

HMR Provider – Deed



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Introduction

- A. MR Assist owns the Website.
- B. This Deed applies to HMR Providers using the Website.
- C. MR Assist has agreed to grant HMR Provider a licence on the terms of this Agreement to use and access the Website for the Permitted Use for the purpose of conducting the Business.
- D. You accept the terms and conditions of this Agreement when you sign up for, access, or use our products, services, content, features, technologies or functions offered on our Website and all related sites, applications, and services.
- E. We may amend this Agreement at any time by posting an updated version on the Website. The revised version will be effective immediately from the time it is posted. If the revised version includes a substantial change, we will provide you with 30 days' prior notice by posting notice of the change on the "Policy Updates" page of our website. After this 30 day notice period, you will be considered as having expressly consented to all amendments to this Agreement.

Part 1 - Licence

1. Grant of Licence

- 1.1 MR Assist grants to HMR Provider a limited, non-exclusive licence to HMR Provider to use the Website for the Term for the Permitted Use.
- 1.2 The Licence commences on the Commencement Date.
- 1.3 HMR Provider accepts the licence granted by MR Assist on the terms and conditions of this Agreement.

2. Encumbrance

HMR Provider must not at any time, without the prior written consent of MR Assist:

- 2.1 make any agreement or arrangement with a third party that purports to grant any Encumbrance or other right, title or interest in the Website to that or any other third party; and
- 2.2 bring any proceedings or take any action or make any claim or demand in respect of the Website.

3. Ownership

- 3.1 The Licence does not confer on HMR Provider any goodwill or proprietary interest in the Website.
- 3.2 MR Assist will continue to own the Website and any goodwill associated with or attaching to the Website.

4. **Sub-Licence**

HMR Provider is prohibited from granting sub-licenses in respect of the Website.

5. **Pharmacy Guild Compliance**

HMR Provider must ensure that it, and any individuals or entities that it engages to conduct the Business (including any accredited pharmacists that it engages to perform a home medicine review), comply with the Guidelines at all times.

6. **Protection of Website**

6.1 HMR Provider must use its best endeavours to preserve the value and validity of the Website and must do all things reasonably necessary (at its cost) for the protection of the Website from any unauthorised access and use and from any damage.

6.2 HMR Provider must notify MR Assist immediately after becoming aware of any suspected or actual, damage to or unauthorised access or use of the Website by any person.

6.3 HMR Provider must provide all assistance and documents required or reasonably requested by MR Assist in relation to any proceedings that MR Assist may take against any person for infringement of, damage to or unauthorised use of the Website

7. **Restraint on HMR Provider**

HMR Provider must not establish, attempt to establish, or assist a third party to establish a Website that is the same as, or substantially identical to the Website.

Part 2 - Termination

8. **Termination**

8.1 **Immediate Termination**

MR Assist may terminate this Agreement at any time with immediate effect by giving notice to HMR Provider if:

8.1.1 HMR Provider has committed a material breach not capable of remedy;

8.1.2 HMR Provider has committed a material breach capable of remedy and has failed to remedy that breach within fourteen (14) days after the service of written notice specifying the breach and requiring it to be remedied; or

8.1.3 an event referred to in **clause 8.3** occurs; or

8.1.4 HMR Provider fails to comply with **clauses 4, 5 or 6**.

8.2 **Termination with Notice**

MR Assist may terminate this Agreement with at least 30 days written notice to the HMR Provider.

8.3 Notification Events

HMR Provider must notify MR Assist immediately if:

- 8.3.1 it ceases to carry on business;
- 8.3.2 any step is taken to enter into any arrangement between HMR Provider and its creditors;
- 8.3.3 it ceases to be able to pay its debts as they become due;
- 8.3.4 any step is taken by a mortgagee to enter into possession or dispose of the whole or any part of its assets, business or undertakings;
- 8.3.5 any form of legal action or court proceedings is brought against HMR Provider; or
- 8.3.6 any step is taken to appoint a receiver, administrator or liquidator or other like person of the whole or any part of its assets or business.

8.4 Consequences of Termination

- 8.4.1 Upon the expiry of the Term or the termination of this Agreement, HMR Provider must immediately:
 - (a) cease using and accessing the Website; and
 - (b) return to MR Assist any documentation and property in relation to the Website and any Confidential Information in HMR Provider's possession or control.
- 8.4.2 Upon expiry of the Term or termination of this Agreement, HMR Provider will not again use the Website without the prior written consent of MR Assist and HMR Provider accepts that all rights in the Website belong to MR Assist to the exclusion of HMR Provider.
- 8.4.3 Termination of this Agreement will not affect the accrued rights or remedies of either party.

Part 3 - Standard terms

9. Effect of introduction

The introduction is correct and forms part of this Agreement.

10. Entire agreement

- 10.1 This Agreement records the entire agreement between the parties as to its subject matter.
- 10.2 Any prior or collateral agreement related to the subject matter of this Agreement is rescinded by this Agreement. The parties release each other from all claims in respect of any prior or collateral agreement.

10.3 Any representation not expressly warranted in this Agreement is withdrawn. The parties do not rely upon any representation that is not expressly warranted in this Agreement. The parties release each other from all claims in respect of any representation that is not expressly warranted in this Agreement.

11. **Confidentiality**

11.1 **Obligation**

11.1.1 Each party must keep confidential any Confidential Information obtained from the other party in the course of the negotiations for or performance of this Agreement, as well as the terms of this Agreement, and the subject matter of this Agreement or the transaction provided for in it.

11.1.2 No party may use or disclose the Confidential Information of any other party for any purpose other than that which the information was disclosed.

11.2 **Survival of Obligations**

The obligations of confidentiality under this Agreement survive the expiration or termination of this Agreement.

11.3 **Permitted Disclosure**

Each party may only disclose another party's Confidential Information to those of its employees, contractors or professional advisers who need to know the information and who are aware of the confidential nature of the information.

11.4 **Ownership**

Unless otherwise provided in this Agreement, no party will acquire any title to any Confidential Information or other Intellectual Property of any other party.

12. **Other acts**

Each party must, at its expense, promptly do all things reasonably necessary to give full effect to this Agreement.

13. **Costs**

13.1 Each party must bear its own costs in relation to the negotiation, preparation and execution of this Agreement.

13.2 HMR Provider must pay all stamp duty, registration fees and any other government charges payable in respect of this Agreement and must indemnify MR Assist against liability for such duty and charges.

14. GST

14.1 Construction

In this clause:

- 14.1.1 words and expressions which are not defined in this Agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law; and
- 14.1.2 **GST Law** has the same meaning given to that expression in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

14.2 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Agreement are exclusive of GST.

14.3 Payment of GST

If GST is payable by a supplier or by the representative member for a GST group of which the supplier is a member, on any supply made under this Agreement, the recipient will pay to the supplier an amount equal to the GST payable on the supply.

14.4 Timing of GST payment

The recipient will pay the amount referred to in **clause 14.3** in addition to and at the same time that the consideration for the supply is to be provided under this Agreement.

14.5 Tax invoice

The supplier must deliver a tax invoice or an adjustment note to the recipient before the supplier is entitled to payment of an amount under **clause 14.3**. The recipient can withhold payment of the amount until the supplier provides a tax invoice or an adjustment note, as appropriate.

14.6 Adjustment event

If an adjustment event arises in respect of a taxable supply made by a supplier under this Agreement, the amount payable by the recipient under **clause 14.3** will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.

14.7 Reimbursements

Where a party is required under this Agreement to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- 14.7.1 the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party, or to which the representative member for a GST group of which the other party is a member, is entitled; and
- 14.7.2 if the payment or reimbursement is subject to GST, an amount equal to that GST.

15. **Intellectual Property**

- 15.1 Entry into this Agreement does not constitute a transfer or conveyance of any Intellectual Property as at the date of this Agreement.
- 15.2 The parties agree that they will not in any way infringe or modify, or allow a third party to infringe or modify, the Intellectual Property without MR Assist's prior written consent.
- 15.3 The parties agree that they will do all things reasonably necessary to enforce and protect the Intellectual Property and will notify the relevant party as soon as reasonably possible of any suspected infringement of the Intellectual Property by a third party.
- 15.4 All new intellectual property arising out of this Agreement will be owned by a single party where it is clear that that party created the intellectual property in question.
- 15.5 Where it is unclear which party created any new intellectual property the matter will be resolved in accordance with **clause 16**.

16. **Dispute resolution**

16.1 **Procedure**

- 16.1.1 Before recourse to arbitration or litigation (other than an application for urgent interlocutory or declaratory relief) the parties must endeavour to resolve any dispute or claim arising out of or relating to this Agreement or its performance ('**Dispute**') in accordance with the procedures set out in this **clause 16**.
- 16.1.2 All procedures set out in this **clause 16** will occur in Adelaide, South Australia.
- 16.1.3 The timeframes set out in this **clause 16** may be varied with the consent of all parties.
- 16.1.4 This **clause 16** shall continue indefinitely.

16.2 **Negotiation**

- 16.2.1 A party may at any time deliver to the other parties, notice of a Dispute ('**Dispute Notice**'). The date upon which the Dispute Notice is delivered is referred to as the Dispute Notice Date.
- 16.2.2 The parties must deliver to each other a written response ('**Answer**') within 10 business days after the Dispute Notice Date. The Dispute Notice and the Answer must include a statement of each party's position and a summary of arguments supporting that position.
- 16.2.3 The parties must negotiate in good faith to resolve the Dispute.

16.3 **Mediation**

If the Dispute has not resolved within 20 business days of the Dispute Notice Date it will be mediated in accordance with the Australian Commercial Disputes Centre Guidelines for Commercial Mediation current at the Dispute Notice Date. Those Guidelines are incorporated into this Agreement. Where there is any inconsistency between those Guidelines and this Agreement, this Agreement will prevail.

17. Governing law

This Agreement is governed by the laws of South Australia. The parties submit to the jurisdiction of the Courts of South Australia. Any proceeding brought in the Federal Court of Australia must be instituted in its South Australia District Registry.

18. Dealing with rights and obligations granted by this Agreement

The rights and obligations under this Agreement:

- 18.1 are personal and cannot be assigned, sub-licensed or charged without the prior consent of all parties;
- 18.2 cannot be waived except by express notice specifying the waiver;
- 18.3 cannot be amended or varied without the prior consent of all parties;
- 18.4 are in addition to and do not effect any other rights that party may have; and
- 18.5 will not merge with any act done to complete or perform this Deed.

19. Parties

- 19.1 A party includes the party's successors and permitted assigns.
- 19.2 This Deed confers no rights or obligations upon any person who is not a party.
- 19.3 An agreement, representation, or warranty:
 - 19.3.1 on the part of two or more persons binds them jointly and severally;
 - 19.3.2 in favour of two or more persons is for the benefit of them jointly and severally.
- 19.4 A party that is a trustee is bound both personally and in its capacity as a trustee.
- 19.5 If HMR Provider is a corporation, it will not allow any change to the power (whether legally enforceable or not) to control, whether directly or indirectly:
 - 19.5.1 the composition of its board of directors;
 - 19.5.2 the voting rights of the majority of its voting shares; or
 - 19.5.3 the management of its affairs.
- 19.6 Unless otherwise specified, this Deed does not create a relationship of principal and agent, employer and employee, partnership or joint venture between the parties.

20. Rules of interpretation

- 20.1 Any provision of this Deed must be read down to the extent necessary to be valid. If that is not possible, it must be severed. All other provisions of this Deed are unaffected.
- 20.2 A provision of this Deed will not be construed to the disadvantage of a party because that party was responsible for including that provision and/or that provision benefits that party.

- 20.3 In this Deed unless the contrary intention appears:
- 20.3.1 a person includes any other legal entity and vice versa;
 - 20.3.2 the singular includes the plural and vice versa;
 - 20.3.3 a gender includes the other gender;
 - 20.3.4 where a term is defined, its other grammatical forms have a corresponding meaning;
 - 20.3.5 a clause or annexure is a clause of, or annexure to, this Deed;
 - 20.3.6 a reference to a document is to that document as amended or varied;
 - 20.3.7 any legislation includes any subordinate legislation and amendments;
 - 20.3.8 conduct includes any act, omission, representation, statement or undertaking whether or not in writing; and
 - 20.3.9 'including', or similar words, do not limit what else might be included.
- 20.4 Headings are for convenience and do not affect the interpretation of this Deed.

Part 4 - Dictionary

21. Dictionary

In this Deed unless the contrary intention appears:

- 21.1 **'Deed'** means this Deed;
- 21.2 **'Business'** means the business operated by HMR Provider as a HMR Service Provider as that term is described in the 5th Community Pharmacy Deed, Program Specific Guidelines, Home Medicines Review (a copy of which is contained in Schedule 1);
- 21.3 **'Commencement Date'** means the date of creating an HMR Provider user profile on the Website;
- 21.4 **'Confidential Information'**
- 21.4.1 means:
 - (a) the terms of this Deed and all information obtained in investigations or negotiations leading to this Deed; and
 - (b) all information in the possession of a party which relates to MR Assist or HMR Provider's businesses and which the party treats as confidential;
 - 21.4.2 includes (without limitation):
 - (a) business and financial records;

- (b) computer applications source codes and programs (including MR Assist’s website);
 - (c) customer contact details and information relating to prior transactions with customers;
 - (d) discoveries, know how inventions;
 - (e) formulae, processes and techniques, and
- 21.4.3 excludes information in the public domain (otherwise than as a result of a breach of this Deed or any other duty of confidence);
- 21.5 **‘Encumbrance’** means any interest or power that is reserved in or over any interest in any asset and that may have a material adverse effect on the interest encumbered. It includes any retention of title or security for the performance of any obligation;
- 21.6 **‘Guidelines’** means each of the following:
 - 21.6.1 the 5th Community Pharmacy Deed, Programme Specific Guidelines, Home Medicines Review (a copy of which is contained in Schedule 1);
 - 21.6.2 the 5th Community Pharmacy Deed, General Terms and Conditions (a copy of which is contained in Schedule 2); and
 - 21.6.3 the 5th Community Pharmacy Deed, Australian Privacy Principles Notification (a copy of which is contained in Schedule 3).
- 21.7 **‘Intellectual Property’** means any rights in the Website, including the name and brand ‘MR Assist’ and any goodwill in that name and brand, whether or not existing at the date of this Deed and whether or not registered or registrable and includes any and all variations, modifications or enhancements to each of them together with any application or right to apply for registration of those rights and includes all renewals and extensions.
- 21.8 **‘Licence’** means the licence granted by this Deed;
- 21.9 **‘Permitted Use’** means the use and access of the Website by HMR Provider and related staff of HMR Provider to conduct the Business by:
 - 21.9.1 updating HMR Provider’s details on the Website;
 - 21.9.2 promoting HMR Provider’s Business on the Website as a provider of home medicine reviews through accredited pharmacists;
 - 21.9.3 accessing any referrals to HMR Provider from referring clinics on the Website; and
 - 21.9.4 completing any HMR reports or medication management plans requested by referring clinics.
- 21.10 **‘Term’** means a term commencing on the Commencement Date and ending on the termination of this Deed in accordance with **clause 8**; and
- 21.11 **‘Website’** means the website address www.mrassist.com.au developed and operated by MR Assist and its related entities.

Part 5 - Execution

22. Execution

22.1 This Deed is executed when you sign up for, access, or use our products, services, content, features, technologies or functions offered on our Website and all related sites, applications, and service.

22.2 This Deed is executed as a Deed.

Schedule 1

5th Community Pharmacy Deed

Programme Specific Guidelines, Home Medicines Review

Programme Specific Guidelines

Home Medicines Review (HMR)

Effective from 1 March 2014



Australian Government
Department of Health



**The Pharmacy
Guild of Australia**

Home Medicines Review



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This document must be read in conjunction with the 5CPA General Terms and Conditions.
All definitions in the 5CPA General Terms and Conditions apply in these Programme Specific Guidelines.

1. Definitions

HMR means Home Medicines Review, (also known as *Domiciliary Medication Management Review (DMMR) under the Medicare Benefits Schedule*).

HMR Service means a review requested by the eligible Patient's general practitioner, in which the general practitioner, Community Pharmacy, Accredited Pharmacist, Patient, and where appropriate, a carer or other member of the health care team participate.

HMR Service Provider means any of the following who have been approved to provide HMR Services in accordance with the 5CPA General Terms and Conditions and these Programme Specific Guidelines;

- An owner of an approved Section 90 Community Pharmacy; or
- A business entity with an Australian Business Number (ABN), this includes an Accredited Pharmacist operating as a sole trader;
- A business entity does not include:
 - any organisation that is able to initiate a referral for the HMR Service
 - a Section 94 Pharmacy or
 - a public or private hospital

Patient is a person living at home in the community setting.

2. Introduction

2.1 Background


The Fifth Community Pharmacy Agreement (5CPA) provides funding to a suite of medication management Programmes and their respective services including the Home Medicines Review (HMR) Programme. Indicative funding of up to \$52.11 million is allocated for the HMR Programme.

The policy intent of the HMR Programme is to enhance the quality use of medicines and reduce the number of adverse medicines events through a comprehensive medication review conducted by an Accredited Pharmacist in the Patient's home.

The objectives of a HMR are to:

- Achieve safe, effective, and appropriate use of medicines by detecting and addressing medicine-related problems that interfere with desired Patient outcomes;
- Improve the Patient's quality of life and health outcomes using a best practice approach, that involves cooperation between the general practitioner, pharmacist, other relevant health professionals and the Patient (and where appropriate, their carer);
- Improve the Patient's, and health professional's knowledge and understanding about medicines;
- Facilitate cooperative working relationships between members of the health care team in the interests of Patient health and wellbeing; and,
- Provide medication information to the Patient and other health care providers involved in the Patient's care.

A HMR Service is available to an eligible Patient whose general practitioner (GP) determines that a HMR is clinically necessary to address the Patient's needs and optimise the Patient's quality use of medicines.

A complete HMR Service includes the service provided by the GP, the HMR Service Provider and the Patient's choice of/usual Community Pharmacy from the time the Patient is identified through to the implementation and ongoing monitoring of the medication management plan. 

3. Participation in the HMR Programme

3.1 Requirements for participation

HMR Service Providers must fulfill the following requirements for ongoing participation in the HMR Programme:

- 1) Abide by the Programme 5CPA General Terms and Conditions available from www.5cpa.com.au
- 2) Undertake to provide the HMR Service in accordance with these Programme Specific Guidelines;
- 3) Be able to certify that the same Accredited Pharmacist (who is approved to conduct HMR Services) will conduct the Patient interview, the clinical assessment and report writing steps of the HMR Service;
- 4) Understand that no more than twenty (20) HMR Services per HMR Service Provider per calendar month will be remunerated;
- 5) Understand that any Accredited Pharmacist can conduct no more than a total of twenty (20) HMR Services per calendar month (*irrespective of the number of HMR Service Providers they provide HMR Services on behalf of*);
- 6) Provide the HMR interview in the Patients' home, unless prior approval is granted in accordance with clause 7.

3.2 Patient Eligibility Criteria

The Patient must satisfy the following mandatory HMR Service eligibility criteria:

- The Patient is a current Medicare/DVA cardholder;
- The Patient is living in a community setting;
- The Patient is at risk of or experiencing medication misadventure; and
- The GP confirms that there is an identifiable clinical need and the Patient will benefit from a HMR Service.

HMR Services are not available to in-patients of public or private hospitals, day hospital facilities, transition care facilities or to residents of a Government Funded Facility.

3.3 Frequency of service

One HMR Service can be conducted per eligible Patient on referral from a GP.

A subsequent HMR may only be conducted if more than 24 months has elapsed since the date of the most recent Patient interview or when the Patient's GP specifically deems a subsequent review is clinically necessary, such as when there has been significant change to the Patient's condition or medication regimen.

Reasons why an additional review may be requested include:

- Discharge from hospital after an unplanned admission in the previous four weeks;
- Significant change to medication regimen in the past three months;
- Change in medical condition or abilities (including falls, cognition, physical function);
- Prescription of a medicine with a narrow therapeutic index or requiring therapeutic monitoring;
- Presentation of symptoms suggestive of an adverse drug reaction;
- Sub-therapeutic response to therapy;
- Suspected non-compliance or problems with managing medication-related devices; or
- Risk of, or inability to continue managing own medicines due to changes in dexterity, confusion or impaired vision.¹

Provision of a subsequent Home Medicines Review must not be triggered solely by an "anniversary" date; the Service is not intended to be an ongoing review cycle.

¹Guidelines for pharmacists providing Home Medicines Review (HMR) services. (2011) Pharmaceutical Society of Australia Canberra

3.4 Identifying a Patient

A HMR could benefit a Patient for whom quality use of medicines may be an issue or; patients who are at risk of medication misadventure because of factors such as their co-morbidities, age or social circumstances, the characteristics of their medicines, or the complexity of their medication treatment regimen.

If the Patient has not been identified by the GP, a recommendation based on the Patient's current clinical need should be provided to the GP. The recommendation may be provided by a Registered Pharmacist, the Patient/carer or another health care professional. However, the GP is required to provide the initial referral.

3.5 Referral

The Patient's GP will assess eligibility and outline the HMR Service to the Patient. If the Patient agrees that a HMR Service is necessary and is willing to have the interview conducted in their home, the GP will obtain Patient consent to participate in the HMR Service. Following a discussion between the GP and Patient, the Patient may choose to be referred to the Patient's choice of/usual Community Pharmacy or to an Accredited Pharmacist who meets the Patient's needs. The HMR referral should include reason for referral and all relevant prescribing and clinical history. The Patient interview must take place within ninety (90) days of the date of the referral to be remunerated under the Home Medicines Review Programme.

3.6 Patient consent

If the GP and the Patient determine a Home Medicines Review meets the Patient's needs, the HMR Service Provider must receive Patient consent prior to conducting the Patient interview to allow:

- Access to relevant Patient data from the Patient's usual Community Pharmacy; and
- A copy of the written HMR report to be provided to the Patient's choice of Community Pharmacy/s (with Patient consent).

3.7 Timeliness

The HMR Service Provider is required to arrange the interview with the Patient and advise the referring GP of the details, including the date of the interview and details of the Accredited Pharmacist conducting the HMR Service, unless the GP has indicated a preference not to receive this information.

If the HMR Service Provider is unable to provide a HMR Service within two weeks or in the specified time frame, the HMR Service Provider must contact the GP and state when the HMR Service will be provided. The GP will determine, and discuss with the Patient if necessary, whether the specified time frame meets the Patient's needs.

3.8 Location of Patient Interview

The Patient interview must occur face-to-face at the Patient's home except in the following circumstances:

- 1) For cultural reasons; or
- 2) Because of safety concerns relating to being inside the Patient's home.

If either circumstance applies, prior approval to conduct the HMR interview in an alternative location must be obtained.

Approval for interviews conducted in an alternative location will not be granted retrospectively; interviews conducted in any location other than the Patient's home without prior approval will not be remunerated under the Home Medicines Review Programme.

4. Audit Requirements

HMR Service Providers must retain all records for seven (7) years to demonstrate that they have complied with the 5CPA General Terms and Conditions and these Programme Specific Guidelines when providing and claiming for a HMR Service.

HMR Service Providers will be subject to audits by the Australian Government to ensure HMR Services are provided in accordance with the 5CPA General Terms and Conditions and these Programme Specific Guidelines. HMR Service Providers that do not provide HMR Services in accordance with the 5CPA General Terms and Conditions and these Programme Specific Guidelines may no longer be able to participate in the HMR Programme or be eligible to receive HMR Programme payments. Under section 137.1 of the Criminal Code, giving false and misleading information is a serious offence.

5. Home Medicines Review Process

A HMR Service consists of a patient interview, clinical assessment and written HMR report provided to the referring GP and the Patient's choice of Community Pharmacy. The same Accredited Pharmacist must conduct all steps of the HMR Service. A Registered Pharmacist may participate in the provision of a HMR Service by conducting the Patient interview step only. This involvement is permitted under very limited circumstances and requires prior approval. The HMR Service Provider in receipt of the referral must lodge the claim for payment. Each approved Service Provider may conduct up to a total of twenty (20) HMR Services per calendar month that will be remunerated; any Accredited Pharmacist can conduct no more than a total of twenty (20) HMR services per calendar month that will be remunerated (*irrespective of the number of HMR Service Providers they provide HMR Services on behalf of*).

5.1 Patient Interview

The Patient interview must occur in the Patient's home and must be conducted by an Accredited Pharmacist who is approved to conduct Home Medicines Reviews. If, for reasons of cultural sensitivity or pharmacist safety, the Patient's home is not a viable location for the Patient interview, prior approval must be sought to use an alternative location. Approval to conduct the Patient interview at an alternative location must be gained prior to the interview commencing.

A Registered Pharmacist may conduct the Patient interview only when access to an Accredited Pharmacist is not possible. Approval for a Registered Pharmacist to visit the Patient at home and conduct the Patient interview must be gained prior to the Patient interview commencing. A Registered Pharmacist proposing to conduct a HMR Service outside the Patient's home must seek both forms of Prior Approval.

5.2 HMR Report

The HMR report involves assessing the information gathered from the clinical assessment and other relevant sources and preparing a written HMR report. The report must state the findings of the Review and outline recommendations to assist in the development of a medication management plan.

The report must be prepared by the Accredited Pharmacist who conducted the Patient interview and clinical assessment. When prior approval is granted for a Registered Pharmacist to conduct the Patient interview the Accredited Pharmacist must still complete the HMR Report. The HMR Service Provider must provide a copy of the written HMR report to the referring GP and discuss relevant findings and suggested management strategies.

The HMR report must also be forwarded (with patient consent) to the Patient's usual Community Pharmacy(s) or a Community Pharmacy of their choice and discussed if necessary.

5.3 Medication Management Plan

The Patient and the GP must agree on a medication management plan. With Patient consent the medication management plan should be forwarded to the Patient's usual Community Pharmacy(s) or a Community Pharmacy of their choice. The Patient's usual Community Pharmacy must contribute to the implementation where applicable and continue to monitor the medication management plan in the normal course of contact with the Patient.

6. Claims

6.1 Claim Lodgment

HMR Services must be claimed within thirty (30) days from the date of the Patient interview. Claims submitted outside this timeframe will not be paid and cannot be resubmitted.

Claims must be lodged online using the Registration and Claiming portal available at www.5cpa.com.au

6.2 Claim Amendments

HMR Service claims that are lodged with incomplete information or incorrect Patient or HMR Service Provider details will be required to be amended within thirty (30) days of the amendment notification. Claims that are not amended within thirty (30) days of the amendment notification will not be paid.

HMR Service claims that are rejected due to lodgment more than thirty (30) days from date of the Patient interview as per clause 5.1, or because the HMR interview was conducted more than ninety (90) days after the date of referral as per clause 3.5, or submitted without prior approval being granted as per clause 7, cannot be resubmitted.

HMR Service claims submitted that exceed a HMR Service Provider's or an Accredited Pharmacist's monthly cap of twenty (20) HMR Services as per clause 3.1, will not be paid and cannot be resubmitted.

6.3 Number of HMR Services that may be claimed

Each approved HMR Service Provider may claim up to a total of twenty (20) HMR Services that have been conducted within a calendar month as per clause 5.1.

6.4 Number of HMR Services that may be conducted

Each Accredited Pharmacist may conduct no more than a total of twenty (20) HMR Services that can be claimed by an approved HMR Service Provider per calendar month irrespective of the number of approved HMR Service Providers they provide HMR Services on behalf of.

7. Rural Loading Allowance

If the Patient's home is located in a rural or remote area, the HMR Service Provider may be eligible for the HMR Rural Loading Allowance. The HMR Rural Loading Allowance Programme Specific Guidelines and electronic Application Form are available at www.5cpa.com.au

8. Prior Approval

To seek prior approval on a case by case basis for a Patient interview to be conducted outside the Patient's home or for the Patient interview to be conducted at the Patient's home by a Registered Pharmacist, the HMR Service Provider must submit a Prior Approval Request via email to prior.approval@5cpa.com.au. The Prior Approval form and a submission must be provided and a detailed and reasonable justification must be outlined.

HMR Service Providers who conduct Patient interviews outside a Patient's home or by utilising a Registered Pharmacist without prior approval will not be remunerated for those reviews. Approval will not be granted retrospectively. Receiving prior approval in either situation should not be construed as a guarantee that any future application, even for identical circumstances, will be approved.

Evidence of prior approval must be included in the claim for payment where required.

8.1 Submissions for Prior Approval

Submissions must be made via email to prior.approval@5cpa.com.au at least ten (10) working days prior to the proposed date of interview. As part of the assessment process, some information contained in the submission may be shared with the Department of Health. Requests will be assessed on the evidence provided and the HMR Service Provider will be advised of the outcome via email within seven (7) working days from the date of submission.

It is the responsibility of the HMR Service Provider to explain the prior approval process to the patient (and to the Registered Pharmacist if one is to be involved at the interview stage) and seek consent for their details to be shared with the Department of Health and the Guild for the purpose of assessing the request for prior approval.

9. Resources

The PSA has developed Standards and Guidelines that intend to support pharmacists providing Home Medicines Reviews. These are available for download at www.5cpa.com.au

HMR Programme resources are available for download at www.5cpa.com.au



Schedule 2

5th Community Pharmacy Deed

General Terms and Conditions

5CPA

General Terms and Conditions

Effective from 1 March 2014

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Australian Government
Department of Health



**The Pharmacy
Guild of Australia**

5CPA General Terms and Conditions



These Terms and Conditions are to be read in conjunction with the Programme Specific Guidelines for the individual programmes You are registering for which are available from www.5cpa.com.au

1. Agreement

In completing and lodging the Registration Form, You agree to the following Terms and Conditions.

2. Term of Agreement

These Terms and Conditions will commence on the date on which the Guild provides You with written notice of acceptance of Your successful registration to participate in any 5CPA Programs and expire on 30 June 2015, unless terminated earlier.

3. Definitions

3.1 These meanings apply unless the contrary intention appears:

5CPA	means the Fifth Community Pharmacy Agreement between the Australian Government and The Pharmacy Guild of Australia signed 3 May 2010
AACP	means the Australian Association of Consultant Pharmacy
Accredited Pharmacist	means a pharmacist who has current accreditation to conduct Medication Management Reviews from an approved pharmacist accreditation body
ACF	means an Australian Government-funded Aged Care Facility
Agreement	means You agree to these Terms and Conditions and relevant Programme Specific Guidelines
Approved Pharmacist Accreditation body	means the AACP or the Society of Hospital Pharmacists of Australia
Australian Government	means the Australian Government as represented by the Department of Health
Claim	means a form submitted to receive a payment for any 5CPA program as outlined in the relevant Programme Specific Guidelines
Claiming Period	is the claiming period/s as set out in the relevant Programme Specific Guidelines.
Community Pharmacy or Community Pharmacies	means a pharmacy approved to dispense pharmaceutical benefits as defined in Section 90 of the National Health Act 1953 (reference: http://www.austlii.edu.au/au/legis/cth/consol_act/nha1953147/s90.html)
Confidential Information	means any information that: a) is by its nature confidential b) is designated by the Australian Government or the Guild as being confidential; or c) You know or ought to know is confidential

Counselling Area	means an identifiable area or separate room within the pharmacy that: <ul style="list-style-type: none"> • allows for confidential consultations with the consumer; and • allows for conversation with the consumer to talk at normal speaking volume without being overheard by other consumers to the Community Pharmacy or by Community Pharmacy staff undertaking normal duties
Eligibility Criteria	means the Eligibility Criteria as set out in the relevant Programme Specific Guidelines.
Eligible Community Pharmacy	means the Community Pharmacy nominated in the 5CPA Registration and Claiming Portal which at all time meets the pharmacy Eligibility Criteria set out in the relevant Programme Specific Guidelines.
Evaluator	means any evaluator appointed by the Australian Government to collect, collate and evaluate data to assess the success of any of the 5CPA programmes and inform future arrangements
Guild	means The Pharmacy Guild of Australia - ABN 84 519 699 143
Law	means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time anywhere in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law as applicable from time to time
Patient Consent	means consent by each consumer who is receiving 5CPA Services
PBS	means the Pharmaceutical Benefits Scheme
Pharmacy Accreditation Program	means any program that: <ol style="list-style-type: none"> 1. is assessed and approved as a Conformity Assessment Body accredited by either JASANZ or ISQua; 2. only utilizes assessors who have completed training requirements of a recognized body for the accreditation of quality management system auditors, such as RABQSA; and 3. provides equitable access and equal opportunity for all community pharmacies, to be assessed against the standards regardless of their geographic location, such that they can provide accredited services to the communities that they serve. Currently the Quality Care Pharmacy Program (QCPP) is the only organisation approved to accredit community pharmacy in Australia
Professional Standards and/or Guidelines	means the most current version of the relevant Professional Practice Standards and/or Guidelines developed by the Pharmaceutical Society of Australia
Programme Specific Guidelines	means the document detailing the obligations that govern claiming and payment for programmes and services under the 5CPA. The most current version of the Programme Specific Guidelines are available at www.5cpa.com.au
Project Agreement	means the agreement between the Australian Government and the Guild for the funding of a project formed upon the execution by both parties
PSA	means The Pharmaceutical Society of Australia
Registered Pharmacist	means a person who holds a general (non-provisional) registration as a pharmacist on the Register of Pharmacists with The Australian Health Practitioner Regulation Agency

Registration Form	means the form available from www.5cpa.com.au and required to be completed and submitted by an Eligible Community Pharmacy to become a participant in any of the 5CPA programs
Service Provider	means the Service Provider entity nominated in the 5CPA Registration and Claming Portal which at all time meets the Eligibility Criteria set out in the relevant Programme Specific Guidelines.
Services	means services and obligations described in the relevant Programme Specific Guidelines
SHPA	means the Society of Hospital Pharmacists of Australia
Term of Agreement	means the term described in clause 2
Terms and Conditions	means the agreement between You, and the Guild comprising of the online Registration Form located at www.5cpa.com.au and these Terms and Conditions
Your Personnel	means Your employees, agents, officers or subcontractors and includes those individuals (if any) engaged by You on a voluntary basis
You and Your	means one or more of the following: <ul style="list-style-type: none"> • the owner of, and their approved Eligible Community Pharmacy; or • the owner of, and their approved Service Provider

- 3.2 In these Terms and Conditions, unless the contrary intention appears:
- a) words in the singular include the plural and words in the plural include the singular
 - b) words importing a gender include any other gender.
- 3.3 If there is any conflict or inconsistency between these Terms and Conditions and the Programme Specific Guidelines, the Terms and Conditions will prevail to the extent of any conflict or inconsistency.

4. Your obligations

- 4.1 You must during the Term of Agreement:
- a) ensure that You are at all times an Eligible Community Pharmacy or approved Service Provider
 - b) ensure that a Registered Pharmacist and/or an Accredited Pharmacist is involved in the delivery of Services where required as defined in the relevant Programme Specific Guidelines
 - c) where specified in relevant Programme Specific Guidelines ensure consumers give their Patient Consent to receive the Services
 - d) collect and lawfully provide to the Australian Government and the Guild, and/or the Evaluator all consents, information and data specified in the relevant Programme Specific Guidelines as being required to be so provided subject to the Privacy Act 1988 (Cth)
 - e) participate as required by the Australian Government in any evaluation processes, when required by the Evaluator in respect of any 5CPA programme/s You are participating in
 - f) comply with all reasonable requirements notified in writing to You by the Guild in respect to Your participation in any 5CPA programme/s or delivery of Services under these Terms and Conditions and the relevant Programme Specific Guidelines
 - g) permit and fully co-operate with any person appointed by the Australian Government to conduct an audit of Your performance of Your obligations and the provision of Services under these Terms and Conditions and any relevant Programme Specific Guidelines.
- 4.2 You must immediately notify the Guild in writing if:
- a) You cannot perform the Services; or
 - b) You become aware of a circumstance which will have the effect of preventing You performing the Service in the future.



5. Payments

- 5.1 Subject to clause 5.2, You must not charge a consumer any fee, cost or disbursement in respect of the Services, except as expressly provided in the relevant Programme Specific Guidelines or receive any in kind payment.
- 5.2 The Guild will pay You such other allowances, incentives, fees and/or charges as are specifically provided for in the relevant Programme Specific Guidelines.
- 5.3 You acknowledge that the payment of the monies referred to in this clause 5 and /or the relevant Programme Specific Guidelines are conditional on the Guild, receiving from the Australian Government funds for that purpose and being lawfully authorised to expend those funds in satisfaction of the obligations referred to in this clause.
- 5.4 All monies the Guild may be required to pay You under this clause 5 must be claimed by You in accordance with the relevant Programme Specific Guidelines and will be paid by the Guild, subject to this clause 5, in accordance with the relevant Programme Specific Guidelines.
- 5.5 You agree if it is determined that You have failed to meet any or all of these Terms and Conditions or any requirements under the relevant Programme Specific Guidelines the Australian Government (and its agents) at its sole and absolute discretion may recover funds paid to You.
- 5.6 You agree that if it is determined that You have been overpaid in connection with Your participation in any 5CPA programmes, You must repay the Guild the amount they notify You within 30 days of the notice.
- 5.7 The Guild must be satisfied, that any Claim or Declaration meets the criteria outlined in the relevant Programme Specific Guidelines before payment will be processed.
- 5.8 You agree to provide the Australian Government and/or the Guild any and all evidence to substantiate a Claim for payment made by You under these Terms and Conditions and the relevant Programme Specific Guidelines.

6. Dispute Resolution

- 6.1 Any disputes/exceptional circumstances relating to a claim for payment should be referred to the Guild. Any request to review a decision must be made in writing to the following address and contain sufficient justification to support the request:

5CPA programmes
 The Pharmacy Guild of Australia
 National Secretariat
 PO Box 7036
 Canberra Business Centre ACT 2610

- 6.2 All disputes relating to programme participation will be reviewed jointly by the Australian Government and the Guild.

7. Audit Requirements

- 7.1 Service providers participating in the 5CPA programmes will be subject to audits by the Australian Government to ensure that the services being provided in accordance with 5CPA General Terms and Conditions and the relevant Programme Specific Guidelines. Service providers that do not provide the Services in accordance with the 5CPA General Terms and Conditions and the relevant Programme Specific Guidelines may no longer be able to participate in or be eligible to receive the relevant programme payments.
- 7.2 You must retain records for the timeframe detailed in the relevant Programme Specific Guidelines to substantiate the data contained in programme claims for payment.
- 7.3 You must include in any subcontract relating to the performance of these terms and conditions or 5CPA services, provisions that will enable you to comply with your obligations under this clause.



8. Termination

- 8.1 If:
- a) You have failed to carry out the Services;
 - b) You have failed to comply with the relevant Programme Specific Guidelines;
 - c) the Guild considers that any statement made by You is incorrect, misleading or incomplete in a way which would have affected Your eligibility to participate in 5CPA programs;
 - d) the Guild considers that You will be unable to perform Your Services under these Terms and Conditions;
 - e) the Australian Government terminates one or more Project Agreement/s or suspends the Guild's performance of the same; or
 - f) the Australian Government cancels Your participation in one or more 5CPA program/s as outlined in the relevant Program Specific Guidelines.
- 8.2 The Guild will not come under any liability to You for the termination of this Agreement in accordance with clause 6.1 or Your suspension from providing the Services.
- 8.3 You may terminate Your participation in one or more 5CPA programmes and this Agreement as specified in the terms of the relevant Program Specific Guidelines.
- 8.4 Your approval to provide 5CPA services may be cancelled by the Australian Government at any time on 30 days written notice.
- 8.5 In the event of unscheduled termination of a programme the Australian Government and the Guild will determine the obligations and requirements of pharmacies to finalise Service Payment arrangements.

9. Privacy and Confidentiality

- 9.1 You must keep all Confidential Information confidential except as expressly permitted.
- 9.2 You and Your Personnel must comply with the Information Privacy Principles in the Privacy Act 1988 (Cth), the National Privacy Principles and any other applicable privacy law.
- 9.3 You agree that subject to the Privacy Act 1988 (Cth), the Guild and the Australian Government may release the information You provide to any Evaluator and each other as required in connection with 5CPA programs.

10. Insurance and Indemnity

- 10.1 You must maintain during the Term of this Agreement all appropriate types and amounts of insurance including:
- a) public liability insurance in the amount as specified by Your Pharmacy Accreditation Program but being no less than \$10 million
 - b) workers compensation as required by Law; and
 - c) professional indemnity insurance in the amount as specified by Your Pharmacy Accreditation Program but being no less than \$10 million.
- 10.2 If requested, You must provide a Certificate of Currency for any of the insurance policies within the timeframe nominated by the Guild.
- 10.3 If any of the insurances set out above are "claims made policies", You must maintain those insurances for a period of three (3) years following the conclusion of Your participation in the 5CPA programmes. If You take out an "occurrence policy". You must maintain the policy during the Term of this Agreement.
- 10.4 You must also ensure that all of Your Personnel maintain professional indemnity insurance in the amount of not less than \$10 million.
- 10.5 You indemnify the Australian Government and the Guild, their officers, employees and agents against any:
- a) loss or liability incurred by the Australian Government and/or the Guild;
 - b) loss of or damage to property of the Australian Government and/or the Guild; or



- c) loss or expense incurred by the Australian Government and/or the Guild in dealing with any claim against them including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Australian Government and/or the Guild, arising from:
 - i). any act or omission by You or Your Personnel in connection with this Agreement, where there was fault (including, without limitation, any negligent or otherwise tortious act or omission) on the part of the person whose conduct gave rise to that liability, loss, damage or expense; or
 - ii). any breach by You of Your obligations or warranties under this Agreement.

11. General

- 11.1 This Agreement may be altered from time to time by the Guild giving You notice of variations.
- 11.2 You acknowledge that You will comply with the varied Agreement from the date specified in the notice of variation.
- 11.3 The Guild may depart from these Terms and Conditions in situations where circumstances warrant.
- 11.4 Clauses, 7, 10 and 11 survive the expiration or earlier of termination of this Agreement.
- 11.5 Your rights and obligations under these Terms and Conditions are personal to You and You must not assign or otherwise deal with Your rights under these Terms and Conditions, or subcontract any part of Your obligations under this Agreement.
- 11.6 You must not claim for Services provided under 5CPA programmes if You did not satisfy the Eligibility Criteria at the time the Services were provided.
- 11.7 A party giving notice under this Agreement must do so in writing, that is either:
 - a) directed to You at the Community Pharmacy address specified on the 5CPA Registration and Claiming Portal; or
 - b) directed to the Guild as follows:
 - Postal address: 5CPA programs
The Pharmacy Guild of Australia
National Secretariat
PO Box 7036
Canberra Business Centre ACT 2610
 - Location Address: 5CPA programs
The Pharmacy Guild of Australia
National Secretariat
Level 2, 15 National Cct
Barton ACT 2600
- 11.8 A notice given in accordance with clause 11.7 is received:
 - a) if hand delivered, on delivery; or
 - b) if sent by pre-paid post, on the third business day (being a day other than a Saturday or Sunday or a public holiday) after the day of posting.
- 11.9 The laws of the Australian Capital Territory govern these Terms and Conditions and the parties submit to the non-exclusive jurisdiction of the Courts of the Australian Capital Territory.

Schedule 3

5th Community Pharmacy Deed

Australian Privacy Principles Notification

Australian Privacy Principles Notification

The Service provider is collecting this personal information about you in order to provide you a service under the Fifth Community Pharmacy Agreement. The Service Provider can be contacted using the details below:

Name of Service:	
Service Provider Name:	
Telephone Number:	

If you do not provide all of the personal information required, the Service Provider will not provide you this service.

The Service Provider will disclose information such as your Medicare Number, name and date of birth to The Pharmacy Guild of Australia and the Australian Government.

The Pharmacy Guild of Australia has an APP privacy policy which you can read at www.5cpa.com.au. You can obtain a copy of the APP privacy policy by contacting The Pharmacy Guild of Australia using the contact details on the website above. The APP privacy policy contains information about:

- how you may access the personal information the Service Provider, the Pharmacy Guild of Australia or the Australian Government holds about you and how you can seek correction of it; and
- how you may complain about a breach of the Australian Privacy Principles

The Australian Government is unlikely to disclose your personal information to overseas recipients.

CONSENT TO COLLECTION OF SENSITIVE INFORMATION

I consent to the Service Provider collecting personal information about me for the purpose indicated above.

Signature Date

Print Name