

# Pharmacy Services Agreement

between

**«DHB\_NAME» DHB**

Contact: «CONTRACTDEPUTY\_NAME»

and

**«PROVIDER\_NAME»**

**For the Provision of Pharmacy Services**

«PROVIDER\_ADDRESS»  
«PROVIDER\_ADDRESS2»  
«PROVIDER\_CITY»

Ph: «PROVIDER\_PHONE»  
Fax: «PROVIDER\_FAX»

Contact: «PRVDRCONTACT\_NAME»

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## Part A. Guide to this Agreement

### A1. This Part is not legally binding

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This Part A provides a guide to the nature and structure of the Agreement and to the location of some important provisions. It is intended that you will use this Part to obtain an overall sense of how the Agreement works before considering each of the other Parts in detail. Notwithstanding anything else in this Agreement, this Part A does not constitute a legally binding commitment.

### A2. Introduction

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#### A2.1 Parties to this Agreement

We are the «DHB\_NAME» District Health Board, responsible for providing funding to ensure the provision of health and disability support services for our resident population under the New Zealand Public Health and Disability Act 2000. You are a provider of pharmacy services.

#### A2.2 Funding and provision of services

In this Agreement, we agree to fund, and you agree to provide, services for eligible people in accordance with the terms and conditions set out under the various Parts and Schedules.

#### A2.3 Interpretation of this Agreement

Some of the expressions used in this Agreement have defined meanings. Part E sets out the definitions of these expressions. These expressions will be shown with initial capital letters in the text of the Agreement. This Part A, however, mostly avoids using these defined expressions to allow you to get an informal overview of the Agreement.

### A3 Basic structure of the Agreement

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#### A3.1 Modular approach

This Agreement has been divided into Parts. Each Part deals with a particular topic or with closely related topics. It is envisaged that this “modular” approach will enable significant amendments to be more readily incorporated into the Agreement because entire Parts can be replaced without disruption to the integrity of the document.

#### A3.2 Sectional analysis

Part B sets out certain key terms of the Agreement. It deals with the basic scope and duration of the Agreement and provides a space for signing. Generally, the first clause of each Part will identify the key obligation or obligations associated with the subject matter of that Part. Sometimes a clause within a Part will refer you to a Schedule. The Schedules are located at the end of the Agreement. The Schedules tend to contain the more technical or specialised information.

## A4 Our respective responsibilities

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### A4.1 The responsibilities of us both

Some Parts of this Agreement focus on the responsibilities of us both. In general terms, **we both agree to:**

- (a) be guided in our dealings by the purposes and principles set out in Part D;
- (b) comply and co-operate with the procedure for meetings and reporting set out in Part I and the dispute resolution procedure set out in Part K;
- (c) accept and comply with the variation provisions set out in Part L and the failure to perform and termination provisions set out in Part O; and
- (d) comply with the miscellaneous provisions governing our relationship set out under Part N.

### A4.2 Your responsibilities

Some Parts of this Agreement focus on your responsibilities. In general terms, **you agree to:**

- (a) provide the services described in Part C to the quality specifications set out in Part G;
- (b) observe the requirements relating to the health of Maori and other population groups set out in Part F;
- (c) claim for payment in accordance with the claiming procedure set out in Part H;
- (d) comply and co-operate with the reporting and information management requirements set out in Part I and the auditing procedures set out in Part J; and
- (e) deal with third parties according to the provisions set out under Part M.

### A4.3 Our responsibilities

Some Parts of this Agreement focus on our responsibilities. In general terms, **we agree to:**

- (a) pay you for providing services to eligible people in accordance with the terms and conditions set out in this Agreement on the pricing, claiming and payment terms set out in Part H; and
- (b) undertake the auditing functions set out in Part J.

## A5 Provider specific terms and conditions

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Part P contains provider specific terms and conditions that are departures from, or additions to, the standard terms in the remainder of the Agreement. These terms and conditions are specific to you, your provider type or the type of services you provide. The provisions of Part P apply notwithstanding anything in the remainder of this Agreement. Where there is a conflict between these provider specific terms and conditions and any other terms in this Agreement, these provider specific terms and conditions take precedence and apply over any other terms. Because these provider specific terms and conditions override what you may have already read in the remainder of the Agreement, you should check Part P every time you refer to the Agreement.

## Part B. Key terms and execution of this Agreement

### B1 Scope

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#### B1.1 This Agreement and other relevant documents

We agree to fund, and you agree to provide, the Services for Eligible People in accordance with the terms and conditions set out in this Agreement and, to the extent applicable, in accordance with:

- (a) the Pharmaceutical Schedule;
- (b) the Pharmaceutical Transactions Data Specification; and
- (c) the Procedures Manual.

#### B1.2 Order of priority

We both acknowledge and agree that, in the event of any conflict between this Agreement and the other documents specified in clause B1.1, the order of priority in respect of these documents is:

- (a) the Pharmaceutical Schedule;
- (b) the Pharmaceutical Transactions Data Specification (solely in relation to matters concerning the file formats and data to be provided to HealthPAC for the purposes of processing claims);
- (c) this Agreement; and
- (d) the Procedures Manual.

#### B1.3 Compliance with Pharmaceutical Schedule

We will, through PHARMAC, make available to you, free of charge, the Pharmaceutical Schedule. You agree to comply with the requirements in the Pharmaceutical Schedule when providing the Services and Pharmaceuticals, provided that we shall not use this clause B1.3 to initiate any changes that would defeat your legitimate expectations under this Agreement.

#### B1.4 Variations to Pharmaceutical Schedule

You acknowledge that the Pharmaceutical Schedule may be varied from time to time by PHARMAC. If you have a particular concern regarding any change to the Pharmaceutical Schedule, you may notify us in writing of your concern and we will then use our reasonable endeavours to address it with PHARMAC, which may entail discussion(s), meeting(s) or correspondence with PHARMAC, as appropriate.

## **B2 Duration of the Agreement**

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### **B2.1 Commencement**

This Agreement comes into effect on the Commencement Date, which is «CONTRACT\_STARTDATE».

### **B2.2 Termination**

This Agreement ends on the Termination Date, which is either:

- (a) the Set Termination Date of 28 February 2010, subject to any variation in accordance with Part L; or
- (b) the date of any earlier termination in accordance with Part O.

### B3 Execution

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By our respective authorised signatories signing below, we both agree to comply with and be bound by the terms and conditions of this Agreement.

**«DHB\_NAME» District Health Board  
by:**

**«PROVIDER\_NAME» by:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Position**

\_\_\_\_\_  
**Position**

\_\_\_\_\_  
(a) **Date**

\_\_\_\_\_  
**Date**

**Witnessed by:**

**Witnessed by:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Occupation**

\_\_\_\_\_  
**Occupation**

\_\_\_\_\_  
**Residence**

\_\_\_\_\_  
**Residence**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

## Part C. Summary of Services to be provided

### C1 Agreement to provide Services

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You agree to provide to Eligible Persons the Services as detailed in, and in accordance with, this Part C.

### C2 Description of the Services

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#### C2.1 Services funded

We agree to fund the following pharmacy services, which are described in more detail in the service specifications in Schedule C1:

- (a) Base Pharmacy Services;
- (b) Pharmacy Methadone Services for Opioid Dependence (Class B Controlled Drugs);
- (c) NRT Services; and
- (d) any other pharmacy services, if applicable, described in Part P.

Where there is any conflict between the requirements of any of the service specifications in Schedule C1 and the provisions in Parts A to P of this Agreement, the latter will take precedence.

#### C2.2 Funding of further Services

You acknowledge and agree that if you wish to provide, and receive funding from us for, any other pharmacy service that is not included in this Agreement under clause C2.1(d), then prior to any decision by us on whether to fund your provision of such other service:

- (a) we may have access to, and may review, your Records (including any Audit records) and any other relevant information held by you, to enable us to assess your ability to perform the further pharmacy service; and
- (b) you must make such Records (including any Audit records) and other information available to us and provide us with all reasonable assistance in relation to any such review.

### C3 Eligibility of Service Users

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#### C3.1 Determining eligibility

We both agree that the eligibility of a Service User to receive the Services, or any benefit or subsidy in respect of the Services or Pharmaceuticals will be determined in accordance with:

- (a) any direction issued under section 32 of the New Zealand Public Health and Disability Act 2000 regarding eligibility;
- (b) the eligibility criteria set out in the Health Entitlement Cards Regulations 1993; and
- (c) the terms and conditions set out in the Pharmaceutical Schedule,

as applicable, and otherwise in accordance with the terms set out in this Agreement.

### **C3.2 Disputes about eligibility**

Any disputes relating to whether or not a person is an Eligible Person will be determined by the Minister of Health.

### **C3.3 Providing Services to ineligible persons**

You agree to comply with the provisions in clause H4.2 where you provide Services or Pharmaceuticals to persons who are not Eligible Persons.

## **C4 Service location**

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### **C4.1 Service provision from within DHB geographical area**

You must provide Services only within our DHB's geographical area (as that area is defined in Schedule 1 of the Act). We will not fund Services provided outside of our DHB's geographical area, except that both of us may agree separately in writing on arrangements to allow you to provide Services to identified groups of Service Users in other DHB geographical areas.

### **C4.2 Change of Premises**

Subject to clause C4.1, you must inform us in writing, within 10 Business Days after changing your Premises, of the new address and location of your Premises.

## Part D. General purposes and principles

### D1 Nature of this Part

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This Part D clarifies the intentions of the parties and provides a broad context, which is intended to assist with the interpretation and implementation of all other provisions of this Agreement. Notwithstanding anything else in this Agreement, the provisions of this Part D do not constitute legally binding commitments.

### D2 Purposes of this Agreement

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This Agreement has the following general purposes:

**(a) Give effect to New Zealand Public Health and Disability Act 2000**

To provide for the funding and provision of health and disability support services as contemplated by the New Zealand Public Health and Disability Act 2000.

**(b) Improve health generally through quality services**

To improve, promote and protect the health of Eligible People, and to promote the inclusion and participation in society of Eligible People with disabilities, by providing Eligible People with the best quality and most cost-effective services based on statutory, contractual and professional standards and codes of practice.

**(c) Improve health of Maori and other population groups**

To reduce health disparities and improve health outcomes by identifying and targeting the specific needs of Maori and other population groups.

**(d) Create good working relationship**

To create a relationship between us both which enables us to work together to achieve the best possible health outcomes while recognising each other's legitimate interests.

**(e) Achievement within funding provided**

To pursue the purposes stated above to the extent that they are reasonably achievable within the funding provided.

### D3 Service delivery principles

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We both recognise the importance of the following Service delivery principles:

**(a) Comprehensive service**

All Eligible People should have access to comprehensive, co-ordinated and continuing health and disability services.

**(b) Quality services**

Eligible People have a right to expect high quality service provision. DHBs have a responsibility to monitor the agreed service quality provided by you both through auditing and by reviewing your quality systems.

**(c) Professional standards**

Minimum clinical quality standards for professional practice will be determined by appropriate professional standards groups.

**(d) Finite health resources**

Health resources are a finite resource and preferred solutions are those that maximise health outcomes within the limits of available resources.

**(e) Equity of access**

Subject to recognised medical ethics and geographical limitations, all people should have equitable access to quality health and disability services according to their needs and their ability to benefit.

**(f) Equity of outcome for Maori**

The health of Maori is a priority area. Strategies to ensure that the health of Maori is improved are essential to equity of health outcomes for all Eligible People.

**(g) Equity of outcome for other population groups**

The health of other population groups is a priority area. Strategies to ensure that the health of these groups are improved are essential to equity of health outcomes for all Eligible People.

**(h) User choice**

Eligible People have the right to choose their primary health care providers.

**(i) Evidenced based**

You should provide the Services based, as far as you are able, on the best clinical evidence.

**(j) Prescriber feedback**

You should invite Prescribers on a regular basis to provide you with feedback on service delivery as a way of improving the outcomes for Service Users.

## **D4 Relationship principles**

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We both recognise that the following relationship principles are important and intend that they will guide each of us in our dealings with each other under this Agreement:

**(a) Dealings between us both**

We both agree to use reasonable endeavours to conduct all negotiations, discussions or dealings under, or pursuant to, this Agreement directly with each other.

**(b) Recognition of each others skills**

We both recognise and value the other's skills and expertise where required quality standards are met.

**(c) Open and transparent dealings**

We both agree to act in an open and transparent manner with each other.

**(d) Long term relationship**

We both agree to foster a long-term co-operative and collaborative relationship, which adheres to the principles of good faith, to enable us both to achieve our respective objectives efficiently and effectively.

**(e) Interdependence**

We both recognise our and your interdependence and will, as appropriate, Consult each other early and with an open mind.

**(f) Joint action**

We both acknowledge that some quality improvements and health gain opportunities can only be achieved by joint action.

**(g) Developments and change**

We both agree to apply the principles described in clauses D3 and D4 in a way that will promote continuing quality improvement and achieve health gain objectives through service development and change.

**(h) Good faith negotiations**

We both agree to conduct all negotiations and implement agreements in good faith.

**(i) Setting reasonable time frames**

We both recognise the importance of fixing mutually acceptable time frames for negotiation which include reasonable progress milestones.

**(j) Continuous improvement**

We both acknowledge the need for, and commitment to, continuous improvement in service delivery and health outcomes within available funding. We both agree to fully contribute to processes that deliver improvements to health status.

**(k) National consistency**

We both agree to promote national consistency in contracting for the Services while recognising and where possible accommodating, the demonstrable need for regional or local variations.

**(l) Issue resolution**

We both agree to discuss the resolution of any issues or problems that may arise in relation to the interpretation or application of this Agreement.

**(m) Future primary care strategies and policies**

We both acknowledge that we will continue to develop and implement future funding strategies and policies for primary care services within our DHB's geographical area to ensure the efficient and effective use of public money, which may include the establishment or evolution of primary health organisations and different mechanisms for funding pharmacy services through such primary health organisations.

**(n) Co-operation and Consultation**

We both agree to co-operate with each other to ensure the development and implementation of the strategies and policies referred to in paragraph (m). We agree to Consult with you in respect of the establishment or evolution of primary health organisations and the contribution of pharmacy to the Government's health strategy and objectives.

**(o) Strategic or policy obligations**

We both acknowledge that we are subject to, and must comply with, the strategic or policy directions of the Crown. We agree to Consult with you, where appropriate, early and with an open mind. You agree not to act in an unreasonable manner that would prevent us from complying with any strategic or policy directions of the Crown.

## Part E. Definitions and Construction

### E1 Definitions

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#### E1.1 Nature of this clause

This clause E1 sets out the definitions of expressions that are used throughout this Agreement. These defined expressions will be shown in initial capitals in the text of the Agreement.

#### E1.2 References to the parties

**We, us, our** means «DHB\_NAME» District Health Board;

**You, your** means «Provider\_Name»;

**We both, us both** means both you and we;

**Either of us** means either you or we; and

**Neither of us** means neither you nor we.

#### E1.3 Definitions applying to all Parts

In this Agreement, unless the context requires otherwise:

**Act** means the New Zealand Public Health and Disability Act 2000 as amended from time to time, or any enactment relating to the funding and provision of health and disability services that replaces or succeeds the Act, and references to sections of the Act are to be read as references to equivalent sections of any replacement or successor enactment, as applicable.

**Agreement** means this agreement between us both for the funding and provision of the Services.

**Agreement Reference Number** means the unique identification number that relates to this Agreement, which is printed on the cover of this Agreement.

**Audit** includes inspection, monitoring, audit, investigation, review and evaluation of your performance and compliance with the terms of this Agreement on the terms set out in Part J.

**Audit Framework** means the Audit programme framework described in Schedule J1, as amended by us from time to time following consultation with you.

**Auditor** means an auditor appointed to carry out an Audit under clause J2.5.

**Base Pharmacy Services** mean the services described in the service specification for Base Pharmacy Services in Schedule C1.

**Bulk Supply Order** has the same meaning given to it in Section A of the Pharmaceutical Schedule.

**Business Day** means a day on which your bank, our bank and our payment agent's bank are open for business.

**Claim** means a batch of Claim Items in respect of a particular Claim Period submitted by you to our Payment Agent for payment in accordance with this Agreement.

**Claim Item** means an individual transaction relating to the provision of Services and/or Dispensing of a Pharmaceutical in accordance with this Agreement.

**Claim Period** means either one of the two claim periods in a single calendar month as described in clause H3.1.

**Code of Ethics** means the publication issued by the Pharmacy Council of New Zealand pursuant to section 118(i) of the HPCA Act.

**Code of Health and Services Consumers' Rights 1994** means the code issued under the Health and Disability Commissioner Act 1994.

**Commencement Date** means the date the Agreement commences, as set out in clause B2.1 of this Agreement.

**Commercial Information:**

- (a) means any information disclosed by us to you or by you to us, either before or during the course of the Agreement, or arising out of the operation of the Agreement, that is agreed by us both as being confidential or that may reasonably be considered to be confidential taking into account all the circumstances, including the manner of and circumstances in which disclosure occurred; but
- (b) excludes the terms of this Agreement (except for bank account details and other information that is directly related thereto, which will constitute Commercial Information), unless agreed by us both as being Commercial Information.

**Complex Medicine** means a Pharmaceutical on the list of complex medicine Pharmaceuticals as maintained by us or our agent.

**Compulsory Variation** means a variation to this Agreement described in clause L2.1 (b) or (c).

**Confidential Information** means Commercial Information and/or Health Information.

**Consult** means to comply with the following:

- (a) each of us must state our proposals and views to the other and carefully consider each response to them;
- (b) each of us must act in good faith and not predetermine any matter;
- (c) each of us must give the other adequate opportunity to consult any other interested party;

- (d) the obligation of either of us to Consult will be discharged if the other refuses or fails to participate in the consultation in accordance with these requirements;
- (e) the consultation must take place within a reasonable time frame.

**Co-payment** has the meaning referred to in clause H4.4.

**Crown** means the meaning given in the New Zealand Public Health and Disability Act 2000.

**Crown Direction** means any direction given by the Crown (by the Minister of Health under section 103 of the Crown Entities Act 2004 or otherwise) to us.

**Crown Funding Agreement** means the agreement between us and the Minister of Health pursuant to section 10 of the Act.

**CSC** means a community services card, as defined in the Health Entitlement Card Regulations 1993.

**Default Interest** means the interest to be paid on late payments in accordance with clause H16.

**Dentist** means a person registered as a dentist with the Dental Council under the HPCA Act who holds a current annual practicing certificate.

**DHB** means a District Health Board as established under section 19 of the Act.

**Dispensing** means the process of a Pharmacist providing a Service User or the Service User's caregiver, or a Prescriber, with a Prescription Item pursuant to a Prescription Form or order, and includes all the steps that occur from receipt of the Prescription Form or order at the Pharmacy to the Prescription Item being collected by, or delivered to, the Service User or the Service User's caregiver or Prescriber, and **Dispense** and **Dispensed** have corresponding meanings.

**Due Date** means the fourth Business Day following the Claim Period to which the Claim in question relates.

**ECP** means an extemporaneously compounded preparation that is not available as a proprietary product and is therefore required to be compounded by you. For an ECP to be subsidised under this Agreement, it must contain two or more subsidised component pharmaceuticals listed in the Pharmaceutical Schedule. It does not include reconstitution of antibiotic liquids.

**Eligible Person** means any individual who is a user of the Services and is eligible to receive Services funded under the New Zealand Public Health and Disability Act 2000 as specified in a direction issued under section 32 of that Act.

**Eligible Persons or Eligible People** have a corresponding meaning to Eligible Person.

**Exceptional Circumstances** has the same meaning given to it in the Pharmaceutical Schedule.

**Final Due Dates** mean the final dates specified in clause H9.1 when all Claims must be received by us.

**GST** means the tax imposed under the Goods and Services Tax Act 1985.

**HealthPAC** means Health Payments Agreements and Compliance, a business unit of the Ministry of Health.

**Health and Disability Commissioner** means Commissioner appointed under the Health and Disability Commissioner Act 1994.

**Health Information** means the following information or classes of information about an identifiable individual:

- (a) information about the health of that individual, including his or her medical history;
- (b) information about any disabilities that individual has, or has had;
- (c) information about any health services or disability services that are being provided, or have been provided, to that individual;
- (d) information provided by that individual in connection with the donation, by that individual, of any body part or any bodily substance of that individual or derived from the testing or examination of any body part, or any bodily substance of that individual; or
- (e) information about that individual which is collected before or in the course of, and incidental to, the provision of any health service or disability service to that individual.

**Health Information Privacy Code 1994** means the code relating to privacy of Health Information issued under section 46 of the Privacy Act 1993.

**He Korowai Oranga** means the Māori Health Strategy, as published by the Ministry of Health in November 2002.

**HPCA Act** means the Health Practitioners Competence Assurance Act 2003 as amended from time to time.

**HUHC** means a high use health card, as defined in the Health Entitlement Card Regulations 1993.

**Medical Practitioner** means a person registered as a medical practitioner with the Medical Council of New Zealand under the HPCA Act and who holds a current annual practising certificate.

**Medicines Act** means the Medicines Act 1981, as amended from time to time, or its successor.

**Medicines Regulations** means the Medicines Regulations 1984, as amended from time to time, or its successor.

**Medsafe** means the New Zealand Medicines and Medical Devices Safety Authority or its successor.

**Midwife** means a person registered as a midwife with the Midwifery Council under the HPCA Act and who holds a current annual practising certificate.

**Monitored Therapy Medicine** means a Pharmaceutical on the list of monitored therapy medicine Pharmaceuticals as maintained by us or our agent.

**NHI** means a National Health Index number.

**NRT** means the nicotine replacement therapy products listed on the Pharmaceutical Schedule for the purposes of the NRT Programme.

**NRT Exchange Card** means an individually numbered exchange card issued by an Authorised NRT Agent to an Eligible Person for the purposes of that Eligible Person accessing subsidised NRT.

**NRT Programme** means the national health initiative aimed at providing targeted populations with access to subsidised NRT and counselling as part of a national smoking cessation programme, of which the NRT Services form a part.

**NRT Services** mean the services described in the service specification for Nicotine Replacement Therapy in Schedule C1.

**Payment Agent** means an agent employed by us to make payment to you on our behalf as described in clause H18.

**Payment Date** means any one of the two payment dates in a single calendar month as described in clause H12(a).

**PHARMAC** means the Pharmaceutical Management Agency.

**Pharmaceutical** means a medicine, therapeutic medical device, or related product or related thing.

**Pharmaceutical Schedule** has the meaning given in the New Zealand Public Health and Disability Act 2000.

**Pharmaceutical Schedule Pack Subsidy** means the subsidy specified in the Pharmaceutical Schedule at which a pack of the relevant Pharmaceutical is subsidised (excluding GST).

**Pharmaceutical Transactions Data Specification** means the publication entitled the "Pharmaceutical Transaction Data Specification", as amended by us from time to time following consultation with you.

**Pharmacist** means a person for the time being registered as a pharmacist with the Pharmacy Council and who holds a current annual practising certificate under the HPCA Act.

**Pharmacy** means a place of business that is licensed under the Medicines Act 1981.

**Pharmacy Advisory Committee** means the advisory committee described in clause J4, which may advise on any complaints or issues regarding any aspects of this Agreement, and which is to be operated in accordance with established procedures for advisory committees.

**Pharmacy Charges** has the meaning given to it in clause H4.6.

**Pharmacy Council** means the Pharmacy Council established as a Responsible Authority.

**Pharmacy Guild** means the Pharmacy Guild of New Zealand Inc, or an equivalent entity that has assumed the responsibilities of the Pharmacy Guild of New Zealand Inc, being a representative body of some providers of pharmacy services.

**Pharmacy Methadone Services for Opioid Dependence** means the services described in the service specification for Pharmacy Methadone Services for Opioid Dependence (Class B controlled drug services) in Schedule C1.

**Pharmacy NRT Procedures** mean the procedures referred to in clause 7.7 of the service specification for NRT Services that will apply in respect of NRT Services.

**Pharmacy Services Advisory Group** means the advisory group described in clause I1.4.

**Practitioner** means a Medical Practitioner, a Dentist or a Midwife who holds a current annual practising certificate, or any other health professional who may be legally permitted to prescribe Pharmaceuticals to Eligible People.

**Practitioner Supply Order** has the same meaning given to it in the Pharmaceutical Schedule.

**Preferred Supplier Brand** means a Pharmaceutical that is subject to a preferential supply arrangement, which has been arranged by us through PHARMAC with the manufacturer of the Pharmaceutical.

**Premises** means the location from where you perform the Services or where anything relating to the Services occurs or is kept, including the location of the Records.

**Prescription Item** means the quantity of a single Pharmaceutical prescribed for a named person on a Prescription Form.

**Prescription Form** means a form completed and signed by a Practitioner in accordance with the Medicines Regulations 1984, which specifies the Pharmaceuticals prescribed for a named person.

**Prescriber** means a Practitioner who is authorised under the Medicines Regulations 1984 to prescribe Pharmaceuticals to Eligible People.

**Procedures Manual** means the publication entitled “The Pharmacy Procedures Manual, as varied by the Ministry of Health or us from time to time following consultation with you.

**Product Premium** has the meaning given to it in clause H4.5.

**Provider** means a person or entity who has agreed to provide Services to Eligible People, which we have agreed to fund, pursuant to an agreement with us.

**Provider Reference Number** means the unique identification number that relates to you as a provider of Services under this Agreement, which is printed on the cover of this Agreement.

**PSC** means a pharmaceutical subsidy card, as defined in the Health Entitlement Card Regulations 1993.

**Purchase Units** mean the Purchase Units described in clause 3.2(c) in Schedule H1.

**Quality Specifications** means the specifications set out in Part G.

**Quality Standards for Pharmacy in New Zealand** means the publication issued by the Pharmaceutical Society entitled “PSNZ, Quality Standards for Pharmacy in New Zealand, 2nd edition” dated September 1996, as varied from time to time.

**Records** means all records and information held by you, or by your Staff, or on your behalf, in whatever form, including written and electronic forms, which are relevant to the provision of the Services, including Service User records and financial accounts.

**Responsible Authority** means a body appointed as an authority under section 114 of the HPCA Act in respect of a particular profession, and includes the Pharmacy Council and the Health and Disability Commissioner.

**Service User** means an Eligible Person who uses any Services under this Agreement.

**Services** means the services specified in Part C of this Agreement.

**Set Termination Date** means the date the Agreement ends, as set out in clause B2.2 of this Agreement.

**Special Authority** has the same meaning given to it in the Pharmaceutical Schedule.

**Special Foods** means the special foods listed in Section D of the Pharmaceutical Schedule.

**Specialist** has the same meaning given to it in Section A of the Pharmaceutical Schedule.

**Specific Brand** means a Pharmaceutical that is identified by reference to the manufacturer's brand name for the Pharmaceutical and not by reference to the Pharmaceutical's generic active ingredient or ingredients.

**Staff** includes your employees, sub-contractors, contractors, agents and other personnel connected with the delivery of the Services.

**Termination Date** means the date on which this Agreement ends.

**Uncontrollable Event** means an event which is beyond the reasonable control of the party immediately affected by the event (including where we have failed to make due payment because of an event beyond our reasonable control). An Uncontrollable Event does not include any risk or event which the party claiming could have prevented or overcome by taking reasonable care.

**Urgent Pharmacy** means a Pharmacy which is established for the purpose of selling medicines at any time outside ordinary business hours and is not normally operated during ordinary business hours.

**Voluntary Variation** means a variation to this Agreement described in clauses L2.1(a).

**Whakataataka Tuarua** means the Māori Health Action Plan (2006 - 2011).

## **E2 Construction**

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### **E2.1 Construction of general references**

**(a) Headings:**

headings have been included in this Agreement for convenience only and are to be ignored when interpreting this Agreement;

**(b) Clause, schedule, annexure:**

a reference to a section, clause, schedule or annexure is a reference to a section of, clause of, schedule to, or annexure to this Agreement;

**(c) Varied document:**

a reference to this Agreement or another document includes any variation, novation, or replacement of it;

**(d) Statutes:**

a reference to a statute or other law includes regulations and other rules made under it and consolidations, amendments, re-enactments or replacements of any of them (whether before or after the date of this Agreement);

**(e) Financial references:**

references to and expressions used in connection with financial calculations, valuations, accounting or financial reporting functions or their description in this Agreement bear the respective meanings ascribed to like expressions or expressions of similar intent under generally accepted accounting practice (**GAAP**);

**(f) Singular includes plural:**

the singular includes the plural and vice versa;

**(g) Person includes groups:**

the word person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, a state and an agency of state, in each case, whether or not having a separate legal personality;

**(h) Person includes successors:**

a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation) and permitted assigns;

**(i) Joint and several:**

an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally and an obligation of two or more persons binds them jointly and severally;

**(j) Currency:**

a reference to \$ or dollars is a reference to the lawful currency of New Zealand and, unless otherwise specified, all amounts payable by a party under this Agreement are to be paid in that currency;

**(k) Gender:**

words importing one gender include the other genders;

**(l) Notice:**

all periods of time for notice exclude the days on which they are given and include the days on which they expire.

**(m) Business Day:**

anything required by this Agreement to be done on a particular day which is not a Business Day may be done on the next Business Day; and

**(n) Including without limitation:**

any reference to "including", "include", "includes" or "in particular" does not limit the generality of the relevant statement.

## **Part F. Maori health and other population groups.**

### **F1 Applicability of this clause**

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#### **F1.1 Applicability of this clause**

Part F applies to you where the users of your Services include Maori or members of the other identified population groups, as the case may be. To avoid doubt, and in accordance with the New Zealand Public Health and Disability Act 2000, nothing in the Agreement entitles any person to preferential access to services on the basis of race.

#### **F1.2 Our assistance**

We agree to assist you to meet your obligations under this Part F.

### ***Maori Health***

### **F2 Maori Health**

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You will, with reference to He Korowai Oranga – Māori Health Strategy and Whakataataka – Māori Health Action Plan, contribute to improvements in "Whanau Ora" and to the reduction in Māori health inequalities. Specific Māori health priorities are outlined in He Korowai Oranga under the heading "Māori health and disability priorities". You will recognise the cultural values and beliefs that influence the effectiveness of services for Māori and must consult and include Māori in service design and delivery. We will assist you to meet your obligations under this clause.

### **F3 Maori Health in your Quality Improvement Plan**

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#### **F3.1 Development of a Maori Health section in your Quality Improvement Plan**

You agree to develop and implement a Maori health section in your Quality Improvement Plan where it is reasonable given the demographic make-up of your Service Users. This section is to contain policies and practices that recognise Maori health priorities and delivers Services to benefit Maori while recognising their diverse needs. This section will be of a depth and scope appropriate to your circumstances. In developing these policies and practices you:

- (a) agree to take into account the needs, and anticipated needs, of your Maori Service Users and the strategic or policy direction of the Crown on Maori health, as communicated by us to you from time to time; and
- (b) may seek feedback or assistance from Maori where appropriate in accordance with clause G12.

#### **F3.2 Compliance at a collective level**

Notwithstanding anything else in this Part F, you may, where appropriate, work towards complying with this Part F, and any other Maori health obligations in this Agreement, at a collective level with other Providers, provided that such collective action does not derogate from your performance of your individual obligations under this Agreement.

## **F4 Maori integration**

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### **F4.1 Maori needs**

You agree to seek to meet the needs of Maori in relation to the delivery of the Services by:

- (a) reducing barriers to accessing the Services by Maori Service Users;
- (b) facilitating the involvement of whanau and others, where appropriate;
- (c) developing relationships with Maori health providers; and
- (d) educating and training staff, where appropriate.

### **F4.2 Maori health initiatives**

You agree to:

- (a) participate in Maori health programmes initiated by us, independent practitioners' associations (IPAs) or Maori health providers where such participation is lawful and deemed by you to be reasonable;
- (b) work towards the adoption of a culturally appropriate labelling and advice protocol for those Maori Service Users who identify themselves as requiring this additional service;
- (c) work towards using culturally appropriate destruction services for needles and other skin piercing devices, which have come into contact with body fluids, for those Maori Service Users who identify themselves as requiring this additional service.

### **F4.3 Maori principles**

As part of your support for Maori Service Users and employees, you will support the introduction of appropriate Maori principles/tikanga within your organisation in such a way as to promote the holistic approach of Maori to health care. Some explanation of these matters is described below:

<b>Wairua</b>	<b>Spirit or spirituality</b>	A recognition that the Maori view of spirituality is inextricably related to the wellbeing of the Maori Service User.
<b>Aroha</b>	<b>Compassionate love</b>	The unconditional acceptance which is the heart of care and support.
<b>Turangawaewae</b>	<b>A place to stand</b>	The place the person calls home, where their origins are. Must be identified for all Maori Service Users who wish it.

<b>Whanaungatanga</b>	<b>The extended family</b>	The family or group which takes responsibility for its members and must be informed of where its member is.
<b>Tapu/Noa</b>	<b>Sacred/profane</b>	The recognition of the cultural means of social control envisaged in tapu and noa including its implications for practices in working with Maori Service Users.
<b>Mana</b>	<b>Authority, standing</b>	Services must recognise the mana of Maori Service Users.
<b>Tangata Whenua</b>	<b>Hapu or iwi that holds mana whenua over an area</b>	In relation to a particular area, means the hapu or iwi, that is Maori and holds mana whenua or customary authority over that area.
<b>Manaaki</b>	<b>To care for and show respect to</b>	Services show respect for Maori values, traditions and aspirations.
<b>Kawa</b>	<b>Protocol of the marae, land, iwi</b>	Determines how things are done in various circumstances. Respect for kawa is very important. If the kawa is not known the tangata whenua should be consulted.

### *Other population groups*

## **F5 Health of other population groups**

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### **F5.1 Other population groups**

We both recognise that the needs of some population groups in addition to Maori, may be or may become a priority in relation to improving health outcomes and that we both need to be prepared to seek to meet those needs as they arise and evolve over time.

### **F5.2 Provision of Services to other population groups**

You agree to provide the Services to members of other population groups in a manner that meets their diverse needs.

## Part G. Quality Specifications

### G1 Agreement to adhere to Quality Specifications

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You agree to provide the Services and to conduct your activities, in so far as they are associated with the performance of and compliance with your obligations under this Agreement, in accordance with the Quality Specifications set out in this Part G.

### G2 Governance and management

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You will develop and implement governance and management systems to ensure:

- (a) efficiency, effectiveness and continuity in the provision of the Services to Service Users; and
- (b) compliance with all legal, regulatory and contractual obligations relating to Service delivery.

### G3 Quality management systems

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#### G3.1 Quality Improvement Plan

You will develop and implement policies and procedures to comply with each of your obligations under this Part G and for the ongoing development and improvement of Service delivery quality. To achieve this you will develop and/or implement, as applicable, a written quality improvement plan, which will be reviewed, but not necessarily updated, as appropriate on an annual basis. The Quality Improvement Plan incorporates the following elements:

- (a) a statement of your organisation's philosophy and objectives regarding Service quality;
- (b) assigned responsibilities and accountabilities for quality activities;
- (c) systems and processes for maintaining and developing the quality of ongoing Service delivery and for defining priorities and new initiatives for quality development;
- (d) monitoring and measuring systems and processes to evaluate the effectiveness of quality activities and progress against the Quality Improvement Plan, including systems and processes for dealing with issues arising from Service User complaints or identified from Service User satisfaction surveys.

### **G3.2 Existing and new pharmacies**

Where your Pharmacy existed and received funding from us prior to this Agreement, then you must have a Quality Improvement Plan in place that you must continue to implement, in accordance with this clause. Where your Pharmacy is new and receives funding from us for the first time under this Agreement, then you must develop a Quality Improvement Plan within six months of the Commencement Date, which you must then implement, in accordance with this clause.

### **G3.3 Further requirements**

You will ensure that the quality systems and processes developed under clause G3.1(c) above:

- (a) require your compliance with appropriate professional and other standards relevant to the Services;
- (b) provide for Staff and Service User input into quality development activities;
- (c) provide for the development of documented policies and procedures wherever such documentation is necessary to support effective and safe Service delivery, including processes for regular review and updating of such documents and for ensuring that they are readily accessible, known to and implemented by Staff.

## **G4 Quality requirements for Maori**

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### **G4.1 Developing processes**

You will develop and implement processes to bring the perspective of Maori to your services. These processes will be suited to the scope and location of Services provided and their impact on Maori and, where appropriate, will include using linkages developed with Maori to ensure that appropriate processes are in place to:

- (a) monitor and evaluate whether your services are meeting the needs of Maori Service Users;
- (b) identify and, where possible attempt to remove, barriers to accessing your services by Maori Service Users;
- (c) where appropriate, facilitate the involvement of whanau in the care and treatment of Maori Service Users receiving your services;
- (d) ensure that your services are responsive to Maori cultural practices that are relevant to Maori Service Users.

### **G4.2 Training and support**

You will develop and implement, with the support of your linkages with Maori, appropriate processes to:

- (a) provide cross-cultural training for Staff;
- (b) provide culturally appropriate support to Maori Staff.

### **G4.3 Facilitating support**

Where you provide Services for Maori Service Users, you will, if the Maori Service User wishes, facilitate support from whanau/hapu/iwi; kuia/kaumatua; rongoa practitioners; spiritual advisors; Maori Staff and others, as appropriate.

## **G5 Risk management**

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### **G5.1 Key risks**

You will establish, implement and comply with the following procedures for the identification, evaluation and management of key risks to Service Users, Staff and visitors to your facilities.

### **G5.2 Health and Safety in Employment Act 1992**

You will comply with the requirements of the Health and Safety in Employment Act 1992.

### **G5.3 Safety standards**

You will have documented policies and procedures to guide you and your Staff in meeting health and safety requirements. These policies and procedures will cover key areas of relevance to the Services and will include, without limitation, the following matters:

- (a) documented policies and procedures to protect Service Users, Staff and visitors from infections, which occur as a result of Service delivery. These policies and procedures will be consistent with nationally accepted guidelines and the requirements set out in the publication entitled Infection Control Standards (NZS8142:2000) published by Standards New Zealand;
- (b) documented systems to manage security appropriate to the degree and range of risk(s) relevant to the Services provided, including the security of pharmaceuticals, chemical supplies, equipment and the facilities.

### **G5.4 Incident reporting**

You will develop and implement processes for defining, recording and resolving incidents and adverse events. These processes will include an internal documented reporting process that enables the early identification of any incidents and adverse event trends and the appropriate corrective and preventive strategies available.

### **G5.5 Civil defence**

You will co-operate with any civil defence emergency activity as appropriate in your area and have a civil defence plan for your organisation that details how you intend to manage continued delivery of the Services in the event of a major incident.

## **G5.6 Health Emergency Planning**

- (a) You agree to develop a Health Emergency Plan to ensure that your clients/patients and staff are provided for during a Health Emergency and ensure that this is reviewed periodically to maintain currency.
- (b) Your Health Emergency Plan will identify your response to a worst case scenario event affecting 40% of the population, with a 2% death rate).
- (c) A copy of the plan shall be made available to us on request and will be consistent with our Pandemic and Emergency Plans which are available from the DHB.
- (d) When requested by us you will be involved in planning processes to ensure that emergency responses are integrated, co-ordinated and exercised. The level of participation required will be reflective of the nature of the services You provide and Your expected roles and services in an emergency situation. To ensure both of Us derive maximum benefit from these processes
  - (i) We will give you 30 days advance notice of this process.
  - (ii) During this notice period, we will brief community pharmacies on the objectives of the process, and the scenarios to be tested by the process.
  - (iii) We will work with your local community pharmacy emergency response co-ordinator(s) to ensure our process allows community pharmacies to test fully the effectiveness of their Health Emergency Plans.
  - (iv) We will seek feedback from you on the lessons you learned from the process to allow us to improve our pandemic and emergency plans.
  - (v) We will provide feedback to you on lessons we learned from the process to allow You to improve Your Health Emergency Plan.

## **G6 Service Users' rights**

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### **G6.1 Code of Health and Disability Services Consumer Rights**

You will provide the Services in accordance with all requirements of the Health and Disability Commissioner (Code of Health and Disability Services Consumer Rights) Regulations 1996. This includes:

- (a) ensuring that a written Code of Health and Disability Services Consumer Rights is available to Service Users who visit your Pharmacy; and
- (b) establishing policies and procedures to ensure that you:
  - (i) comply with the Code of Health and Disability Services Consumer Rights; and
  - (ii) understand the Code of Health and Disability Services Consumer Rights and, where necessary, are able to refer to documented policies and procedures to demonstrate your effective implementation.

## **G6.2 Respect for privacy, dignity, religion and culture**

You will ensure that there is respect for the personal privacy and dignity of Service Users during Service delivery and that the Services are provided in a manner which shows respect for Service Users' religious and cultural beliefs and practices.

## **G6.3 Complaints procedures**

You will enable Service Users, their families/whanau or other people to make complaints through a procedure for the identification and management of complaints. This procedure will meet the Code of Health and Disability Services Consumers' Rights 1994 and will also ensure that:

- (a) the complaints procedure itself is made known to and easily understandable by Service Users;
- (b) all parties have the right to be heard;
- (c) the person handling the complaint is impartial and acts fairly;
- (d) complaints are handled at the level appropriate to the complexity or gravity of the complaint;
- (e) any corrective action required following a complaint is undertaken;
- (f) Service Users are informed of their right to direct their complaints to the Health and Disability Commissioner and to us, particularly in the event of non-resolution of a complaint;
- (g) complaints are handled sensitively with due consideration of cultural or other values;
- (h) all Service Users and their family/whanau have access to an advocate, as specified in clause G6.6, to support them during the complaints process;
- (i) the making of a complaint will not in any way compromise the Service User's or his or her family's ability to receive the Services;
- (j) complaints are regularly monitored by the management of the Service and trends identified in order to improve Service delivery; and
- (k) the complaints procedure is consistent with our complaints policy, as updated from time to time. We will make our current complaints policy available to you.

## **G6.4 Abuse and neglect**

You will establish, implement and document policies and processes that:

- (a) where possible, enable Staff to identify abuse or neglect of Service Users;
- (b) clearly outline appropriate action that may be taken by Staff who suspect the occurrence of abuse or neglect;

- (c) attempt to resolve any incidents of abuse or neglect in an appropriate and timely manner.

## **G6.5 Privacy**

You will:

- (a) establish and maintain processes to ensure the confidentiality of Service User information in compliance with the Privacy Act 1993 and the Health Information Privacy Code 1994; and
- (b) re that facilities and Staff approach to Service delivery provide adequate privacy for Service Users, especially during sensitive discussions.

## **G6.6 Service User advocates**

You will:

- (a) inform Service Users, in a manner appropriate to their communication needs, of their right to have an advocate, including to support the resolution of any complaint;
- (b) support Service Users' access to an advocate, as needed;
- (c) co-operate with advocacy agencies when they are carrying out their advocacy role.

## **G6.7 Ethical approval**

You will comply with clause 1.9 in the Code of Ethics when carrying out any health or disability research involving Service Users or members of the public. Where you become involved in such an activity you will ensure that a documented procedure for seeking ethical approval from a regional ethics committee accredited by the Health Research Council is developed for use within the Service.

## **G7 Access to Services**

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### **G7.1 Access and eligibility criteria**

You will ensure that the access and eligibility criteria for the Services, as referred to in this Agreement, are met.

### **G7.2 Service information**

You will have available for Eligible People and other interested parties appropriately written information, which describes:

- (a) the Services you offer;
- (b) the location of these Services;
- (c) the hours of access;
- (d) how to access the Services (e.g. whether a referral is required);
- (e) Service Users' rights and responsibilities; and

- (f) any other information to enable Eligible People to access the Services.

### **G7.3 Declining Services**

You will develop and implement processes to ensure the immediate safety of persons and others who are not eligible for the Services or who are declined the Services. These processes will provide for:

- (a) sufficient preliminary assessment to ensure that the person is not eligible for the Services or does not require your Services or should be declined the Services;
- (b) advice to the person and/or their family/whanau of alternative services that are available and, if necessary, formal referral of the person to an alternative service;
- (c) documentation of the reasons for declination and informing us, if required;
- (d) a documented process to manage any declinations.

### **G7.4 Conscientious objection**

You will not be required to provide Services where you object to doing so on grounds of conscience that are reasonably based on a recognised religious or cultural belief, including by way of example only the supply of contraceptives on religious grounds. Where you decline to provide Services under this clause 7.4, you must comply with the requirements set out in clause G7.3.

## **G8 The Services**

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You will ensure that:

- (a) the Services are provided in a timely, equitable and efficient manner to meet Service Users' assessed needs;
- (b) Service delivery reflects current good practice and is provided by sufficient numbers of suitably skilled and qualified Staff. Current good practice includes the requirement for a planned approach to all stages of service delivery for Service Users;
- (c) Service User records and other information about the Services and related administrative processes meet legislative and accepted professional and/or sector standards;
- (d) formal documented processes are maintained to plan and implement safe and timely treatment, referral or transfer;
- (e) a range of linkages and co-operation is maintained with other providers and community agencies to promote effective Service delivery.

## **G9 Staff management**

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You will establish and implement staff management processes that are consistent with good human resource practice and which include, without limitation:

- (a) clearly defined and documented responsibilities and accountabilities for all employees providing Services under this Agreement;
- (b) systems for ensuring the sighting and recording of qualifications and all professional practice certificates and requirements annually, including in respect of new appointments and new qualifications;

- (c) access to adequate supervision and training to ensure that Staff are competent to meet the requirements of their positions, and able to contribute to the ongoing development of service quality;
- (d) appropriate supervision of trainees, volunteers and other relevant support Staff.

## **G10 Facilities and safety standards**

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You must ensure that:

- (a) all buildings, plant and equipment used in Service delivery are fit for their purpose and are maintained adequately and in safe working order;
- (b) all equipment and supplies required to provide the Services are available, including necessary provisions for management of emergencies;
- (c) safety and emergency equipment and related information is clearly displayed and accessible;
- (d) all legislative, regulatory, contractual and other requirements that relate to the accessibility and standards of the facilities used in Service delivery are met;
- (e) Staff providing the Services are clearly identifiable to Service Users and others.

## **G11 Other Quality Standards**

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You must comply with the following policy, quality and service standards and other requirements, as varied from time to time by the Pharmaceutical Society or the Pharmacy Council, as applicable, to the extent that they are not inconsistent with this Agreement:

- (a) the Quality Standards for Pharmacy in New Zealand; and
- (b) the Code of Ethics.

## **G12 Service User satisfaction surveys**

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At appropriate intervals, and at least annually, you must carry out Service User satisfaction surveys to assess the quality of your Service delivery, in accordance with DHB or Ministry of Health guidelines. At our request, you must make available to us the results of any Service User satisfaction surveys carried out by you under this clause G12.

## **G13 Records and administration**

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### **G13.1 Administration standards and record keeping**

#### **(a) Operation of business**

You must operate under sound financial and business management principles, procedures and practices.

#### **(b) Accounting Records**

You must maintain full and proper financial and business Records in accordance with generally accepted accounting principles, procedures and practices and best business practice generally and any legal obligations applicable to you. You must be able to account for any Services you provide in a way that ensures financial separation between those Services and any other activities you are engaged in.

### **G13.2 Security and preservation of Records**

You must preserve and protect the safety, security and confidentiality of the Records in accordance with best business practice and any legal obligations applicable to you. You will have in place appropriate back-up and disaster recovery procedures to protect against loss of information. If you cease to provide the Services under this Agreement, you must ensure that all Records are properly preserved and, where appropriate, transferred to any replacement Provider.

### **G13.3 Information provision**

Where you are required to provide us with any information under this Agreement, including under Part H in relation to claiming for payment, Part I in relation to meetings and reporting and Part J in relation to Audits, you must ensure that such information is accurate and complete to the best of your knowledge and belief and you must identify any material inaccuracies or uncertainties at the time you submit this information or at such time as you discover the inaccuracy or uncertainty.

### **G13.4 Response time**

We will each respond to enquiries from the other as soon as is practicable but in no case later than ten Business Days.

## **Part H. Payment for Services and Pharmaceuticals, claiming procedure and payment terms**

### ***Payment for Services and Pharmaceuticals***

#### **H1 Payment for Services and Pharmaceuticals**

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##### **H1.1 Payment for Services**

You may claim, and we will pay you, for having provided the Services according to the terms and conditions of this Agreement, including the payment terms set out in Schedule H1, subject to any further requirements, rules and procedures relating to claiming and payment as set out in this Part H.

##### **H1.2 Payment for Pharmaceuticals**

You may claim, and we will pay you, for the Pharmaceuticals Dispensed by you pursuant to this Agreement according to the subsidies listed in the Pharmaceutical Schedule, as at the date of Dispensing, subject to any further requirements, rules and procedures relating to claiming and payments as set out in this Part H and Schedule H1.

##### **H1.3 Goods and Services Tax**

- (a) All prices under this Agreement are quoted exclusive of GST, unless this Agreement expressly provides otherwise.
- (b) All payments under this Agreement will be made inclusive of GST, unless this Agreement expressly provides otherwise.
- (c) All Claims must comply with the Goods and Services Tax Act 1985.

### ***Claiming procedure***

#### **H2 Your ability to claim for payment**

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##### **H2.1 Basis of payment**

You may claim payment from us on the basis of the payment terms set out in Schedule H1 for the Services and the Pharmaceuticals if you have provided the Services and the Pharmaceuticals in accordance with the requirements of:

- (a) the Pharmaceutical Schedule;
- (b) the Pharmaceutical Transactions Data Specification;

- (c) the Procedures Manual; and
- (d) this Part H.

## **H2.2 Reliance on Information from Prescribers**

For the purposes of this Agreement and, in particular, for the purposes of submitting a claim under Part H, you may rely on the information you receive from a Prescriber unless you have reason to believe such information is incorrect.

## **H3 Claiming generally**

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### **H3.1 Claim Period**

There are two Claim Periods in a single calendar month, commencing on the:

- (a) first day of a single calendar month and ending on the 15th day of that calendar month; and
- (b) 16th day of a single calendar month and ending on the last day of that calendar month.

### **H3.2 Due Date for Claim**

Subject to clause H9, in order for us to meet our payment obligations under clause H12, any Claim you make for payment must be submitted so that we receive it by the Due Date.

### **H3.3 Limit on number of Claims submitted**

You agree to submit only one Claim per Claim Period.

## **H4 Charges to Service Users**

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### **H4.1 Eligible Persons**

Where you provide Services or Pharmaceuticals to Eligible Persons you may only charge Eligible Persons for the Services or Pharmaceuticals they receive, in accordance with this clause H4.

### **H4.2 Persons Not Eligible**

Where you provide Services or Pharmaceuticals to persons who are not Eligible Persons you are not entitled to claim payment from us in relation to the provision of those Services or Pharmaceuticals. You may charge and recover from, or on behalf of, those persons the cost to you of providing those Services or Pharmaceuticals. Where you have claimed for Services or Pharmaceuticals provided to persons who are not Eligible Persons, clause H5.2 will apply.

### **H4.3 Determining and collecting Co-Payments, Pharmacy Charges and Product Premiums**

You are responsible for:

- (a) determining the correct Co-Payments, Pharmacy Charges and Product Premiums, as applicable, that a Service User is required to pay for the Services provided or Pharmaceutical Dispensed; and
- (b) charging and collecting from the Service User, the correct Co-Payments, Pharmacy Charges and Product Premiums, as applicable, for the Services provided or Pharmaceutical Dispensed,

in accordance with the requirements and procedures set out in the Procedures Manual, Pharmaceutical Schedule and the Health Entitlement Cards Regulations 1993, as applicable and as amended from time to time. The Pharmaceutical Schedule overrides the Procedures Manual in the event of a conflict.

#### **H4.4 Co-Payments**

- (a) You may charge a Service User a Co-payment for providing the Services and Dispensing Pharmaceuticals at a dollar value of your choice up to the dollar value of the relevant Co-payment, as set out in the Procedures Manual, Pharmaceutical Schedule and the Health Entitlement Cards Regulations 1993, as applicable, depending on the Eligible Person's age and his or her CSC, PSC and HUHC status. The Pharmaceutical Schedule overrides the Procedures Manual in the event of a conflict.
- (b) You agree not to charge a Service User a Co-payment:
  - (i) where the Service User is under 6 years of age
  - (ii) where the Service User is usually resident in the Hokianga Ward of the Far North District and where the Prescription Form in respect of that Service User has been written by a Medical Practitioner employed by, and on a form supplied by, the Hokianga Medical Trust;
  - (iii) in relation to a Prescription Item for a Class B Controlled Drug (other than methylphenidate hydrochloride or dexamphetamine sulphate), including where the Service User is an approved Service User for Pharmacy Methadone Services for Opioid Dependence;
  - (iv) in relation to a Prescription Item for Pharmaceuticals in the antituberculotics and antileptotics group in the Pharmaceutical Schedule.
- (c) You agree to charge a Service User only one Co-payment where the Service User receives more than one flavour of the same type of Special Food listed in the Oral Supplements/Complete Diet section of the Pharmaceutical Schedule.
- (d) Both of us acknowledge and agree that where a Service User does not pay a Co-payment in relation to a Prescription Item that Prescription Item is not eligible for inclusion in the PSC scheme.
- (e) You may charge a Service User a fixed Co-payment of \$5.00 (including GST) for each NRT item listed on each NRT Exchange Card where that Service User presents his or her NRT Exchange Card to be redeemed, regardless of his or her CSC, PSC or HUHC status or age. NRT items provided to redeem a NRT Exchange Card are not eligible for inclusion in the PSC scheme.
- (f) If the total cost of a three month supply of a Pharmaceutical would be less than the patient Co-payment charge if you Dispensed that total three month supply in a single Dispensing (stat) then you must:

- (i) advise the Service User of:
  - (A) the total cost of Dispensing the Pharmaceutical stat; and
  - (B) the cost per month and total cost of the three month supply if the Pharmaceutical were to be Dispensed with two repeats;
- (ii) give the Service User the option of the Pharmaceutical being Dispensed stat or Dispensed with two repeats, provided that if you have reasonable grounds to suspect that Dispensing the Pharmaceutical stat may be detrimental to the Service User's health you agree to report this to the Prescriber in accordance with clause 7.1(d) of the Service Specification for Base Pharmacy Services in Schedule C1. If the Service User opts to receive the Pharmaceutical with two repeats then the Service User is to pay all costs associated with the Dispensing of the Pharmaceutical (including any charge over and above the Co-payment charge) and no payment may be sought from us in relation to the supply of the Pharmaceutical.

This paragraph (f) shall not apply if the Prescriber has specifically requested that the Pharmaceutical not be Dispensed in a single supply.

#### **H4.5 Product Premiums**

If the price of a Pharmaceutical charged by its manufacturer is more than the subsidy set out in the Pharmaceutical Schedule for that Pharmaceutical, then you may charge a Service User a Product Premium for the difference between the manufacturer's price and the subsidy, plus any mark-up, in addition to any Co-payments in accordance with clause H4.4.

If a Service User is prescribed a Pharmaceutical that incurs a Product Premium you must inform the Service User if there is a fully subsidised Pharmaceutical on the Pharmaceutical Schedule that is an alternative to the Pharmaceutical that he or she has been prescribed.

#### **H4.6 Pharmacy Charges**

- (a) In addition to any Co-Payments and/or Product Premiums that you may charge a Service User, you may also charge an additional amount by way of Pharmacy Charge for providing the Services and Dispensing Pharmaceuticals in the following circumstances:
  - (i) you may charge an additional amount, at your discretion, for other services that you provide to Service Users in addition to the Services that we fund under this Agreement, including where you fulfil a request by a Service User or a Prescriber which is in excess of the requirements of the Pharmaceutical Schedule or this Agreement (other than a request relating to an antibiotic, anti-depressant, or anti-psychotic, or a Class B Controlled Drug or any Pharmaceuticals in the antituberculosics and antileptotics group in the Pharmaceutical Schedule);
  - (ii) you may charge an additional amount, at your discretion, for the provision of Pharmaceuticals in excess of the maximum quantity specified for the relevant Pharmaceutical in the Pharmaceutical Schedule;

- (iii) you may charge an additional amount, at your discretion, for delivery of the Pharmaceutical where, for example, it is delivered to a Service User's place of residence or business;
- (iv) you may charge an additional 50 cents (including GST) per Pharmaceutical if the Pharmaceutical prescribed is collected by the Service User from an Urgent Pharmacy;
- (v) you may charge an additional amount, at your discretion, for the cost of any unusual packaging, for example Webster blister packaging;
- (vi) you may charge an additional amount, at your discretion, if the Pharmaceutical prescribed is collected by the Service User from your Pharmacy outside your ordinary business hours. For the purpose of this clause H4.6, "**ordinary business hours**" means the ordinary hours of shop trading in the locality in which the Pharmacy concerned is established on a Business Day;
- (vii) you may charge an additional amount, at your discretion, where:
  - (A) the information contained in a Prescription Form does not include all the information it should include that you are required to forward to us in order to obtain payment for your services; and
  - (B) you have to obtain this missing information from a person or organisation other than the Service User.
- (b) Where a Pharmacy Charge is applicable, you agree to inform the Service User of the amount of, and reason for, the Pharmacy Charge and explain how he or she may avoid or reduce the Pharmacy Charge, before the Services and Pharmaceuticals are provided.

#### H4.7 Provision of Information to Eligible Persons

Where you are responsible for the collection of Co-Payments, Pharmacy Charges and Product Premiums, you will use reasonable endeavours to inform the Service User or his or her agent of these charges prior to Dispensing Pharmaceuticals to that Service User. In addition, you will make all Co-Payments, Pharmacy Charges and Product Premiums accessible and publicly known by displaying these where they can be easily sighted by a Service User or Service User's agent.

#### H4.8 Receipts for Pharmaceuticals

- (a) You agree to provide Service Users with a receipt for any prescribed Pharmaceutical provided, which is subsidised. This receipt must give the name of the Pharmaceutical, the cost to the Service User and the cost to the Government for the provision of the Pharmaceutical. A receipt must be provided in the same format as set out in the Procedures Manual.
- (b) For the avoidance of doubt, we do not require you to provide Service Users with a receipt when providing any prescribed Pharmaceutical, which is not subsidised.

### H5 Claiming allowances and restrictions

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#### H5.1 Services must have been provided in New Zealand

You may not claim, and we will not pay you, for Services you have delivered to any Eligible Person who was not in New Zealand at the time the Services were provided to them.

## **H5.2 Services provided to non-Eligible Persons**

If you have claimed for Services or Pharmaceuticals provided to a person who is not an Eligible Person, we will withhold or recover payment for those Services or Pharmaceuticals provided to that person where it is apparent from the Prescription Form or otherwise known to you that the person was not an Eligible Person.

## **H5.3 Pharmaceuticals prescribed by non-eligible Prescribers**

If you have claimed for Services or Pharmaceuticals provided pursuant to a Prescription Form from a Prescriber who is not eligible to prescribe those Pharmaceuticals, we will withhold or recover payment for those Services or Pharmaceuticals where it is apparent from the Prescription Form or otherwise known to you that the Prescriber was not eligible to prescribe those Pharmaceuticals.

## **H6 Cost or volume shifting and unnecessary Dispensing**

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### **H6.1 No cost or volume shifting**

- (a) You must not knowingly be a party to any arrangement that results in us effectively having to pay you more than once for the provision of the same Services in respect of a Prescription Item for a Service User.
- (b) In respect of Services not involving the Dispensing of Prescription Items, you must not knowingly be a party to any arrangement that results in us effectively having to pay you more than once for the provision of the same Services to the same Service User on the same occasion.
- (c) Unless otherwise agreed, neither of us will operate in a way that shifts costs or volumes between Services that would result in additional costs to either of us, other than for reasons of good clinical practice.

### **H6.2 Further Clarification**

Without limiting the generality of clause H6.1, you must not:

- (a) claim payment from us for having delivered any Service which you have carried out for any Provider who is contracted to provide us with that Service;
- (b) refer to any Provider any Service which you have been contracted to provide to us under this Agreement, or any other Agreement you have with us, unless otherwise expressly permitted under this Agreement;
- (c) act in a way that enables you to claim or recover payment more than once under this Agreement, or any other Agreement you have with us, for providing the same Service.

### **H6.3 No unnecessary Dispensing**

You must not act in any way that increases your revenue from us artificially, whether through Dispensing Pharmaceuticals more frequently than is necessary or otherwise. For the avoidance

of doubt, your obligation under this clause H6.3 constitutes a material obligation for the purposes of Part O.

## H6.4 Compliance advice

Where you are uncertain whether any activity you are engaging in, or proposing to engage in, is prohibited by this clause H6, you may seek clarification from us or our agent and we will provide advice to you on the matter.

## H7 Form of claim and information to be provided

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### H7.1 Format and information

You must submit each Claim in accordance with the technical data specifications and information requirements set out in the Pharmaceutical Transactions Data Specification and in accordance with the information requirements set out in the Procedures Manual. The Pharmaceutical Transactions Data Specification overrides the Procedures Manual in the event of any conflict. We will provide you with a copy of the Pharmaceutical Transactions Data Specification.

### H7.2 Prescriber information

- (a) In respect of each Claim Item you submit under this Agreement, you must include:
- (i) the Prescriber's health professional code and registration number, being:
    - (A) New Zealand Medical Council (**NZMC**) number; or
    - (B) Nursing Council of New Zealand number; or
    - (C) Midwifery Council of New Zealand number; or
    - (D) Dental Council of New Zealand number; or
    - (E) other registration number, as applicable,where this number is provided on the Prescription Form you receive or where you have already received the Prescriber's registration number previously;
  - (ii) the Prescriber's prescriber authority number (**PAN**), where this number is provided on the Prescription Form you receive. If the PAN is not provided on the Prescription Form you should not submit any PAN for that Prescriber that you have received previously.
- (b) Where a Claim has less than 90% of the health professional codes and registration numbers on Claim Items, the Claim will be rejected in accordance with clause H8.1, provided that Claim Items in respect of subsidised NRT Services are to be excluded for the purposes of this percentage calculation. Our Payment Agent will notify you of the percentage of health professional codes and registration numbers in respect of the Claim Items (other than Claim Items in respect of subsidised NRT Services) in your last Claim within one month of the Commencement Date.

### **H7.3 Service User's information**

- (a) In respect of each Claim Item you submit under this Agreement, you must include the Service User's NHI number where this number is provided on the Prescription Form you receive or where you have already received this Service User's NHI number previously.
- (b) Where you receive a NHI number on a Prescription Form that is different from the NHI you already have for that Service User, you will use the latest NHI number you have received.

### **H7.4 Electronic claiming**

You must submit each Claim in electronic format on a computer diskette, as a minimum, or by any other electronic means that we may permit, in accordance with the technical data specifications and information requirements set out in the Pharmaceutical Transactions Data Specification and any other guidelines issued by us or our Payment Agent, from time to time following consultation with you.

### **H7.5 Changes to content and form**

We both commit to streamlining and updating the claiming requirements set out in the Procedures Manual and the Pharmaceutical Transactions Data Specification, as appropriate.

### **H7.6 Change to address**

We may change the physical or electronic address for the submission of Claims on ten Business Days' written notice.

## **H8 Rejection of Claim**

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### **H8.1 Rejection of Claim**

We reserve the right to reject any Claim or part Claim where we believe on reasonable grounds that you have submitted incomplete or inaccurate information or where you have not complied with claiming restrictions or requirements. Where you have submitted a Claim by the Due Date, we will notify you that your Claim or a part of your Claim has been rejected, where applicable, and the reason for it prior to the commencement date of the next Claim Period.

### **H8.2 Resubmission of Claim**

- (a) Notwithstanding clauses H8.1 and H3.3, you may resubmit a Claim or part Claim, duly corrected. Where such a Claim results in you owing money to us, we may recover that money in accordance with clause H17.
- (b) Where you have corrected and resubmitted a Claim:
  - (i) before the Final Due Date, you will be paid in accordance with clause H12(c);
  - (ii) after the Final Due Date, the Claim will be treated as a late Claim under clause H9 and, if applicable, will be paid in accordance with clause H12(d).
- (c) We both agree that an adjustment amount may be paid under this Agreement from time to time. For the purposes of this clause H8.2, an adjustment amount is an amount

agreed between you and our Payment Agent or determined by us, that is to be recovered in respect of an overpayment or reimbursed in respect of an underpayment.

## **H9 Late Claim Items**

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### **H9.1 Time limit for receiving Claim Items**

Subject to clauses H9.2 and H9.3, all Claim Items must be received by us within six months after the date when the Pharmaceutical is Dispensed, except for oral contraceptive Pharmaceuticals where the Claim Items must be received by us within nine months after the date when that Pharmaceutical is Dispensed (**Final Due Dates**).

### **H9.2 Submission out of time**

Where you have failed to submit or resubmit a Claim Item (provided it is for more than \$20.00) by the applicable Final Due Date, you may submit it out of time together with a written explanation of the reason for the delay. This explanation must be submitted to us and copied to our Payment Agent. Where, in our reasonable opinion, you have established reasonable grounds for late submission, we will consider that Claim Item for payment.

### **H9.3 No submission after 12 months**

In no circumstances will any Claim Item submitted or resubmitted more than 12 months after the date of the Service qualify for payment.

## **H10 Verification of Claim Item**

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### **H10.1 Substantiation of Claim Item**

We may require you to substantiate any Claim Item within 15 Business Days of giving you written notice to that effect.

## ***Payment terms***

### **H11 Our obligation to pay**

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- (a) Subject to paragraph (b) below, we agree to pay you for the Pharmaceuticals and for providing the Services in accordance with the claiming rules and procedures set out in clauses H2 to H10 and on the payment terms set out in clauses H11 to H18. Such payment shall be deemed to have been made on behalf of the Service User in respect of whom the payment was made.
- (b) If you fail to report and provide information in accordance with the Pharmaceutical Transactions Data Specification, the Procedures Manual, and the terms and conditions set out in this Agreement, including Part H and any variations to this Agreement, we may withhold 5% of any payment due subsequent to our becoming aware of your failure. We will give you 30 days' notice of our intention to withhold such payments, and we will discuss with you, within that 30 day period, any issues relating to your failure to comply with the reporting and provision of information requirements. If you do not remedy your failure within the 30 day period such payments may be withheld by us until such time as compliance occurs.

## H12 Payment time frames

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### (a) Payment Date

The Payment Date means:

- (i) in respect of the Claim Period that commences on the first day of a single calendar month and ends on the 15th day of that calendar month, the 5th day of the following calendar month; and
- (ii) in respect of the Claim Period that commences on the 16th day of the calendar month and ends on the last day of that calendar month, the 20th day of the following calendar month,

provided that where the 5th or 20th day of the relevant month, as applicable, is not a Business Day, then the Payment Date shall be the first Business Day following the 5th or 20th, as applicable.

### (b) Payment of valid Claim Item

Where we have received a valid Claim Item by the Due Date for the relevant Claim Period, we will pay you for that Claim Item no later than the applicable Payment Date.

### (c) Payment of Claim Item after Due Date

Subject to clause H3.3, where a Claim Item is not submitted or resubmitted by the Due Date applicable to that Claim Item but is submitted or resubmitted before the Final Due Date, we will pay you for that Claim Item no later than the Payment Date for the next Due Date that arises.

### (d) Payment of a late Claim Item

Where a Claim Item is not submitted or resubmitted by the Final Due Date but has been accepted by us under clause H9, we will pay you for that Claim Item no later than the next Payment Date on which it is practicable for us to do so.

## H13 Form of payment

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We will pay you by lodging funds into the bank account that you specify in Schedule N1. You may change the bank account into which your funds are to be lodged on ten Business Days' prior written notice to us.

## H14 Payment variations

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Where we believe on reasonable grounds that a Claim is partially valid and partially invalid, we will pay you for the valid portion only and reject the invalid portion.

## H15 Overpayment

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- (a) If you fail to provide all or part of the Services for which we have paid you under this Agreement or if, for any other reason, we have overpaid you for the Pharmaceuticals or

for having delivered the Services, we may determine the reasonable amount that you must repay to us.

- (b) We will notify you of any overpayment and may accompany such notice with notice of our intention to invoke our right of set-off under clause H17.

## **H16 Default Interest on late payment**

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### **H16.1 Our Ability to charge Default Interest**

- (a) Subject to clauses H16.3 and H16.5, where you do not pay any amount due to us under this Agreement we, or our Payment Agent on our behalf, may charge you interest from the date payment was due until the amount due is paid (**Default Interest**).
- (b) Where you owe us any amount as a result of our, our Payment Agent's or PHARMAC's error in relation to a payment, the due date for the payment of this amount will be one month after our written notice to you. We, or our Payment Agent on our behalf, may use our power of set-off under clause H17 to recover this amount.
- (c) Where you owe us any amount as a result of your error in relation to a Claim, the due date for repayment will be the next Payment Date after we give written notice to you requiring repayment. We, or our Payment Agent on our behalf, may use our power of set-off under clause H17 to recover this amount.

### **H16.2 Your ability to charge Default Interest**

- (a) Subject to clauses H16.3 and H16.5, where we do not pay any amount due to you under this Agreement you may charge us Default Interest from the date payment was due until the amount due is paid.
- (b) Where we owe you any amount as a result of our, our Payment Agent's or PHARMAC's error in relation to a payment, Default Interest will be calculated from the Payment Date on which the amount was due.
- (c) Where we owe you any amount as a result of your error in relation to a Claim, the due date for payment will be one month after your notice to us.

### **H16.3 Ability to charge Default Interest on amounts of \$50 or less**

Subject to clause H16.5, where either of us owes the other any amount of \$50.00 or less under this Agreement, no Default Interest will be payable unless that amount is still due three months after the Payment Date, in which case the party owed may charge the other Default Interest from the date payment is due until the amount due is paid.

### **H16.4 Rate of Default Interest**

The Default Interest rate will be 2 percentage points per annum above the index lending rate charged by Westpac Banking Corporation for the period involved and shall be calculated on a daily basis.

## H16.5 Notice of intention to charge

In order for the due party to claim, and the defaulting party to be liable to pay, the Default Interest, the due party must give written notice to the defaulting party and the Payment Agent of its intention to claim Default Interest within 30 days after the date payment was due. Where you, or your representative agent on your behalf, provide such notice, we will not be liable to make any payment of Default Interest unless you or your representative agent includes in any written notice to us:

- (a) your name (as shown on the cover of this Agreement);
- (b) the Agreement Reference Number;
- (c) your payee number;
- (d) the DHB that you are contracted with (i.e., us);
- (e) the details of the payment that the Default Interest relates to.

## H17 Set-off

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### H17.1 Power of set-off

Where you owe us any amount under this Agreement, or any previous Agreement between us, including:

- (a) in the case of overpayment under clause H15; or
- (b) where you are obliged to indemnify us under clause N3,

we may set that amount off against any amount that we owe to you at any time, after we have given you written notice of our intention to do so.

### H17.2 Set-off deemed to be payment

Where we exercise the power of set-off conferred by clause H17.1 you will be deemed to have made payment to us to the extent of the set-off.

## H18 Payment agents

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We both acknowledge that HealthPAC is our agent and is responsible for receiving Claims and making payments on our behalf (the **Payment Agent**). We will ensure that our Payment Agent has the information necessary to carry out its functions, including information on any changes to the payment terms set out in Schedule H1.

## H19 Access to Records

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We will allow you or, with your permission, your agent access to a copy of any relevant records regarding you that are kept by us (including any records of the volume of Dispensed Pharmaceuticals claimed by you) in order for you to review the payments that we have made to you under this Agreement, provided that:

- (a) you must provide us with written notice if you wish to access any such records;
- (b) we will agree (such agreement not to be unreasonably withheld) the:
  - (i) nature of the information to be provided to you under this clause H19 so as not to cause an unreasonable burden for us; and
  - (ii) time frame for providing such information;
- (c) where a request under this clause H19 causes a direct cost or an unreasonable burden to us then we may charge you a cost for providing this information.

## **H20 Dispute over payment**

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If a dispute arises under this Agreement in respect of whether we have paid you the correct amount for the Services that you have provided or the Pharmaceuticals you have Dispensed, this dispute will be determined in accordance with the procedures set out in Part K of this Agreement.

## **Part I. Meetings, reporting and information**

### **I1 Relationship meetings**

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#### **I1.1 Requested Relationship Meetings**

- (a) Throughout the term of this Agreement either of us may give written notice to the other requesting a meeting to discuss:
  - (i) matters regarding the Agreement, including:
    - (A) how well the contractual relationship is functioning and how well the Services are being delivered;
    - (B) whether there are aspects of the functioning of the relationship or the delivery of Services that either of us could improve;
    - (C) how such improvement might be implemented; and
  - (ii) wider primary care sector issues, that are relevant to you and other Providers, which may include issues relating to implementation of the Government's primary care strategy.
- (b) If the party receiving the notice agrees to meet with the party who has requested the meeting under this clause I1.1, we both will liaise to determine a suitable time for the requested relationship meeting, which must be as soon as is practicable after the notice is received.
- (c) Representative bodies may request a relationship meeting for one or more Pharmacies in our DHB's area but must notify us of which Pharmacies they are representing.

#### **I1.2 Special meeting**

Notwithstanding clause I1.1, where we believe it is imperative that a particular issue is addressed urgently, we may convene a special meeting by giving you written notice of the meeting and of the issues to be discussed and you will use reasonable endeavours to attend that meeting. We will nominate a suitable time for the special meeting following consultation with you.

#### **I1.3 Group meetings**

We may hold requested relationship meetings or special meetings with a group of Providers within our DHB area and/or with bodies that are representative of Providers in our DHB area where we consider that this is more practicable or appropriate than meeting with you individually, to address issues common to more than one Provider.

#### **I1.4 Pharmacy Services Advisory Group**

- (a) We both agree to establish a national Pharmacy Services Advisory Group to:
- (i) consider and make recommendations to address operational pharmacy issues that may have an impact on the majority of Pharmacies, are systemic in nature and may impact on the ability of pharmacy providers or DHBs to meet their obligations;
  - (ii) consider and provide clarification of any matters relating to this Agreement;
  - (iii) consider any issues relating to this Agreement including, but not limited to, issues relating to the Pharmaceutical Schedule, audit and compliance activities, payment processing, contract administration and quality audits, and make recommendations to address issues; and
  - (iv) manage the maintenance of the Procedures Manual.
- (b) The Pharmacy Services Advisory Group will consist of:
- (i) four people appointed by the Pharmacy Guild;
  - (ii) one community Pharmacist appointed by the DHBs;
  - (iii) two DHB representatives;
  - (iv) one HealthPAC representative; and
  - (v) one PHARMAC representative.
- (c) The Pharmacy Services Advisory Group will:
- (i) meet at least four times a year;
  - (ii) be chaired by a DHB representative;
  - (iii) have a quorum of five members or their delegated representatives; and
  - (iv) have a secretariat provided by DHBs.
- (d) We both agree to refer any matters described in paragraph (a) above to the Pharmacy Services Advisory Group. You may refer matters either through your agent, or directly to us or the chair.

## **I2 Reporting**

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### **I2.1 Ad-hoc report requirement**

We may require information from you from time to time in relation to the Services provided under this Agreement or to enable us to report appropriately to any Minister of the Crown where such Minister has required us to report on the use of public funds under this Agreement. Where we do, we will notify you of our reasonable information requirements, the reasons for those requirements and the intended usage of the information gathered. You must provide us with every reasonable assistance to obtain the required information. We will both agree to a mutually acceptable time frame for delivery of this information.

## **I2.2 Cost of reporting**

The costs to you associated with the provision of information specified under this Part I shall be borne by you and are deemed to have been included in the prices for the Services as detailed in the payment terms set out in Schedule H1.

## **I3 Specialist Database**

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Where we make available to you, free of charge, a database that lists the names of all Specialists who are authorised to prescribe Pharmaceuticals, you agree to use this database to enable you to comply with the claiming requirements set out in this Agreement, the Procedures Manual and in any relevant legislation.

## Part J. Audits

### J1 Audits generally

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#### J1.1 Purpose of Audit

We intend that the Audit process will help ensure that public money is effectively applied in the health sector so as to improve the quality of Services and the provision of Pharmaceutical advice and information and to provide optimum health benefits to Eligible Persons. The provisions set out in this Part J are to enable us to inspect, monitor, audit, investigate, review and evaluate:

- (a) whether you are delivering the Services;
- (b) whether you are complying with the Quality Specifications set out in Part G of this Agreement;
- (c) whether you have been claiming for payment appropriately according to the procedure set out in Part H;
- (d) whether you are complying with all of your other obligations under this Agreement, including the Pharmaceutical Transactions Data Specification and the Procedures Manual; and
- (e) whether you are complying with the requirements of the Pharmaceutical Schedule.

#### J1.2 Compliance with Audit Framework

We both agree that, where we conduct an Audit under this Part J, we will endeavour to meet the Audit principles and process in the Audit Framework set out in Schedule J1. The Audit Framework provides guidelines for conducting audits and may be amended and updated by us from time to time, following consultation with you. If there is any conflict between the Audit Framework provisions in Schedule J1 and the provisions in this Part J, the provisions in this Part J will prevail.

#### J1.3 Material obligation to complete Audit

You must co-operate with us and provide us and our Auditor with all reasonable assistance to ensure that any Audit conducted by us or our Auditor under this Part J is fully and properly completed to our and our Auditor's satisfaction. For the avoidance of doubt, your obligation under this clause J1.3 constitutes a material obligation for the purposes of Part O.

### J2 Audit Requirements

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#### J2.1 Access for Audits

You agree to co-operate with us to allow our Auditor or Auditors to access:

- (a) your Premises;

- (b) your Records and any other information, in whatever form, that relates to this Agreement, the Service Users and their families and associates;
- (c) Staff, subcontractors, contractors, agents or other personnel used by you to provide the Services,

for the purposes of, and during the course of, conducting an Audit. You further agree to ensure that we and our authorised agents have equivalent access in relation to any Services provided through any subcontractor, contractor, agent or other personnel.

## **J2.2 No unreasonable disruption**

We shall ensure that the conduct of any Audit and our access in terms of clause J2.1 does not unreasonably disrupt your ability to provide, and the provision of, the Services.

## **J2.3 Notice of Audit**

We will give you ten Business Days' prior written notice of our intention to carry out an Audit, except where we have reasonable grounds to believe that:

- (a) there has been a material breach of the Agreement; or
- (b) a delay of ten Business Days would unreasonably prejudice the integrity of the Audit; or
- (c) a delay of ten Business Days would unreasonably prejudice the interests of any Eligible Person,

in which case a reduced notice period may be given which is reasonable in the circumstances (and may include less than 24 hours notice or no notice in some circumstances). Where we reasonably suspect that fraudulent claiming has occurred, we may enter your premises and conduct an Audit at any time without prior notice.

## **J2.4 Times for Audit**

Any aspect of an Audit that involves access to your Premises or personnel may, subject to clause J2.3, be carried out at any time during business hours, or at any other time by arrangement with you.

## **J2.5 Appointment of auditors**

We shall appoint a suitably experienced and/or qualified and competent member of our staff or a third party as auditor to carry out on our behalf any Audit under this Agreement (the **Auditor**). The notice referred to in clause J2.3 will include the identity of the person or persons appointed as Auditors and their qualifications, if any, and a declaration from such person or persons of any conflicts of interest he or she may have.

## **J2.6 Conduct of Audit**

Subject to clause J2.8, in conducting any Audit our Auditors:

- (a) may access Health Information about any Service User;
- (b) may observe the provision of the Services;

- (c) may survey and/or interview Service Users, their families or their associates, in relation to the provision of Services under this Agreement in respect of the particular Service User, or any Staff, subcontractors, contractors and other personnel used by you to provide the Services;
- (d) may make copies of any part of the Records or information for the purposes of the Audit, except to the extent restrained by law;
- (e) must ensure that all Audit activities meet professional, legal and contractual requirements;
- (f) must advise providers that they are entitled to have a person present during an on-site visit;
- (g) must prepare Audit reports in a timely manner detailing the facts found during an audit;
- (h) must establish follow-up processes appropriate to each particular Audit situation.

### **J2.7 Audits after Agreement terminated**

Audits may continue to be conducted under this Part J after this Agreement has terminated, but only to the extent that it is relevant to the period during which this Agreement was in force.

### **J2.8 Limitation of rights of Audit**

The conduct of any Audit shall be in accordance with the Health Act 1956 and the Privacy Act 1993, including the Health Information Privacy Code 1994 covering the use of health information held by health agencies, and any other relevant law.

## **J3 Specific provisions relating to solvency Audits**

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### **J3.1 Purpose of solvency Audit**

We both acknowledge and agree that the purpose of any solvency Audit is to ensure continuity of service under this Agreement.

### **J3.2 Financial information for monitoring**

Where we have a concern regarding the solvency of your business, we may request by notice in writing, and you must provide to us within 30 days of such request, a certificate from a suitably qualified person certifying your solvency.

### **J3.3 Matters to be determined**

Subject to clause J3.4, from time to time we may appoint, at our cost, a suitably independent financial analyst as an auditor to determine:

- (a) the correctness of the financial information you give us;
- (b) your calculations of the cost of providing the Services; and
- (c) your overall financial position.

### **J3.4 Confidentiality**

Where we conduct an audit under this clause J3, the Auditor must not disclose to us information described in clause J3.3 but may advise us if he or she considers that your financial position may prejudice your ability to perform your obligations under this Agreement.

## **J4 Pharmacy Advisory Committee**

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### **J4.1 Use of Advisory Committee**

We may use the Pharmacy Advisory Committee at any time to advise us on any complaints or issues regarding any aspect of this Agreement, including (without limitation) any claiming or payment matters or any aspect of your performance under the Agreement or the delivery of the Services. We agree to work in conjunction with other DHBs in using the Pharmacy Advisory Committee that will operate across all DHBs.

### **J4.2 Membership of the Pharmacy Advisory Committee**

The Pharmacy Advisory Committee will be appointed by us or our agent and comprise an independent Chairperson and an even number of members drawn from a pool:

- (a) half of whom are to be appointed by us or our agent from nominations made by DHBs, half of these members being Pharmacists; and
- (b) half of whom are Pharmacists who hold a current annual practising certificate and who are to be appointed by us or our agent from nominations made by the Pharmacy Guild.

### **J4.3 Referral to Pharmacy Advisory Committee**

- (a) Where we consider that you have failed to perform your obligations under this Agreement, we may, but are not obliged to, refer the matter to the Pharmacy Advisory Committee in accordance with clause J4.1. If any matter is referred to the Pharmacy Advisory Committee each of us shall co-operate with the Pharmacy Advisory Committee and provide the Pharmacy Advisory Committee with all reasonable assistance to ensure that any Pharmacy Advisory Committee process can be effectively conducted.
- (b) Where we refer a matter to the Pharmacy Advisory Committee, we may request it to investigate, consider, advise and/or provide recommendations in relation to the matter. We must consider any advice or recommendation from the Pharmacy Advisory Committee with an open mind but are not bound to follow any advice or recommendation given. If the Pharmacy Advisory Committee recommends we may:
  - (i) disallow a Claim or Claims in whole or in part; and/or
  - (ii) if a Claim or Claims have been paid, recover such amounts from you; and/or
  - (iii) recover any associated costs or losses from you.

The amount of any such recovery shall be deemed to be a debt due to us and we may either take action to recover any such amount or use our power of set-off under clause H17 to recover this amount.

- (c) Any referral by us to the Pharmacy Advisory Committee is without prejudice to, and does not amount to a waiver of, any other right we have under this Agreement in relation to your failure to perform, including our rights to terminate. We may withdraw a matter from consideration by the Pharmacy Advisory Committee at any time.

#### **J4.4 Rights not precluded**

The referral of a complaint or an issue to the Pharmacy Advisory Committee does not preclude us from exercising our rights of Audit under this Part J or any other rights under this Agreement.

## Part K. Dispute resolution

### K1 Application of this Part

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**K1.1** This Part K is intended to apply to the resolution of disputes regarding this Agreement. This Part K shall not apply to any dispute or difference relating to:

- (a) whether or not any person is an Eligible Person, which is a matter to be determined by the Minister of Health, in accordance with clause C3.2; or
- (b) any matter between us which has been referred to the Pharmacy Advisory Committee or a Responsible Authority, while it is being considered by that committee or authority.

### K2 Dispute resolution process

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#### K2.1 Resolution by agreement

- (a) If a dispute arises under this Agreement we will both act in good faith and use our best endeavours to resolve the dispute by agreement. This may, where we so agree, involve the use of the Pharmacy Advisory Committee pursuant to clause J4.
- (b) We both agree to use effective and efficient processes to resolve any dispute covered by paragraph (a) above, to such extent as we consider reasonably practicable to avoid undesirable duplication given limited funding resources. This may include resolving the dispute at a collective level involving a number of providers and/or representative bodies in a single dispute.

#### K2.2 Mediation and arbitration

If the dispute is not settled by agreement within 30 days then, unless we both agree otherwise in writing:

- (a) each party must give the other full written particulars of the dispute within 7 days; and
- (b) the dispute will be dealt with in accordance with the Health Sector Mediation and Arbitration Rules 1993.

#### K2.3 No litigation

We both agree that neither of us will initiate proceedings in any court or other tribunal while the dispute resolution process referred to in clause K2.2 is under way, unless such proceeding is necessary to preserve that party's rights. This clause does not prevent the commencement or continuation of criminal proceedings or the referral of any matter to a relevant professional body.

#### K2.4 Obligations continue

We both acknowledge that we both continue to be bound to comply with all of our obligations under this Agreement while the dispute is being resolved, except that:

- (a) we may withhold payments from you to the extent that they are the subject of a dispute;
- (b) you are not obliged to provide any Services for which you receive no payment from us.

### **K3 Facilitated negotiation**

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**K3.1** We both may use the process outlined in this clause K3 where a dispute relates to:

- (a) any review or variation of, or negotiation in relation to, this Agreement or part of this Agreement;
- (b) a matter that under this Agreement requires the agreement of both parties; or
- (c) any general policy issue outside the scope of this Agreement.

For the avoidance of doubt, clause K2 (other than clause K2.4) shall not apply to a dispute or difference of any kind relating to the matters described in paragraphs (a), (b) or (c) above.

**K3.2** We both agree that where a dispute arises relating to the matters described in clause K3.1(a), (b) or (c), we will both act in good faith and use our best endeavours to resolve the dispute by agreement. Where both of us cannot agree, in spite of our best endeavours, either of us may notify the other in writing requiring that this dispute be subject to a facilitated negotiation in accordance with the following requirements:

- (a) the facilitated negotiation must commence within no more than 30 days of the relevant party notifying the other under this clause K3 of the facilitated negotiation, unless otherwise agreed;
- (b) the negotiation is to be facilitated by an independent person approved by us both;
- (c) the independent person is to discuss the matters giving rise to the dispute with us both and endeavour to facilitate the negotiation of these matters and their resolution by agreement between us both;
- (d) any outcome of a facilitated negotiation will not be binding on either of us;
- (e) the costs incurred by the independent person in respect of a facilitated negotiation are to be met by us both in equal shares;
- (f) neither of us will initiate proceedings in any court or other tribunal while the facilitated negotiation process is under way, unless such proceeding is necessary to preserve that party's rights;
- (g) clause K2.4 will apply,

provided that use of the facilitated negotiation process under this clause K3 does not preclude either of us from exercising or relying on any rights available to us under this Agreement.

## Part L. Variation of Agreement

### L1 Nothing precludes termination

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Nothing in this Part L precludes either of us from terminating this Agreement in accordance with the provisions of Part O.

### *Variation*

### L2 Grounds for variation

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#### L2.1 Grounds for variation

This Agreement may be varied in one of the following ways only:

(a) **Mutual agreement**

by mutual agreement, including following a review in accordance with clause L3;

(b) **Crown Direction**

in order to give effect to any Crown Direction, in accordance with the procedure set out in clause L4;

(c) **Law change**

in order to give effect to any law change, in accordance with the procedure set out in clause L4.

#### L2.2 Nature of variations

A variation described in clause L2.1(a) above shall be termed a "**Voluntary Variation**". A variation described in clause L2.1 (b) or (c) above shall be termed a "**Compulsory Variation**".

### L3 Variation after review

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#### L3.1 Consideration of Agreement

This Agreement shall be reviewed in accordance with this clause L3. A review is intended to provide a forum for consideration of proposed amendments to the terms of particular Parts of or Schedules to this Agreement.

### **L3.2 Review following change in Government policy or Services to be provided**

Either of us may, in accordance with the procedure set out in clause L3.4, initiate a review of any relevant Part of or Schedule to this Agreement if there are any significant changes in the level of:

- (a) funding available to us as a result of changes, implemented under the Act or under any other enactment, to Government policy regarding Pharmaceuticals and Services (which may include changes in relation to the CSC and Co-payments); or
- (b) Services you are required to provide under this Agreement.

### **L3.3 Review in exceptional circumstances**

#### **(a) Notice**

Where either of us considers that exceptional circumstances exist that warrant an immediate review of any Part of or Schedule to the Agreement, either of us may notify the other in writing of the nature of the issues it wishes to address and the reasons why it believes exceptional circumstances exist.

#### **(b) Acceptance**

Where the party receiving such notice reasonably accepts, after discussions with the initiating party and any other interested parties, that exceptional circumstances exist that warrant such a review, we both agree to conduct a review in accordance with the procedure set out in clause L3.4.

### **L3.4 Procedure for reviews**

#### **(a) Variation proposals**

The party initiating a review shall provide a written notice to the other party identifying the issues it wishes to address, proposing variations to any relevant Part of or Schedule to the Agreement and giving reasons for seeking those variations. The recipient must respond in writing within 20 Business Days of receiving the notice, either accepting or declining the proposals or putting forward any alternative proposals.

#### **(b) Negotiations**

Each of us must negotiate in good faith and use our best endeavours to reach agreement on any proposal promptly.

#### **(c) Amendment**

- (i) If we are both able to agree on any proposed variations to any Part of or Schedule to the Agreement, then we both agree to amend the Agreement accordingly in accordance with clause L6.
- (ii) If we are both unable to agree on any proposed variations to any Part of or Schedule to the Agreement within one month of the initiating party receiving the response referred to in clause L3.4(a), then the Agreement will continue without variation. In that event, either of us may invoke the dispute resolution process in clause K3.

## **L4 Procedure for Compulsory Variations**

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### **L4.1 Notice**

Where it is likely that a Compulsory Variation will be required, we will give you reasonable notice to that effect where we are able to do so, which notice will include the details of any such variation and our proposed draft of the variation of the Agreement.

### **L4.2 Form of proposed variation**

We agree that our proposed draft of the variation referred to in clause L4.1 above will be written to give effect to the relevant Crown Direction or law change in a way that endeavours to minimise the adverse impact on you, financial or otherwise.

### **L4.3 Agreeing the variation**

We will specify a period of time that is reasonable in the circumstances, being at least 10 Business Days unless we are precluded from doing so, within which you are to reply to the proposed draft of the variation notified to you under clause L4.2. After that period has expired, or at such earlier time as may be convenient to us both, we will both seek to agree on the terms of the variation of the Agreement. We will take into account your reply in implementing the variation.

### **L4.4 Commencement of variation**

#### **(a) Where full agreement**

Where we both agree on the terms of the variation of the Agreement, the variation will commence as soon as the relevant Crown Direction or law change comes into effect, or at any earlier time agreed between us.

#### **(b) Where partial or no agreement**

Where we cannot both agree on the terms of the variation before the relevant Crown Direction or law change comes into effect, the Agreement will be deemed to be varied on the terms set out in our proposed draft of the variation referred to in clause L4.2, subject to any changes to specific parts that we may have agreed between us, as soon as that relevant Crown Direction or law change comes into effect.

### **L4.5 Where provision of Services no longer viable**

Where this Agreement has been varied in accordance with this clause L4 and where it is no longer viable, financially or otherwise, for you to continue providing the Services that have been affected by that variation, you may terminate the obligation to provide the relevant Services, provided that you give us at least 6 months' prior written notice of your intention to do so, except that where it is not viable, financially or otherwise, for you to continue providing the relevant Services for the duration of that notice period, you may give such shorter period of notice as is reasonable in the circumstances.

## **L5 Group negotiation**

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- (a) Notwithstanding any other clause in this Part L, where either of us initiate a variation proposal which in our reasonable opinion may have application to other Providers in

addition to you, you agree that we may negotiate any matter related to the proposed variation with a representative or representatives of those Providers affected, as well as you, to the extent we consider reasonably practicable to avoid undesirable duplication given limited funding resources.

- (b) You acknowledge and agree that we are not, in any event, obliged to progress any variation proposal under this clause unless we consider it to be material to you and other Providers inclusively.
- (c) For the avoidance of doubt, a review or variation may only be initiated by a representative body on your behalf, or on behalf of those Providers within our DHB geographical area, where that body can demonstrate to our satisfaction that it represents you or those Providers within our DHB geographical area.

## **L6 Variation must be in writing**

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No variation of this Agreement will be effective unless it is in writing and:

**(a) Agreed variations**

in the case of a Voluntary Variation or a mutually agreed Compulsory Variation under clause L4.4(a), is signed by us both; or

**(b) Imposed variations**

in the case of a Compulsory Variation necessarily imposed by us under clause L4.4(b), signed by us and notified to you.

## **Part M. Terms governing your dealings with third parties**

### **M1 Dealings with third parties**

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#### **M1.1 Rights not exclusive**

This Agreement gives you the right to provide Services to us but does not give you any right to provide those Services to the exclusion of other Providers. We have the right to contract with other Providers, including those in your area of expertise or in your vicinity, for the provision of Services. Equally, but subject to clause M1.2 below, you have the right to provide Services to people where this is not funded by us.

#### **M1.2 Rights not to impinge**

You must not enter into any contract, arrangement or understanding with any other person that would prejudice your ability to meet your obligations under this Agreement.

### **M2 Subcontracting**

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#### **M2.1 Subcontracting**

Subject to the requirements of this clause M2, you may subcontract any aspect of the provision of the Services that you have the right or are obliged to provide under this Agreement provided that you have obtained our prior written approval. Such approval will not be unreasonably withheld.

#### **M2.2 Subcontractor criteria**

Any subcontractor engaged by you above must have the qualifications or accreditations, experience, competency and availability to enable it to perform all of the obligations which you have delegated to it to the standards required under this Agreement.

#### **M2.3 Contents of subcontract**

Every subcontract you enter into pursuant to this clause M2 above must include provision for the delegated Services to be performed to the Quality Specifications required under this Agreement, including provision for the following:

**(a) Information**

the obligation of the subcontractor to collect, and the ability for you to obtain from the subcontractor and to provide to us, any information we require or may require you to provide to us under this Agreement;

**(b) Audit**

the ability for us to have direct access to the premises and Records of the subcontractor for the purposes of Audit, and to Audit the subcontractor, according to the procedure set out in Part J of this Agreement as if the references to you were references to the subcontractor;

**(c) No further subcontracting**

a prohibition on the further transfer, assignment or subcontracting by the subcontractor of the rights and obligations under the subcontract without our prior written consent;

**(d) Insurance**

insurance cover in terms identical or substantially similar to those set out in clause N2;

**(e) Enforcement by us**

the ability for us to exercise our rights as set out under this Agreement in relation to the performance of the obligations of the subcontractor under the subcontract and the ability for us to enforce those rights pursuant to the Contracts (Privity) Act 1982.

## **M2.4 Copy of subcontract**

You must make available to our Auditor a copy of any subcontract made pursuant to this clause M2. Where you provide a copy of such a subcontract to our Auditor under this clause M2.4, the Auditor must not disclose to us the details of the financial arrangement between you and your subcontractor but may advise us if he or she considers that the financial arrangements may prejudice your ability to perform your obligations under this Agreement.

## **M2.5 Information about subcontracts**

We may specify at any time:

- (a) service categories in respect of which we may require you to provide us with further information about any subcontracts you have entered into in order to provide those service categories; and
- (b) the nature of any information we reasonably require about those subcontracts, excluding any information relating to the financial benefits arising from the subcontract for those particular service categories.

## **M3 Responsibility and liability for others**

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Each of us respectively is responsible and liable in all respects for the acts and omissions of our respective employees, subcontractors, contractors, agents or other personnel in performing or complying (or failing to perform or comply) with our respective obligations under this Agreement.

## **M4 Transfer of rights and obligations**

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### **M4.1 No transfer without consent**

Subject to clause M4.3 below, you may not assign or transfer any or all of your rights or obligations under this Agreement without our prior written consent, which we will not unreasonably withhold. The term “**transfer**” in this clause M4.1 is deemed to include any sale, transfer or other disposal of any majority interest in the ownership or control of you (if you are a limited liability company) or your business (if it is not a limited liability company).

### **M4.2 Transfer by us**

We may assign or transfer any or all of our rights and obligations under this Agreement, including pursuant to a merger with another DHB, without your prior consent.

### **M4.3 Information required**

In order that we can make an informed decision about whether to consent to a transfer of any or all of your obligations under this Agreement, you will ensure that the proposed transferee provides us with details of their ability to perform those obligations, and any further details that we may reasonably request of you or the proposed transferee.

### **M4.4 Exception for assignment to obtain finance**

You may assign your right to receive payment from us under this Agreement where:

- (a) the assignee provides or will provide finance to you; and
- (b) the assignment is for the sole purpose of ensuring the continuation or obtaining of such finance.

### **M4.5 Conditions of transfer of Agreement**

We reserve the right to require reasonable conditions to be met before we give consent to a transfer or assignment. In particular, we may require that the proposed transferee or assignee enter into an agreement with us on substantially similar terms and conditions set out in this Agreement, to the extent applicable to the proposed transfer.

### **M4.6 Successors, assignees and transferees bound**

This Agreement is to be binding on and exist for the benefit of us both respectively and our respective successors and permitted assignees or transferees. Each such successor, assignee or transferee is to have the same respective rights and obligations as if it were named in this Agreement as a party.

### **M4.7 Consequences of transfer or assignment**

Any transfer or assignment of your rights or obligations under this Agreement pursuant to this clause M4 will not prejudice:

- (a) any other rights or remedies that either of us may have against the other arising out of any breach of this Agreement that occurred before such transfer or assignment;

- (b) the operation of any provisions in this Agreement that are expressed or implied to have effect after such transfer or assignment has occurred.

## **M5 Confidentiality and publicity**

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### **M5.1 Confidentiality**

**(a) Prohibition on disclosure**

Except as provided under this Agreement, neither of us will disclose any Confidential Information to any person. Either of us may publish this Agreement, except for any Confidential Information contained within it, in any media, including publication on the internet.

**(b) Permission for disclosure**

Subject to paragraph (c) below, either of us may only disclose Confidential Information:

- (i) to those involved in the provision of Services under this Agreement, where necessary;
- (ii) to our respective professional advisors and representative agents;
- (iii) where disclosure is permitted under this Agreement, including under the Audit provisions of Part J;
- (iv) which is required to be disclosed to the Crown under any Crown Directions or Crown Funding Agreement;
- (v) which is already in the public domain without being in breach of this clause M5;
- (vi) in so far as it is required to be disclosed by law, including where we consider it necessary to disclose Confidential Information under the Official Information Act 1982 or otherwise under our public law obligations;
- (vii) where the other party has consented in writing to such disclosure.

**(c) Legal requirements**

Each of us will ensure that Confidential Information is kept in accordance with any legal requirements. In particular, but without limiting the foregoing, any disclosure of Health Information by either of us must comply with the Privacy Act 1993 and the Health Information Privacy Code 1994.

**(d) Audit**

Each of us will ensure that Confidential Information is subject to user authorisation procedures.

### **M5.2 Public statements**

Neither of us nor our representatives may, during or after this Agreement, either directly or indirectly criticise the other publicly without first fully discussing the matters of concern with the

other in good faith and in a co-operative and constructive manner. You must use your best endeavours to ensure that your representatives act in accordance with this clause M5.2. Nothing in this clause M5.2 prevents either of us discussing any matters of concern with our own employees, subcontractors, contractors, agents or other personnel or with our own advisors.

### **M5.3 Use of name, logo or fact of relationship**

Neither of us may use the other's logo, name or the fact that there is a business relationship between us in any advertising or for any other promotional purpose without the prior written consent of the other.

## **M6 Incentives and inducements to Prescribers**

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### **M6.1 Prohibition on incentives and inducements**

You must comply with the Code of Ethics in regard to incentives and inducements to Prescribers.

### **M6.2 Audit**

We may Audit you and your Records or other relevant information at any time, pursuant to Part J, to verify your compliance with clause M6.1.

## **Part N. Other miscellaneous terms governing our relationship**

### **N1 Independent contractor**

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We both agree that you are engaged to provide Services as an independent contractor to us, and not as an employee or agent. Consequently, under no circumstances will we be liable to pay, or be called upon by you to pay, any sums due to employees under law (such as holiday pay or sick pay) and you have no authority to act on our behalf.

### **N2 Insurance**

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#### **N2.1 Insurance cover required**

You must have insurance to an appropriate and reasonable extent, to cover your business and its assets against risks associated with the performance of and compliance with your obligations under this Agreement. You must maintain such insurance throughout the duration of this Agreement and for as long afterwards as is prudent to provide for circumstances that may arise in relation to this Agreement after the Termination Date.

#### **N2.2 Information**

We may request, and you must promptly provide to our Auditor, any information concerning the insurance maintained pursuant to clause N2.1.

### **N3 Indemnity**

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#### **N3.1 Indemnity**

You will indemnify us and keep us indemnified (and you will indemnify and keep indemnified our Payment Agent) against all claims, losses, damages, penalties and reasonable costs and expenses (including all legal or other costs or expenses associated with the enforcement of this Agreement) but excluding any indirect or consequential loss, made or incurred by us that has been caused, either directly or indirectly, by your failure to comply with any provision of this Agreement, or the failure of anyone for whom you are responsible pursuant to this Agreement.

#### **N3.2 Payment Agent**

Notwithstanding clause N9, clause N3.1 confers, and is to be construed to confer, a benefit enforceable at the suit of the Payment Agent, which may enforce the rights under clause N3.1 as if it were named in this Agreement as a party.

### **N3.3 Contribution**

Where we as the party incurring the loss under clause N3.1 have contributed in some material way to the circumstances giving rise to that loss, the level of indemnity due to us will be reduced to the extent of such contribution.

### **N3.4 Other**

Notwithstanding anything else in this Agreement, this clause N3 shall not apply where compensation for failure to comply with the relevant provision has been provided for elsewhere in this Agreement.

## **N4 Warranty**

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### **N4.1 Warranty**

Each of us warrants to the other that, to the best of our knowledge and reasonable belief:

**(a) Information correct**

all material information provided to the other is correct and not misleading in any material respect; and

**(b) No impairment**

there is nothing impairing or preventing either of us from carrying out our respective obligations under this Agreement.

### **N4.2 Warranties continuing**

Each of the warranties in clause N4.1 are deemed to be repeated continuously throughout the term of this Agreement.

### **N4.3 Change of circumstances**

If any of the warranties in clause N4.1 above are not true or become no longer true, each of us will, as applicable, inform the other of the change as soon as is practicable.

## **N5 Compliance with law**

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Each of us will comply with all statutory, regulatory and other legal requirements in so far as they are applicable to the performance of our respective obligations under this Agreement, including the Privacy Act 1993 and the Health Information Privacy Code 1994.

## **N6 Waiver**

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### **N6.1 Waiver**

Either of us, as applicable, may by notice in writing to the other party waive a specific right conferred under this Agreement.

## **N6.2 Failure to exercise right no waiver**

Delay or failure to exercise a right does not constitute a waiver of that right.

## **N7 Entire agreement**

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This Agreement constitutes the entire agreement and understanding between us both, and supersedes and replaces all prior agreements and understandings between us both in relation to the provision of pharmacy services.

## **N8 Enforceability**

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### **N8.1 Severability**

If any provision of this Agreement is found or held to be illegal, invalid or unenforceable, such determination shall not affect the remainder of the Agreement, which will remain in force.

### **N8.2 Modification**

If any provision of this Agreement is found or held to be illegal, invalid or unenforceable, we will each, if possible, take the steps necessary to make reasonable modifications to any such provisions to ensure that they are legal, valid or enforceable and, otherwise, such provisions are deemed to be modified to the extent necessary to ensure that they are legal, valid or enforceable.

## **N9 Contracts (Privity) Act 1982**

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No person who is not a party to this Agreement may enforce any of the provisions of this Agreement. Nothing in this Agreement shall confer any benefit on Eligible Persons or on any other third party for the purposes of the Contracts (Privity) Act 1982 or otherwise.

## **N10 Counterparts**

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### **N10.1 Number of counterparts**

This Agreement may be executed in any number of counterparts each of which is to be deemed an original, but all of which together are to constitute a single instrument. A party may enter into this Agreement by executing any counterpart. For the purposes of this clause N10.1, "counterpart" means any execution copy of this Agreement that we sign or send to you for signing.

### **N10.2 Facsimile exchange**

This Agreement may be executed on the basis of an exchange of facsimile copies and execution of this Agreement by such means is to be a valid and sufficient execution.

## **N11 Governing law and jurisdiction**

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This Agreement is governed by the law of New Zealand. We both submit to the non-exclusive jurisdiction of the Courts of New Zealand.

## **N12 Notices**

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### **N12.1 Form of notice**

Each notice or other communication that is required to be in writing under this Agreement is to show the Agreement Reference Number and be made by facsimile, personal delivery or post at the facsimile number or address, and marked for the attention of the person or office holder (if any), designated for the relevant purpose by the addressee from time to time by notice to the other party.

### **N12.2 Change of contact details**

Any change to a party's contact details must be notified to the other party at least 10 Business Days before the change comes into effect.

### **N12.3 When notice effective**

No communication is to be effective until it is received by the addressee. A communication is deemed to be so received (where the addresser is not aware of any failure in the communication) in the case of:

**(a) Facsimile**

facsimile, on the Business Day on which it is sent or, if sent after 5pm in the place of receipt or on a non-Business Day, on the next Business Day;

**(b) Personal delivery**

personal delivery, when it is delivered;

**(c) Post**

post, on the third Business Day after posting by fastpost or airmail.

## Part O. Failure to perform and termination of Agreement

### *Failure to perform*

#### **O1 Actions available where failure to perform**

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##### **O1.1 Failure to perform**

Where either of us have failed to perform our respective obligations under this Agreement, the other party may act in accordance with this Part O. Except where express provision has been made in this Part, this Part does not limit the legal rights either of us may have against the other.

#### **O2 Where you have failed to perform**

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If you fail to perform any material obligation under this Agreement, including, without limitation, your obligations under clauses H6.3 and J1.3 and any requirements in this Agreement relating to the reporting or provision of information, we may do one or more (or none) of the following:

- (a) seek specific performance of the Agreement;
- (b) seek Default Interest from you in accordance with clause H16;
- (c) suspend or terminate this Agreement in accordance with clause O4;
- (d) make alternative arrangements for the provision of the Services in accordance with clause O5;
- (e) seek damages;
- (f) refer the matter to the Pharmacy Advisory Committee in accordance with clause J4.3,

except where the failure to perform is due to an Uncontrollable Event which must be dealt with under clause O6.

#### **O3 Where we have failed to perform**

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If we fail to meet any material obligation under this Agreement, and we fail to remedy the failure within 30 days (unless a different time period is agreed between us) of receiving from you written notice of the failure, you may, in addition to any other rights you may have under this Agreement or otherwise, do one or more (or none) of the following:

- (a) seek specific performance of the Agreement;

- (b) seek Default Interest from us in accordance with clause H16;
- (c) seek damages from us;
- (d) terminate the Agreement immediately on written notice;
- (e) terminate the part of the Agreement that relates to the Services in respect of which our failure applies,

except where the failure to perform is due to an Uncontrollable Event which must be dealt with under clause O6.

## **O4 Suspension or termination for material failure to perform**

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### **O4.1 Notice of failure**

If we have reasonable grounds to believe that you have not met any material obligation under this Agreement, we will give you written notice:

- (a) setting out the details of the obligation we believe you have not met; and
- (b) where the failure can be remedied, giving you 30 days to meet the obligation and to demonstrate to our reasonable satisfaction that you have met the obligation; or
- (c) where the failure cannot be remedied, terminating this Agreement on the expiry of a period of 30 days, or such shorter period as we consider reasonable in the interests of the health and safety of Service Users.

### **O4.2 Suspension**

Notwithstanding anything else in this Agreement, where we issue to you a notice under clause O4.1 and where we have reasonable grounds to believe that the health or safety of any Service User is at risk, we may suspend your right and your obligation to provide the relevant Services for us while we investigate the issue. We will notify you of such suspension in the notice issued to you under clause O4.1.

### **O4.3 Reinstatement**

Where we are satisfied on reasonable grounds that you are willing and able to perform the material obligations referred to in clause O4.1 above and that the health or safety of any Service User is no longer at risk, we will give you written notice that you must resume performance of such obligations.

### **O4.4 Termination on 7 days notice**

If after the 30 day period allowed under clause O4.1 you have not demonstrated to our reasonable satisfaction that you have met the obligation, we may terminate this Agreement on 7 days written notice, or such shorter period as we consider reasonable in the interests of the health and safety of Service Users.

## **O4.5 Dispute**

If you receive a notice under clause O4.1 but you disagree that the obligation we believe you have not met is a material obligation, then you may refer the matter:

- (a) to mediation and, where necessary, arbitration in accordance with Part K; or
- (b) with our agreement, to the Pharmacy Advisory Committee in accordance with clause J4.3.

Notwithstanding anything in Part K or clause J4 or in the Health Sector Mediation and Arbitration Rules, where a mediation, arbitration or referral to the Pharmacy Advisory Committee is pursued under this clause O4.5:

- (c) all reasonable endeavours must be used to have this completed within the 30 day period provided under clause O4.1;
- (d) where it is agreed or determined that the relevant obligation is a material obligation you will have a further 30 days beyond the original 30 day time period during which to meet the obligation;
- (e) where it is agreed or determined that the relevant obligation is not a material obligation, the notice given under clause O4.1 will have no further effect;
- (f) where there is no agreement or determination as to whether or not the relevant obligation is a material obligation, we may terminate this Agreement in accordance with clause O4.4.

## **O4.6 Immediate termination**

If after the further 30 day period allowed under clause O4.5(d) you have not demonstrated to our reasonable satisfaction that you have met the obligation, we may terminate this Agreement on 7 days written notice, or such shorter period as we consider reasonable in the interests of the health and safety of Service Users.

## **O4.7 Uncontrollable Events**

This clause does not apply where your failure to perform is caused by an Uncontrollable Event, which must be dealt with under clause O6.

## **O5 Alternative arrangements on failure to perform**

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### **O5.1 Alternative arrangements on non-performance**

Where you fail to perform any material obligation under this Agreement, we may make such alternative arrangements as are reasonably necessary for the supply of those Services during the period of your non-performance at your expense.

## **O5.2 Payment for our costs**

On our demand, you must pay or reimburse us for all reasonable costs we incur acting under clause O5.1 for the period until the end of your non-performance or until the Termination Date, whichever is the earlier. Where you fail to pay we may set off the amount owing to us in respect of the costs incurred under this clause against any amount that we owe to you at any time by way of payment for Services, in accordance with clause H17.

## **O5.3 Uncontrollable Events**

This clause does not apply where your failure to perform is caused by an Uncontrollable Event, which must be dealt with under clause O6.

## **O6 Uncontrollable Events**

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### **O6.1 No default**

If either of us is prevented from or delayed in performing our respective obligations under this Agreement by an Uncontrollable Event, the party directly affected by that Uncontrollable Event will not be in breach of the Agreement.

### **O6.2 Notice of inability to perform**

The party whose performance is directly affected by an Uncontrollable Event must give written notice to the other specifying:

- (a) the nature of the circumstances giving rise to the Uncontrollable Event;
- (b) the extent of that party's inability to perform; and
- (c) the likely duration of that non-performance.

### **O6.3 Duty to mitigate**

The party whose performance is directly affected by an Uncontrollable Event must take all reasonable steps to avoid or reduce the impact of the Uncontrollable Event on the due performance of the Agreement. This requires you to have in place a reasonable risk management process and sufficient funds (other than where we have failed to make due payment). This clause O6 does not require a party to settle any strike, lock-out or other industrial disturbance.

### **O6.4 Duty to resume performance**

The party whose performance is directly affected by an Uncontrollable Event must resume due performance of its obligations under this Agreement as soon as is reasonably possible after the Uncontrollable Event ends or its impact is sufficiently reduced to allow due performance.

## **O6.5 Alternative arrangements**

Notwithstanding anything else in this Agreement, if you are unable to provide the Services because of an Uncontrollable Event, we reserve the right to and may make alternative arrangements for the supply of Services during the period of your non-performance (and for such reasonable time afterwards as may be necessary to secure an alternative Provider or Providers at the time the alternative arrangement are entered into) as we see fit but after consultation with you.

## **O6.6 Variation of Services**

If either of us is unable to perform an obligation under this Agreement for 30 days or more because of an Uncontrollable Event, both of us must seek to agree to what extent, if any, the affected Services can be varied and/or continued by you.

## **O6.7 Termination**

If we cannot agree under clause O6.6 within 5 Business Days of the end of the 30 day period, either of us may terminate the relevant Services upon at least 30 days prior written notice.

# ***Termination***

## **O7 Termination**

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Either of us may terminate this Agreement in accordance with our respective rights and obligations under this Part O.

## **O8 Mutual agreement to terminate**

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We may both mutually agree to terminate this Agreement or any part of it. No agreement to terminate shall be effective unless it is in writing and signed by us both.

## **O9 Our right to terminate**

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### **O9.1 Grounds for termination**

We may terminate any part of or all of this Agreement:

**(a) Material failure**

where you have failed to meet any material obligation under this Agreement, in accordance with clause O4;

**(b) Inability to perform**

where we have good reason to believe that you are unable to carry out all of your obligations under this Agreement, immediately on written notice, subject to us consulting with you first about the possibility of termination;

**(c) Disposal of business**

where you have disposed of, or have entered into any arrangement that will result in the disposal of, a substantial part of your business, property or assets that are required in order for you to be able to carry out your obligations under this Agreement, or the same are lawfully seized or appropriated, without our prior written consent, immediately on written notice;

**(d) Business failure**

where you are insolvent, you are unable to pay your indebtedness as it falls due, you stop payment to creditors generally, you have entered into any composition or other arrangement with creditors, or a receiver has been appointed over your assets or you are put into liquidation, or you are adjudged bankrupt, as the case may be, immediately on written notice;

**(e) Illegality**

where you commit any fraudulent or unlawful action that we consider on reasonable grounds will seriously affect your ability to perform your obligations under this Agreement, immediately on written notice;

**(f) Termination on notice**

where we give you six months' written notice, provided that:

- (i) we will have regard to the relationship principles set out in clause D4 in determining whether to give such notice; and
- (ii) both of us will continue to be bound to comply with all of our obligations under this Agreement (including both our obligations under Part K) during this six-month notice period.

Our right to terminate on notice under this paragraph (f) will apply notwithstanding any other provisions in this Agreement, including where we may both be engaged in a process of dispute resolution or variation of this Agreement;

**(g) Uncontrollable Event**

where an Uncontrollable Event occurs, in accordance with clause O6;

**(h) Section 88 notice**

Where we give you three months' written notice that we are going to issue a notice in respect of pharmacy services in accordance with section 88 of the Act. Our right to terminate on notice under this paragraph (h) will apply notwithstanding any other provisions in this Agreement, including where we may both be engaged in a process of dispute resolution or variation of this Agreement.

## **O10 Your right to terminate**

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You may terminate this Agreement, or any part of the Agreement that relates to the Services in respect of which our failure applies:

**(a) Material failure**

in relation to material failure in accordance with clause O3;

**(b) Compulsory Variation**

in relation to a Compulsory Variation in accordance with clause L4.5;

**(c) Termination on notice**

where you give us six months' written notice, provided that:

- (i) you will have regard to the relationship principles set out in clause D4 in determining whether to give such notice; and
- (ii) both of us will continue to be bound to comply with all of our obligations under this Agreement (including both our obligations under Part K) during this six-month notice period.

Your right to terminate on notice under this paragraph (c) will apply notwithstanding any other provisions in this Agreement, including where we may both be engaged in a process of dispute resolution or variation of this Agreement;

**(d) Uncontrollable Event**

where an Uncontrollable Event occurs, in accordance with clause O6.

## **O11 Alternatives to termination of entire Agreement**

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As an alternative to terminating the entire Agreement, either of us may, by giving the other six months' written notice, terminate the provision of any particular Services in issue, and we may cease payment for any such Services from the date of such termination. In these circumstances, the right to terminate on notice under this clause O11 will apply notwithstanding any other provision in this Agreement, including where we may both be engaged in a process of dispute resolution or variation of this Agreement, having regard to the relationship principles set out in clause D4.

## **O12 Consequences of termination**

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Any termination of this Agreement pursuant to this Part O will not prejudice:

- (a) any other rights or remedies that either of us may have against the other arising out of any breach of this Agreement that occurred before termination; or
- (b) the operation of any clauses of this Agreement that are expressed or implied to have effect after termination.

## **Part P. Provider specific terms and conditions**

### **P1 Nature of this Part**

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#### **P1.1 Provider specific terms and conditions**

This Part P contains provider specific terms and conditions that are departures from, or additions to, the standard provisions in Parts A to O of this Agreement. These provider specific terms and conditions are terms and conditions specific to you, your Provider type or the type of Services you provide.

#### **P1.2 Special terms prevail**

The provisions in this Part P shall apply notwithstanding anything in the remainder of this Agreement. Where there is a conflict between these provider specific terms and conditions and any other terms in this Agreement, these provider specific and conditions take precedence and apply over any other terms

## **Schedule C1. Service specifications**

### **C1. List of service specifications**

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This Schedule C1 contains the following service specifications, which are more fully described in the following schedules:

- (a) Base Pharmacy Services;
- (b) Pharmacy Methadone Services for Opioid Dependence;
- (c) NRT Services.

## Base Pharmacy Services

### 1. Definition

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We wish to fund Base Pharmacy Services to enable Eligible Persons appropriate access to Pharmaceuticals and advice services that are responsive to the health needs and priorities of Service Users and communities. It is intended that these services will enhance the effectiveness of medicine usage by Eligible Persons in the community.

### 2. Service objectives

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We wish to fund Base Pharmacy Services as part of an integrated community based health service that:

- (a) provides Service Users with the best quality and most cost-effective services, within the available funding, based on established professional and quality management standards and codes of practice;
- (b) provides specialist advice as required to ensure optimal Service User management;
- (c) ensures Service User and Staff safety.

### 3. Requirements for prescriptions and supply of Pharmaceuticals

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#### 3.1 Prescriptions

Prescriptions must be written in accordance with current legislation and must meet the requirements for subsidy and payment in the current Pharmaceutical Schedule and as set out in the Procedures Manual. Copies of the Pharmaceutical Schedule and Procedures Manual in written form will be supplied to you and your agent by us free of charge.

#### 3.2 Dispensing a Specific Brand

- (a) Where a Prescriber requests that you Dispense a Pharmaceutical that is identified by reference to its generic active ingredient(s), you must Dispense the Specific Brand of that requested generic active ingredient that we or PHARMAC have specified as the Preferred Supplier Brand, unless otherwise authorised by us. For the avoidance of doubt, this paragraph (a) applies to all Pharmaceuticals subsidised by us, either in whole or in part, which are prescribed by reference to a generic active ingredient.
- (b) Where a Prescriber prescribes a Specific Brand, you must Dispense that Specific Brand unless the Prescriber has provided you with appropriate authority to Dispense an alternative brand of the same active ingredient(s) as the Specific Brand. Where substitution for a Specific Brand is authorised or where legalisation permits generic substitution, you must Dispense the Preferred Supplier Brand of the same generic active ingredient(s), unless otherwise authorised by us or the Prescriber.

- (c) You will not Dispense any Specific Brand that is not listed on the Pharmaceutical Schedule where there is an alternative Specific Brand available, which is listed on the Pharmaceutical Schedule, unless you are expressly requested to Dispense such a Pharmaceutical by the Prescriber or the Service User. In these circumstances, the Dispensed Pharmaceutical will not be eligible for subsidy by us under this Agreement or added to the item count for the purposes of the Prescription Subsidy Card scheme.
- (d) We will provide you with a list of Preferred Supplier Brand Pharmaceuticals from time to time.

#### **4. Maori health**

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- (a) Pharmacy services have a vital role to play in ensuring that Maori Service Users have access to prescribed Pharmaceuticals and receive appropriate education and information about the prescribed Pharmaceuticals to maximise compliance with the prescribed regime so that their health status will improve.
- (b) Services will be delivered in a supportive manner that respects the dignity, rights, needs, abilities and cultural values of the Maori Service User, and their family/whanau. Access barriers for Maori Service Users will be minimised as far as possible.

#### **5. Service Users**

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Service Users are Eligible People who choose to access Base Pharmacy Services from your Pharmacy.

#### **6. Access**

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##### **6.1 Minimising barriers to access**

You agree to minimise any barriers to Service Users accessing the Services to the extent where such matters are within your reasonable control.

##### **6.2 Opening hours**

- (a) You must provide Base Pharmacy Services for a minimum of 5 days a week unless such period is affected by a public or statutory holiday. You will use your best endeavours to ensure a level of access to Base Pharmacy Services that meets the reasonable needs of Service Users.
- (b) You will not be in breach of your obligations under this Agreement if your Pharmacy is closed for short periods of a few hours in special circumstances on isolated occasions.
- (c) You must ensure that a notice specifying:
  - (i) the period when your Pharmacy is closed; and
  - (ii) how Eligible People can obtain essential Pharmaceuticals during the period when your Pharmacy is closed,

is prominently displayed on the outer door or window of your Pharmacy throughout such period.

- (d) You agree to notify us where the closure of your Pharmacy will unreasonably inconvenience Service Users in your area.

## **7. Service components**

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### **7.1 Processes**

Base Pharmacy Services include the following requirements.

#### **(a) Dispensing of Pharmaceuticals**

Dispensing will comply with the Pharmaceutical Schedule, all legislation and regulations applicable to the practice of Pharmacy in New Zealand, the New Zealand Code of Good Manufacturing Practice for Manufacture and Distribution of Therapeutic Goods 1993: Part 3 Compounding and Dispensing (Ministry of Health), the Code of Ethics and any other professional requirements which may be specified by the Pharmacy Council.

The Dispensing process includes:

- (i) ensuring the completeness of information on the Prescription Form, e.g. Service User details, legibility and legal requirements;
- (ii) verification of the appropriateness of the prescribed Pharmaceutical using any relevant available information, e.g. suitability of the prescribed medicine, dosage and possible interactions;
- (iii) checking acquired medication history for consistency of treatment, possible interactions and evidence of non-compliance or misuse.

#### **(b) Provision of advice and counselling**

You agree to provide essential professional advice and counselling and to take all reasonable steps to ensure that Service Users have sufficient knowledge to enable optimal therapy.

Provision of essential advice and counselling includes:

- (i) directions for the safe and effective use of the Pharmaceutical;
- (ii) the expected outcomes of therapy;
- (iii) what to do if side-effects occur;
- (iv) storage requirements of the Pharmaceutical;
- (v) disposal of unused Pharmaceuticals.

In addition to sub-paragraphs (i) to (v) above, you will make available to any person, written information about:

- (vi) the needle syringe exchange scheme, whether or not you participate in this scheme, and a list of providers of the needle syringe exchange scheme in your local area;
- (vii) the safe disposal of used syringes, needles and other skin piercing devices, including a list of places where a person may take used syringes, needles and other skin piercing devices for safe disposal.

**(c) Maintaining Service User Records**

You agree to maintain Service Users' Records and other required information in accordance with statutory requirements. You further agree to maintain a Service User medication profile, being an individual Service User profile that lists, to the best of your knowledge:

- (i) the prescribed Pharmaceuticals that the Service User is currently receiving; and
- (ii) other relevant information, such as previous Pharmaceuticals taken, reactions to any Pharmaceuticals and other medicines of which you are aware the Service User is currently taking and which may influence the Service User's Pharmaceutical management at that time.

**(d) Reporting**

You agree to report any significant findings to the Prescriber. As a guide this may include, among other things, notifying the Prescriber of any problems which are apparent with a particular Prescription, if you have reasonable grounds to suspect that a Service User may be abusing the prescribed Pharmaceutical or that it could be detrimental to the Service User's health.

**(e) Administration**

You agree to fulfil reasonable administrative requirements as specified in the Procedures Manual.

**(f) Dispensing of Pharmaceuticals pursuant to Practitioner Supply Orders**

You agree to Dispense Pharmaceuticals prescribed pursuant to a Practitioner Supply Order in a suitable manner for use by Prescribers, in accordance with the terms of the Pharmaceutical Schedule and the process outlined in clauses 7.1(a), (d) and (e) above. You further agree to provide appropriate advice to Prescribers on the safe use of Pharmaceuticals Dispensed.

**(g) Dispensing of Pharmaceuticals on Bulk Supply Orders**

- (i) You agree to Dispense Pharmaceuticals prescribed pursuant to a Bulk Supply Order in a suitable manner for use by private hospitals or approved institutions, in accordance with the terms of the Pharmaceutical Schedule and the process outlined in clauses 7.1(a), (d) and (e) above. You further agree to provide appropriate advice to the private hospitals or approved institutions on the safe use of the Pharmaceuticals Dispensed.
- (ii) You acknowledge and agree that Bulk Supply Orders are to be used only for obtaining a supply of Pharmaceuticals that may be required in the following month by as yet unidentified Service Users and are not to be used to

Dispense Pharmaceuticals for identified individual Service Users who require those Pharmaceuticals for their ongoing treatment needs as these Pharmaceuticals must be obtained by Prescription.

**(h) Rest home services**

- (i) Rest home services include Dispensing Pharmaceuticals to residents of rest homes and for long-stay care hospitals. You agree to Dispense such Pharmaceuticals in a suitable manner, in accordance with the terms of the Pharmaceutical Schedule and the process outlined in clauses 7.1(a) to (e) above (inclusive).
- (ii) In addition, you must establish systems for the distribution and administration of Pharmaceuticals to rest homes and long-stay care hospitals, in accordance with Part 2 of the publication issued by the Ministry of Health entitled "Safe Management of Medicines - A Guide for Managers of Old People's Homes and Residential Care Facilities 1997", excluding the section relating to the provision of Comprehensive Pharmaceutical Care™.
- (iii) At our request, you must inform us of the names of rest homes or long-stay hospitals within our DHB's geographical area to whom you provide Services.

**7.2 Waiting times for Services**

- (a) After a Service User or Service User's caregiver has presented a Prescription Form to you, you must Dispense:
  - (i) ninety percent of Prescription Items within one hour of being presented at your Pharmacy;
  - (ii) ninety-nine percent of Prescription Items within 24 hours if presented during a Business Day;
  - (iii) one hundred percent of Prescription Items within two Business Days if presented during a Business Day.
- (b) You must maintain adequate stocks of all Pharmaceuticals to meet the above waiting time requirements.
- (c) Waiting times outside these arrangements may be acceptable to us if there is mutual agreement reached between you and the Service User.
- (d) The waiting times in paragraph (a) above will not apply if a Prescription Item is a Pharmaceutical that is not available in New Zealand at the time that you are presented with the Prescription Form.
- (e) We may specifically vary this clause, after negotiation and agreement with you, taking into account your particular supply arrangements.

**7.3 Facilities and Settings**

The Pharmacy from which you provide Base Pharmacy Services must be licensed by the licensing authority under the Medicines Act 1981.

**7.4 Support services**

You agree to facilitate Service Users' access to support and advocacy services in accordance with clause G6.6.

## 7.5 Key inputs

All Staff that you employ to provide Base Pharmacy Services under this Agreement must have appropriate qualifications and professional registrations.

## 8. Service linkages

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You agree to have effective links, where appropriate, with the following services:

- (a) secondary medical and surgical services;
- (b) primary medical and nursing services, including local organisations;
- (c) Maori primary and community care providers;
- (d) Pacific Islands primary and community care providers;
- (e) child health services;
- (f) mental health services;
- (g) maternity services;
- (h) dental services;
- (i) private specialists;
- (j) public health services; and
- (k) Service User advocacy services, including Maori and Pacific Islands advocacy services.

## 9. Exclusions

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The following services are excluded from this service specification for Base Pharmacy Services:

- (a) Pharmaceutical Review Services;
- (b) Pharmacy Clozapine Services;
- (c) Aseptic Pharmacy Services;
- (d) Complex Medicine Services;
- (e) Pharmacy Methadone Services for Opioid Dependence;
- (f) Special Foods Services.

## 10. Quality requirements

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## 10.1 Compliance with this Agreement

You must provide Base Pharmacy Services in accordance with the terms and conditions in this Agreement, including the Quality Specifications in Part G. The following specific quality requirements also apply to Base Pharmacy Services.

## 10.2 Acceptability

Base Pharmacy Services must be provided from premises conforming to relevant standards issued by the Ministry of Health or the Pharmacy Council.

## 10.3 Safety

You must comply with the provisions in the Medicines Act 1981, the Medicines Regulations 1984, the Misuse of Drugs Act 1975 and the Misuse of Drugs Regulations 1977.

## 11. Purchase Units and reporting requirements

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### 11.1 Purchase Units

The following Purchase Units apply to Base Pharmacy Services. Purchase Units are defined in the Ministry of Health's data dictionary and correspond to the relevant services and payment terms specified in Schedule H1.

PU ID	PU Short Name
PH1001	Base Pharmacy Services
PH1002	ECP Services
PH1004	Exceptional Circumstances Services A (Pharmaceuticals on the Pharmaceutical Schedule)
PH1005	Exceptional Circumstances Services B (Pharmaceuticals not on the Pharmaceutical Schedule)
PH1006	Class B Controlled Drug Services

### 11.2 Reporting requirements

You agree to report information in accordance with the Pharmaceutical Transactions Data Specification, the Procedures Manual, and the terms and conditions set out in this Agreement, including Part H.

## Pharmacy Methadone Services for Opioid Dependence (Class B Controlled Drug Services)

### 1. Definition

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We wish to fund Pharmacy Methadone Services for Opioid Dependence that provide appropriate access to comprehensive, integrated and continuing alcohol and drug services guided by harm reduction philosophies.

### 2. Service objectives

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- (a) This service specification only relates to pharmacy services associated with methadone when it is prescribed for the treatment of opioid dependence. It does not cover services associated with the use of methadone when it is used for other indications such as pain.
- (b) The philosophy guiding Pharmacy Methadone Services for Opioid Dependence recognises that abstinence may be a long-term goal for most Service Users, but that it is legitimate for treatment service providers to work with Service Users who wish, without an abstinence goal, to make an established pattern of injecting, or other drug use, safer.
- (c) Both of us acknowledge that there are additional risk factors in terms of security and safety associated with this particular service. For this reason the provision of Pharmacy Methadone Services for Opioid Dependence is not compulsory under the terms of this Agreement. In the event that you choose not to provide this particular service, then it will not prejudice any other rights available to you under this Agreement, including your rights to provide other Services.

### 3. Maori Health

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- (a) Pharmacy services have a vital role to play in ensuring that Maori Service Users have access to prescribed Pharmaceuticals and receive appropriate education and information about the prescribed Pharmaceuticals to maximise compliance with the prescribed regime so that their health status will improve.
- (b) Services will be delivered in a supportive manner that respects the dignity, rights, needs, abilities and cultural values of the Maori Service User, and their family/whanau. Access barriers for Maori Service Users will be minimised as far as possible.

## 4. Service Users

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Approved methadone Service Users are Eligible Persons who are referred to your Pharmacy by methadone treatment services and by Medical Practitioners authorised under the Misuse of Drugs Act 1975 to offer methadone for the treatment of opioid dependence.

## 5. Access

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You agree to provide Pharmacy Methadone Services for Opioid Dependence for a minimum of 5 days a week unless such period is affected by a public or statutory holiday. You will have written policies in place to demonstrate how Pharmacy Methadone Services for Opioid Dependence are to be provided to Service Users requiring “consume on premises” doses when you are not open. As a Provider of Pharmacy Methadone Services for Opioid Dependence you must ensure that Service Users have access to this service over weekends and public holidays where this may be required.

## 6. Service components

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### 6.1 Processes

You agree to provide Pharmacy Methadone Services for Opioid Dependence in accordance with the following requirements:

- (a) this service specification for Pharmacy Methadone Services for Opioid Dependence should be read in conjunction with the relevant clauses in the service specification for Base Pharmacy Services and, in particular, must comply with clauses 7.1(a) to (e) of that service specification;
- (b) in addition, you agree to provide Pharmacy Methadone Services for Opioid Dependence in accordance with:
  - (i) the protocol for community pharmacist dispensing of methadone as set out in Section 4 of the Opioid Substitution Treatment New Zealand Practice Guidelines 2003
  - (ii) any protocol issued by the Ministry of Health that supersedes the Opioid Substitution Treatment New Zealand Practice Guidelines 2003; and
  - (iii) any written agreements you may develop with Service Users receiving Pharmacy Methadone Services for Opioid Dependence from your Pharmacy in accordance with the Opioid Substitution Treatment New Zealand Practice Guidelines;
- (c) Pharmacy Methadone Services for Opioid Dependence includes:
  - (i) the provision of methadone pursuant to prescriptions issued by methadone treatment services or by authorised Medical Practitioners;

- (ii) supervision of the daily consumption of “consume on premises” methadone doses when your Pharmacy is open;
- (iii) arrangements for the collection of “takeaway doses” for the days when your Pharmacy is closed and where these have been specifically requested by the Medical Practitioner;
- (iv) ensuring that all methadone Dispensed by you as “takeaway doses” is Dispensed in containers with safety caps according to your written policy;
- (v) advice and assistance to the Service Users and Prescribers to enhance compliance with all concurrent prescribed medicines;
- (vi) a written and implemented protocol which reflects how you liaise with methadone treatment services and prescribing general practitioners on a regular basis, in a manner appropriate to the needs of your Service Users. This could involve, among other things, communications about verification of doses, side-effects, complaints about Service Users and any difficulties arising.

## **6.2 Maximum number of Service Users for Pharmacy Methadone Services for Opioid Dependence**

- (a) You agree to have a maximum of 2 Service Users regularly accessing Pharmacy Methadone Services for Opioid Dependence from your Pharmacy, provided that you may provide Pharmacy Methadone Services for Opioid Dependence to any number of Service Users on an intermittent basis.
- (b) If, at the Commencement Date of this Agreement, you do not wish to provide Pharmacy Methadone Services for Opioid Dependence on either a regular or intermittent basis then you are to notify us of this in writing as soon as practicable.
- (c) Both of us may agree, by way of a form of written variation to this Agreement, to extend the maximum number of Service Users regularly accessing Pharmacy Methadone Services for Opioid Dependence from your Pharmacy.

## **6.3 Withdrawing from Pharmacy Methadone Services for Opioid Dependence**

- (a) You may withdraw from providing Pharmacy Methadone Services for Opioid Dependence by giving six months’ written notice to us.
- (b) Under special circumstances we may agree to waive the six-month notice period to allow your immediate withdrawal from providing Pharmacy Methadone Services for Opioid Dependence, subject to us being assured by you that you have made reasonable endeavours to achieve arrangements with an alternative provider of Pharmacy Methadone Services for Opioid Dependence in your area to maintain a continuous pharmacy methadone service for opioid dependence.
- (c) You agree to notify the methadone treatment services and Medical Practitioners authorised under the Misuse of Drugs Act 1975 to offer methadone for the treatment of dependence in your area of your intention to withdraw from this service, the date

that you will no longer be providing the Service from, and the alternative arrangements that you have made.

- (d) Your withdrawal from providing Pharmacy Methadone Services for Opioid Dependence under this clause 6.3 will not prejudice any other rights available to you under this Agreement, including your right to provide other Services.

## 6.4 Waiting times for Pharmacy Methadone Services for Opioid Dependence

You agree that the waiting times for Pharmacy Methadone Services for Opioid Dependence will not exceed the following waiting times:

- (a) **for existing approved Service Users:** 95% of approved Service Users should be provided with the methadone dose within 15 minutes of arriving at the Pharmacy and within 30 minutes for all Service Users;
- (b) **for newly approved Service Users:** 95% of newly approved Service Users should be provided with the methadone dose within 30 minutes of arriving at the Pharmacy and within 2 hours for all Service Users, provided that all relevant documentation is satisfactory.

## 6.5 Facilities and settings

- (a) The Pharmacy from which you provide Pharmacy Methadone Services for Opioid Dependence must be licensed by the licensing authority under the Medicines Act 1981.
- (b) The provision of Pharmacy Methadone Services for Opioid Dependence is to be carried out in a private and confidential manner, which minimises the concerns of other Service Users.

## 7. Service linkages

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You agree to have effective links with:

- (a) the service providers and organisations specified in clause 8 of the service specification for Base Pharmacy Services in Schedule C1;
- (b) local alcohol and drug treatment services.

## 8. Exclusions

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The following services are excluded from this service specification for Pharmacy Methadone Services for Opioid Dependence:

- (a) the provision of needles and syringes as part of the needle syringe exchange scheme;
- (b) Pharmaceutical Review Services

- (c) Pharmacy Clozapine Services;
- (d) Aseptic Pharmacy Services;
- (e) Complex Medicine Services.

## **9. Quality requirements**

---

You must provide Pharmacy Methadone Services for Opioid Dependence in accordance with the terms and conditions in this Agreement, including the Quality Specifications in Part G. The following specific quality requirements also apply to Pharmacy Methadone Services for Opioid Dependence:

- (a) Pharmacy Methadone Services for Opioid Dependence must be provided by a Pharmacist;
- (b) all Staff that you employ to provide Pharmacy Methadone Services for Opioid Dependence must have appropriate qualifications, professional registrations, and can demonstrate ongoing competency, all as defined by the New Zealand Pharmacy Council,;
- (c) you agree to facilitate Service Users' access to support and advocacy services in accordance with clause G6.6.

## **10. Purchase Units and reporting requirements**

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### **10.1 Purchase Units**

The Purchase Unit for Pharmacy Methadone Services for Opioid Dependence is the same as the Purchase Unit for Class B Controlled Drug Services in the service specification for Base Pharmacy Services. Purchase Units are defined in the Ministry of Health's data dictionary and correspond to the relevant services and payment terms specified in Schedule H1.

### **10.2 Reporting requirements**

You agree to report information in accordance with the Pharmaceutical Transactions Data Specification, the Procedures Manual and the terms and conditions set out in this Agreement, including Part H.

## Nicotine Replacement Therapy (NRT) Services

### 1. Definition

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We wish to fund NRT Services to enable Eligible Persons appropriate access to NRT that is responsive to the health needs and priorities of Service Users and communities. It is intended that these services will enhance the effectiveness of NRT for Eligible Persons in the community and reduce smoking rates in the community.

### 2. Service objectives

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- (a) Smoking is a major risk to the health of the New Zealand population. Reducing the impact of tobacco consumption on health is a high priority for the New Zealand Government. The priority given to reducing tobacco consumption is based on the:
  - (i) increasing body of literature concerning the negative impact of tobacco use on the health status of the population;
  - (ii) associated costs to society;
  - (iii) public demand for tobacco control; and
  - (iv) effectiveness of different strategies to reduce tobacco consumption, in particular NRT in combination with counselling.
- (b) We wish to fund NRT Services as part of the NRT Programme to provide access to subsidised NRT for people issued with a NRT Exchange Card by an Authorised NRT Agent.

### 3. Requirements for the supply of NRT products

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You will only provide NRT to a Service User holding an individually numbered NRT Exchange Card issued by an Authorised NRT Agent.

### 4. Maori health

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- (a) Pharmacy services have a vital role to play in ensuring that Maori Service Users have access to prescribed Pharmaceuticals and receive appropriate education and information about the prescribed Pharmaceuticals to maximise compliance with the prescribed regime so that their health status will improve.
- (b) Services will be delivered in a supportive manner that respects the dignity, rights, needs, abilities and cultural values of the Maori Service User and their family/whanau. Access barriers for Maori Service Users will be minimised as far as possible.

## 5. Service Users

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Service Users must be Eligible Persons who present a valid and current NRT Exchange Card at your Pharmacy for it to be redeemed.

## 6. Access

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You will comply with the access requirements in the service specification for Base Pharmacy Services in Schedule C1.

## 7. Service components

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### 7.1 Processes

NRT Services include the following requirements:

- (a) This service specification for NRT Services must be read in conjunction with the relevant clauses in the service specification for Base Pharmacy Services and, in particular, must comply with clauses 7.1(a), (b) and (e) of that service specification.
- (b) In addition, the provision of NRT Services includes:
  - (i) the provision of advice and counselling to Service Users that is consistent with the National Smoking Cessation Guidelines, as updated from time to time, including the provision of:
    - (A) product information, including packet inserts and consumer information;
    - (B) appropriate advice regarding contraindications for using NRT;
    - (C) directions for the safe and effective use of NRT;
  - (ii) the maintenance of Service Users' Records and other required information in accordance with statutory requirements and other requirements under this Agreement, to the extent possible considering that NRT Exchange Cards may not contain any personal or identifying information about the Service User, and the Service User may wish to remain anonymous;
  - (iii) the reporting of any significant findings to a medical officer of health. As a guide this may include, among other things, notifying the medical officer of health if you have reasonable grounds to suspect that a Service User may be abusing NRT or that it could be detrimental to the Service User's health;
  - (iv) notification to us, or our Payment Agent, of any significant findings or issues in relation to the NRT Programme, including any problems that are apparent with NRT Exchange Cards or the Pharmacy NRT Procedures. Any such notifications will state the identifying number of the NRT Exchange Cards concerned, where applicable.

## 7.2 Promotional activities

- (a) We will liaise with your and/or your agent with regard to the promotion materials for the NRT Programme.
- (b) You agree to display counter-top promotional information about the National 0800 Quitline service and the NRT Programme, which we will provide you with.
- (c) You may, at your discretion, participate in media and promotion strategies to promote the National 0800 Quitline service and the NRT Programme.

## 7.3 Waiting times for NRT Services

- (a) You agree to:
  - (i) redeem ninety percent of NRT Exchange Card items within one hour of being presented at your Pharmacy;
  - (ii) redeem one hundred percent of NRT Exchange Card items within 24 hours if presented during normal business hours.
- (b) You must maintain adequate stocks of NRT to meet the above waiting time requirements.
- (c) Waiting times outside these arrangements may be acceptable to us if there is mutual agreement reached between you and the Service User.
- (d) The waiting times in paragraph (a) above will not apply if the NRT product is not available in New Zealand at the time that you are presented with the NRT Exchange Card.
- (e) We may specifically vary this clause, after negotiation and agreement with you, taking into account your particular supply arrangements.

## 7.4 Facilities and settings

The Pharmacy from which you provide NRT Services must be licensed by the licensing authority under the Medicines Act 1981.

## 7.5 Support services

You agree to facilitate Service Users' access to support and advocacy services in accordance with clause G6.6.

## 7.6 Key inputs

All Staff that you employ to provide NRT Services under this Agreement must have appropriate qualifications and professional registrations.

## 7.7 Pharmacy NRT Procedures

We will agree with you and/or your agent the procedures and systems that will apply to the provision of NRT Services. These procedures will be notified to you in writing and, in time, will be incorporated into the Procedures Manual. Pharmacy NRT Procedures will include:

- (a) procedures to manage and report duplicate or forged NRT Exchange Cards;
- (b) procedures to confirm the details on NRT Exchange Cards with the issuing Authorised NRT Agent;
- (c) the requirements and format for claiming for NRT Services.

## 8. Service linkages

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You agree to have effective links with the following services:

- (a) Authorised NRT Agents in your area;
- (b) primary medical and nursing services, including local organisations;
- (c) Maori primary and community care providers;
- (d) Pacific Islands primary and community care providers;
- (e) public health services;
- (f) Service User advocacy services, including Maori and Pacific Islands advocacy services.

## 9. Exclusions

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The following services are excluded from this service specification for NRT Services:

- (a) provision of any brand of nicotine replacement therapy that is not listed on the Pharmaceutical Schedule for the purposes of the NRT Programme;
  - (b) provision of nicotine replacement therapy (including NRT) in addition to the quantities or strengths specified on the NRT Exchange Card;
  - (c) knowingly redeeming an expired or otherwise invalid (e.g. tampered with or forged) NRT Exchange Card;
  - (d) the sale or distribution of NRT other than to redeem NRT Exchange Cards and any other services associated with the sale or distribution of such NRT;
  - (e) Pharmaceutical Review Services provided only in relation to NRT Services.
-

## 10. Quality requirements

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### 10.1 Compliance with this Agreement

You must provide NRT Services in accordance with the terms and conditions in this Agreement, including the Quality Specifications in Part G. The following specific quality requirements also apply to NRT Services.

### 10.2 Acceptability

NRT Services must be provided from premises conforming to relevant standards issued by the Ministry of Health or the Pharmacy Council, including the New Zealand Code of Good Manufacturing Practice for Manufacture and Distribution of Therapeutic Goods 1993: Part 3 Compounding and Dispensing (Ministry of Health).

### 10.3 Safety

You must comply with the provisions in the Medicines Act 1984, the Medicines Regulations 1984, the Misuse of Drugs Act 1975 and the Misuse of Drugs Regulations 1977.

### 10.4 Evaluation

You acknowledge that the NRT Programme will be evaluated to assess, amongst other things, its effectiveness. Accordingly you agree to participate in that evaluation if requested, and provide such assistance and information as the evaluator may reasonably require.

## 11. Purchase Units and reporting requirements

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### 11.1 Purchase Units

The following Purchase Unit applies to NRT Services. Purchase Units are defined in the Ministry of Health's data dictionary and correspond to the relevant services and payment terms specified in Schedule H1.

PU ID	PU Short Name
PH1011	NRT Services

### 11.2 Reporting requirements

You agree to report information in accordance with the Pharmaceutical Transactions Data Specification, the Procedures Manual, and the terms and conditions set out in this Agreement, including Part H.

## Schedule H1. Payment terms

### 1. Subsidised Pharmaceutical Services and Prescription Items

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Subsidised Prescription Items are those where the payment for the Services provided and Pharmaceuticals Dispensed for that item are greater than the Co-payment levels on the basis set out in clause H4.4.

### 2. Fee for service

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We both acknowledge and agree that we will fund you for providing Services and Pharmaceuticals under this Agreement on a fee for service basis.

### 3. Payment calculations for Services and Pharmaceuticals

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#### 3.1 Payment for Services and Pharmaceuticals

You may claim, and we will pay you, for providing the Services and Dispensing Pharmaceuticals under this Agreement, in accordance with the various formulae specified in this clause 3.

#### 3.2 Base Pharmacy Services Fee and Multipliers

For the purposes of this clause 3:

- (a) the **Base Pharmacy Services Fee** is the base fee of \$5.16 payable for each Pharmaceutical for the period from 1 March 2007 to 28 February 2009, subject to any discounted or different fee that we may agree and record in Part P or in any variation to this Agreement as a result of particular arrangements agreed with you in relation to the provision of additional value adding services. In conjunction with you or your agent, we agree to undertake a review of the Base Pharmacy Services Fee in accordance with clause L3.4, so that any change to the Base Pharmacy Services Fee resulting from such a review is effective from 1 March 2009.

(b) the **Multiplier** is the amount, in respect of the relevant Services, by which the Base Pharmacy Services Fee is multiplied, as set out in the table below:

<b>PU ID</b>	<b>Services</b>	<b>Multiplier</b>
PH1001	Base Pharmacy Services	1.00
PH1002	ECP Services	1.50
PH1003	Special Foods Services	1.00
PH1004	Exceptional Circumstances Services A (Pharmaceuticals on the Pharmaceutical Schedule)	1.00
PH1005	Exceptional Circumstances Services B (Pharmaceuticals not on the Pharmaceutical Schedule)	1.50
PH1006	Class B Controlled Drug Services	1.30
PH1008	Monitored Therapy Medicine Services	2.00
PH1009	Complex Medicine Services	1.50
PH1010	Aseptic Pharmacy Services	3.00

(c) Any Pharmaceutical listed on the Pharmaceutical Schedule that you provide to a Service User pursuant to a Prescription Form will be allocated to one of the following Purchase Units by us. Your ability to claim for any of these Purchase Units depends on whether the Purchase Units are contained in the service specifications set out in Schedule C1 of this Agreement:

- (i) **PH1001** (Base Pharmacy Services) for services relating to the provision of general Pharmaceuticals listed on the Pharmaceutical Schedule. This group excludes the provision of any Pharmaceuticals contained in any other Purchase Unit;
- (ii) **PH1002** (ECP Services) for services relating to the provision of ECPs that are not available as a proprietary product and are therefore required to be compounded by you. For an ECP to be subsidised under this Agreement, it must contain two or more subsidised component Pharmaceuticals listed in the Pharmaceutical Schedule. It does not include reconstitution of antibiotic liquids;
- (iii) **PH1003** (Special Foods Services) for services relating to the provision of Special Foods as listed in the Pharmaceutical Schedule;
- (iv) **PH1004** (Exceptional Circumstances Services A (Pharmaceuticals on the Pharmaceutical Schedule)) for services relating to the provision of pharmaceuticals where the pharmaceuticals are already listed on the Pharmaceutical Schedule subject to special terms and conditions, and circumstances exist outside those terms and conditions which warrant the funding of these pharmaceuticals;

- (v) **PH1005** (Exceptional Circumstances Services B (Pharmaceuticals not on the Pharmaceutical Schedule)) for services relating to the provision of pharmaceuticals where the pharmaceuticals are not listed on the Pharmaceutical Schedule but circumstances exist which warrant the funding of these pharmaceuticals;
- (vi) **PH1006** (Class B Controlled Drug Services) for services relating to the provision of Class B Controlled Drugs, as defined in the Misuse of Drugs Act 1975;
- (vii) **PH1007** (Pharmaceutical Review Services) for clinical pharmacy services which will lead to enhanced use of Pharmaceuticals and more cost-effective use of Pharmaceuticals, as defined in the service specification for Pharmaceutical Review Services;
- (viii) **PH1008** (Monitored Therapy Medicine services) for services relating to the provision of Pharmaceuticals that have significant additional requirements above those of Pharmaceuticals included in Purchase Unit PH1001. The provision of these Pharmaceuticals is likely to involve the review of Service User diagnostic tests or telephone consultations with the Prescriber each time the Pharmaceutical is Dispensed. The list of medicines in this Purchase Unit will be maintained by us or our agent;
- (ix) **PH1009** (Complex Medicine Services) for services relating to the provision of Pharmaceuticals that have reasonable additional requirements above those of Pharmaceuticals included in Purchase Unit PH1001. The list of medicines in this Purchase Unit will be maintained by us or our agent;
- (x) **PH1010** (Aseptic Pharmacy Services) for services relating to the provision of Pharmaceuticals requiring compounding in an aseptic environment;
- (xi) **PH1011** (NRT Services) for services relating to the provision of Pharmaceuticals for the specific purpose of smoking cessation.

### 3.3 Pharmacy services and Pharmaceutical payments – General

You may claim, and we will pay you, for providing Services and Pharmaceuticals listed on the Pharmaceutical Schedule in accordance with the following formula, except subsidised NRT Services or where the Pharmaceutical prescribed requires you to extemporaneously compound that Pharmaceutical:

$$R = ((Sc + (Sc \times M) + (F \times BPSF)) \times GST) - CoP$$

where:

- R** = the total payment that we will pay you for pharmacy services for each Pharmaceutical that you provide under this Agreement;
- Sc** = the GST exclusive subsidy specified for the Pharmaceutical in the Pharmaceutical Schedule as at the date of Dispensing;
- M** = a margin towards the procurement and stockholding costs for the Pharmaceutical, being either:
  - (a) 0.04 (i.e. a margin of 4%) for Pharmaceuticals with a Pharmaceutical Schedule Pack Subsidy of less than \$150.00; or

- (b) 0.05 (i.e. a margin of 5%) for Pharmaceuticals with a Pharmaceutical Schedule Pack Subsidy that is equal to or greater than \$150.00 and for all Special Foods, as specified in the Pharmaceutical Schedule;
- F** = a Multiplier, being the amount in respect of the relevant pharmacy services by which the Base Pharmacy Services Fee is multiplied, as set out in the table in clause 3.2(b) above;
- BPSF** = the Base Pharmacy Services Fee, which is the base fee payable for each Pharmaceutical, as set out in clause 3.2(a) above;
- GST** = 1.125, or such other amount as correctly reflects the then current GST rate;
- CoP** = the Service User Co-payment contribution (if any), as outlined in clause H4.4.

### 3.4 Pharmacy services and Pharmaceutical payments – ECPs

You may claim, and we will pay you, for providing the Services and Pharmaceuticals listed in the Pharmaceutical Schedule, which involve you extemporaneously compounding those Pharmaceuticals, including Pharmaceuticals that require a syringe for use in a Graseby syringe driver, in accordance with the following formula:

$$R = ((\Sigma Sc + (\Sigma (Sc \times M)) + (F \times BPSF)) \times GST) - CoP$$

where:

- R** = the total payment that we will pay you for pharmacy services for each ECP Pharmaceutical that you provide under this Agreement;
- $\Sigma Sc$**  = the sum of the respective GST exclusive subsidies of the component Pharmaceuticals (as listed on the Pharmaceutical Schedule) for the ECP Pharmaceutical as at the date of Dispensing;
- M** = a margin towards the procurement and stockholding costs for the Pharmaceutical being either:
  - (a) 0.04 (i.e. a margin of 4%) for Pharmaceuticals with a Pharmaceutical Schedule Pack Subsidy of less than \$150.00; or
  - (b) 0.05 (i.e. a margin of 5%) for Pharmaceuticals with a Pharmaceutical Schedule Pack Subsidy that is equal to or greater than \$150.00 and for all Special Foods, as specified in the Pharmaceutical Schedule;
- F** = either:
  - (a) a Multiplier of 1.50, being the amount by which the Base Pharmacy Services Fee is multiplied in respect of ECP services, as set out in the table in clause 3.2(b) above; or
  - (b) a Multiplier of 1.30 where you are required to extemporaneously compound a mixture to satisfy the requirements of a Prescription for Pharmacy Methadone Services for Opioid Dependence, being the multiplier for Class B controlled drug services as set out in the table in clause 3.2(b) above. You agree to identify such

extemporaneously compounded methadone mixtures in accordance with the requirements of the Procedures Manual and the Pharmaceutical Transactions Data Specification; or

- (c) a Multiplier of 3.00 where you are required to extemporaneously compound a mixture to satisfy the requirements of a Prescription for syringe driver services, being the multiplier for Aseptic Pharmacy Services as set out in the table in clause 3.2(b) above. You agree to identify such extemporaneously compounded mixtures in accordance with the requirements of the Procedures Manual and the Pharmaceutical Transactions Data Specification;

**BPSF** = the Base Pharmacy Services Fee, which is the base fee payable for each Pharmaceutical, as set out in clause 3.2(a) above;

**GST** = 1.125, or such other amount as correctly reflects the then current GST rate;

**CoP** = the Service User Co-payment contribution (if any), as outlined in clause H4.4.

### **3.5 Pharmacy services and Pharmaceutical payments – Pharmaceuticals identified as Exceptional Circumstances**

#### **(a) Exceptional Circumstances**

You may claim, and we will pay you, for Dispensing Exceptional Circumstances pharmaceuticals in the following circumstances:

- (i) where the pharmaceutical is already listed on the Pharmaceutical Schedule subject to special terms and conditions, and circumstances exist outside those terms and conditions which warrant the funding of the pharmaceutical; or
- (ii) where the pharmaceutical is not listed on the Pharmaceutical Schedule but circumstances exist which warrant the funding of the pharmaceutical,

and otherwise in accordance with the funding policy for Exceptional Circumstances applicable at that time.

#### **(b) Calculation for Pharmaceuticals on paper Pharmaceutical Schedule**

Where the circumstances in clause 3.5(a)(i) above apply, you may claim, and we will pay you, for providing such Services and Pharmaceuticals under this Agreement, in accordance with the formula set out in clause 3.3 above.

#### **(c) Calculation for Pharmaceuticals not on Pharmaceutical Schedule**

Where the circumstances in clause 3.5(a)(ii) above apply, you may claim, and we will pay you, for providing such Services and Pharmaceuticals under this Agreement pursuant to an Exceptional Circumstances authority, in accordance with the following formula:

$$R = ((ECPc + (F \times BPSF)) \times GST) - CoP$$

where:

- R** = the total payment that we will pay you for dispensing and advice services for each Exceptional Circumstances Pharmaceutical that you provide under this Agreement;
- ECPc** = Exceptional Circumstances Product Cost: the GST exclusive invoice price to pharmacy of the minimum purchase order of the Pharmaceutical required to satisfy the requirements of the Pharmaceutical as at the date of Dispensing;
- F** = a Multiplier of 1.50, being the amount by which the Base Pharmacy Services Fee is multiplied, as set out in the table in clause 3.2(b) above;
- BPSF** = the Base Pharmacy Services Fee, which is the base fee payable for each Pharmaceutical, as set out in clause 3.2(a) above;
- GST** = 1.125, or such other amount as correctly reflects the then current GST rate;
- CoP** = the Service User Co-payment contribution (if any), as outlined in Clause H4.4.
- (d) Notwithstanding paragraphs (b) and (c) above, where the circumstances in paragraph (a)(i) or (ii) above apply, both of us may agree to enter into an alternative arrangement with each other regarding the claiming and payment for providing the Services and Dispensing Pharmaceuticals.

### 3.6 Rounding Calculations

Calculations in respect of the price for each ingredient will not be rounded to the nearest cent, provided that:

- (a) where ingredients are added together, the final price for those ingredients is to be rounded upwards to the nearest cent;
- (b) calculations for the prices of Pharmaceuticals (other than ingredients) are to be rounded upwards to the nearest cent; and
- (c) the final amount due in respect of a particular Claim is to be rounded upwards to the nearest cent.

## 4. Subsidised Nicotine Replacement Therapy Services

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### 4.1 Payment calculation for NRT Services

You may claim, and we will pay you, for providing NRT Services in respect of each NRT item, in accordance with the following formula:

$$R = ((Sc + (Sc \times M) + NRTPSF) \times GST) - CoP$$

where:

- R** = the total payment that we will pay you for NRT Services that you provide under this Agreement in respect of each NRT item;

- Sc** = the GST exclusive subsidy specified for each NRT item listed on a NRT Exchange Card and in the Pharmaceutical Schedule as at the date of Dispensing;
- M** = 0.05 (i.e. a margin of 5%), which is the mark-up paid on the subsidy price of the NRT item as listed in the Pharmaceutical Schedule;
- NRTPSF**= the NRT Pharmacy Service Fee, which is set at \$5.72 (excluding GST) for each NRT item;
- GST** = 1.125, or such other amount as correctly reflects the then current GST rate;
- CoP** = the Service User Co-payment contribution for NRT, which is fixed at \$5.00 per NRT item (including GST).

## 4.2 Reimbursement of NRT Services

- (a) All Claims for payment for NRT Services will be submitted to our agent by you as valid items as described in the Pharmacy NRT Procedures.
- (b) Notwithstanding clause H7.4, both of us agree to use a manual process for reimbursing you for subsidised NRT Services until such time as an electronic claiming process can be implemented for subsidised NRT Services. Once an electronic claiming process is in place you agree to use this process for claiming for NRT Services. You agree to retain and deal with all NRT Exchange Cards as if they are Prescriptions.
- (c) For the purposes of claiming a reimbursement for subsidised NRT Services, while a manual claim process is in place, you agree to return to us all NRT Exchange Cards together with your invoices for reimbursement. You agree to retain the NRT Exchange Card tabs in accordance with the requirements for Prescription Forms.
- (d) To ensure correct payments are made in respect of NRT Services, you will annotate on each NRT Exchange Card the Dispensing date in respect of the NRT Services.
- (e) We will ensure you are paid on the basis of the actual NRT Exchange Cards submitted with each Claim rather than any accompanying invoice.
- (f) We will send you a monthly report on the payments made to you in respect of NRT Services, to enable you to reconcile these payments against the NRT Services provided by you.

## 4.3 Continued funding of NRT Services

Both of us acknowledge and agree that:

- (a) our ability to fund NRT Services under this Agreement depends on us receiving sufficient funding for these services from the Crown;
- (b) our obligation to fund NRT Services under this Agreement will continue as long as we continue to receive sufficient funding for these services from the Crown.

## Schedule J1. Audit Framework

### 1. Audit Framework

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#### 1.1 General

The Audit Framework provides general guidelines for conducting Audits and should be read in conjunction with Part J. The Audit Framework involves a variety of activities which may include (without limitation) conducting on-site Audits of Pharmacies or surveying Service Users and Prescribers. This provision reflects the co-operative philosophy of evolution and education within the Audit Framework.

#### 1.2 Audit relationships

Audit relationships must be established with Pharmacies, other providers and associated organisations and maintained in an open and transparent manner so as to contribute towards the continuous improvement of the integrity of the Services received by the public.

#### 1.3 Scope of Audit Framework

The Audit Framework requires us to work with Pharmacies, Pharmacists, other providers and associated organisations and to effectively monitor the provision of the Services by identifying good performance as well as areas that require improvement. The scope of the Audit Framework includes the supply and management of medications in conjunction with the appropriate claiming of Pharmaceutical benefits from us or our agents, including HealthPAC.

#### 1.4 Goals of the Audit Framework

The goals of the Audit Framework are to:

- (a) improve the quality of the Services and the provision of Pharmaceutical advice and information to Eligible Persons;
- (b) maximise appropriate claiming and to prevent fraudulent behaviour;
- (c) monitor compliance with the terms of the Agreement.

### 2. Audit Framework guiding principles

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#### 2.1 Our obligations

We, and our agents, must endeavour to:

- (a) facilitate discussion about the Audit Framework and routine Audit tools;
- (b) advise providers of the process and criteria to be used in Audits noting that any of the specifications and requirements in the Agreement can be the subject of an Audit;

- (c) conduct issues based Audits in a prompt manner to address the specific issues and problems identified for that provider;
- (d) ensure that all Auditors carry out their work in a professional and competent manner;
- (e) ensure that all Audit activities meet professional, legal and contractual requirements;
- (f) provide appropriate notice of an Audit in accordance with the relevant service agreement;
- (g) advise providers that they are entitled to have a person present during an on-site visit;
- (h) provide sound information and prompt responses to all relevant queries from you and your Staff and Service Users;
- (i) conduct on-site Audits in a manner that minimises disruption to the Services, takes into account relevant safety considerations, and displays appropriate sensitivity to the privacy and dignity of Service Users seen in the course of a visit;
- (j) prepare Audit reports in a timely manner detailing the facts found during the Audit;
- (k) prepare recommendations to identify the actions necessary for you to bridge the gap between the Audit criteria and the level of performance found in the Audit;
- (l) establish follow-up processes appropriate to each particular Audit situation;
- (m) use the Audit Framework as an opportunity to gain constructive feedback to improve our activities.

## **2.2 Your Audit obligations**

You must endeavour to:

- (a) actively, and in a timely manner, participate in any Audit programmes and specific Audits;
- (b) address Audit recommendations in the agreed time frame; and
- (c) give assistance in evaluating the Audit Framework by providing feedback on the Audit process.

## **3. Routine on-site Audits**

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### **3.1 Process for routine on-site Audits**

The following steps will generally be undertaken during the Audit process:

- (a) the Auditor will send you a written notice of Audit in accordance with clause J2.3. The notice of Audit will include the date of the Audit, identify the Auditor and give you general advice on the Audit process. Depending on the type of Audit, the Auditor may contact you first by phone to agree on an Audit date that complies with the Audit timeframes set out in the Agreement;
- (b) if pre-site visit audit material is requested by the Auditor it will be supplied by you to the Auditor within the time specified prior to the site visit. A pre-site visit assessment

will not usually be conducted when you are given one Business Day's notice or if immediate access is required for the Audit;

- (c) the Auditor will conduct a site visit on the advised date(s), which will usually include:
  - (i) a briefing meeting;
  - (ii) interviews with key Staff, the questions of which will directly support the Audit tool criteria;
  - (iii) a documentation review;
- (d) the Auditor may conduct a tour of your Premises;
- (e) the Auditor will have a review period; and
- (f) a debriefing meeting will occur where the Auditor discusses the general Audit findings with you and gives you advice on the reporting process.

### **3.2 Time frames for on-site Audits**

The usual reporting time frames for on-site Audits are as follows:

- (a) the Auditor supplies a draft Audit findings report within the specified time frame, which is usually 15 Business Days;
- (b) you make any comments on the findings in the draft Audit report within the specified time frame, which is usually 15 Business Days;
- (c) the Auditor provides recommendations in a final Audit report in a timely manner, which is usually 15 Business Days after the expiry of the time frame referred to in paragraph (b) above; and
- (d) the Auditor arranges any verification and follow up with you, as necessary.

## **4. Surveys**

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We may from time to time undertake surveys of Service Users, Prescribers and Pharmacists. For the avoidance of doubt, such surveys do not constitute Audits.

## Schedule N1. Bank account details

Bank Account Details	
<b>Bank Name</b>	
<b>Branch Name</b>	
<b>Account Name</b>	
<b>Account Number</b>	
<b>GST Registered</b>	Yes/No
<b>GST Number</b>	