC.

9. PREMIUMS

9.1 The Organisation agrees that one premium shall be set which covers students from all States with membership categories consistent with those set out in the *National Health Act 1953*.

9.2 The Organisation agrees that its family cover for OSHC, Optional OSHC and Extra OSHC will provide coverage for the Overseas Student and any Dependant whilst a resident in Australia.

9.3 Premiums must be paid on or before the commencement date of the Student Visa or Visitor's Visa.

10. PERIODS OF COVER

10.1 The Organisation agrees that the minimum period for which it shall provide cover is duration of the Student Visa or 12 months, whichever is shorter, unless a medical condition verified by a Medical Practitioner acquired during the term of the Student Visa has resulted in the Overseas Student being unfit to travel home.

10.2 The Organisation agrees that, at the option of the Overseas Student, the maximum period of cover that it can provide is the length of the Overseas Student's Student Visa. Overseas Students will have the choice of selecting a length of cover greater than the minimum and less than the maximum periods of cover.

11. ENTIRE AGREEMENT AND VARIATION

11.1 This Deed constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Deed.

11.2 No agreement or understanding varying or extending this Deed shall be legally binding upon either party unless in writing and signed by both parties.

12. SUBCONTRACTORS

12.1 The Organisation shall not, without prior written approval of the Commonwealth, subcontract the performance of any part of the OSHC. In giving written approval, the Commonwealth may impose such terms and conditions as it thinks fit.

- 12.2 The Organisation shall be fully responsible for the performance of the OSHC notwithstanding that the Organisation has subcontracted the performance of any part of those services.
- 12.3 Despite any approval given by the Commonwealth, the Organisation shall be responsible for ensuring the suitability of a subcontractor for the work proposed to be carried out and for ensuring that such work meets the requirements of the Deed.
- 13. CONFIDENTIALITY**
- 13.1 Both Parties agree not to disclose to any person other than the other Party, any confidential information relating to this Deed.
- 13.2 Both Parties agree not to disclose to any person other than the other Party, any information which is confidential to the other Party.
- 13.3 Either Party shall have the right to request the other Party to sign a Deed of Confidentiality in relation to a specific piece of confidential information.
- 13.4 The obligations on the Parties under this clause 13 will not be taken to have been breached where the information referred to is legally required to be disclosed.
- 13.5 This clause 13 will survive the expiration or termination of this Deed.
- 14. PROTECTION OF PERSONAL INFORMATION**
- 14.1 In this clause 14, "personal information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
- 14.2 The Organisation agrees with respect to the provision of OSHC to:
- (a) use personal information held in connection with the Deed only for the purposes of fulfilling its obligations under the Deed;
 - (b) take all reasonable measures to ensure that personal information in its possession or control in connection with this Deed is protected against loss and unauthorised access, use, modification or disclosure;
 - (c) comply with those Information Privacy Principles which concern the security, use and disclosure of personal information to the extent that the content of those principles apply to the types of activities the Organisation is undertaking under the Deed, as if the Organisation were a record-keeper as defined in the *Privacy Act 1988*;
 - (d) co-operate with any reasonable demands or inquiries made by the Department on the basis of the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* including, but not limited to, a request from the Department to comply with a guideline concerning the handling of personal information;
 - (e) ensure that any person who has an access level which would enable that person to obtain access to any personal information is made aware of, and undertakes in writing, to observe the Information Privacy Principles and other obligations referred to in this clause 14;

- (f) comply insofar as is practicable with any policy guidelines laid down by the Commonwealth or issued by the Privacy Commissioner from time to time relating to the handling of personal information;
- (g) comply as far as practicable with any reasonable direction of the Commonwealth to observe any recommendation of the Privacy Commissioner relating to any acts or practices of the Organisation that the Privacy Commissioner considers breaches the obligations in this clause 14; and
- (h) indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth arising out of or in connection with a breach of the obligations of the Organisation under this clause 14 or any misuse of personal information by the Organisation or any disclosure by the Organisation in breach of an obligation of confidence whether arising under the *Privacy Act 1988* or otherwise.

14.3 The indemnity referred to in clause 14.2(h) shall survive the expiration or termination of this Deed.

15. INDEMNITY

15.1 Subject to the provisions of this Deed, the Organisation shall at all times indemnify and hold harmless the Commonwealth, its officers, employees and agents (in this clause 15 referred to as "those indemnified") from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Organisation, its officers, employees, agents or subcontractors in connection with this Deed.

15.2 The Organisation's liability to indemnify the Commonwealth under clause 15.1 shall be reduced proportionately to the extent that any act or omission of the Commonwealth or its officers, employees or agents contributed to the loss or liability.

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- (a) stop work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that termination or reduction; and
- (c) in the case of reduction in the scope of the OSHC, continue work on that part of the OSHC not affected by the notice.

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- 17.2 Where the default is capable of being remedied, a party shall not exercise its rights of termination under subclause 17.1 unless it has first given to the other party notice in writing specifying the default and requiring the other party to remedy it within the time (being not less than 10 business days) specified in the notice and the default is not remedied within the time allowed.
- 17.3 If the Organisation goes into liquidation or a receiver or receiver and manager or mortgagee's or chargee's agent is appointed or, in the case of an individual, becomes bankrupt or enters into a scheme of arrangement with creditors, the Commonwealth may, by notice in writing, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

18. DISPUTE RESOLUTION

- 18.1 Subject to subclause 18.4, before resorting to external dispute resolution mechanisms, the parties shall attempt to settle by negotiation any dispute in relation to this Deed including by referring the matter to personnel who may have authority to intervene and direct some form of resolution.
- 18.2 If a dispute is not settled by the parties within 10 business days of one party first sending to the other party written notice that they are in dispute, the dispute may be the subject of court proceedings or may be submitted to some alternative dispute resolution mechanisms as may be agreed in writing between the parties.
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- 20.1 Each provision of this Deed and each part thereof shall, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason then that provision or part (as the case may be) shall be severed and the remainder shall be read and construed as if the severable provision or part had never existed.

21. APPLICABLE LAW

- 21.1 This Deed shall be governed by and construed in accordance with the laws of the Australian Capital Territory and the parties agree, subject to the Deed, that the Courts of that Territory shall have jurisdiction to entertain any action in respect of, or arising out of, this Deed.

22. NOTICES

- 22.1 Any notice, request or other communication to be given or served pursuant to this Deed shall be in writing and dealt with as follows:

- (a) if given by the Organisation to the Commonwealth - addressed and forwarded to the Assistant Secretary, Private Health Industry Branch;
- (b) if given by the Commonwealth to the Organisation - signed by the Commonwealth and forwarded to the Organisation at the address indicated at the commencement of this Deed.

- 22.2 Any notice, request or other communication shall be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is transmitted electronically a copy is to be sent to the addressee by pre-paid post.

- 22.3 Any notice, request or other communication will be deemed to have been received:

- (a) if delivered by hand, on the date of delivery;
- (b) if sent by pre-paid post within Australia, upon the expiration of two business days after the date on which it was sent; and
- (c) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

THIS DOCUMENT IS BEING RELEASED UNDER
THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH

96

SIGNED AS A DEED

Signed, sealed and delivered by
THE COMMONWEALTH OF AUSTRALIA by:

s47F

(Printed name)

s47F

(Signature)

in the presence of

s47F

(Printed name)

s47F

(Signature)

Signed, sealed and delivered by

s47F

(Printed name)

s47F

(Signature)

a duly authorised officer of

AUSTRALIAN HEALTH MANAGEMENT GROUP (ABN 96 003 683 298) of

10 Richardson Street, Wollongong NSW 2500 ('the Organisation').

in the presence of

s47F

(Printed name)

s47F

(Signature)



s22

DEED

between

THE COMMONWEALTH OF AUSTRALIA

as represented by

THE DEPARTMENT OF HEALTH AND AGED CARE

and

.....

in relation to the

**THE PROVISION OF OVERSEAS STUDENT HEALTH
COVER**

THIS DOCUMENT HAS BEEN RELEASED UNDER
THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH

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THIS DEED is made the day of 1999

between

THE COMMONWEALTH OF AUSTRALIA ('the Commonwealth') as represented by the Department of Health and Aged Care ('the Department')

and

..... (ACN) of

.....
('the Organisation')

WHEREAS

1. The Commonwealth of Australia requires the provision of Overseas Student Health Cover, which has the following as its purposes:
 - (a) to ensure that the cost of health insurance does not serve as a disincentive to prospective overseas students coming to Australia to study;
 - (b) to ensure that overseas students and their accompanying family members have access to affordable medical and hospital treatment while studying in Australia;
 - (c) to minimise the risk of personal financial crisis for overseas students requiring medical treatment;
 - (d) to minimise the risk of bad debt to hospitals, doctors and other health professionals;
 - (e) to ensure the costs of providing health services to government sponsored students are clearly attributable;
 - (f) to ensure that there is no, or minimal, cost to the Australian taxpayer for the provision of health services to overseas students; and
 - (g) to ensure that a level of service is available enabling overseas students accessibility and a clear understanding of their benefits.
2. The Organisation has offered to provide the Overseas Student Health Cover.
3. The Commonwealth has accepted the Organisation's offer on the terms and conditions appearing herein.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. INTERPRETATION AND OPERATION OF DEED

'Dependant' in relation to a person under 18 years of age, means wholly or substantially dependent on another person for financial, psychological or physical support;

'Extra OSHC' means the level of cover determined and offered by the Organisation in addition to OSHC and Optional OSHC;

'Medical Practitioner' has the same meaning as in the *Health Insurance Act 1973*;

'OSHC' means Overseas Student Health Cover under which the Organisation offers to an Overseas Student the benefits set out in clause 7 but does not offer the benefits set out in clause 8;

'Optional OSHC' means Overseas Student Health Cover which the Organisation may choose to offer to:

- (a) dependents and students from overseas who:
 - (i) are undertaking a short-term informal course; and
 - (ii) have been issued with a Visitor's Visa ; or
- (b) any other group which the Department determines could be offered Optional Overseas Student Health Cover;

'Overseas Students' means:

- (a) non-Australian residents with a current Student Visa; or
- (b) students from New Zealand; or
- (c) expatriate Australian students who are ineligible for cover by Medicare.

'Reserves' means the amount of contributions received by the Organisation less the amounts it has paid out for benefits and administration costs;

'Rules' means the rules devised by the Organisation which sets out its requirements in relation to the provision of OSHC and with which a member must comply;

'Student Visa' means a student visa issued under regulations made under the *Migration Act 1958*; and

'Visitor's Visa', by whatever title, means a visitor's visa issued under regulations made under the *Migration Act 1958*.

- 1.2 In the event of any inconsistency between this Deed and the Annexures, the provisions of this Deed shall prevail.

2. PERIOD OF THE DEED

- 2.1 This Deed shall commence on 1 January 2000 and shall expire on 31 December 2005 unless:

- (a) this Deed is terminated in accordance with clauses 16 or 17;
- (b) both Parties, by written agreement reached no later than 3 months prior to 31 December 2005, extend the period for the provision of OSHC for a maximum of 1 year from 31 December 2005.

3. RULES

- 3.1 Any Rules produced by the Organisation concerning the operation of the OSHC shall not be inconsistent with the terms of this Deed and will be made available to OSHC members upon request.
- 3.2 The Organisation will provide the Department with a copy of the Rules at least 14 days prior to the proposed date of the Rules coming into effect.
- 3.3 Both Parties acknowledge that the Department, in its sole discretion, can require the Rules to be altered, amended or abandoned. Subject to subclause 6.4, the Department will not unreasonably require an alteration, amendment or abandonment of any Rule which is a commercial decision of the Organisation.

4. OSHC TO BE SELF FUNDED

- 4.1 The Commonwealth will not underwrite the operations of the OSHC nor will the Organisation be permitted to fund the operations of OSHC from the provision of its other services.
- 4.2 Both parties agree that Reserves held under the OSHC are to be considered as one national pool rather than individual State pools for those Organisations which operate in more than one State.
- 4.3 Both Parties agree that the premiums payable under the OSHC must, at all times, generate adequate income to enable the requirements of this clause to be met.
- 4.4 The Organisation agrees to provide the Department with supporting information and documentation upon request. Such information and documentation may include but is not limited to:
 - (a) claims expenditure;
 - (b) claims experience;
 - (c) income generated by premiums;
 - (d) administration costs; and
 - (e) state of reserves.

5. MEMBERSHIP CARDS

- 5.1 The Organisation must provide each Overseas Student with a membership card which clearly indicates that the holder/s are covered by OSHC.
- 5.2 Provided the contribution and relevant information to enable the membership to be established has been received by the Organisation, the membership card is to be provided to the Overseas Student within 4 weeks.

6. MEMBERSHIP CONTRIBUTIONS AND REFUNDS

- 6.1 The Organisation agrees that the family membership contribution rate shall not be more than double the single contribution rate.
- 6.2 The Organisation should limit an increase in its OSHC contribution rates to once during each financial year with the increase being announced by 30 June of the current financial year and the increase to take effect in the following financial year.

- 6.3 Should the Organisation be required to increase its OSHC contribution rates more than once in a financial year it must obtain the approval of the Department prior to any second or subsequent increase being implemented.
- 6.4 When seeking an increase in its OSHC contribution rates the Organisation must submit, in addition to its application, the information and documentation listed in subclause 4.4. The Department will only approve an increase in the contribution rate if the Organisation can demonstrate that its Reserves are such that there is an immediate prospect of the Organisation being unable to meet the requirements of clause 4 to be self-funded. The Department will advise the Organisation of its decision within one month of the date of the Organisation's application.
- 6.5 The Organisation is not required to refund any contributions unless;
- (a) an Overseas Student has not come to Australia to take up studies and an application is made to the Organisation whereupon the full amount of the contribution shall be refunded;
 - (b) an Overseas Student has paid the contributions on the basis of an extended stay but the extension of authorised stay was not granted by the Department of Immigration and Multicultural Affairs and an application has been made to the Organisation;
 - (c) an Overseas Student is obliged to cease studies and leave Australia before the end of a period of approved stay for reasons beyond the control of the Overseas Student and an application has been made for a refund of an amount equal to the balance of cover for which contributions have been paid;
 - (d) an Overseas Student has been granted permanent residence in Australia and an application has been made for a refund of an amount equal to the balance of cover for which contributions have been paid from the date that permanent residence was granted;
 - (e) a Dependant or an Overseas Student can prove to the Organisation that they were not resident in Australia for a continuous period of 3 months or more but whilst holding a valid Student Visa; or
 - (f) an Overseas Student can provide proof of OSHC provided by another organisation which includes the period covered by the Organisation.
- 6.6 Any fee charged by the Organisation for processing refunds will be noted in the Organisation's Rules.

7. BENEFITS PAYABLE BY THE ORGANISATION

- 7.1 Benefits payable by the Organisation to a Dependant or an Overseas Student, upon acceptance by the Organisation that a valid OSHC or Optional OSHC claim has been made, are:
- (a) out-of- hospital medical services – 85% of the Medicare Benefits Schedule fee where those services are provided in accordance with the requirements of the Medicare Benefits Schedule;
 - (b) in-hospital medical services – 100% of the Medicare Benefits Schedule fee;

- (c) public hospital - admitted patient in shared ward hospital accommodation, same day services, accident and emergency and outpatient medical and post-operative services - the rate determined by State and Territory health authorities for services charged to a patient who is not an Australian resident;
- (d) surgically implanted prostheses as listed in the Department's Prosthesis List (schedule 5 of the Determination under Schedule 1, paragraph bj of the *National Health Act 1953*);
- (e) private hospital/registered day hospital facility – 100% of the charges for all insurable costs raised by a contracted hospital with a minimum of shared ward accommodation;
- (f) benefits for expenses exceeding the equivalent of the current PBS patient contribution for general beneficiaries, up to \$50 per pharmaceutical item, prescribed and dispensed by a registered practitioner recognised by the health fund with a maximum benefit of \$150 per calendar year per single membership and \$150 per person to a maximum of \$300 per family membership;
- (g) ambulance services – 100% of the charge for transport by an ambulance provided by or under an arrangement with an approved ambulance service when medically necessary for admission to hospital or for emergency treatment.

7.2 No waiting periods will apply to claims except as stated in clause 8.

7.3 The Organisation shall fully inform the Dependent or Overseas Student of instances where extra charges could be incurred. For instance, in cases where the Dependent or Overseas Student was treated in a non-contracted hospital.

8. BENEFITS NOT PAYABLE

8.1 Under OSHC, the organisation must not pay benefits for:

- (a) services and treatment rendered as part of an assisted reproductive program, including but not limited to in-vitro-fertilisation;
- (b) treatment rendered outside of Australia, whether or not in connection with a course of study and including treatment necessary en route to or from Australia;
- (c) treatment arranged in advance of the Dependant's or Overseas Student's arrival in Australia;
- (d) treatment rendered to a Dependant or Overseas Student in the first twelve months after arrival in Australia where that treatment is for a medical condition or disability in existence prior to that arrival. This exclusion does not apply where a Medical Practitioner certifies, and the Organisation agrees, that the Dependent or Overseas Student required emergency or unforeseen treatment in Australia. The Organisation will not unreasonably withhold its agreement;
- (e) treatment of secondary conditions or disabilities directly arising from the conditions or disabilities to which subclause 8.1(d) applies will be treated in accordance with the provisions of subclause 8.1(d);

- (f) treatment for a pregnancy related condition for a Dependant or an Overseas Student where the Overseas Student's visa is for 3 months duration or less. This exclusion does not apply where the Dependant or Overseas Student arrived on a previous visa and the total period of continuous stay is greater than 3 months. If an Overseas Student on an initial visa of less than 3 months duration obtains a new Student Visa to increase their stay beyond 3 months then this exclusion ceases from the date of issue of the second visa;
- (g) transportation of a Dependant or Overseas Student into or out of Australia in any circumstance; and
- (h) services and treatment which are covered by compensation and damages provisions of any kind unless such services, treatment or transportation are covered by the Extra OSHC.

8.2 However, an Organisation may pay benefits for matters referred to in clause 8.1 under Extra OSHC.

9. PREMIUMS

- 9.1 The Organisation agrees that one premium shall be set which covers students from all States with membership categories consistent with those set out in the *National Health Act 1953*.
- 9.2 The Organisation agrees that its family cover for OSHC, Optional OSHC and Extra OSHC will provide coverage for the Overseas Student and any Dependant whilst a resident in Australia.
- 9.3 Premiums must be paid on or before the commencement date of the Student Visa or Visitor's Visa.

10. PERIODS OF COVER

- 10.1 The Organisation agrees that the minimum period for which it shall provide cover is duration of the Student Visa or 12 months, whichever is shorter, unless a medical condition verified by a Medical Practitioner acquired during the term of the Student Visa has resulted in the Overseas Student being unfit to travel home.
- 10.2 The Organisation agrees that, at the option of the Overseas Student, the maximum period of cover that it can provide is the length of the Overseas Student's Student Visa. Overseas Students will have the choice of selecting a length of cover greater than the minimum and less than the maximum periods of cover.

11. ENTIRE AGREEMENT AND VARIATION

- 11.1 This Deed constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Deed.
- 11.2 No agreement or understanding varying or extending this Deed shall be legally binding upon either party unless in writing and signed by both parties.

12. SUBCONTRACTORS

- 12.1 The Organisation shall not, without prior written approval of the Commonwealth, subcontract the performance of any part of the OSHC. In giving written approval, the Commonwealth may impose such terms and conditions as it thinks fit.

12.2 The Organisation shall be fully responsible for the performance of the OSHC notwithstanding that the Organisation has subcontracted the performance of any part of those services.

12.3 Despite any approval given by the Commonwealth, the Organisation shall be responsible for ensuring the suitability of a subcontractor for the work proposed to be carried out and for ensuring that such work meets the requirements of the Deed.

13. CONFIDENTIALITY

13.1 Both Parties agree not to disclose to any person other than the other Party, any confidential information relating to this Deed.

13.2 Both Parties agree not to disclose to any person other than the other Party, any information which is confidential to the other Party.

13.3 Either Party shall have the right to request the other Party to sign a Deed of Confidentiality in relation to a specific piece of confidential information.

13.4 The obligations on the Parties under this clause 13 will not be taken to have been breached where the information referred to is legally required to be disclosed.

13.5 This clause 13 will survive the expiration or termination of this Deed.

14. PROTECTION OF PERSONAL INFORMATION

14.1 In this clause 14, "personal information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

14.2 The Organisation agrees with respect to the provision of OSHC to:

- (a) use personal information held in connection with the Deed only for the purposes of fulfilling its obligations under the Deed;
- (b) take all reasonable measures to ensure that personal information in its possession or control in connection with this Deed is protected against loss and unauthorised access, use, modification or disclosure;
- (c) comply with those Information Privacy Principles which concern the security, use and disclosure of personal information to the extent that the content of those principles apply to the types of activities the Organisation is undertaking under the Deed, as if the Organisation were a record-keeper as defined in the *Privacy Act 1988*;
- (d) co-operate with any reasonable demands or inquiries made by the Department on the basis of the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* including, but not limited to, a request from the Department to comply with a guideline concerning the handling of personal information;
- (e) ensure that any person who has an access level which would enable that person to obtain access to any personal information is made aware of, and undertakes in writing, to observe the Information Privacy Principles and other obligations referred to in this clause 14;

- (f) comply insofar as is practicable with any policy guidelines laid down by the Commonwealth or issued by the Privacy Commissioner from time to time relating to the handling of personal information;
- (g) comply as far as practicable with any reasonable direction of the Commonwealth to observe any recommendation of the Privacy Commissioner relating to any acts or practices of the Organisation that the Privacy Commissioner considers breaches the obligations in this clause 14; and
- (h) indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth arising out of or in connection with a breach of the obligations of the Organisation under this clause 14 or any misuse of personal information by the Organisation or any disclosure by the Organisation in breach of an obligation of confidence whether arising under the *Privacy Act 1988* or otherwise.

14.3 The indemnity referred to in clause 14.2(h) shall survive the expiration or termination of this Deed.

15. INDEMNITY

15.1 Subject to the provisions of this Deed, the Organisation shall at all times indemnify and hold harmless the Commonwealth, its officers, employees and agents (in this clause 15 referred to as "those indemnified") from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Organisation, its officers, employees, agents or subcontractors in connection with this Deed.

15.2 The Organisation's liability to indemnify the Commonwealth under clause 15.1 shall be reduced proportionately to the extent that any act or omission of the Commonwealth or its officers, employees or agents contributed to the loss or liability.

15.3 The indemnity referred to in clause 15.1 shall survive the expiration or termination of this Deed.

16. TERMINATION AND REDUCTION

16.1 The Commonwealth using its best endeavours to give at least 30 days notice, may at any time by written notice, terminate this Deed, or reduce the scope of the OSHC. If this Deed is so terminated or reduced in scope, the Commonwealth shall be liable only for any reasonable costs incurred by the Organisation and directly attributable to the termination or reduction.

16.2 Upon receipt of a notice of termination or reduction the Organisation shall:

- (a) stop work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that termination or reduction; and
- (c) in the case of reduction in the scope of the OSHC, continue work on that part of the OSHC not affected by the notice.

17. DEFAULT

17.1 If either party is in default under this Deed on account of the failure to perform or observe any obligation or undertaking to be performed or observed on its part under this Deed, the party not in default may, subject to subclause 17.2, by notice in writing to the other party, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

17.2 Where the default is capable of being remedied, a party shall not exercise its rights of termination under subclause 17.1 unless it has first given to the other party notice in writing specifying the default and requiring the other party to remedy it within the time (being not less than 10 business days) specified in the notice and the default is not remedied within the time allowed.

17.3 If the Organisation goes into liquidation or a receiver or receiver and manager or mortgagee's or chargee's agent is appointed or, in the case of an individual, becomes bankrupt or enters into a scheme of arrangement with creditors, the Commonwealth may, by notice in writing, terminate this Deed without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

18. DISPUTE RESOLUTION

18.1 Subject to subclause 18.4, before resorting to external dispute resolution mechanisms, the parties shall attempt to settle by negotiation any dispute in relation to this Deed including by referring the matter to personnel who may have authority to intervene and direct some form of resolution.

18.2 If a dispute is not settled by the parties within 10 business days of one party first sending to the other party written notice that they are in dispute, the dispute may be the subject of court proceedings or may be submitted to some alternative dispute resolution mechanisms as may be agreed in writing between the parties.

18.3 Notwithstanding the existence of a dispute, each party shall continue to perform its obligations under this Deed.

18.4 A party may commence court proceedings relating to any dispute arising from this Deed at any time where that party seeks urgent interlocutory relief.

18.5 This clause 18 shall survive the expiration or termination of this Deed.

19. ASSIGNMENT AND NOVATION

19.1 The Organisation shall not assign, in whole or in part, its rights and obligations under this Deed without the prior written approval of the Commonwealth.

19.2 The Organisation shall not consult with any other person or body for the purposes of entering into an arrangement which will require novation of the Deed without first consulting the Commonwealth.

20. SEVERABILITY

20.1 Each provision of this Deed and each part thereof shall, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason then that provision or part (as the case may be) shall be severed and the remainder shall be read and construed as if the severable provision or part had never existed.

21. APPLICABLE LAW

- 21.1 This Deed shall be governed by and construed in accordance with the laws of the Australian Capital Territory and the parties agree, subject to the Deed, that the Courts of that Territory shall have jurisdiction to entertain any action in respect of, or arising out of, this Deed.

22. NOTICES

- 22.1 Any notice, request or other communication to be given or served pursuant to this Deed shall be in writing and dealt with as follows:
- (a) if given by the Organisation to the Commonwealth - addressed and forwarded to the Assistant Secretary, Private Health Industry Branch;
 - (b) if given by the Commonwealth to the Organisation - signed by the Commonwealth and forwarded to the Organisation at the address indicated at the commencement of this Deed.
- 22.2 Any notice, request or other communication shall be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is transmitted electronically a copy is to be sent to the addressee by pre-paid post.
- 22.3 Any notice, request or other communication will be deemed to have been received:
- (a) if delivered by hand, on the date of delivery;
 - (b) if sent by pre-paid post within Australia, upon the expiration of two business days after the date on which it was sent; and
 - (c) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

THIS DOCUMENT HAS BEEN RELEASED UNDER
THE FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH

SIGNED AS A DEED

Signed, sealed and delivered by
THE COMMONWEALTH OF AUSTRALIA by:

.....
(Printed name)

.....
(Signature)

in the presence of

.....
(Printed name)

.....
(Signature)

Signed, sealed and delivered by

.....
(Printed name)

.....
(Signature)

a duly authorised officer of

..... (ACN.....)

in the presence of

.....
(Printed name)

.....
(Signature)