

**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:**

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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

\_\_\_\_\_ ABN \_\_\_\_\_ ('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 Dependand:
    - (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 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,
- (f) could be incurred by an Overseas Student or their Dependand for services provided to them under a base OSHC Product; and
- (g) disclose to the Overseas Student or their Dependants 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 Dependants 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 Dependants 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,
- (f) could be incurred by the Overseas Student or their Dependants for services and treatment provided to them under an OSHC Product with additional coverage;
- (g) 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
- (h) 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 Dependants 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 Dependants when one is requested by the Overseas Student or their Dependants.

## **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.

- 13.4. 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 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.

24.1. 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.

**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 \_\_\_\_\_ ABN \_\_\_\_\_ in accordance with section 127(1) of the Corporations Act 2001 (Cth) by:

\_\_\_\_\_  
Name of authorised representative (print) Name of witness (print)

\_\_\_\_\_  
Signature of authorised representative Signature of witness

\_\_\_\_\_  
Date

## 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"> <li data-bbox="788 757 1358 891">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</li> <li data-bbox="788 898 1358 1061">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.</li> </ul>
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"> <li data-bbox="788 1227 1358 1361">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</li> <li data-bbox="788 1368 1358 1532">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.</li> </ul>
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.

Services	Rate
g) Public hospital services	<p>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:</p> <ul style="list-style-type: none"> <li>i. admitted patient shared ward accommodation, intensive care and same day services;</li> <li>ii. post-operative services;</li> <li>iii. accident and emergency department charges; and</li> <li>iv. outpatient department charges.</li> </ul>
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.

### **SCHEDULE 3 Exclusions**

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

<b>Excluded services and treatments</b>
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

## 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: <ul style="list-style-type: none"> <li>i. Group A1;</li> <li>ii. Group A2;</li> <li>iii. Sub-groups 2 and 10 of Group A7;</li> <li>iv. Group A22;</li> <li>v. Group A23;</li> <li>vi. Sub-groups 1 and 2 of Group A40; and</li> <li>vii. Group A46.</li> </ul>	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).



<b>Events</b>	<b>Refundable amount</b>
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:

<b>For the Commonwealth</b>	<b>For the Insurer</b>
Department of Health and Aged Care Private Health Industry Branch	_____ _____