AGREEMENT

for

the Indigenous Health Services Pharmacy Support Program

between

………………………………………………………………….

(“Indigenous Health Service”)

and

**………………………………………………………..**

(“**Service Provider”)**

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Details

|  |  |
| --- | --- |
| **Parties** | **IHS** and **Service Provider** |
| **Indigenous Health Service** or **IHS** | Name | **[insert full name of IHS]**  |
|  | ABN/ACN/ARBN | [insert ABN/ACN/ARBN] |
|  | Address | [insert address] |
|  | Email | [address] |
| **Service Provider** | Name | **[insert full name of the Service Provider]** |
|  | ABN/ACN/ARBN | [insert ABN/ACN/ARBN] |
|  | Address | [insert address] |
|  | Email | [address] |
| **Commencement Date** |  | [insert] |
| **Expiry Date** |  | [insert] |

Background

* 1. QUM is one of the central objectives of Australia’s National Medicines Policy and involves the safe and judicious use of medicines.
	2. As part of a broader review of previously available indigenous pharmacy programs (being the Remote Area Aboriginal Health Services (RAAHS) Program and the Closing the Gap (CTG) PBS Co-payment Program) and in consultation with relevant stakeholders, the Commonwealth has designed the QUM-related IHSPS Program.
	3. The IHSPS Program is funded under the 7CPA to improve QUM in relation to Aboriginal and Torres Strait Islander people by providing funding for the delivery of a range of QUM Services.
	4. The IHS:
		1. proposes to, or has registered with, the Pharmacy Programs Administrator to participate in the IHSPS Program as an Approved IHS; and
		2. wishes to work with the Service Provider to provide the QUM Services by entering into this Agreement.
	5. The Service Provider proposes to apply to the Pharmacy Programs Administrator to:
		1. become an Approved Service Provider; and
		2. by working with the IHS, enable the delivery of support activities and receive IHSPS Program payments by entering into this Agreement.
	6. The Service Provider agrees to provide the QUM Services to or on behalf of the IHS upon the IHS becoming an Approved IHS and the Service Provider becoming an Approved Service Provider.
	7. The parties have agreed to cooperate on the terms and conditions set out in this Agreement.

Operative Provisions

# Definitions and Interpretation

## Definitions

In this Agreement:

**Agreement** means this agreement between the parties.

**Approved IHS** means an Indigenous Health Service (IHS) who holds the status of being approved by the Pharmacy Programs Administrator as a participant in the IHSPS Program.

**Approved Service Provider** means a person who holds the status of being approved by the Pharmacy Programs Administrator as a participant in the IHSPS Program.

**Commencement Date** means the date specified in the ‘Details’ section of this Agreement.

**Commonwealth** means the Commonwealth of Australia as represented by the Department, or any other department or agency of the Commonwealth of Australia which is from time to time responsible for the provision of funding for the IHSPS Program.

**Confidential Information** means information that is by its nature confidential or that a party knows or ought to know is confidential but does not include information that:

(a) is or becomes public knowledge, other than by breach of this Agreement or by any other unlawful means;

(b) is in the possession of the party without restriction in relation to disclosure; or

(c) has been independently developed or acquired by the party.

### **Department** means the Australian Government Department of Health.

### **Expiry Date** means the date specified in the ‘Details’ section of this Agreement.

### **Government Agency** means any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity.

### **IHS** means an Indigenous Health Service that is:

(a) funded by the Indigenous Health Division within the Department for the provision of primary healthcare services to Aboriginal and Torres Strait Islander peoples; or

### (b) approved to participate in the RAAHS Program.

**IHSPS Program** means the Indigenous Health Services Pharmacy Support (IHSPS) Program.

**IHSPS Program Payment Submission** means the submission of documentation for remuneration by the Service Provider to the Pharmacy Programs Administrator:

(a) for QUM Services:

(i) that have been provided to or on behalf of the IHS named in the submission; and

(ii) for which the Service Provider is entitled to payment from the Pharmacy Programs Administrator; and

### (b) that is in the form and contains the information required by the Pharmacy Programs Administrator (as may reasonably be determined from time to time by the Pharmacy Programs Administrator).

**NACCHO** means the National Aboriginal Community Controlled Health Organisation.

**Pharmacy Programs Administrator** means Australian Healthcare Associates Pty Ltd ABN 82 072 790 848.

**Pharmacy Programs Administrator General Terms and Conditions** means the General Terms and Conditions available at https://www.ppaonline.com.au/resources.

### **Program Rules** means the IHSPS Program Rules detailing the obligations that govern claiming and payment for the IHSPS Program and services (as may be updated from time to time).

### **QUM Service** means a Quality Use of Medicine service or activity that is:

### (a) listed in Schedule 1;

### (b) described in a Work Plan; and

### (b) consistent with the Program Rules.

**RAAHS** **Program** means the Remote Area Aboriginal Health Services Program, established under section 100 of the *National Health Act 1953*.

**Registered Pharmacist** means a person who is currently registered as a pharmacist with the Pharmacy Board of Australia and has an Australian Health Practitioner Regulation Agency (AHPRA) number and is not suspended or subject to any restrictions as a pharmacist.

**Term** means the period commencing on the Commencement Date and ending on (and including) the earlier of:

(a) the Expiry Date specified in the ‘Details’ section of this Agreement;

(b) the date that this Agreement is terminated under clause 6;

(c) the date that the IHS’s status as an Approved IHS ends, as notified by the Pharmacy Programs Administrator; and

(d) the date that the Service Provider’s status as an Approved Service Provider ends, as notified by the Pharmacy Programs Administrator.

**Working Day** means in relation to the doing of an action in a place, any day other than a Saturday, Sunday or public holiday in that place.

**Work Plan** means a work plan that complies with the Program Rules and is to be developed, agreed in writing by the parties and submitted by the Service Provider as per the IHSPS Program Rules. The Work Plan will set out the QUM Services to be provided by the Service Provider to or on behalf of the IHS and will be updated from time to time in accordance with the Program Rules.

## Interpretation

### In this Agreement, unless the context indicates a contrary intention, a reference to:

#### the word “person” includes an individual, a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association, or any Government Agency;

#### a clause is a reference to a clause of this Agreement, as amended from time to time;

#### a document (including this Agreement) includes any variation or replacement of it;

#### a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

#### law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);

#### the singular includes the plural and vice versa;

#### the words “include”, “including”, “for example” or “such as” when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and

#### any body (**Original Body**) which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the Original Body.

### Headings are for convenience only and do not affect the interpretation of this Agreement.

## Governing law

This Agreement is governed by the laws of the State or Territory in which the IHS is located.

## Entire Agreement

This Agreement records the entire agreement between the parties in relation to its subject matter.

# Provider’s obligations

## Provision of QUM Services

The Service Provider must, during the Term:

### subject to clause 2.3, provide the QUM Services to or on behalf of the IHS;

### provide the QUM Services in accordance with the Program Rules, the Pharmacy Programs Administrator General Terms and Conditions and relevant industry and professional standards;

### comply with the IHS’s reasonable directions regarding the furtherance of the IHSPS Program and its objectives, including where those directions are made by the IHS on behalf of (as the context applies) a Government Agency that controls the IHS, the Pharmacy Programs Administrator or the Department;

### comply with the IHS’s reasonable security and workplace health and safety requirements, including when the Service Provider enters the premises of the IHS or other premises as may be required by the IHS from time to time, to provide the QUM Services;

### comply with any principles and be familiar with and meet the cultural needs of the relevant communities that the Service Provider and the IHS support; and

### otherwise comply with the Program Rules and the Pharmacy Programs Administrator General Terms and Conditions as if it itself had submitted an annual registration with the Pharmacy Programs Administrator for the IHSPS Program.

## Records and Reports

### The parties agree to cooperate for the preparation and submission of all reports by the Service Provider as required under the Program Rules.

### The Service Provider must, for the Term and for seven (7) years after the Term, keep full and accurate records and reports of each QUM Service that has been provided, in accordance with the Program Rules and the Pharmacy Programs Administrator General Terms and Conditions.

## When QUM Services must not be provided

The Service Provider must not provide a QUM Service to or on behalf of the IHS under this Service Agreement at any time that the Service Provider is not an Approved Service Provider.

## Provision of QUM Services by a Registered Pharmacist

### The Service Provider must ensure that all QUM Services are provided by a Registered Pharmacist who has a relationship with the Service Provider, which may be the Service Provider where they themselves are a Registered Pharmacist.

### If the Service Provider provides a QUM Service including through a Registered Pharmacist, the Service Provider must:

#### ensure that the IHS is, at all times during the Term, provided with up to date details of that pharmacist’s full name and contact details; and

#### ensure that the Registered Pharmacist performs the QUM Service in accordance with, and otherwise complies with the obligations under this Agreement.

## Repayment of monies

Notwithstanding any allocation between the parties of IHSPS Program payments received by the Service Provider from the Pharmacy Programs Administrator from time to time, where repayment is required by the Department or the Pharmacy Programs Administrator (including for non-compliance with the Program Rules), the Service Provider acknowledges and agrees that it will be responsible for the repayment of those monies.

## Notice to the Pharmacy Programs Administrator

In the event that this Agreement is to be terminated or not extended by the parties, the IHS must give advance notice of the termination or expiry to the Pharmacy Programs Administrator as soon as practicable and prior to the termination or expiration date.

# IHS Obligations

### The IHS must, during the Term:

### ensure that any person whose health records may or will be accessed by the Service Provider, has provided consent (either themselves or by way of a person who has the legal authority to provide that consent) to that access, and the use of those records, by the Service Provider, the Pharmacy Programs Administrator and Department for the purpose of the QUM Services, before that access and use;

### cooperate with the Service Provider, including by providing the Service Provider or their Registered Pharmacist with access to the following when reasonably required by the Service Provider or their Registered Pharmacist, for the purpose of the Service Provider or their Registered Pharmacist making available and providing QUM Services:

#### subject to paragraph 3(a), any information or documents that would assist the Service Provider or their Registered Pharmacist in the provision of the QUM Services;

#### the premises or location where the QUM Services are to be performed, including medication storage areas; and

#### the staff of the IHS;

### comply with all applicable workplace health and safety laws and ensure the IHS’s premises are safe for the Service Provider, and the Service Provider’s Registered Pharmacists, to work in;

### keep a record of all recommendations provided by the Service Provider or their Registered Pharmacist performing QUM Services; and

### provide any assistance reasonably required by the Service Provider for the purpose of making an IHSPS Program Payment Submission.

# Mutual obligations

### Both parties must comply with the provisions of the *Privacy Act 1988* (Cth) and the *Healthcare Identifiers Act 2010* (Cth). The parties are not required to do anything under this Agreement to the extent that it would breach those Acts.

### The parties agree to:

#### develop a Work Plan based on the needs of the communities serviced by the IHS (including through appropriate consultation with support officers of the Pharmacy Programs Administrator or NACCHO);

#### ensure that the Work Plan meets the requirements of the Program Rules; and

#### comply with any Work Plan when notified by the Pharmacy Programs Administrator that it is approved.

### The parties must act reasonably in attempting to agree on a mutually convenient time for a QUM Service where a time for provision of the QUM Service is not specified in an approved Work Plan.

# Remuneration and exclusivity

### The Service Provider, and any Registered Pharmacist of the Service Provider, must not charge the IHS, and the IHS is not required to pay the Service Provider or their Registered Pharmacist, for the provision of QUM Services (even if the QUM Services include a service for which the Service Provider is not eligible for remuneration from the Pharmacy Programs Administrator).

### The Service Provider must ensure that all information for the purpose of making IHSPS Program Payment Submissions are true, correct and not misleading.

### The IHS must not, during the Term, enter into any arrangement with a person other than the Service Provider for the provision of services that are the same as, or substantially similar to, the QUM Services provided to or on behalf of the IHS.

# Termination

### Either party may terminate this Agreement at any time during the Term by giving 30 days’ notice in writing to the other party.

# Confidential Information

### Each party, in relation to any Confidential Information of the other party:

### must, except to the extent that it is required by law or a court of competent jurisdiction to disclose that Confidential Information, keep it confidential and ensure that its employees, agents and contractors keep it confidential;

### use it only for purposes relating to this Agreement; and

### notify the other party if the disclosing party's Confidential Information is released, lost, stolen or there is a serious legal risk that it will lose its status as Confidential Information.

# Referral of compliance matters

### Notwithstanding clause 9, the parties acknowledge and agree that the IHS may refer in writing to the Pharmacy Programs Administrator any matter, issue or uncertainty regarding compliance (or a possible or actual non-compliance by a party) with the Program Rules.

### The parties agree to comply with any determination communicated by the Pharmacy Programs Administrator in writing in response to a written referral by the IHS under this clause 8.

### Where the Pharmacy Programs Administrator notifies the IHS that no determination as contemplated by this clause 8 will be made, the parties may refer the matter for dispute resolution.

# Dispute resolution

Subject to any determinations notified by the Pharmacy Programs Administrator under clause 8, the parties agree that any dispute arising during the course of this Agreement will be dealt with as follows:

### first, the party claiming that there is a dispute will send to the other a notice setting out the nature of the dispute;

### second, the parties will meet within 10 Working Days after receipt of the notice to try to resolve the dispute by direct negotiation. The representatives of the parties participating in the negotiations must have authority to agree to a resolution on behalf of the relevant party;

### third, the parties have 15 Working Days from the sending of the notice to reach a resolution; and

### last, if the parties do not resolve the dispute within 15 Working Days after they first meet under paragraph 9(b), then either party may commence legal proceedings.

# Notices

## Giving of notices

Any notice, request or other communication to be given under this Agreement is to be in writing and given to the other party at the address noted in this Agreement.

## Method by which notice may be given

Any notice, request or other communication may be:

### delivered by hand, or sent by pre-paid post; or

### sent by email unless a party has notified the other that they are not willing to accept notices, requests or communications in that way.

## When notice is received

A notice, request or other communication will be deemed to be received:

### if delivered by hand, upon delivery;

### if sent by post, 6 Working Days after the date on which it was sent; and

### if sent by email, on the Working Day after the day on which the email was sent, unless the sender receives an automated message that the email has not been delivered.

SCHEDULE 1 – QUM Services

As at the Commencement Date, the QUM Services to be delivered by the Service Provider under the Program Rules are as set out in this Schedule 1.

1. **QUM Pharmacist support**

Aims to facilitate pharmacist support to IHS staff and clients in relation to QUM, including:

* education for staff and patients on QUM and the appropriate use of specific medicines;
* medicine quality assurance, e.g. policies on the storage and supply of medicines;
* continuous improvement and compliance with relevant legislative requirements; and
* medication management support activities where not funded through other programs.
1. **QUM devices**

Aims to reduce the financial barriers to access QUM devices to improve overall delivery of medicines and management of chronic disease, where funding is not available through another Australian Government program. These devices must be for the personal use of a patient on a regular basis to help them manage their medication regime for a chronic condition, e.g. asthma spacers. Funds should not be used to purchase devices that are used by an IHS for multiple clients, or to cover the costs of medicines. The standard list of QUM devices is set out in the Program Rules (as may be updated from time to time).

1. **QUM education**

Aims to reduce financial barriers to access QUM education for IHS employees and their clients. This service may also help IHSs to access current medicine resources, thus promoting suitable, safe and effective medication management for IHS clients. Funds will only be provided if these are not publicly available for free, with prior approval. The standard list of QUM education resources is set out in the Program Rules (as may be updated from time to time).

1. **Patient transport**

Aims to reduce barriers for patients to access medicines and pharmacist services by providing transport support, where this is not funded under another Australian Government program, including the COVID-19 Home Medicines Service. Funds cannot be used for transporting medicines to an IHS. Use of funding for transport activities must be adequately justified, and appropriately documented and reported, e.g. car log book.

SIGNED as an agreement

**DATED**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |  |
| --- | --- | --- |
| **SIGNED** by **[INSERT NAME OF AUTHORISED SIGNATORY]** as authorised representative for **[INSERT NAME OF IHS]** in the presence of: Signature of witness Name of witness (block letters) | )))))))))))))) |  By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of [INSERT NAME OF IHS] |

[*If the Service Provider is an individual, use the following execution clause:*]

|  |  |  |
| --- | --- | --- |
| **SIGNED** by **[INSERT NAME OF SERVICE PROVIDER]** in the presence of: Signature of witness Name of witness (block letters) | )))))))))) |  Signature of [INSERT NAME OF SERVICE PROVIDER] |

[*If the Service Provider is not an individual (for example, it is a company) use the following execution clause:*]

|  |  |  |
| --- | --- | --- |
| **SIGNED** by **[INSERT NAME OF AUTHORISED SIGNATORY]** as authorised representative for **[INSERT NAME OF SERVICE PROVIDER]** in the presence of: Signature of witness Name of witness (block letters) | )))))))))))))) |  By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this agreement on behalf of [INSERT NAME OF SERVICE PROVIDER] |