

Definitions by further extending the Agreement Period until 30 June 2018.

- K. The Territory and the Organisation signed Deed of Variation 8 on 3 July 2018 with an effective date of 30 June 2018, varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
- L. The Territory and the Organisation signed Deed of Variation 9 on 31 July 2018 varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
- M. The Territory and the Organisation signed Deed of Variation 10 on 31 August 2018 varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
- N. The Territory and the Organisation signed Deed of Variation 11 on 30 September 2018 varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
- O. Clause 12.2 provides for variations to the Agreement to be made only by the written agreement of the parties.
- P. The parties have agreed to vary the Agreement in accordance with the terms of this Deed (Deed of Variation 12) to extend the Agreement Period to 30 June 2019 and to agree on appropriate transitional arrangements during that period.

Licence

- Q. The Territory and the Organisation executed a Licence and Operating Agreement (**Licence**) on 1 July 2000 in relation to the occupancy and use of Block 5 Section 99 Curtin and the improvements thereon (**Premises**). The parties acknowledge and agree that:
 - (a) the term of the Licence commenced on 1 July 2000 and expired on 30 June 2005 (Licence clause 3.1);
 - (b) upon expiry of the term the Organisation continued in occupation of the Premises with the consent of the Territory;
 - (c) from 1 July 2005 the Organisation has occupied the Premises as a tenant from month to month subject to the terms and conditions of the Licence; and
 - (d) such monthly tenancy may be determined at any time by either the Organisation or the Territory giving the other 90 days' written notice of termination (Sublease clause 3.2).
- R. The parties have agreed to vary the Licence in accordance with the terms of this Deed.

IT IS AGREED by the parties as follows.

1. Interpretation and Governing Law

- (1) Unless the context requires or it is otherwise specified in this Deed, any words used in this Deed that are defined in the Agreement or Licence have the same meaning for the purpose of this Deed.
- (2) This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

2. Effective Date

The variations to the Agreement and Licence described in this Deed, take effect on and from 14 October 2018.

3. Variation to the Agreement

(1) Amendment of Schedule 1 – Agreement Details and Further Definitions

The definition of “Agreement Period” is deleted and replaced with:

“Agreement Period: 1 July 2013 to 30 June 2019”

The definition of “Funding Period” is deleted and replaced with:

“Funding Period: 1 July 2013 to 30 June 2019”.

(2) Amendment of Schedule 1 – Agreement Details and Further Definitions

Item 3 Schedule 1 - Further Definitions is amended to insert the following definitions:

“**Health Record**” - means any record, or any part of a record—

- (a) held by a health service provider and containing personal information; or
- (b) containing personal health information,

within the meaning of the *Health Records (Privacy and Access) Act 1997* (ACT).

“**Incoming Organisation**” means the Territory contracted provider of services that (on expiry or termination of this Agreement) will provide the Services currently required to be provided by the Organisation under this Agreement, or, if no contracted provider is engaged to provide the Services, the Territory itself.

“Organisation Material” means all material owned by the Organisation and used for the purpose of providing the Services, including documents, information and data stored by any means.

“Personal Information” has the meaning given to it in the *Information Privacy Act 2014* (ACT).

(3) Amendment of Schedule 4 - Funding Amount and Payment

(a) **Clause 1.1 Item 1 Schedule 4 – Funding Amount** is deleted and replaced with:

“For the Services described in **Item 1 Schedule 2** the total funding amount is \$2,600,207.00 (excluding GST) for the period 15 October 2018 to 30 June 2019 [refer to **clause 4.4(2)**”.

(b) **Clause 1.2 Item 1 Schedule 4 – Supplementation** is deleted.

(4) Amendment of Schedule 6 – Special Conditions

Insert after **Item 11 Schedule 6**:

“Item 12 – Transition-Out

(1) The Organisation must:

- (a) transition-out from being the provider of the Services by the expiry of the Term; and
- (b) provide all reasonable assistance to ensure that there is no interruption to the provision of the Services as a result of the transition from the Organisation to the Territory or the Incoming Organisation.

(2) During the 3 months prior to the expiry of the Term (**Transition-Out Period**), the Organisation must:

- (a) cooperate with the Territory and the Incoming Organisation to provide service information, data and Health Records to enable continuing care in a timely, orderly and efficient manner, including:
 - (i) transferring Health Records to the Incoming Organisation in accordance with the requirements of the *Health Records (Privacy and Access) Act 1997* (ACT) in particular, but not limited to, Principle 11 of that Act;
 - (ii) transferring any Service User Personal Information related to the provision of the

Services to the Territory, or if directed, the Incoming Organisation; and

- (iii) providing access to all relevant material in the possession of the Organisation, necessary for the transfer of the Services;
- (b) provide all reasonable assistance required by the Territory to assist the timely and orderly transfer of Services to the Incoming Organisation; and
- (c) upon request from the Territory or otherwise at the end of the Transition-Out Period:
 - (i) provide to the Territory all documents which contain or relate to any Territory Information (excluding any confidential information of the Organisation);
 - (ii) deliver all existing data for Services provided up to the end of the Transition-Out Period;
 - (iii) return to the Territory (or such other person as directed by the Territory) all Agreement Material and Territory Material, data and other property or information provided by the Territory to the Organisation under this Agreement; and
 - (iv) engage in briefings as reasonably required by the Territory and the Incoming Organisation with a view to ensuring that the Territory and the Incoming Organisation have sufficient information to provide the Services.
- (3) The parties will negotiate in good faith to agree to a transition out plan prior to the commencement of the Transition-Out Period.
- (4) Subject to **Items 12(5)-(7)**, the Territory must pay the reasonable and substantiated costs incurred by the Organisation in ceasing to perform the Services (**Transition-Out Costs**), including:
 - (a) any redundancy pay, pay in lieu of notice of termination and payment of any outstanding annual and long service leave entitlements;
 - (b) costs of engaging a transition out manager on a full-time basis to facilitate transition-out activities;

- (c) legal and accounting costs incurred to facilitate transition-out;
 - (d) business run-off activities;
 - (e) asset management costs associated with the disposal of plant and equipment; and
 - (f) run off insurance.
- (5) The Organisation must issue correctly rendered invoices to the Territory for the payment of Transition-Out Costs along with sufficient evidence to substantiate the Transition-Out Costs that are the subject of the invoice.
- (6) The Territory must pay each agreed invoice for Transition-Out Costs within 14 days of receipt.
- (7) The Transition-Out Costs payable by the Territory in accordance with this Item 12 are capped at an amount of \$3,000,000 which amount may, at the Territory's discretion, be set-off by:
- (a) any portion of the Funding Amount that has not been expended on the delivery of the Services in accordance with this Agreement at the expiry of the Term; and
 - (b) the amount, if any, by which the indexation rate of 3% which was incorporated into the wages component of the Funding Amount exceeds the indexation rate agreed in the ACT Public Sector Nursing and Midwifery Enterprise Agreement 2017-2019.
- (8) The Organisation must provide an independently audited financial report by a registered auditor that complies with the Australian Accounting Standards and which, in respect of the Funding Amount for the final Funding Year of the Term, includes:
- (a) an audited statement of receipts and expenditure;
 - (b) an audited statement of the Transition-Out Costs;
 - (c) an audited statement of the Services delivered; and
 - (d) a definitive statement made by the auditor that the statements of receipts and expenditure, Transition-Out Costs, and Services delivered are fair and true.

- (9) If requested by the Territory, the Organisation must transfer its business name 'Queen Elizabeth II Family Centre', including all intellectual property rights associated with that business name, to the Incoming Service Provider.
- (10) Each party must promptly do all further acts and execute and deliver all further documents (in such form and content reasonably satisfactory to both parties) required by law or reasonably requested by another party to give effect to this Agreement.

Item 13 – Survival of Transition-Out obligations

Item 12 survives the expiration or earlier termination of the Agreement for a period of six (6) months commencing on the date of the expiration or earlier termination.”

4. Variation to the Licence

(1) Amendment of Clause 3 of Licence – Grant

Clause 3.2 is deleted and replaced as follows:

“3.2 Upon the expiry of the term referred to in Subclause 3.1, if the Licensee continues in occupation of the Premises with the consent of the Authority, the Licensee will do so as a Licensee from quarter to quarter subject to the terms and conditions in this Licence. Such quarterly tenancy will be determined either:

- (a) at any time by either the Licensee or the Authority giving the other 90 days’ written notice of termination; or
- (b) on 30 June 2019,

whichever occurs first.”

5. Counterparts

This Deed may be executed in any number of counterparts and by the parties in separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. All such counterparts taken together will be deemed to constitute one and the same Deed.

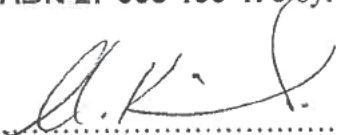
SIGNED AS A DEED ON

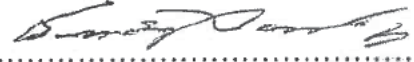
SIGNED for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY)
in the presence of:) Signature of Territory delegate

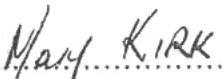
.....
Signature of witness Print name


.....
Print name

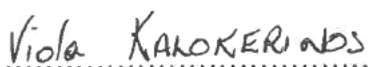
SIGNED by on behalf of)
CANBERRA MOTHERCRAFT)
SOCIETY INCORPORATED) Signature authorised officer
ABN 27 358 139 470 by:


.....
Signature of witness


.....
Print name


.....
Print name


.....
Signature of second authorised officer


.....
Print name

Note:

Date: Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.

Incorporated Association: Must be signed in accordance with the Organisation's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

Emerson, Marc (Health)

From: [REDACTED] Health)
Sent: Friday, 5 October 2018 1:25 PM
To: Emerson, Marc (Health)
Subject: RE: Funding Confirmation [SEC=UNCLASSIFIED]

Fabulous!

From: Emerson, Marc (Health)
Sent: Friday, 5 October 2018 12:06 PM
To: [REDACTED] (Health) [REDACTED]@act.gov.au>
Subject: RE: Funding Confirmation [SEC=UNCLASSIFIED]

Hi [REDACTED]

Thanks for that.

I'm meeting with GSO on DOV today, to discuss terms and timing. I will let you know this afternoon hopefully how quickly a new DOV can be sent to you.

Marc

Marc Emerson | Manager
 Phone: 02 620 50693 | Email: marc.emerson@act.gov.au
 Policy, Partnerships and Programs | ACT Health Directorate | ACT Government
 2-6 Bowes Street, PHILLIP ACT 2606

From: [REDACTED] (Health)
Sent: Friday, 5 October 2018 11:57 AM
To: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>
Subject: RE: Funding Confirmation [SEC=UNCLASSIFIED]

Hi Marc,

It is part of the audit cross checking process that [REDACTED] always does [REDACTED] [REDACTED] are a middle sized Australian company who have a reputation for being particularly thorough.

On another matter – where are we up to with the DoV?

[REDACTED]
 [REDACTED]
 Director of Nursing & Midwifery/Executive Officer
 Queen Elizabeth II Family Centre
 PO Box 126
 (129 Carruthers Street)
 Curtin ACT 2605
 Australia

Ph: [REDACTED]
 Fax: + 61 2 62052344
 e mail: [REDACTED]@act.gov.au



Towards Healthy Families

Ija Mulanggari, Goodtha Mulanggari

Thriving Mothers, Thriving babies [Ngunnawal meaning]

From: Emerson, Marc (Health)
Sent: Friday, 5 October 2018 11:45 AM
To: [REDACTED] (Health) [REDACTED]@act.gov.au>
Cc: paul.english@kothes.com.au
Subject: RE: Funding Confirmation [SEC=UNCLASSIFIED]

Hi [REDACTED]

Happy to put something together. Out of curiosity, can I ask why how this letter came to be? It's not something I've come across before with other organisations so I'm just curious about the history and purpose?

Thanks

Marc

Marc Emerson | Manager
 Phone: 02 620 50693 | Email: marc.emerson@act.gov.au
 Policy, Partnerships and Programs | ACT Health Directorate | ACT Government
 2-6 Bowes Street, PHILLIP ACT 2606

From: [REDACTED] (Health)
Sent: Thursday, 4 October 2018 4:12 PM
To: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>
Cc: paul.english@kothes.com.au
Subject: FW: Funding Confirmation [SEC=UNCLASSIFIED]

Dear Marc,

The annual audit is currently being undertaken at QEII by [REDACTED]. Each year the auditor requires a funding confirmation letter from ACT Health. For your information, attached is a copy of last years letter. Our records reflect funding received for 2017 -2018 was \$3,467,100.

The letter needs to be addressed to:

[REDACTED]

[REDACTED]

Regards,

[REDACTED]

[REDACTED]

[REDACTED]
Queen Elizabeth II Family Centre
PO Box 126
(129 Carruthers Street)
Curtin ACT 2605
Australia

Ph: [REDACTED]
Fax: + 61 2 62052344
e mail: [REDACTED]@act.gov.au



Towards Healthy Families
Ija Mulanggari, Goodtha Mulanggari
Thriving Mothers, Thriving babies [*Ngunnawal meaning*]

From: [REDACTED]@act.gov.au
Sent: Thursday, 4 October 2018 4:02 PM
To: [REDACTED] (Health) [REDACTED]@act.gov.au
Subject: Funding Confirmation

Regards,

[REDACTED]

[REDACTED]

Cramond, Sarah (Health)

From: Dal Molin, Vanessa (Health)
Sent: Sunday, 30 September 2018 12:35 PM
To: Emerson, Marc (Health); DGACTHealth
Cc: McGregor, Leonie (Health)
Subject: RE: Deed of Variation (11) to 30 June 2019 [BD-CM.30006949.1000-020-143] [SEC=UNCLASSIFIED, DLM=Sensitive: Legal]
Attachments: scan_vanessa dal molin_2018-09-30-12-33-24.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Marc
Please see attached.

Thanks
vanessa

From: Emerson, Marc (Health)
Sent: Saturday, 29 September 2018 2:35 PM
To: Dal Molin, Vanessa (Health) <Vanessa.DalMolin@act.gov.au>; DGACTHealth <DGACTHealth@act.gov.au>
Cc: McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
Subject: FW: Deed of Variation (11) to 30 June 2019 [BD-CM.30006949.1000-020-143] [SEC=UNCLASSIFIED, DLM=Sensitive: Legal]

Hi Vanessa,

Please find attached a signed DOV for Canberra Mothercraft Society.

Please note the advice below from GSO concerning signatures. I think it would be prudent for the DG to sign the PDF copy prior to Sunday, and we can execute the hardcopies when they are received from CMS.

Give me a call if you would like to discuss [REDACTED]

Thanks

Marc

Marc Emerson

Manager
Office of the Executive Director and Strategic Support
Strategic Policy | ACT Health
Penryhn House, 2-6 Bowes St, Woden
PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

From: Clery, Chris
Sent: Saturday, 29 September 2018 12:35 PM
To: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>
Subject: FW: Deed of Variation (11) to 30 June 2019 [BD-CM.30006949.1000-020-143] [SEC=UNCLASSIFIED, DLM=Sensitive: Legal]

Dear Marc

Please find **attached** a copy of the Deed signed by CMS.

As indicated by [REDACTED] below, I expect that we will receive the hard copies on Monday for execution. Ashurst do not appear to be concerned about the original copies being signed on Monday. Ideally they should be signed before the Service Funding Agreement expires on Sunday. If CMS are concerned, the DG could sign the PDF version and circulate that to show the Territory intends to be bound by the Deed. The alternative would be to track down the originals and courier them to the DG.

If you have any questions, please do not hesitate to call me.

Kind regards,
Chris

From: [REDACTED].com [REDACTED].com]
Sent: Friday 28 September 2018 20:05
To: Clery, Chris
Cc: [REDACTED].com; Marsh, Caroline
Subject: FW: Deed of Variation (11) to 30 June 2019 [BD-CM.30006949.1000-020-143] [SEC=UNCLASSIFIED, DLM=Sensitive: Legal]

Dear Chris

Attached is a copy of the Deed signed by CMS.

Regards

[REDACTED]

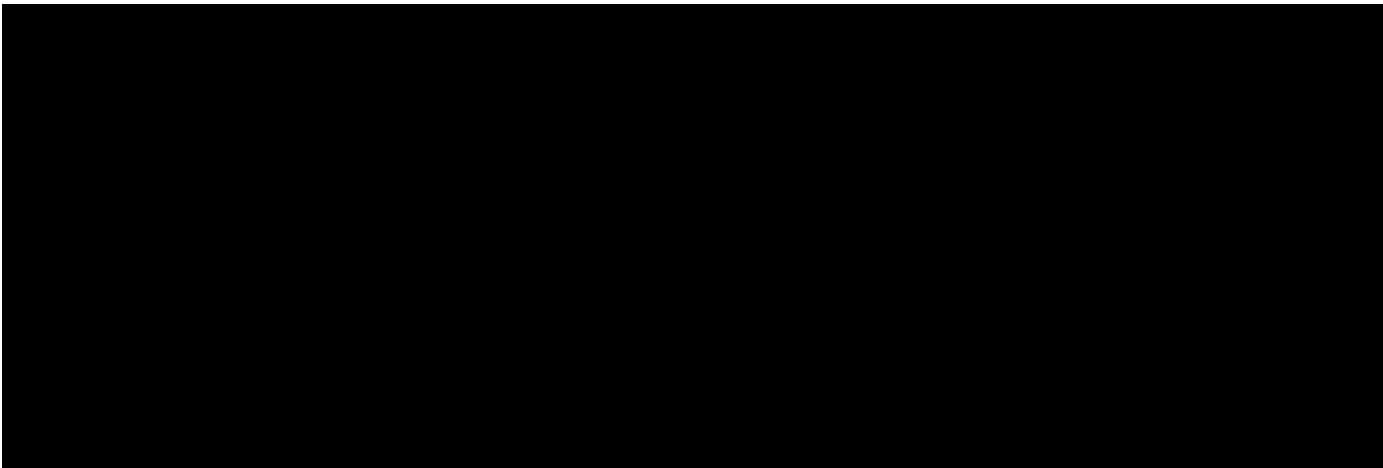
From: [REDACTED]
Sent: Friday, 28 September 2018 5:31 PM
To: 'Clery, Chris'
Cc: [REDACTED] Marsh, Caroline
Subject: RE: Deed of Variation (11) to 30 June 2019 [BD-CM.30006949.1000-020-143] [SEC=UNCLASSIFIED, DLM=Sensitive: Legal]

Thank you Chris

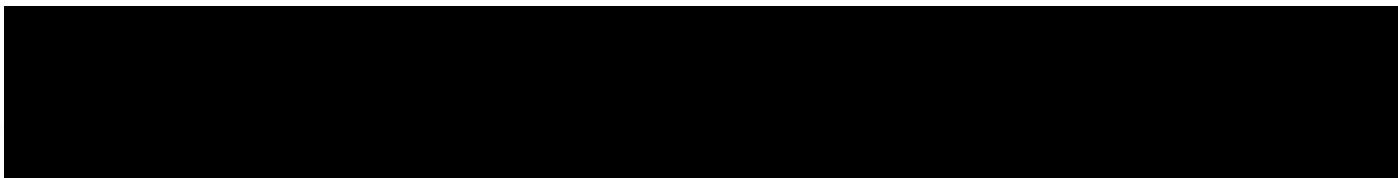
CMS is arranging for execution of the Deed this afternoon.

I believe it is likely that I will receive a PDF version of the deed as signed by CMS tonight. I think it likely that delivery of hard copies will occur on Monday unless you can confirm there is someone we can deliver it to tonight.

Regards



This email (including any attachments) is confidential and may be privileged. It may be read, copied and used only by the intended recipient. If you have received it in error, please contact the sender immediately by return email. Please then delete both emails and do not disclose their contents to any person. We believe, but do not warrant, that this email and any attachments are virus free. You should take full responsibility for virus checking. [REDACTED] reserves the right to monitor all email communications through its networks. If the content of this email is personal or unconnected with our business, we accept no liability or responsibility for it.





DEED OF VARIATION

Dated

Parties

**AUSTRALIAN CAPITAL TERRITORY
HEALTH DIRECTORATE**

AND

**CANBERRA MOTHERCRAFT SOCIETY
INCORPORATED
ABN 27 358 139 470
TRADING AS
QUEEN ELIZABETH II FAMILY CENTRE**

**VARIATION OF 2013-2016 SERVICE
FUNDING AGREEMENT – DEED OF
VARIATION 11**

CONTRACT NO: 2013.21920.450

PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the Health Directorate.

CANBERRA MOTHERCRAFT SOCIETY
INCORPORATED trading as **QUEEN ELIZABETH II**
FAMILY CENTRE ABN 27 358 139 470 of 129 Caruthers
 Street, CURTIN ACT 2605
(Organisation).

BACKGROUND

- A. The Territory and the Organisation executed an agreement (**Agreement**) on 31 October 2013 in relation to the provision of Primary Health Care Residential Services to families of young children for the Agreement Period of 1 July 2013 to 30 June 2016.
- B. The Territory and the Organisation signed Deed of Variation 1 on 19 August 2014, varying the Agreement at **Schedule 4 – Funding Amount and Payment**.
- C. The Territory and the Organisation signed Deed of Variation 2 on 15 October 2014, varying the Agreement at **Schedule 4 – Funding Amount and Payment**.
- D. The Territory and the Organisation signed Deed of Variation 3 on 29 April 2016, varying the Agreement at **Schedule 2 – The Services and Schedule 4 – Funding Amount and Payment**.
- E. The Territory and the Organisation signed Deed of Variation 4 on 30 May 2016, varying the Agreement at **Schedule 4 – Funding Amount and Payment**.
- F. The Territory and the Organisation signed Deed of Variation 5 on 15 June 2016, varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** by extending the Agreement Period until 30 September 2016.
- G. The Territory and the Organisation signed Deed of Variation 6 on 21 September 2016, varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** by further extending the Agreement Period until 31 December 2016.
- H. The Territory and the Organisation signed a letter on 8 December 2016, varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** by further extending the Agreement Period until 31 March 2017.
- I. The Territory and the Organisation signed Deed of Variation 7 on 5 April 2017, varying the Agreement at **Schedule 4 – Funding Amount and Payment**.
- J. The Territory and the Organisation signed a letter on 30 September 2017, varying the Agreement at **Schedule 1 – Agreement Details and Further**

Definitions by further extending the Agreement Period until 30 June 2018.

- K. The Territory and the Organisation signed Deed of Variation 8 on 3 July 2018 with an effective date of 30 June 2018, varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
- L. The Territory and the Organisation signed Deed of Variation 9 on 31 July 2018 varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
- M. The Territory and the Organisation signed Deed of Variation 10 on 31 August 2018 varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
- N. Clause 12.2 provides for variations to the Agreement to be made only by the written agreement of the parties.
- O. The parties have agreed to vary the Agreement in accordance with the terms of this Deed (Deed of Variation 11) to extend the Agreement Period to 30 June 2019 and to agree on appropriate transitional arrangements during that period.

IT IS AGREED by the parties as follows.

1. Interpretation and Governing Law

- (1) Unless the context requires or it is otherwise specified in this Deed, any words used in this Deed that are defined in the Agreement have the same meaning for the purpose of this Deed.
- (2) This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

2. Effective Date

The variations to the Agreement described in this Deed, take effect on and from 30 September 2018.

3. Variation

- (1) **Amendment of Schedule 1 – Agreement Details and Further Definitions**

The definition of “Agreement Period” is deleted and replaced with:

“Agreement Period: 1 July 2013 to 14 October 2018”

The definition of "Funding Period" is deleted and replaced with:

"Funding Period: 1 July 2013 to 14 October 2018"

(2) Amendment of Schedule 4 - Funding Amount and Payment

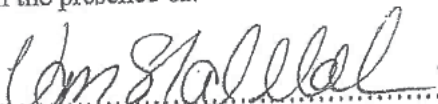
Clause 1.1 Item 1 Schedule 4 – Funding Amount is deleted and replaced with:

"For the Services described in **Item 1 Schedule 2** the total funding amount is \$178,107.43 (excluding GST) for the period 1 October 2018 to 14 October 2018 [refer to **clause 4.4(2)**]"

SIGNED AS A DEED ON

SIGNED for and on behalf of the
AUSTRALIAN CAPITAL TERRITORY
in the presence of:

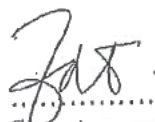
) 
.....
) Signature of Territory delegate

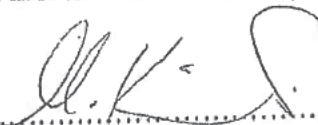

.....
Signature of witness

MICHAEL DE'ATH.....
Print name

Vanessa Dal Molin
.....
Print name

SIGNED by on behalf of
CANBERRA MOTHERCRAFT
SOCIETY INCORPORATED
ABN 27 358 139 470 by:

) 
.....
) Signature authorised officer


.....
Signature of witness

Fiona Smith du Toit
.....
Print name

Mary KIRK
.....
Print name

V. Kalokerinos.....
Signature of second authorised officer

V. Kalokerinos
.....
Print name

Note:

- Date:** Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.
- Incorporated Association:** Must be signed in accordance with the Organisation's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

Emerson, Marc (Health)

From: Emerson, Marc (Health)
Sent: Wednesday, 26 September 2018 5:18 PM
To: [REDACTED]
Cc: McGregor, Leonie (Health); Angela.Summersby@ashurst.com
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Thanks Mary.

Marc Emerson

Manager
 Office of the Executive Director and Strategic Support
 Strategic Policy | ACT Health
 Penryhn House, 2-6 Bowes St, Woden
 PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

From: [REDACTED] Health)
Sent: Wednesday, 26 September 2018 5:16 PM
To: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>
Cc: McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>; [REDACTED].com
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Hi Marc,
 I have spoken with our accountant and \$2,867,614 for October 2018 to June 2019 is acceptable to CMS.
 Regards,
 Mary

[REDACTED]
 Queen Elizabeth II Family Centre
 PO Box 126
 (129 Carruthers Street)
 Curtin ACT 2605
 Australia

Ph: [REDACTED]
 Fax: + 61 2 62052344
 e mail: [REDACTED]@act.gov.au



Towards Healthy Families
 Ija Mulanggari, Goodtha Mulanggari
 Thriving Mothers, Thriving babies [Ngunnawal meaning]

From: Emerson, Marc (Health)
Sent: Wednesday, 26 September 2018 4:05 PM
To: [REDACTED] (Health) [REDACTED]@act.gov.au
Cc: McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Hi [REDACTED]

A new deed of variations should be sent to [REDACTED] via GSO shortly. The new calculations are:

Supplementation requested	\$	89,300
ACT Health total 18/19 Remainder (B34)	\$	2,778,314
Paid to date	\$	892,566
Total - Calculation confirmation	\$	3,760,180

ACT Health total 18/19 Remainder (Oct 17- June 18) Plus Supplementation (\$89,300)	\$	2,867,614
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Marc Emerson

Manager
Office of the Executive Director and Strategic Support
Strategic Policy | ACT Health
Penryhn House, 2-6 Bowes St, Woden
PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

From: [REDACTED] (Health)
Sent: Wednesday, 26 September 2018 3:04 PM
To: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>
Cc: McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Many thanks Marc. It is getting closer, however I think a total price only does may not meet the obligations under the Agreement by making transparent – CPI + EBA + any enhancement (in this instance dropping private revenue).

From: Emerson, Marc (Health)
Sent: Wednesday, 26 September 2018 2:42 PM
To: [REDACTED] (Health) [REDACTED]@act.gov.au
Cc: McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Hi [REDACTED]

The DOV your looking was prepared before the information you provided Leonie last night. We have recalculated based on your new information. The we have arrived at is 3,670,880 for 18/19, but I was just about to call [REDACTED] to talk through our numbers, confirm figures, and iron out differences.

Marc

Marc Emerson

Manager
Office of the Executive Director and Strategic Support
Strategic Policy | ACT Health

Penryhn House, 2-6 Bowes St, Woden
 PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

From: [REDACTED] (Health)
Sent: Wednesday, 26 September 2018 2:38 PM
To: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>
Cc: McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Hi Marc,

The price in the Draft Deed of Variation does not reflect obligations under Schedule 4 1.1 (2) in the Agreement for annual ACT Government Community Sector CPI and EBA adjustments. The Draft offers a total price of \$3,570,264. This in effect is a flat 3% increase on the 2016-2017 price which will most likely not even cover the EBA increases let alone the CPI and reduction in private revenue.

From: Emerson, Marc (Health)
Sent: Wednesday, 26 September 2018 1:06 PM
To: [REDACTED] (Health) <[REDACTED]@act.gov.au>; McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
Cc: [REDACTED]@com.au
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Hi [REDACTED]

Thanks for providing that, Leonie and I have looked over the figures. Are you or your accountant free to discuss the details with me so I can update the DOV?

Thanks

Marc

Marc Emerson

Manager
 Office of the Executive Director and Strategic Support
 Strategic Policy | ACT Health
 Penryhn House, 2-6 Bowes St, Woden
 PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

From: [REDACTED] (Health)
Sent: Tuesday, 25 September 2018 5:13 PM
To: McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
Cc: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>; [REDACTED]@com.au
Subject: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Dear Leonie,

As promised at our meeting last Thursday, our accountant has provided the CMS estimated price for 2018 – 2019. Also included for your information is the amount outstanding for ACT Government Community Sector CPI on the non-nursing component for 2017 – 2018 and an estimate on the amount outstanding for the nursing component EB adjustment.

The ex GST figure for 2018 – 2019 is based upon:

Estimated 2017-2018 funding amount of \$3,557,657 (2016-2017 funding amount + 1.8% CPI non nursing component + 3% *estimated* EB adjustment for nursing component)
 2018-2019 = \$3,709,371 (\$3,557,657 + 2% CPI + \$89,300 supplementation for reduction in private revenue) + EB adjustment on nursing component + transition out and run off activity costs.

ACT Government funding 2018- 2019

ACT Government Community Sector CPI increase @ 2% on \$1,180,291 (non- nursing component of funding) = \$23,606

Supplementation 9% reduction in private revenue in 2017 – 2018 = \$89,300

EB salary increase @ 3% on nursing component

Transition out and run off activity costs

Total Grant = \$3,709,371 + EB salary adjustment on nursing component + transition out and run off activity costs

ACT Government funding outstanding for 2017-2018

ACT Government Community Sector CPI increase for non-nursing component @ 1.8% on \$1,121,300 = \$20,183

Estimated EB salary increase @ 3% on nursing component of \$2,416,174 = \$70,374

Should further clarification be required our accountant is available.

Warm regards,

Queen Elizabeth II Family Centre

PO Box 126

(129 Carruthers Street)

Curtin ACT 2605

Australia

Ph: + [REDACTED]

Fax: + 61 2 62052344

e mail: [REDACTED]@act.gov.au

***Towards Healthy Families***

Ija Mulanggari, Goodtha Mulanggari

Thriving Mothers, Thriving babies [*Ngunnawal meaning*]

Emerson, Marc (Health)

From: Emerson, Marc (Health)
Sent: Wednesday, 26 September 2018 2:37 PM
To: [REDACTED] (Health)
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Thank [REDACTED]

I was out of the office as well.

I will give her a call.

Marc Emerson

Manager
 Office of the Executive Director and Strategic Support
 Strategic Policy | ACT Health
 Penryhn House, 2-6 Bowes St, Woden
 PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

From: Kirk, Mary (Health)
Sent: Wednesday, 26 September 2018 1:49 PM
To: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Hi Marc,
 Sorry for not getting back sooner – I have been out of QEII. Our accountant [REDACTED] is happy to speak with you and is available on [REDACTED].
 Regards,
 [REDACTED]

[REDACTED]
 Queen Elizabeth II Family Centre
 PO Box 126
 (79 Carruthers Street)
 Curtin ACT 2605
 Australia

Ph: [REDACTED]
 Fax: + 61 2 62052344
 e mail: [REDACTED]@act.gov.au



Towards Healthy Families

Ija Mulanggari, Goodtha Mulanggari
 Thriving Mothers, Thriving babies [Ngunnawal meaning]

From: Emerson, Marc (Health)
Sent: Wednesday, 26 September 2018 1:06 PM
To: [REDACTED] (Health) <[REDACTED]@act.gov.au>; McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
Cc: [REDACTED]
Subject: RE: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Hi [REDACTED]

Thanks for providing that, Leonie and I have looked over the figures. Are you or your accountant free to discuss the details with me so I can update the DOV?

Thanks

Marc

Marc Emerson

Manager
 Office of the Executive Director and Strategic Support
 Strategic Policy | ACT Health
 Penryhn House, 2-6 Bowes St, Woden
 PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

From: [REDACTED] (Health)
Sent: Tuesday, 25 September 2018 5:13 PM
To: McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
Cc: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>; [REDACTED]@com.au>
Subject: CMS funding price for 2018-2019 [SEC=UNCLASSIFIED]

Dear Leonie,

As promised at our meeting last Thursday, our accountant has provided the CMS estimated price for 2018 – 2019. Also included for your information is the amount outstanding for ACT Government Community Sector CPI on the non-nursing component for 2017 – 2018 and an estimate on the amount outstanding for the nursing component EB adjustment.

The ex GST figure for 2018 – 2019 is based upon:

Estimated 2017-2018 funding amount of \$3,557,657 (2016-2017 funding amount + 1.8% CPI non nursing component + 3% *estimated* EB adjustment for nursing component)
 2018–2019 = \$3,709,371 (\$3,557,657 + 2% CPI + \$89,300 supplementation for reduction in private revenue) + EB adjustment on nursing component + transition out and run off activity costs.

ACT Government funding 2018- 2019

ACT Government Community Sector CPI increase @ 2% on \$1,180,291 (non- nursing component of funding) = \$23,606

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Transition out and run off activity costs

Total Grant = \$3,709,371 + EB salary adjustment on nursing component + transition out and run off activity costs

ACT Government funding outstanding for 2017-2018

ACT Government Community Sector CPI increase for non-nursing component @ 1.8% on \$1,121,300 = \$20,183

Estimated EB salary increase @ 3% on nursing component of \$2,416,174 = \$70,374

Should further clarification be required our accountant is available.

Warm regards,
[REDACTED]

[REDACTED]
[REDACTED]
Queen Elizabeth II Family Centre
PO Box 126
(129 Carruthers Street)
Curtin ACT 2605
Australia

Ph: +61 [REDACTED]

Fax: + 61 2 62052344

e mail: [REDACTED]@act.gov.au



Towards Healthy Families

Ija Mulanggari, Goodtha Mulanggari

Thriving Mothers, Thriving babies [*Ngunnawal meaning*]

Emerson, Marc (Health)

From: [REDACTED] (Health)
Sent: Friday, 21 September 2018 5:26 PM
To: Emerson, Marc (Health)
Cc: McGregor, Leonie (Health)
Subject: CMS Deed of Variation [SEC=UNCLASSIFIED]
Attachments: Deed of Variation Sep 2018 (002).docx

Dear Marc,

As promised, attached is a Draft Deed of Variation until 30 June 2019 worked up by [REDACTED] and which has the inclusions that would meet CMS requirements. Our accountant is working on the final figure for the delivery of business as usual at QEII component for the period and which I will be able to provide to you for consideration by late Monday.

The Deed is limited to:

- extending the 2013-2016 Agreement until 30 June 2019;
- providing a new funding amount for the period between 1 October 2018 and 30 June 2019 (to be inserted); and
- including the new CMS proposed economic dependency clause (as sent to you earlier).

Regards,

[REDACTED]
 [REDACTED]
 Queen Elizabeth II Family Centre
 PO Box 126
 (129 Carruthers Street)
 Curtin ACT 2605
 Australia

Ph: [REDACTED]
 Fax: + 61 2 62052344
 e mail [REDACTED]@act.gov.au



Towards Healthy Families

Ija Mulanggari, Goodtha Mulanggari

Thriving Mothers, Thriving babies [Ngunnawal meaning]



DEED OF VARIATION

Dated

Parties

**AUSTRALIAN CAPITAL TERRITORY
HEALTH DIRECTORATE**

AND

**CANBERRA MOTHERCRAFT SOCIETY
INCORPORATED
ABN 27 358 139 470
TRADING AS
QUEEN ELIZABETH II FAMILY CENTRE**

**VARIATION OF 2013-2016 SERVICE
FUNDING AGREEMENT – DEED OF
VARIATION 11**

CONTRACT NO: 2013.21920.450

PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the Health Directorate.

**CANBERRA MOTHERCRAFT SOCIETY
INCORPORATED** trading as **QUEEN ELIZABETH II
FAMILY CENTRE ABN 27 358 139 470** of 129 Caruthers
Street, CURTIN ACT 2605
(**Organisation**).

BACKGROUND

- A. The Territory and the Organisation executed an agreement (**Agreement**) on 31 October 2013 in relation to the provision of Primary Health Care Residential Services to families of young children for the Agreement Period of 1 July 2013 to 30 June 2016.
- B. The Territory and the Organisation signed Deed of Variation 1 on 19 August 2014, varying the Agreement at **Schedule 4 – Funding Amount and Payment**.
- C. The Territory and the Organisation signed Deed of Variation 2 on 15 October 2014, varying the Agreement at **Schedule 4 – Funding Amount and Payment**.
- D. The Territory and the Organisation signed Deed of Variation 3 on 29 April 2016, varying the Agreement at **Schedule 2 – The Services** and **Schedule 4 – Funding Amount and Payment**.
- E. The Territory and the Organisation signed Deed of Variation 4 on 30 May 2016, varying the Agreement at **Schedule 4 – Funding Amount and Payment**.
- F. The Territory and the Organisation signed Deed of Variation 5 on 15 June 2016, varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** by extending the Agreement Period until 30 September 2016.
- G. The Territory and the Organisation signed Deed of Variation 6 on 21 September 2016, varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** by further extending the Agreement Period until 31 December 2016.
- H. The Territory and the Organisation signed a letter on 8 December 2016, varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** by further extending the Agreement Period until 31 March 2017.
- I. The Territory and the Organisation signed Deed of Variation 7 on 5 April 2017, varying the Agreement at **Schedule 4 – Funding Amount and Payment**.
- J. The Territory and the Organisation signed a letter on 30 September 2017, varying the Agreement at **Schedule 1 - Agreement Details and Further**

Definitions by further extending the Agreement Period until 30 June 2018.

- K. The Territory and the Organisation signed Deed of Variation 8 on 3 July 2018 with an effective date of 30 June 2018, varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
 - L. The Territory and the Organisation signed Deed of Variation 9 on 31 July 2018 varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
 - M. The Territory and the Organisation signed Deed of Variation 10 on 31 August 2018 varying the Agreement at **Schedule 1 – Agreement Details and Further Definitions** and **Schedule 4 – Funding Amount and Payment**.
 - N. Clause 12.2 provides for variations to the Agreement to be made only by the written agreement of the parties.
 - O. The parties have agreed to vary the Agreement in accordance with the terms of this Deed (Deed of Variation 11) for an additional period until 30 June 2019.
-

IT IS AGREED by the parties as follows.

1. Interpretation and Governing Law

- (1) Unless the context requires or it is otherwise specified in this Deed, any words used in this Deed that are defined in the Agreement have the same meaning for the purpose of this Deed.
- (2) This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

2. Effective Date

The variations to the Agreement described in this Deed, take effect on and from 30 September 2018.

3. Variation

(1) Amendment of Schedule 1 – Agreement Details and Further Definitions

“Agreement Period” is deleted and replaced with:

“Agreement Period: 1 July 2013 to 30 June 2019”

“Funding Period” is deleted and replaced with:

“Funding Period: 1 July 2013 to 30 June 2019”

(2) Amendment of Schedule 4 - Funding Amount and Payment

For the purposes of this Agreement, **clause 1.1 of Schedule 4 Item 1 – Funding Amount** is deleted and replaced with:

“For the Services described in **Item 1 Schedule 2** the total funding amount is \$[to be inserted] (excluding GST) for the period 1 October 2018 to 30 June 2019 [refer to **clause 4.4(2)**]”.

(3) Amendment of Schedule 4 - Funding Amount and Payment

For the purposes of this Agreement, **clause 1.2 of Schedule 4 Item 1 – Funding Amount** is deleted and replaced with:

“1.2 Territory recognition of economic dependency of Organisation

- (1) The Territory will provide adequate funding to the Organisation to enable the Organisation to pay its debts as and when they fall due.
- (2) In the event that the Organisation ceases to provide the Services, the Territory will fund the Organisation's reasonable substantiated costs to cease performance of the Services, including:
 - (a) any redundancy pay, pay in lieu of notice of termination and payment of any outstanding annual and long service leave entitlements;
 - (b) costs of engaging a transition out manager on a full-time basis to facilitate transition out activities;
 - (c) legal and accounting costs incurred to facilitate transition out;
 - (d) business run-off activities;

- (e) asset management costs associated with the disposal of plant and equipment; and
- (f) run off insurance.”

SIGNED AS A DEED ON

SIGNED for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY)
in the presence of:) Signature of Territory delegate

.....
Signature of witness Print name

.....
Print name

SIGNED by on behalf of)
CANBERRA MOTHERCRAFT)
SOCIETY INCORPORATED) Signature authorised officer
ABN 27 358 139 470 by:

.....
Signature of witness Print name

.....
Signature of second authorised officer

.....
Print name

.....
Print name

Note:

Date: Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.

Incorporated Association: Must be signed in accordance with the Organisation's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

Emerson, Marc (Health)

From: Emerson, Marc (Health)
Sent: Friday, 21 September 2018 4:08 PM
To: [REDACTED] (Health)
Subject: RE: Deed of Variation [SEC=UNCLASSIFIED]

[REDACTED]

No worries, Leonie only mentioned that you had specific example clauses, if there are other Monday is fine.

Have a good weekend

Thanks
 Marc

Marc Emerson

Manager
 Office of the Executive Director and Strategic Support
 Strategic Policy | ACT Health
 Penryhn House, 2-6 Bowes St, Woden
 PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

From: [REDACTED] (Health)
Sent: Friday, 21 September 2018 4:05 PM
To: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>
Subject: RE: Deed of Variation [SEC=UNCLASSIFIED]

Hi Marc,

On second read of your email, I realise that you may be expecting more than the economic dependency clause that Leonie and I discussed. If it was to do with further suggestions I could get them through to you on Monday.

Regards,

[REDACTED]

[REDACTED]
 [REDACTED]
 Queen Elizabeth II Family Centre
 PO Box 126
 (129 Carruthers Street)
 Curtin ACT 2605
 Australia

Ph: +61 [REDACTED]
 Fax: + 61 2 62052344
 e mail: [REDACTED]@act.gov.au



Towards Healthy Families

Ija Mulanggari, Goodtha Mulanggari

Thriving Mothers, Thriving babies [*Ngunnawal meaning*]**From:** Emerson, Marc (Health)**Sent:** Friday, 21 September 2018 4:01 PM**To:** [REDACTED] (Health) <[REDACTED]@act.gov.au>**Cc:** McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>**Subject:** Deed of Variation

Hi [REDACTED]

I understand you met with Leonie McGregor this week and she has asked me to follow up with you in regard to example clauses or words you would like considered for the deed of variation. Are you able to please send these through to me as I'm currently working on finalising the next deed of variation?

Happy to speak further if you have any questions or concerns.

Thanks

Marc

Marc Emerson

Manager

Office of the Executive Director and Strategic Support

Strategic Policy | ACT Health

Penryhn House, 2-6 Bowes St, Woden

PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

Emerson, Marc (Health)

From: Emerson, Marc (Health)
Sent: Friday, 21 September 2018 4:01 PM
To: [REDACTED] (Health)
Cc: McGregor, Leonie (Health)
Subject: Deed of Variation

Hi [REDACTED]

I understand you met with Leonie McGregor this week and she has asked me to follow up with you in regard to example clauses or words you would like considered for the deed of variation. Are you able to please send these through to me as I'm currently working on finalising the next deed of variation?

Happy to speak further if you have any questions or concerns.

Thanks

Marc

Marc Emerson

Manager
Office of the Executive Director and Strategic Support
Strategic Policy | ACT Health
Penryhn House, 2-6 Bowes St, Woden
PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

Emerson, Marc (Health)

From: Emerson, Marc (Health)
Sent: Friday, 21 September 2018 4:03 PM
To: [REDACTED] (Health)
Subject: RE: Model economic dependency clause [SEC=UNCLASSIFIED]

Thanks [REDACTED]

Much appreciated.

Marc Emerson

Manager
 Office of the Executive Director and Strategic Support
 Strategic Policy | ACT Health
 Penryhn House, 2-6 Bowes St, Woden
 PH: (02) 6205 0693 | Email: Marc.Emerson@act.gov.au

From: [REDACTED] (Health)
Sent: Friday, 21 September 2018 4:02 PM
To: Emerson, Marc (Health) <Marc.Emerson@act.gov.au>
Subject: FW: Model economic dependency clause [SEC=UNCLASSIFIED]

Hi Marc,
 Your timing is perfect! I had just sent this through to Leonie when your email came through.
 Regards,

[REDACTED]
 [REDACTED]
 [REDACTED]
 Queen Elizabeth II Family Centre
 PO Box 126
 (129 Carruthers Street)
 Curtin ACT 2605
 Australia

PH: +61 2 [REDACTED]
 Fax: + 61 2 62052344
 e mail [REDACTED]@act.gov.au



Towards Healthy Families
 Ija Mulanggari, Goodtha Mulanggari
 Thriving Mothers, Thriving babies [Ngunnawal meaning]

From [REDACTED] (Health)
 Sent: Friday, 21 September 2018 3:57 PM
 To: McGregor, Leonie (Health) <Leonie.McGregor@act.gov.au>
 Subject: Model economic dependency clause [SEC=UNCLASSIFIED]

Dear Leonie,

Many thanks for meeting with me yesterday, it was much appreciated and I now feel confident we can settle the Deed of Variation in a timely way. If it works better for you I am happy to come to Bowes Street for any meetings.

As I was ticking off my Friday's end of week to do list I realised I was meant to send you through the model economic dependency clause.

Territory recognition of economic dependency of Organisation

- (1) *The Territory will provide adequate funding to the Organisation to enable the Organisation to pay its debts as and when they fall due.*
- (2) *In the event that the Organisation ceases to provide the Services, the Territory will fund the Organisation's reasonable substantiated costs to cease performance of the Services, including:*
 - (a) *any redundancy pay, pay in lieu of notice of termination and payment of any outstanding annual and long service leave entitlements;*
 - (b) *costs of engaging a transition out manager on a full-time basis to facilitate transition out activities;*
 - (c) *legal and accounting costs incurred to facilitate transition out;*
 - (d) *business run-off activities;*
 - (e) *asset management costs associated with the disposal of plant and equipment; and*
 - (f) *run off insurance.*

Regards,

[REDACTED]
 [REDACTED]
 Queen Elizabeth II Family Centre
 PO Box 126
 (129 Carruthers Street)
 Curtin ACT 2605
 Australia

Ph: [REDACTED]
 Fax: + 61 2 62052344
 e mail [REDACTED]@act.gov.au



Towards Healthy Families

Ija Mulanggari, Goodtha Mulanggari
 Thriving Mothers, Thriving babies [Ngunnawal meaning]

Emerson, Marc (Health)

From: [REDACTED] (Health)
Sent: Monday, 20 August 2018 6:16 PM
To: Ritchie, Angela (Health); Emerson, Marc (Health)
Cc: [REDACTED]@[REDACTED].com
Subject: QEII Family Centre Income & Expenditure Statement to 30 June 2018; QEII Family Centre Staff leave Liabilities at 31 July 2018 [SEC=UNCLASSIFIED]
Attachments: QEII Leave Liabilities at 31 July 2018.pdf; QEII Income & Expenditure Statement year ending 30 June 2018.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr de'Ath,

On 2 August 2018 I advised that the QEII Family centre Income & Expenditure Statement and Leave Liabilities to 31 July 2018 would be provided on 20 August after the adjustments for 2018 were complete and after the close of the last pay period for July. Please find attached the information as promised. You also requested that we provide the amount of long service leave paid that pushed CMS over budget for the period. The accountant advises the amount \$41,556.

Regards,

[REDACTED]
 [REDACTED]
 [REDACTED]
 Queen Elizabeth II Family Centre
 PO Box 126
 (129 Carruthers Street)
 Curtin ACT 2605
 Australia

Ph: [REDACTED]
 Fax: + 61 2 62052344
 e mail: [REDACTED]@act.gov.au



Towards Healthy Families

Ija Mulanggari, Goodtha Mulanggari
 Thriving Mothers, Thriving babies [Ngunnawal meaning]

QEII FAMILY CENTRE
STAFF LEAVE LIABILITIES AS AT 31 JULY 2018
UNAUDITED

	<u>LIABILITY</u>	<u>PROVISION</u>	<u>PD IN 17/18</u>
ANNUAL LEAVE	376,840	359,593	203,417
PERSONAL LEAVE	497,513	120,000	120,215
LONG SERVICE LEAVE	527,055	460,000	41,556
	<u>1,401,408</u>	<u>939,593</u>	<u>365,188</u>

QUEEN ELIZABETH II FAMILY CENTRE
 STATEMENT OF FINANCIAL PERFORMANCE
 FOR THE FINANCIAL YEAR ENDED 30 JUNE 2018
 UNAUDITED

	2018
	\$
<u>INCOME:</u>	
Government grants	3,467,100.00
Patient fees	764,879.95
Interest	29,810.05
Meals & accommodation	55,198.68
Parenting observation reports	39,255.00
Sundry income	3,334.67
TOTAL INCOME	<u>4,359,578.35</u>
<u>EXPENDITURE:</u>	
Audit fees	7,500.00
Bank fees	2,462.36
Cleaning	86,350.73
Computer expenses	6,053.49
Conference/education expenses	55,911.15
Consulting/legal fees	31,074.49
Domestic supplies	10,042.97
Electricity	26,277.01
Equipment & furnishings	43,118.54
Fee for service	165,629.17
Food & Catering	115,932.30
Garden maintenance	8,913.18
Gas	4,445.69
Insurance	82,938.42
Laundry/Linen	39,823.77
Medical supplies	16,938.07
Motor vehicle expenses	3,650.78
Pathology	2,029.51
Postage, printing & stationery	20,623.11
Promotion	5,601.55
Rates and trade waste	29,826.24
Repairs and maintenance	5,134.92
Salaries	3,417,655.59
Subscriptions	829.51
Sundry expenses	6,247.10
Superannuation	304,141.70
Telephone	7,566.77
Uniforms	8,669.47
TOTAL EXPENDITURE	<u>4,515,387.59</u>
OPERATING DEFICIT	<u>-155,809.24</u>
BALANCE BROUGHT FORWARD	<u>279,858.16</u>
SURPLUS CARRIED FORWARD	<u>124,048.92</u>

Read, Marilynne (Health)

From: [REDACTED] (Health)
Sent: Friday, 11 August 2017 2:45 PM
To: Read, Marilynne (Health)
Cc: Richter, Matthew (Health)
Subject: Draft SFA Mothercraft August 2017 (002) [SEC=UNCLASSIFIED]
Attachments: Draft SFA Mothercraft August 2017 (002).docx

Dear Marilynne,

Please find attached the Draft Agreement with responding comments from the Canberra Mothercraft Society. I would be very happy to attend a meeting with yourself and Matthew if any issues we have with the Agreement require clarification.

Regards,

[REDACTED]
[REDACTED]
[REDACTED]
Queen Elizabeth II Family Centre
PO Box 126
(129 Carruthers Street)
Curtin ACT 2605
Australia

Ph: [REDACTED]
Fax: + 61 2 62052344
e mail: [REDACTED]@act.gov.au



Towards Healthy Families
Ija Mulanggari, Goodtha Mulanggari
Thriving Mothers, Thriving babies [Ngunnawal meaning]



~~SERVICE FUNDING AGREEMENT~~

Date

Parties

AUSTRALIAN CAPITAL TERRITORY

**CANBERRA MOTHERCRAFT SOCIETY
INCORPORATED TRADING AS
QUEEN ELIZABETH II FAMILY CENTRE
ABN: 27 358 139 470**

Prepared by

~~DRAFT SERVICE FUNDING
AGREEMENT~~
CONTRACT NO. 2015.27504.760
Women, Youth, and Child Health Policy Unit
Policy & Stakeholder Relations Branch
Innovation
ACT Health
2-6 Bowes Street
WODEN ACT 2606

~~Template-Draft~~
Revision
Version

May-July 2017

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PARTIES: AUSTRALIAN CAPITAL TERRITORY, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (Territory) represented by the Health Directorate.

CANBERRA MOTHERCRAFT SOCIETY INCORPORATED
TRADING AS QUEEN ELIZABETH II FAMILY CENTRE
ABN 27 358 139 470 of 129 Carruthers Street, CURTIN ACT 2605
(Organisation).

BACKGROUND

A. This Agreement is made within the framework of the applicable community sector funding policy and recognises that the delivery of services to the community is best achieved through effective relationships between government agencies and organisations in the community sector that are delivering the Services. Agree

B. The parties to this Agreement commit to negotiating and working together in good faith in the spirit of collaboration and cooperation to achieve the best possible outcomes for Service Users and the parties, and in particular in fulfilling their obligations under this Agreement the parties will:

(1) communicate in a manner that shows mutual respect; and

(4)(2) observe the spirit of the "Social Compact" (as amended or superseded from time to time) between the ACT government and the community sector.

C. This Agreement seeks to focus on the achievement of agreed service outcomes and outputs for Service Users and also makes provision with respect to:

(1) the transparency of funding and service provision processes;

(2) accountability and responsibility of the Territory and the Organisation in the application and use of public funds; and

(3) principles, standards and values underpinning the delivery of the Services to Service Users.

Commented [ACTGS1]: These recitals have been reinserted to address your concern in your letter dated 6 July 2017.

Commented [KM(2)]: Agree

D. The Territory and the Organisation have agreed to the funding and provision of the Services on the terms and conditions of this Agreement. Agree

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Agreement, unless the context otherwise requires.

Agreement Material material created or in any way brought into existence wholly or partly with Territory funds for the purpose of performing the Services, and any copy or representation thereof and does not include Territory Material. Agree

Agreement Period has the meaning given in clause 2. Partially agree

Assets all items of equipment, furniture, vehicles, buildings, real property and leasehold improvements, which:

(1) are specified in Item 32 Schedule 5; and/or

Disagree

(2) have a value of \$5,000.00 or more, and are purchased, leased or hired, wholly or partly with the Funding Amount. Agree

Background Checking Act and related terms the *Working with Vulnerable People (Background Checking) Act 2011* (ACT) and the terms “contact”, “vulnerable person” and “regulated activity” have the same meanings as in the Background Checking Act. Agree

Compelling Reason a reason of necessity or urgency (including but not limited to substantial non-delivery of the Services or a situation concerning the safety or health of, or harm to, any person including any Service User) that necessitates action to be taken without undertaking or while undertaking a resolution of Issue process under clause 11.

Confidential Text any text of this Agreement that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in Item 6 Schedule 1. Agree

Engaged Person any individual who will or can reasonably be expected to have contact with a vulnerable person, whether as an employee of the Organisation, a volunteer, agent or any other person engaged by the Organisation to be

Commented [ACTGS3]: Please see updated provision in Item 3 Schedule 1.

Commented [KM(4)]: Agree

Commented [KM(5)]: See Clause 2

Commented [KM(6)]: Should read Item 3 Schedule 5. See comments Item 3 (1) Schedule 5

Commented [ACTGS7]: Clause reference has been updated.

Commented [KM(8)]: Agree

Commented [KM(9)]: This is not clear

Commented [ACTGS10]: The purpose of the definition is to outline serious circumstances in which immediate termination of the Agreement by the Territory can be undertaken. Examples that are included outline circumstances where Service Users are put at risk by the Organisation, or the Organisation does not meet its obligations for Service delivery. Please note that this definition, and the examples provided, are included in your current contract at clause 11.3. The new version of the template simply streamlines the provision by including the definition more appropriately in this clause 1.1. The operation of clause 11 has not changed.

	involved in any way with a vulnerable person for the purpose of providing Services under this Agreement. <u>Agree</u>
Funding Amount	The sums to be paid by the Territory as specified in Schedule 4 for the provision of the Services. <u>Partially agreed</u>
GST	has the same meaning as it has in the GST Act. <u>Agree</u>
GST Act	the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth). <u>Agree</u>
Issue	a difference, question or dispute that arises between the parties in relation to this Agreement or the Services. <u>Agree</u>
Material	all documents, posters, literature, brochures, booklets, publications, audio or video recordings, Internet or other electronic representation and any other educational, publicity or other item or representation in any form. <u>Agree</u>
Outcomes	the outcomes specified in Item 3 Schedule 2 . <u>Agree</u>
Outputs	the outputs specified in Item 4 Schedule 2 . <u>Agree</u>
Personal Information	is personal information as defined in section 8 of the <i>Information Privacy Act 2014</i> (ACT), namely: information about an identified individual or an individual who is reasonably identifiable: <ol style="list-style-type: none"> (1) whether the information is true or not; and <u>Agree</u> (2) whether the information or opinion is recorded in a material form or not <u>Agree</u> <p>but does not include personal health information (as defined in the <i>Health Records (Privacy and Access) Act 1997</i> (ACT) about the individual <u>Agree</u></p>
Procurement Act	the <i>Government Procurement Act 2001</i> (ACT). <u>Agree</u>

Commented [KM(11)]: Funding amount to be determined

Commented [ACTGS12]: Please refer to my comment in Schedule 4.

Commented [KM(13)]: Agree

Service or Services	the services specified in Item 2 Schedule 2 , <u>Agree</u>
Service User	the user or recipient of the Services, <u>Agree</u>
Special Conditions	means the special conditions detailed in Schedule 5 (if any).
Territory	when used: <ol style="list-style-type: none"> (1) in a geographical sense, the Australian Capital Territory; and (2) in any other sense, the body politic established by section 7 of the <i>Australian Capital Territory (Self-Government) Act 1988</i> (Cth).
Territory Information	the kind of information that: <ol style="list-style-type: none"> (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential; <u>Agree</u> (2) is notified (whether in writing or not) by the Territory to the Organisation as being confidential; or <u>Agree</u> (3) is specified in Item 5 Schedule 1, <u>Agree</u> <p>but does not include information that:</p> <ol style="list-style-type: none"> (4) is or becomes public knowledge other than by breach of this Agreement; <u>Agree</u> (5) has been independently developed or acquired by the Organisation; or <u>Agree</u> (6) has been notified by the Territory to the Organisation as not being confidential. <u>Agree</u>
Territory Material	any material provided by the Territory to the Organisation for the purposes of this Agreement including documents, equipment, information and data stored by any means. <u>Agree</u>

Organisation Material	all material owned by the Organisation and used for the purpose of providing the Services, including documents, information and data stored by any means. <u>Agree</u>
Quality Standards	the quality standards specified in Item 5 Schedule 2 . <u>Agree</u>
TPPs	the Territory Privacy Principles provided for in section 13 and set out in Schedule 1 of the <i>Information Privacy Act 2014 (ACT)</i> . <u>Agree</u>
TPP Code	a code of practice about information privacy which having regard to sub-sections 21(1) and (3) of the <i>Information Privacy Act 2014 (ACT)</i> binds an agency that engages the Organisation in the provision of the Services. <u>Agree</u>

1.2 Further Definitions

Unless otherwise required by the context, the further definitions contained in **Item 1 Schedule 2** apply to this Agreement.

1.3 General

In this Agreement, unless the context otherwise requires:

- (1) references to "Organisation" includes any employees, agents or subcontractors of the Organisation; Agree
- (2) an obligation imposed on more than one person binds them jointly and severally; Agree
- (3) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation; Agree
- (4) words in the singular include the plural and vice versa; another grammatical form of a defined word or expression has a corresponding meaning; headings are for convenience only and do not affect the construction or interpretation of this Agreement; Agree
- (5) the word "include" and any derivation is not to be construed as a word of limitation; Agree

- (6) any specified provision of this Agreement will be construed as a reference to that provision as amended, varied or substituted in writing from time to time; and Agree
- (7) business day includes any day other than a Saturday, Sunday or public holiday in the Territory. Agree

1.4 Special Conditions

To the extent of any inconsistency between a Special Condition and a clause in this Agreement, the Special Condition will prevail.

2. Agreement Period

This Agreement is for the period specified in **Item 3 Schedule 1** unless varied or earlier terminated in accordance with this Agreement. ~~Do not agree~~

3. The Services

- (1) The Organisation must provide the Services for the Agreement Period and in providing the Services must provide:
- (a) the Services in accordance with the requirements set out in this Agreement; and Agree
- (b) the reports specified in **Schedule 3**. Agree
- (2) In the purchase and provision of the Services, the parties will ensure that the Services are delivered in a manner which recognises the diversity of needs of people in the Territory and in a manner which promotes fairness and opportunity for Service Users of diverse backgrounds and abilities so that they can participate fully in the economic, social and cultural life of the Territory. Agree

4. Funding Amount and GST

4.1 Funding Amount

Subject to this clause 4 and the Organisation providing the Services, the Territory will pay the Funding Amount in advance to the Organisation at the times and in the manner set out in **Schedule 4**. ~~Do not agree~~

4.2 GST- ABN and GST Registration

Commented [ACTGS14]: Please refer to updated provision in Item 3 Schedule 1.

Commented [KM(15)]: Agree

Commented [KM(16)]: ACTH & CMS are currently under extension of the 2013-2016 Agreement until and including 30 September 2017. This Agreement commences after that date.

Commented [KM(17)]: The Funding Amount is to be determined.

Commented [ACTGS18]: Please refer to my comment in Item 1 Schedule 4.

Commented [KM(19)]: Agree

The Territory will:

- (1) if the Organisation:
 - (a) is registered in the Australian Business Register under the *A New Tax System (Australian Business Number) Act 1999* (Cth) (ABN registration), and
 - (b) is registered under the GST Act (GST registration); and
- (2) if the Funding Amount specified in **Item 1 Schedule 4** does not include GST,

pay to the Organisation an amount equal to the GST under the GST Act lawfully payable by the Organisation in respect of the provision of the Services to the extent that this constitutes a taxable supply for purposes of the GST Act. Agree

4.3 Recipient created Tax Invoices

Each party acknowledges that it has GST registration on the date this Agreement is entered into, and unless otherwise agreed, the parties agree that:

- (1) the Territory may issue recipient created tax invoices (where "recipient created tax invoice" has a meaning the same as it has in the GST Act) in respect of the supply of the Services; and Agree
- (2) the Organisation will not, if the Territory issues recipient created tax invoices, issue tax invoices in respect of the supply of the Services for the purposes of the GST Act. Agree

4.4 GST – ABN Registration but no GST Registration

Where the Organisation has ABN registration but does not have GST registration, the Funding Amount will not include any amount on account of GST and the Territory is not liable to pay any further amount in relation to GST to the Organisation. Not applicable

4.5 GST – No ABN Registration and no GST Registration not applicable

Where the Organisation has no ABN registration and no GST registration:

- (1) the Funding Amount will not include any amount on account of GST;
- (2) the Territory will deduct from the Funding Amount such amounts as it is required by law to deduct; and

- (3) the Territory is not liable to pay any amount on account of GST to the Organisation.

4.6 Warranties and Notifications

- (1) The Organisation warrants that:
- (a) it has ABN registration; and
 - (b) it has GST registration.
- (2) The Organisation will, if requested by the Territory, produce satisfactory evidence of its ABN registration and GST registration within 14 days of the request. Agree

4.7 Change in ABN or GST Registration

Each party must notify the other if:

- (1) its registration in respect of either or both the ABN or the GST, pursuant to the GST Act ceases; or if, not having been so registered on the date of this Agreement, becomes registered; or Agree
- (2) it ceases to satisfy any of the requirements of rulings, or determinations under section 29-70 of the GST Act, issued by the Australian Taxation Office, or the Commissioner for Taxation, in respect of recipient created tax invoices. Agree

5. Organisation's Obligations

5.1 Reporting incidents

The Organisation will promptly notify and fully disclose to the Territory's Relationship Manager (as detailed in **Schedule 1**) in writing any litigation, arbitration, conciliation or proceeding that is taking place or pending against the Organisation that could have a material adverse effect on:

- (1) the Organisation's ability to finance and/or perform any of its obligations under this Agreement; and Agree
- (2) the reputation of the Territory in the community. Agree

5.2 Access to Premises

- (1) The Organisation will at the request of the Territory and within such time as

is agreed by the parties or, if no agreement has been reached after two weeks of any request, within such period of time specified in a written notice (which provides reasons for access) from the Territory allow the Territory, its employees and agents to enter onto the Premises of the Organisation:

- (a) to inspect and copy all records and documentation, of a financial nature or otherwise, relating to the Services but not including any Service User records; and/or Agree
 - (b) to inspect the operation and progress of provision of the Services as appropriate having regard to the privacy of the Service Users. Agree
- (2) Having regard to the interest or protection of any Service User and to the circumstances of any request, the Organisation may require the Territory not to permit a Territory employee of a nominated gender to enter the Premises. Agree

5.3 Insurances

From the commencement of the Agreement Period the Organisation will effect and maintain all insurance required to be effected by it by law and the following:

- (1) the insurance policies specified in **Item 4 Schedule 1** (unless otherwise approved by the Territory in writing); Agree
- (2) appropriate and adequate insurance over Assets, (including, where relevant, comprehensive motor vehicle insurance); and Agree
- (3) adequate insurance to cover the Organisation's volunteers. Agree

and will if requested by the Territory, on execution of this Agreement, on the renewal of any policy and on other occasions within a reasonable time of the Territory's request, produce satisfactory evidence of currency or renewal of insurance policies to the Territory. Agree

5.4 Indemnity

Except to the extent that the Territory caused the relevant loss, damage or injury, the Organisation will be responsible for and will indemnify the Territory, its employees and agents against liability in respect of all claims, costs and expenses and for all loss, damage, injury or death to persons or property caused by the Organisation, its employees or agents in connection with the provision of the Services. Agree

5.5 Make good

The amount of all claims, loss, damage, costs and expenses the subject of the indemnity in clause 5.4 will be made good at the Organisation's expense. Agree

5.6 Organisation Staff

The Organisation will ensure employees and volunteers (Staff) delivering the Services are:

- (1) appropriately qualified and skilled; and Agree
- (2) provided with appropriate working conditions, having regard to but not limited to:
 - (a) employing employees under applicable Commonwealth or Territory laws and enterprise agreements; and Agree
 - (b) providing adequate support, training and debriefing and effectively directing Staff to enable them to effectively perform their duties. Agree

5.7 Background Checking

- (1) If the Background Checking Act applies to any regulated activity to be performed under this Agreement, the Organisation will ensure that each Engaged Person complies with the background checking, registration and any other requirements of the Background Checking Act relevant to the applicant and his/her intended duties. Agree
- (2) The Organisation will not engage a person in a regulated activity if the person is required to be registered under the Background Checking Act for that activity but does not have registration. Agree
- (3) If an Engaged Person has registration under the Background Checking Act suspended or cancelled the Organisation must cease engagement of that Engaged Person. Agree
- (4) For the purpose of satisfying clause 5.8(1), it will be sufficient for the Organisation to rely upon the results of an enquiry of any Territory agency or statutory body authorised to provide registration and any other information sought under the Background Checking Act. Agree

5.8 Fit and Proper Person

- (1) Before an individual becomes an Engaged Person, the Organisation will institute procedures to ensure that each Engaged Person is a fit and proper person, where "fit and proper" means a person who:
 - (a) is capable of providing an adequate standard of care in relation to the Services; and Agree
 - (b) is of good character and is suitable to be entrusted with vulnerable persons. Agree
- (2) Without limiting clause 5.8(1)(a), the Organisation will as part of its employment practices, take reasonable steps to ensure that the Engaged Person has the capabilities to perform the Services for which they are engaged by considering personal references as to whether the applicant is suitable to be entrusted with the care of vulnerable persons. Agree
- (3) Without limiting clause 5.8(1)(b), the Organisation will:
 - (a) take into consideration, in respect of any such individual; if there has been any of the following recorded against him/her:
 - i. convictions involving vulnerable persons (however defined) in Australia or overseas of any offence (including but not limited to child abuse, assault and neglect); or Agree
 - ii. any action taken in Australia or overseas in respect of the protection of vulnerable persons who were under the care, guardianship or custody of the individual. Agree
- (4) It will not be sufficient for the Organisation to rely on a registration under the Background Checking Act for the purpose of forming a reasonable opinion that the applicant is a fit and proper person. Agree

5.9 Critical Incidents involving Engaged Persons

If the Organisation receives, or is made aware of, or a Service User reports, credible evidence of any incident or misconduct by an Engaged Person in his/her dealings with a Service User (**Affected Service User**) in the performance of the Services, or any other vulnerable person (**Critical Incident**), the Organisation will:

- (1) promptly make all reasonable enquiries of the Engaged Person, the Service User and any other person about the Critical Incident; Agree
- (2) promptly take all reasonable measures to safeguard the Affected Service User, and any other Service User, as the circumstances reasonably require;

Agree and

(3) notify the Territory's Relationship Manager within 48 hours about the Critical Incident, and take:

(a) any further measures in the interests of the Service User/s, and Agree

(b) such measures in relation to the Engaged Person, Agree

as required by the Territory, or as recommended by any other person with relevant authority, including under the Background Checking Act. Agree

5.10 Notification to the Territory

(1) The Organisation will as soon as practicable notify the Territory in writing of any of the following:

(a) any change in the Organisation's address and its contact details; Agree

(b) any material change or proposed material change to the Organisation's constitution and rules or memorandum and articles of association; and Agree

(c) any change in the chair of the board, public officer, chief executive or any equivalent positions or executive management of the Organisation. Agree

(2) The Organisation must immediately notify the Territory in writing of any of the following:

(a) any action or proposed action relating to:

(i) the winding up or liquidation of the Organisation, Agree

(ii) the appointment of a receiver or manager, or Agree

(iii) any company arrangement between the Organisation and its creditors; and Agree

(b) any other event or circumstance which might have a material effect on the provision of the Services in accordance with this Agreement. Agree

5.11 Accuracy of Information

The Organisation warrants that all information provided from time to time by the Organisation to the Territory in relation to this Agreement is true and complete in all material respects on and from the date of the information being provided. The Organisation will notify the Territory in writing of any material change to such information as soon as is practicable. ~~Partially agree~~

Commented [KM(20): Why has undertaking been changed to 'warrants'? Do not agree to the use of 'warrants'. The second sentence contradicts 'warrants' in the first sentence.

6 Territory's Obligations

6.1 Primary obligations of Territory

The Territory will:

- (1) pay the Funding Amount, or instalments of it, to the Organisation in accordance with this Agreement; ~~Agree~~
- (2) promote linkages among its agencies and programs relevant to the Services; and ~~Agree~~
- (3) act promptly and in good faith in the resolution of any questions, issues or disputes that may arise during the course of this Agreement. ~~Agree~~

Commented [ACTGS21]: The change in terminology to this provision is a result of an update in the whole of government template in 2015. The amendment from "undertake" to "warrant" provides protection to the Territory for information provided by the Organisation, in which it has no control. The second sentence allows the organisation, where information that has already been provided becomes incorrect or invalid, to update that information, while maintaining its original warranty. The Territory does not agree to an amendment of this provision, in accordance with its whole of government approach.

6.2 Review of Services

If the costs for the Organisation of delivery of the Services increases substantially due to necessary cost increases outside the control of the Organisation, the Organisation may request in writing a joint review of the Services provided under this Agreement. The Territory will give due consideration to and respond to this request. The parties may, as a result of any joint review, agree in writing to vary any of the Outputs, Performance Indicators or Performance Requirements. ~~Agree~~

6.3 Feedback

The Territory will, as soon as practicable after (and no later than 30 days after) receipt of a report pursuant to Schedule 3, provide to the Organisation a reasonable level of feedback concerning the sufficiency of the report. ~~Agree~~

6.4 Territory's requests for information

The Territory may request the Organisation to provide it with information relevant to the Services that is reasonable having regard to the circumstances and any request will:

- (1) be in writing; ~~Agree~~

- (2) specify the information required, which may include but is not limited to:
- (a) information about guidelines or rules provided for Service Users and/or about the Organisation; Agree
 - (b) information required by a Minister or Auditor General; Agree
 - (c) fees, if any, charged by the Organisation to Service Users; and Agree
 - (d) ~~all financial records and documents relating to the Services. Do not agree~~
 - (d) _____
- (3) specify a reasonable time frame in which the Organisation must provide the information. Agree

Commented [ACTGS22]: The Territory may, from time to time, require financial information from the Organisation to support its public duties in expending public monies. For example, as the Territory has agreed to reinstating a supplementation provision, the Territory requires evidence to support payment of any additional monies under that special condition. As this clause supports the Territory's public duties in relation to the Services, and only relates to financial records that are relevant to provision of the Services, the Territory does not agree to deletion of this clause.

Commented [KM(23): Accept the Territories explanation. In that light suggest amendment: "financial records and documents relating to Services funded by the Territory"

6.5 Organisation's Confidential Information

If the Organisation identifies information as confidential, the Territory must:

- (1) take all reasonable measures to ensure that the information is protected against loss, unauthorised access, use, modification, disclosure or other misuse; and Agree
- (2) ensure that the information is not disclosed to any person in any way except for the purposes of this Agreement, without the prior written consent of the Organisation, except to the extent that the information is:
 - (1) required or authorised to be disclosed by law; Agree
 - (2) disclosed to the Territory's solicitors, auditors, insurers or advisers; Agree
 - (3) generally available to the public; or Agree
 - (4) in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Organisation. Agree

6.6 Communication with Organisation

The Territory agrees where possible to commence communications with the Organisation in good faith, at least ~~four~~ six months prior to the expiration of this Agreement, concerning the Territory's intentions in relation to the continuation or otherwise of funding of the Services and the parties acknowledge that no

representations or obligations will arise from those communications to enable frank and open communication. ~~Contradictory and do not agree~~

Commented [KM(24): This contradicts Schedule 6 Transition Out and Clause 13 Provision of Information. Also, four months is insufficient notice for continuation or otherwise for funding of the services

Commented [ACTGS25]: The Territory has amended this provision to align with Schedule 6.

Commented [KM(26): Agree

7 Confidential Text under Procurement Act

7.1 Territory will make Agreement publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. This Agreement is a notifiable contract under the Procurement Act and the Territory is required to make the text of this Agreement available to the public, including by publication on a public contracts register.

7.2 Confidential Text

Item 6 Schedule 1 specifies Confidential Text, the grounds on which the text is confidential are set out in Item 7 Schedule 1 and clause 7.3 applies. ~~Agree~~

7.3 Territory must not disclose Confidential Text ~~Agree~~

Except as provided in this Agreement, the Territory must not disclose Confidential Text to any person without the prior written consent of the Organisation (which consent must not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Organisation;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of the public revenue.

8 Treatment of Personal Information

The Organisation must:

- (1) use Personal Information only for the purposes of fulfilling its obligations under this Agreement, including the continuity of Services for the Service User, and as legally required; ~~Agree~~
- (2) take all reasonable measures to ensure that Personal Information is protected against loss and unauthorised access, use, modification, disclosure or other

Commented [KM(27): Why has this changed from the previous Agreement? This Agreement reflects commitments in relation to continuity of services for Service Users.

Commented [ACTGS28]: The inclusion of the words "including the continuity of Services for the Service User" clarifies the spirit of the Agreement in relation to continuity of patients receiving services, particularly in relation to transition arrangements. Please detail your concerns in relation to this provision, including why the Organisation may not be able to meet its obligations under this provision, for the Territory's consideration.

Commented [KM(29): Seeking clarification only. We have already agreed.

misuse and that only authorised personnel have access to the information;
Agree

- (3) comply with the TPPs and a TPP Code and must not (and procure that any subcontractor engaged by the Organisation under this Agreement does not) act or engage in a practice that breaches a TPP or a TPP Code; Agree
- (4) ensure that any person whom the Organisation enables to have access to any Personal Information, is made aware of, and undertakes in writing, to observe the Organisation's obligations under this clause 8 and is informed that failure to comply with the undertaking may be a criminal offence and may also lead the Organisation to take disciplinary action against the person if he or she is the Organisation's employee; Agree
- (5) immediately notify the Territory of any complaint alleging an interference with the privacy of a Service User or any other person who is affected by the provision of the Services and similarly notify the Territory where the Organisation becomes aware of a breach of clause 8(2) or 8(3); and Agree
- (6) in respect of any Personal Information held in connection with this Agreement, co-operate with any reasonable requests or directions of the Territory arising directly from, or in connection with the exercise of the functions of the Information Privacy Commissioner including the issuing of any guidelines concerning the handling of Personal Information or a complaint alleging a breach of any of the TPPs. Agree

9 Organisation to protect Territory Information

9.1 Non disclosure of Territory Information

Except as provided in this Agreement, the Organisation must not disclose Territory Information to any person, nor deal with the Territory Information in any way except for the purpose of this Agreement, without the prior written consent of the Territory except to the extent that the Territory Information is:

- (1) required or authorised to be disclosed by law; Agree
- (2) disclosed to the Organisation's solicitors, auditors, insurers or advisers; Agree
- (3) generally available to the public; or Agree
- (4) in the possession of the Organisation without restriction in relation to disclosure before the date of receipt from the Territory. Agree

9.2 Protection of Territory information

- (1) The Organisation must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Agreement is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information. Agree
- (2) The Organisation must do all things necessary to ensure that Territory Information accessible to the Organisation and the Organisation's personnel by virtue of the performance of this Agreement is not accessed, published or communicated in any way, including imposing upon the Organisation's personnel obligations of confidentiality with respect to Territory Information. Agree

9.3 Acknowledgement of effect of Crimes Act

The Organisation acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Agreement (other than to a person to whom the Organisation is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900 (ACT)*.

10 Ownership and use of material

10.1 Ownership of material

Ownership of:

- (1) all Agreement Material, including any intellectual property rights, vests on its creation in the Territory; Agree
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and Agree
- (3) all Organisation Material, including any intellectual property rights, remains with the Organisation. Agree

10.2 Licence of material

- (1) The Territory grants to the Organisation a royalty-free, limited licence to use the Agreement Material and Territory Material for the Agreement Period for the purposes of performing the Services. Agree

(2) The Territory, in its absolute discretion, may grant to the Organisation a royalty-free, limited licence to use the Agreement Material after the Agreement Period, following consideration of:

- (a) the purposes for which the Organisation requests the licence to use the Agreement Material;
- (b) which Agreement Material the Organisation requests to use; and
- (c) the length of time the Organisation requests to use the Agreement Material.

(3) The Organisation grants to the Territory a royalty-free, perpetual, limited licence to use the Organisation Material ~~for the purposes of obtaining the full benefit of the Agreement Material.~~ ~~Disagree~~

(4) For the purpose of this clause, "use" includes:

- (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Agreement Material; ~~Agree and~~
- (b) such uses as are reasonably necessary for the Organisation to undertake the Services or as otherwise agreed by the Territory, ~~Agree~~

and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires. ~~In using the material, each party agrees on the basis that any use by one party does not to misrepresent in any way the other party.~~ ~~Partially Agree~~

Commented [ACTGS30]: Please consider this additional drafting.

Commented [KM(31)]: It is reasonable to expect the use of the Organisations material by the Territory be under the same terms as the use of the Territory material by the Organisation

Commented [KM(32)]: Agree

Commented [KM(33)]: It is reasonable that the clause include acknowledgement and any adaptation may not misrepresent the Territory or the Organisation.

Commented [ACTGS34]: Amendment for your consideration.

Commented [KM(35)]: Agree

10.3 Third party rights

The Organisation must ensure:

- (1) the use of any Agreement Material or Organisation Material will not infringe the intellectual property rights of any third party; and ~~Agree~~
- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or its agents') use of any Agreement Material or Organisation Material. ~~Agree~~

10.4 Moral rights

The Organisation must, in relation to the authors of any work that comprises or forms part of the Agreement Material:

- (1) use its best endeavours to include in the Agreement Material an attribution of those authors; and Agree
- (2) procure from those authors their genuine written consent for the Territory to:
 - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent; Agree
 - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public); and/or Agree
 - (c) materially alter the work in any way. Agree

10.5 Safekeeping and preservation of material Agree

The Organisation must ensure the safe-keeping and proper preservation of Agreement Material and Territory Material in its possession or control and deliver to the Territory all Agreement Material and Territory Material on the expiration or termination of this Agreement (other than copies of material that the Territory has authorised the Organisation to retain).

11 Resolution of Issues

11.1 Notice of issue

- (1) Either party may give written notice (**Notice**) to the other that an Issue exists, giving details of the Issue in the Notice. Agree
- (2) The parties will, in good faith, endeavour to promptly resolve the Issue. If the Issue is not resolved within 10 business days of the Notice being served, or such other period agreed in writing, each party will refer the Issue to a senior executive officer of the party who will endeavour to negotiate to resolve the Issue in a timely manner. Agree

11.2 Mediation or Conciliation of Issue Agree

- (1) If the Issue is not resolved within 20 business days of the Notice being served, or such other period agreed in writing, the parties will undertake a mediation or conciliation process before either resorts to litigation (except where urgent interlocutory relief is sought). The appropriate process and a suitable and independent mediator or conciliator will be:

- (a) as agreed by the parties in writing; or Agree
 - (b) failing agreement, determined by the chairperson of LEADR & IAMA, ACT Chapter. Agree
- (2) The parties will use their best endeavours to resolve any Issue within 40 business days of the Notice. Agree

11.3 No suspension of Services

Unless agreed by the parties in writing no unresolved Issue will entitle the Organisation to suspend the provision of Services. Do not agree

12 Suspension and Termination

12.1 Suspension

The Territory may, upon written notice to the Organisation, suspend payment of any part of the Funding Amount if the Organisation fails in a timely manner to provide to the reasonable satisfaction of the Territory reports or information required under this Agreement. Agree

12.2 Termination due to breach

If an Issue notified pursuant to clause 11, which involves a breach of this Agreement, is not resolved or remedied within a timeframe specified in the notice, the Territory may immediately by further written notice terminate this Agreement in whole or part. Agree

12.3 Termination by notice

The Territory may, in its absolute discretion, immediately by written notice suspend or terminate the parties' respective obligations under this Agreement in whole or in part if:

- (1) there is a Compelling Reason; Agree
- (2) the Organisation becomes insolvent, is wound up, or becomes subject to any form of insolvency administration; Agree
- (3) the Organisation has, or is in the process of having, its registration or incorporation cancelled; Agree
- (4) the Organisation, its employees or contractors, in the course of providing the

Commented [ACTGS36]: Clause 12.5(1) refers to termination of the Agreement. This provision relates to a temporary or permanent suspension of services. It ensures that if the parties are resolving an Issue in accordance with clauses 11.1 and 11.2, that the services continue to be provided, unless agreed by both parties. This is in the best interests of the patients.

Commented [KM(37): Agree

Commented [KM(38): Contradicts 12.5 (1)

Services, has participated in egregious behaviour that is inconsistent with Territory policy and the "social compact", and is likely to bring the Territory or the responsible Minister into disrepute; or

- (5) the Organisation's business or activities are contrary to any government policy of the Territory. Agree

Commented [KM(39): What does the Territory mean by 'egregious behaviour' and there is no definition of 'social compact' in this Agreement.

Commented [ACTGS40]: I have deleted the term "egregious" which provides more flexibility in the application of the provision. In relation to the "social compact", the reference has been reinserted into the recitals in accordance with your comments. Please advise if the role of the social compact remains unclear.

Commented [KM(41): Agree

12.4 Obligation after termination

- (1) Upon termination of this Agreement, the Organisation must immediately:
- cease expending the Funding Amount, unless otherwise agreed by the parties in writing; Agree
 - calculate and notify the Territory of any unexpended amount of the Funding Amount, taking into consideration any outstanding amounts the Organisation is obliged to pay employees and other third parties as a result of the Services provided prior to termination; and Agree
 - pay to the Territory any unexpended amount of the Funding Amount and any interest earned or income derived from the provision of Services not expended. Agree
- (2) Upon termination of this Agreement, the Territory may:
- cease any further payment of the Funding Amount to the Organisation; and Agree
 - reclaim any amount of the Funding Amount that was not applied in the provision of the Services. Agree
- (3) Nothing in this clause 12 prejudices any other rights and remedies of the Territory in respect of any breach by the Organisation of this Agreement.

12.5 Termination by Organisation

~~[Clause 11.6 from the 2013-2016 Agreement must be inserted here (Both parties may at any time agree in writing to terminate this Agreement).]~~

The Organisation may terminate this Agreement by giving at least 10 business days notice to the Territory if the Territory:

- (1) has not paid a correctly rendered invoice and has not notified the Organisation that it disputes an amount specified under an invoice within 360 days of

Commented [KM(42): This clause places an unreasonable burden on the organisation. This means the Territory may not quarters amount and the Organisation must wait a further 100 c before they can cease providing services.

Commented [KM(43): The ACT has created an unstable operating environment. CMS will only provide services while it can attract and retain an appropriately qualified and skilled workforce. Previous advice about open tender and this Agreement put CMS' capacity to run a quality service for the duration of the Agreement at high risk.

Commented [ACTGS44]: The Territory notes your concerns outlined above. Please refer to our comments against clause 6.6, and the new special condition.

Commented [KM(45): Comments against clause 6.6

Commented [ACTGS46]: The Territory does not agree to a mutual termination provision being included.

Commented [KM(47): It needs to be acknowledged somewhere in the Agreement that the Territory has altered the operating environment to the extent that the possibility is there and is increasing over time that the Service may at some stage need to notify the Territory that it must cease to operate the service.

receipt of that invoice; and ~~Partially agree~~

Commented [KM(48)]: 30 days not 60

Commented [ACTGS49]: Amendment made, for the purposes of this Agreement only.

Commented [KM(50)]: Agree

(2) the Organisation has given the Territory:

- (a) a first notice 15 days after the due date of the invoice, specifying the failure to pay and giving the Territory at least 15 days to pay the invoice; and ~~Do not agree~~
- (b) a second notice 15 days after the first notice, referring to the first notice and giving the Territory at least 15 days to pay the invoice. ~~Do not agree~~

12.6 Reduction in scope for convenience

(1) The Territory may, at any time, by notice, reduce the scope of the Services, including for a significant change in Territory policy or a reduction of the relevant allocation in a Territory budget. ~~Disagree~~

Commented [KM(51)]: It is reasonable to expect this to be by 'negotiation' not 'notice'.

(2) On receipt of a notice of reduction in scope the Organisation must:

Commented [ACTGS52]: The Territory does not accept the proposed amendment to this provision. It is required due to the nature of the Territory as a Government entity and will not be used capriciously.

- (a) reduce work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that reduction in scope; and
- (c) continue to work on any part of the Services not affected by the notice.

Commented [KM(53)]: Do not agree. Capriciously? This terminology is offensive. We are seeking the opposite -- we are seeking for the term of the Agreement a predictable platform from which to operate. This clause, as it is currently written, allows for the Territory to be capricious... or unpredictable. We appreciate the dynamic nature of health and service provision and all we are seeking is reasonable notice through negotiation.

(3) If the scope of the Services is reduced under this clause 12.6 the Territory will be liable for:

- (a) payments under clause 4.1 for Services rendered before the effective date of reduction in scope; and Agree
- (b) reasonable costs incurred by the Organisation that are attributable to the reduction in scope. Agree

(4) If the scope of Services is reduced, the Territory's liability to pay the Funding Amount abates in accordance with the reduction in scope of the Services ~~after reasonable costs have been agreed~~. ~~Partially agree~~

Commented [ACTGS54]: The Territory does not agree with this amendment. As currently drafted, the Territory will be liable to pay for only the Services that are provided by Mothercraft. The reduction in the Funding Amount will be equivalent to the reduction in Services, which is reasonable in the circumstances.

13. Provision of Information

13.1 Organisation to cooperate

Commented [KM(55)]: Do not agree. There are up front cost implications inherent in reducing the scope of a service. Reducing services is not a cost saving exercise in the first instance. The Territory itself does not make immediate savings when it closes a Branch or Section. All we are seeking is for the term of the Agreement that reasonable costs incurred because of a Territory decision be mutually agreed and covered by the Territory.

- (1) Unless otherwise specified in **Schedule 6**, the Organisation must, prior to the expiration or earlier termination of this Agreement,
- (a) cooperate with the Territory and/or the organisation (**Incoming Organisation**) engaged to perform the Services from the Organisation to provide all information, data and records related to the Services in a timely, orderly and efficient manner; and Agree
 - (b) provide all reasonable assistance required by the Territory that are otherwise in accordance with this Agreement, to ensure the timely and orderly transfer of Services to the Incoming Organisation. Agree
- (2) Without limitation, the Organisation's obligations under **clause 13.1** include:
- (a) subject to appropriate safeguards, transferring Personal Information in relation to Services provided to Service Users to the Territory or if directed, to the Incoming Organisation; Agree
 - (b) providing access to all relevant material in the possession of the Organisation, necessary for the transfer of the Services (excluding any details of any Organisation Material); Agree
 - (c) maintaining continuity of the Services necessary to satisfy the Territory until the transfer of the Services to the Incoming Organisation has been completed; and Partially agree
 - (d) any other obligations set out in **Schedule 6**. Partially agree

Commented [ACTGS56]: The Territory does not agree with the proposed amendment. As the services will have been transferred to another Organisation, and the Territory will no longer be in a contractual relationship with Mothercraft, it is not reasonable to obtain agreement from Mothercraft in this situation. The Transition Out Plan that will be provided by Mothercraft under Schedule 6, should address any transition requirements of Mothercraft.

Commented [KM(57)]: Partially agree. Our legal advice was that this means the Territory may demand a continuity of service provision beyond the Agreement period – there is no limit to this clause. If the clause reflects the Transition Out Plan under Schedule 6 then we have no issue and it would be helpful if this clarity written into the clause.

Commented [KM(58)]: "... to the mutual satisfaction of the Territory and the Organisation....."

13.2 Payment to Organisation

The Territory will continue to pay the Organisation the Funding Amount in respect of those components of the Services provided by it during the transition to the Incoming Organisation. Agree

14. General

14.1 Variation

This Agreement may be varied or the Agreement Period extended only by the written agreement of the parties prior to the expiration of this Agreement. Agree

14.2 No waiver

Failure or omission by either party at any time to enforce or require strict or timely

compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights and remedies that either party may have in respect of that provision. Agree

14.3 Entire agreement

This Agreement comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements. Agree

14.4 Severability

Any provision of this Agreement that is illegal, void or unenforceable will not form part of this Agreement to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Agreement will not be invalidated by an illegal, void or unenforceable provision. Agree

14.5 Conflict of interest

The Organisation warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Agreement and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk. Agree

14.6 Subcontracting

The Organisation must not subcontract its obligations under this Agreement without the prior written agreement of the Territory. Disagree

14.7 Governing law and compliance with the law

This Agreement is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Organisation must comply with the laws from time to time in force in the Territory in performing the Services. Agree

14.8 No Employment, Agency or Partnership

Nothing in this Agreement constitutes the Organisation, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Organisation must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory. Agree

Commented [ACTGS59]: This provision refers to any subcontracting arrangements of Mothercraft. The Territory must agree prior to Mothercraft subcontracting out any of its obligations to deliver services under this Agreement. This provision does not relate to other contracting requirements at the Territory's hospital.

Commented [KM(60): Disagree. Is the Territory demanding we (Canberra Mothercraft Society) seek permission from the Territory for subcontracting functions such as outlined below? If you are saying that the Canberra Mothercraft Society cannot subcontract the provision of care that is understandable. To operate efficiently and effectively we must be able to retain the flexibility to subcontract support services without the permission of the Territory, such as:

- Gardening
- Catering
- Waste management
- Cleaning
- etc

Commented [KM(61): Functions such as cleaning, catering and gardening are contracted. This clause is unreasonable.

14.9 No Assignment

Subject to any Special Conditions in Schedule 5, the Organisation will not assign or otherwise deal with its rights and obligations under this Agreement without the prior written consent of the Territory.

14.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Agreement must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery; Agree
- (2) if sent by prepaid mail, on the expiration of two ~~five~~ business days after the date on which it was sent; Disagree
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or Agree
- (4) if sent by electronic mail, on whichever of the following occurs first:
 - (a) the other party's acknowledgement of receipt by any means; Agree
 - (b) the sender's electronic mail device recording that the electronic mail has been successfully transmitted to the recipient's address; or Agree
 - (c) the expiration of two business days after the date on which it was sent without receipt of a notification that the delivery failed; Agree

and if given in two or more ways, on the first of paragraphs (1) to (4) occurring.

14.10 Survival of clauses

Clauses 5.4, 5.5, 8, 9 and 13.1(2)(a) (and any outstanding obligation to provide reports under Schedule 3) will survive the expiration or earlier termination of this Agreement.

Commented [ACTGS62]: This provision has been updated as requested.

Commented [KM(63)]: Prepaid mail in the ACT can now take up to 5 working days to be received.

DATE OF THIS AGREEMENT

SIGNED for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY)
in the presence of:) Signature of Territory delegate

.....
Signature of witness Print name

.....
Print name

SIGNED by or for and on behalf of)
Canberra Mothercraft Society Inc)
trading as Queen Elizabeth II Family)
Centre) Signature of authorised officer

ABN: 27 358 139 470
in the presence of:
Print name

.....
Signature of witness Signature of second authorised officer
*only use if Incorporated Association (see note below)

.....
Print name Print name



Note:

Date: Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.

Company: Must be signed in accordance with section 127 of the Corporations Act 2001 (Cth), for example, by 2 directors or a director and a secretary.

Incorporated Association: Must be signed in accordance with the Organisation's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

SCHEDULE 1

AGREEMENT DETAILS AND FURTHER DEFINITIONS

Item 1: TERRITORY

ACT HEALTH of 2-6 Bowes Street Phillip

Territory's Relationship Manager means:

Matthew Richter
A/g Executive Director
Policy and Stakeholder Relations
2-6 Bowes Street Phillip

GPO Box 825 CANBERRA ACT 2601

Territory's Contract Manager means:

Marilynne Read
Senior Policy Officer
Policy and Stakeholder Relations
GPO Box 825 CANBERRA ACT 2601
Email: Marilynne.Read@act.gov.au

Item 2: ORGANISATION

Canberra Mothercraft Society Incorporated trading as Queen Elizabeth II
Family Centre of 129 Carruthers Street, CURTIN ACT 2605
ABN: 27 358 139 470

Organisation's Relationship Manager means:

Ms Mary Kirk
Director of Nursing and Midwifery/and Executive Officer
129 Carruthers Street
CURTIN ACT 2605

Ph: (02) 6205 2338
Fax: (02) 6205 2344

Item 3. AGREEMENT PERIOD

The period commencing ~~1 July 2016~~ from the date of this Agreement and ending 30 June 2019, with an option in the Territory's absolute discretion to extend for an additional period up to 30 June 2022. ~~Disagree~~

Commented [ACTG564]: Please consider this amendment. The option to extend up to 2022 is in accordance with our correspondence to you last year, providing that a public tender process will not take place, in good faith, until 2022.

Commented [KM(65)]: Your comment is unclear.

Commented [KM(66)]: This Agreement commences on the expiration of the extensions to the 2013-2016 Agreement. At this stage it 1 October 2017

Item 4. INSURANCES

The Organisation will effect and maintain public liability coverage of not less than \$20 million in respect of each claim. Agree

Item 5. TERRITORY MATERIAL – INTELLECTUAL PROPERTY RIGHTS

Not Used.

Item 6. CONFIDENTIAL TEXT

Not Used.

Item 7. GROUNDS FOR CONFIDENTIALITY OF CONFIDENTIAL TEXT

Not Used.

Item 8: KEY PERSONNEL

Not Used.

SCHEDULE 2

THE SERVICES

Item 1: FURTHER DEFINITIONS

In this Agreement unless the contrary intention appears:

Premises means any premises on which the Organisation operates 129 Carruthers Street, CURTIN ACT 2605. Agree

Item 2. THE SERVICES

Having regard to progressing the broad policy goals of:

- ACT Health Corporate Plan 2012 – 2017;
- Engaging Canberrans: A guide to community engagement
- Australian Charter of Healthcare Rights;
- Charter of Children and Young People's Rights in Healthcare Services in Australia;
- ACT Prevention of Violence Against Women and Children Strategy 2011-2017; and
- ACT Children and Young People's Commitment 2015 – 2025,

the Organisation will deliver the following services:

primary health care residential services (Service) to families of young children experiencing health and behavioural difficulties in the post natal and early childhood period. These Services will be delivered from the public hospital known as the Queen Elizabeth II Family Centre (Curtin). Partially agree

Item 3. OUTCOMES

(1) In delivering the services, the Organisation will address issues such as:

- (a) Complex lactation and other feeding problems;
- (b) Failure to thrive;
- (c) Unsettled babies;
- (d) Mood disorders;
- (e) Child at risk;
- (f) Special needs;

- (g) Parenting support; and
- (h) Behavioural problems in children and families. Agree

Item 4. OUTPUTS

- (1) Primary health care residential service will be managed in such a way as to provide an integrated approach to client care through co-operative and collaborative policies, procedures and communications with the Division of Women, Youth and Children, ACT Health and other service providers and agencies. Agree

Note: The primary health care residential service of QEII will be linked with ACT Health's Community Health Intake (CHI) Line. Clients will be referred to the service through CHI. Representatives from QEII and CHI will meet on a regular basis to discuss process, intake and any other issues as they arise. Agree

- (2) Quantitative Performance Indicators: Agree

- (a) 1,800 clients admitted per year;
- (b) occupancy rate between 83-87% ~~occupancy rate of 85%~~;
- (c) Number of readmissions for the same reason within 28 Days or admission within 7 days for urgent clients; ~~number of readmissions to be no more than 5%~~;
- (d) The QEII facility will operate 24 hours, 7 days a week;
- (e) meeting agreed service targets within budget; and
- (f) 100% of urgent clients admitted within 2 days ~~(proportion of admissions of urgent clients equal to or less than 2 days).~~

- (3) Qualitative Performance Indicators Agree

- (a) appropriate written standards, policies and protocols which cover the range of interventions, client education and support activities provided in the facility are in place that demonstrate best practice;
- (b) development of an agreement/business plan as a requirement in maintaining clinical standards against agreed standards and participate in an external review;
- (c) undertake client satisfaction program that includes service specific client satisfaction surveys;
- (d) the staffing profile, mix of staff and staff development program will be appropriate in meeting the complex needs of clients; and

(e) all admissions meet the Residential Service Admission Criteria.

(4) Timeliness Performance Indicators: Agree

(a) the service is to operate 24 hours a day 7 days a week unless negotiated with Territory's Contract Manager; and

(b) waiting times for admissions of clients whose condition or situation may become unstable while waiting for admission within the next six weeks.

Commented [KM(67)]: Contract Manager or Agreement Manager or Relationship Manager?

Commented [ACTGS68]: Updated to reflect new terminology used in Schedule 1.

Item 5. PERFORMANCE EXPECTATIONS

(1) The Organisation will ensure that the standard of care provided to clients is of a high quality and provided within the context of the Services Aims and Principles. Agree

(2) Admissions will be based on clients being assessed as meeting one or more of the following criteria: Agree

- (a) families with complex lactation and other feeding problems;
- (b) failure to thrive;
- (c) unsettled babies;
- (d) Mood Disorders;
- (e) child at Risk;
- (f) special needs;
- (g) parenting support; and
- (h) behavioural problems in children/families.

See Item 7; Schedule 5 for more detailed information.

(3) The Organisation must implement strategies to ensure access by Aboriginal and Torres Strait Islanders and people from culturally and linguistically diverse backgrounds.

(4) A Working With Vulnerable People check is obtained for all employees and volunteers who are likely to work directly with older people and/or children.

(5) The Organisation is required to participate in an accreditation program that meets the National Safety and Quality Health Standards. Agree

Commented [KM(69)]: Accreditation provider is Quality Improvement Performance (QIP)

Commented [ACTGS70]: In reference to your next two comments, please provide further context as to how this breaches Mothercraft's legal obligations. As the services are being provided at a Territory public hospital, the Territory has a broader duty of care to its patients, employees and contractors. This requirement aligns with that broader duty of care. Unless Mothercraft can identify reasons why it is unable to comply with this provision, which the Territory will consider, the Territory does not agree to any amendment or deletion.

Commented [KM(71)]: It may be helpful if the Territory provided a definition of "Service User Incident". We interpret this as meaning a clinical incident involving a patient.

I am confident that the Directorate is not notified every time there is an 'incident' involving a patient at Calvary Public Hospital.

If, as the funder of the services, the Territory sees all patients at QEII as patients of the Territory then we have no issue as this means all health records are the property of the Territory and the Territory has ownership rights. Please confirm that patient records are the property of the Territory and if that is the case we agree.

Currently, our concerns are based upon:

- The Privacy Act 1998
- National privacy principles
- ACT Health Records & Privacy Act 1997 and specifically Part 2 Sections 6 & 7; Part 5 S 22

We cannot see in the law where we can comply with Item 6 of this Agreement unless the Territory owns the records and the information therein.

Commented [KM(72)]: This is a public hospital. It is inappropriate and violates health privacy and confidentiality legislation.

Item 6. REPORTING SERVICE USER INCIDENTS Do not agree

- (1) The Organisation must notify and fully disclose to the Territory in writing any incident in which a Service User has caused harm to him/herself, another Service User, an Engaged Person or a third party, or any other similar adverse situation (**Service User Incident**), ~~Do not agree~~
- (2) The Organisation must provide details to the Territory on the following. ~~Do not agree~~
- (a) Details of the Service User Incident;
 - (b) How the Service User Incident was managed by the Organisation;
 - (c) If the Service User Incident was reported to relevant authorities; and
 - (d) Any consequences of the Service User Incident.
- (3) The Territory must be notified of any Service User Incident within 48 hours of the Service User Incident occurring. ~~Do not agree~~

Commented [KM(73): This also violates health privacy & confidentiality obligations.

Item 7. FORM OF ACKNOWLEDGEMENT

Any Material or other information in any form of presentation, with the exception of policy submissions made to government, produced by the Organisation using the Funding Amount, must acknowledge the contribution of the Territory with the words 'with assistance from the ACT Government', and where required, that of the Australian Government. ~~Agree~~

SCHEDULE 3

REPORTS AND REVIEWS

Item 1. FINANCIAL REPORTS

- (1) The Organisation will provide the Territory with a Financial Report by 30 July in each year of the Agreement Period and by 30 July of the first year after the end of the Agreement Period, comprising a cash/financial statement as at the end of the Agreement Period providing full details of expenditure of the Funding Amount. Agree
- (2) The Territory may request from the Organisation:
- (a) Financial Reports or Acquittals, on yearly basis, within 30 days of 30 October for each year of the Agreement; Agree
 - (b) an Audit Report on the Organisation's accounts; Agree
- and any other documentation as the Territory may require, including receipts and any other evidence of expenditure of the Funding Amount. Agree
- (3) For the purposes of this Item 1, the following definitions apply:
- (a) **Acquittal** means report of how the Organisation has used the Funding Amount; Agree
 - (b) **Audit Report** means a report on the Organisation's accounts that has been prepared by a person who is entitled to prepare an audit report under the relevant legislation; Agree
 - (c) **Financial Report** means the annual report of the Organisation that details cash flow, including income and expenditure in the form provided at Attachment A that has been prepared by an officer of the Organisation. Agree

Item 2. PERFORMANCE REPORTS

The Organisation will submit Performance Reports, which will:

- (1) report against Outcomes as specified in ~~Items 34 and 5~~ Schedule 2, to be provided to the Territory on a yearly basis by 30 July of each financial year of the Agreement Period. Partially Agree

Commented [ACTGS74]: Please review amendment – this yearly report on the Outcomes only relates to those requirements set out in Item 3 Schedule 2.

Commented [KM(75): Agree

Commented [KM(76): This contradicts Item 2 (3) where Item 4 is reported quarterly.

(2) The Organisation will submit Performance Reports marked "Attachment B", which will: Agree

(3) meet the following information and frequency requirements:

(a) **Section 1**

Report against Output and Performance Indicators as specified in ~~Items 3 and 4 Schedule 2~~, to be provided to the Territory on a quarterly basis within 30 days of the end of 30 September, 31 December, 31 March and 30 June of each financial year of the Agreement Period. Agree

Commented [ACTGS77]: Please review amendment. This quarterly report only refers to the outputs and performance indicators set out in Item 4 Schedule 2.

Commented [KM(78)]: Agree

(b) **Section 2**

Evidence of meeting Performance Requirements specified in Item 5 Schedule 2 and any generic requirements specified in Item 6 Schedule 2 and Schedule 6 to be provided to the Territory once each 12 months of the Agreement Period. Partially Agree

Commented [KM(79)]: Agree to Item 5 Schedule 2. Do not agree to Item 6 Schedule 2 until a rationale that is applicable to the service and does not violate privacy and confidentiality obligations is provided.

(c) **Section 3**

Planning and policy implications, in which the Organisation may notify the Territory about and provide information on:

Commented [ACTGS80]: Please refer to my comment above. The Territory does not agree to any amendment to this provision, unless Mothercraft can provide further context for its consideration.

- (i) new or unmet needs;
- (ii) service gaps;
- (iii) innovations in service delivery;
- (iv) suggestions for policy change; and
- (iv) system issues,

may be provided to the Territory at least once each 12 months of the Agreement Period. Agree

Item 3. REPORTS AND DOCUMENTATION

The Organisation will provide the Territory with the Organisation's annual report required by law to be produced, within one month of the latest date the Organisation is legally required to lodge the report with the relevant regulatory authority. Agree

Item 4. KEEP IN TOUCH ARRANGEMENTS

The Organisation will include the Territory's Contract Manager in the distribution of any regular public email newsletters or other electronic notices that would otherwise go to the Organisation's members. Do not agree

Commented [ACTGS81]: Please consider amendment

Commented [KM(82)]: Considered but not agreed. Happy to send public newsletters and notices however this implies ALL electronic notices that go to members will be supplied to the Territory. If the provision read public newsletters and notices there would be no issue.

Item 5. ANNUAL REVIEW

Commented [KM(83)]: Notices of a general nature will be distributed to the Territory's Agreement Manager. In confidence material is the business of the Organisation and its members.

Each year of the Agreement Period, the Territory's and Organisation's Relationship Managers (and such other persons invited by either Relationship Manager) will meet to review the Agreement and the performance of the Services (**Review**) except in the final year of the Agreement Period where the Review will be conducted at least three months before the end of the Agreement Period. Agree

SCHEDULE 4

FUNDING AMOUNT AND PAYMENT

Item 1. FUNDING AMOUNT

- (1) For the Services described in ~~Item 1-Schedule 2~~ the total funding amount for the period 1 July 2016 to 30 June 2017 was ~~-\$3,467,100.00 (excluding GST) for the period 1 July 2016 to 30 June 2017. Do not agree~~

~~[Schedule 4 Item 1.1.2 Supplementation from the 2013-2016 Agreement must be inserted here]~~

Item 2. WITHHOLDING PAYMENT

The Territory may withhold payment if completed Attachments A and B have not been received by their due date. ~~Agree~~

Item 3. PAYMENT IN ADVANCE

- (1) The Territory will pay the Funding Amount, or part thereof, in advance as follows:

by way of electronic funds transfer for the Services provided by the Organisation and payments are to be made within 10 business days of:

- (a) 30 June
- (b) 30 September
- (c) 31 December
- (d) 31 March

- (2) If:

- (a) in the case of any part of the Funding Amount having been paid in advance:

(i) the Organisation ceases to provide the Services or any part of the Services; or

(ii) this Agreement is terminated; or

- (b) it is discovered that the Organisation has been overpaid for any of the Services,

Commented [KM(84)]: Funding amount to be determined

Commented [ACTGS85]: Funding amount will be determined having regard to the nursing EBA once it is approved.

Commented [KM(86)]: Agree

Commented [KM(87)]: This item is a standard clause for CMS Agreements. CMS has never been provided with base funding to cover long term liabilities. These have been able to be covered in recent years from saving to the territory from private health insurance revenue. This clause must be reinstated.

Commented [ACTGS88]: Please consider the supplementation provision that has been inserted in Item 5 below. We note that this provision is on a "step down" basis. Territory policy is no longer to include a provision of this kind in SFAs for these services. However, in good faith, the Territory is willing to allow for a supplementation provision in this Agreement only, on the terms outlined.

Commented [KM(89)]: There is no 'this type of Agreement'. This is an Agreement between The Canberra Mothercraft Society and the Territory. Not between the Territory and 'this type of services'. The Canberra Mothercraft Society reasonably expects the Territory to negotiate an Agreement with them that meets the needs of the Territory and reflect the particular services described in the Agreement and provided by the Society.