

# SERVICE DELIVERY AGREEMENT

Between

HCoA Operations (Australia) Pty Ltd.  
Trading as John Flynn Gold Coast Private Hospital

And

Northern Rivers Area Health Service

**PRIVATE AND CONFIDENTIAL**

## CONTENTS

1. **Operative Provisions**
2. **Terms and Conditions of Agreement**
3. **Services to be Provided on and From the Service Commencement Date**
4. **Warranties by Service Provider**
5. **NRAHS Obligations**
6. **Charges and Fees**
7. **GST**
8. **Good Standing**
9. **Independent Contractors**
10. **Indemnity and Liability**
11. **Insurance**
12. **Agreement Manager**
13. **Meetings**
14. **Confidentiality**
15. **No Discrimination**
16. **Dispute Resolution Process**
17. **Termination**
18. **Co-Operation on Hand Over**
19. **Further Representations and Warranties**
20. **Notices**
21. **Amendment and Assignment**
22. **General**

**Schedule 1 –Services**

**Schedule 2 – Protocols**

**Schedule 3 – Service Fees**

**Schedule 4- Performance Criteria**

## NORTHERN RIVERS AREA HEALTH SERVICE INTERVENTIONAL CARDIOLOGY SERVICE AGREEMENT

DATED 1<sup>st</sup> April 2011.

Northern Rivers Area Health Service of Crawford House Hunter Street, Lismore NSW  
2480 (“NRAHS”);

and

HCoA Operations (Australia) Pty Limited, trading as John Flynn Gold Coast Private  
Hospital (ACN 083 035 661) of 42 Inland Drive, TUGUN, QLD 4224 (“Service  
Provider”)

### RECITALS

- A. NRAHS provides health services to Public Patients in the Northern Rivers Area in New South Wales.
- B. The Service Provider owns and operates the Hospital and offers Interventional Cardiology Services at the Hospital.
- C. NRAHS wishes to procure from the Service Provider and the Service Provider wishes to provide to NRAHS, the Services to Public Patients at the Hospital pursuant to the terms and conditions of this Agreement.
- D. The parties acknowledge that the primary objectives of contracting the private sector to provide Services for Patients are to:
  - remedy timeliness of access to Emergency Interventional Cardiology Services;
  - make efficient use of both public and private health infrastructure; and
  - improve access to specialised equipment, skills or capabilities not presently available within the Northern Rivers Area.
- E. The parties acknowledge the specific objectives of this Agreement are to ensure:
  - a consistent quality, level and type of service provision for patients who require Emergency Interventional Cardiology Services in the Northern Rivers Area; and
  - optimal efficiency in service delivery of the Interventional Cardiology Services, and the most effective resource utilisation.

## 1. OPERATIVE PROVISIONS

### 1.1 Definitions and Interpretation

In this Agreement:

- 1.1.1 “Accreditation / Certification” is the accreditation / certification of the Interventional Cardiology Services provided by the Hospital and the facilities of the Hospital by the external recognized quality assessment body such as but not limited to ACHS or ISO;
- 1.1.2 “Accreditor / Certifier” is ACHS or ISO or such other person performing a quality assessment role as the NSW Department of Health recognises and adopts from time to time to set standards for monitoring, and to monitor, public hospitals in New South Wales;
- 1.1.3 “ACHS” means the Australian Council on Healthcare Standards;
- 1.1.4 “Agreement” means this agreement;
- 1.1.5 “Agreement Manager” means the nominated representatives of NRAHS and the Service Provider responsible for the management and administration of the Agreement;
- 1.1.6 “Business Day” means any day other than a Saturday, Sunday or public holiday in New South Wales;
- 1.1.7 “Cardiologist” means a registered medical practitioner recognised as a specialist by the National Specialist Qualification Advisory Committee of Australia and the Royal Australian College of Cardiologists and accredited to practice at the Hospital;
- 1.1.8 “Criminal Offence” means an indictable offence or a summary offence relating to any offence involving dishonesty;
- 1.1.9 “Eligible Patients” means Public patients referred by Northern Rivers Area Health Service in accordance with protocols established in schedule 2;
- 1.1.10 “Exhibit” means an exhibit attached to this Agreement;
- 1.1.11 “Good Operational Practices” means the practices and methods, which reflect best practice in the management and operation of Emergency Interventional Cardiology Services including, without limitation:
  - (a) operating with due care and skill and applying nationally accepted

operating and management procedures;

- (b) operating without unnecessary or unreasonable delays;
- (c) operating in a manner that facilitates good clinical practice and an efficient operation;
- (d) operating in accordance with all applicable laws, authorisations, regulations and guidelines;
- (e) the employment of adequate numbers of personnel who are appropriately qualified, experienced and trained to provide the services under this Agreement;
- (f) operating with sufficient resources, consumables and supplies to provide the services under this Agreement;
- (g) operating in a manner safe to workers, Patients and to the general public; and
- (h) ensuring adequate equipment is provided, repaired and maintained to provide the services under this Agreement.

1.1.12 "Government Agency" is any government or any public, statutory, governmental, semi-governmental, local governmental or judicial body, entity or authority;

1.1.13 "GST" means the same as in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

1.1.14 "Hospital" means the John Flynn Gold Coast Private Hospital, Gold Coast City, Queensland;

1.1.15 "Hospital Services" means the provision of and access to Hospital accommodation, facilities, equipment and any nursing and allied health staff necessary to support the provision of the Medical Services to a Patient at the hospital by an accredited Cardiologist to the Hospital, and as further described in Schedule 1.

1.1.16 "ISO" means International Organization for Standardization

1.1.17 "Medical Services" means the Emergency Interventional Cardiology Services provided by a Cardiologist accredited to the Hospital and which are detailed in Schedule 1.

1.1.18 "NSW Health" means the Department of Health, NSW;

1.1.19 "Patient" means a Public Patient receiving the Services at the Hospital pursuant to the terms of this Agreement;

1.1.20 "Protocols" means the protocols set out in Schedule 2;

1.1.21 "Performance Criteria" means the criteria set out in Schedule 4;

1.1.22 "Principal Health Professional" means a registered medical practitioner recognised as a specialist by the National Specialist Qualification Advisory Committee of Australia and the Royal Australian College of Physicians, nominated by the NRAHS Agreement Manager;

1.1.23 "Public Patient" has the same meaning as defined in the Australian Health Care Agreement, 1998;

1.1.24 "Quality Standards" means;

- (i) recognised quality standards which satisfy Good Operational Practices; and
- (ii) all relevant Australian Commission for Safety and Quality in Healthcare standards and ACHS hospital-wide indicators and, to the extent that they are more stringent, the standards and hospital-wide indicators required or recommended by the Accreditor / Certifier from time to time.

1.1.25 "Schedule" means a schedule to this Agreement;

1.1.26 "Schedule Fee" means the schedule fee for the medical benefits approved by the Commonwealth Government from time to time in accordance with the *National Health Act, 1953 (Commonwealth)* and the *Health Insurance Act, 1973 (Commonwealth)*;

1.1.27 "Services" means the obligations of the Service Provider to be performed under this Agreement, including the Hospital Services and all associated care, facilities and service necessary to support the provision of the Medical Services to a Patient at the Hospital.

1.1.28 "Service Fees" means the fees set out in Schedule 3;

1.1.29 "Service Commencement Date" means 1<sup>st</sup> April 2011;

1.1.30 "Termination Date" means 31st March 2014.

## 1.2 Interpretation

In this document, unless the context requires otherwise;

### 1.3 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it'
  - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (v) anything (including a right, obligation or concept) includes each part of it,
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The word "agreement" includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (g) The words "subsidiary", "holding company" and "related body corporate" have the same meanings as in the Corporations Law,
- (h) a reference to a subclause within a clause is a reference to a subclause within that clause, unless stated otherwise; and

### 1.4 This Agreement may be executed in two parts, and shall be binding and effectual as soon

as both of the parties have executed at least one of those parts.

## **2. TERMS AND CONDITIONS OF AGREEMENT**

- 2.1 The Service Provider will provide Services from the Service Commencement Date. The term of this Agreement shall terminate on the Termination Date subject to the terms and conditions of this Agreement.
- 2.2 The NRAHS may request the Service Provider to enter into a further agreement for a term of twelve months commencing from the end of this Agreement if:
- (a) the NRAHS serves notice in writing upon the Service Provider requiring the Service Provider to enter into the further agreement;
  - (b) the notice is served not more than six months and not less than three months prior to the end of this Agreement; and
- 2.3 NRAHS acknowledges and agrees that any further term shall be subject to the Service Provider's written agreement as to the future term, the service fees and any other arrangements agreed by the parties.

## **3. SERVICES TO BE PROVIDED ON AND FROM THE SERVICE COMMENCEMENT DATE**

- 3.1 The Service Provider shall provide the Services to Eligible Patients in accordance with the Protocol, the Quality Standards and Good Operational Practice.
- 3.2 The Services shall be provided by the Service Provider at a service level referred to in this agreement.
- 3.3 The Service Provider shall comply with the Performance Criteria..
- 3.4 The Service Provider shall not make any permanent material departure from the Performance Criteria without receiving the prior written consent of NRAHS. Such consent shall not be unreasonably withheld by NRAHS.
- 3.5 If major complications occur during the course of the treatment that require a level of care which the Service Provider is not contracted to provide, or care which will be long-term in nature, then the Patient will be referred back to the public sector for management. If NRAHS or the Public sector do not take the patient or there is some delay in transfer or the Service Provider cannot, for medical reasons, discharge the patient, NRAHS shall pay the charges incurred by the Service Provider in respect of that Patient.
- 3.6 The Director of Nursing at the John Flynn Gold Coast Private Hospital is the contact person for all matters concerning the referral and treatment of Eligible Patients.



- 3.7 NRAHS acknowledges and agrees that:
- (a) the Medical Services will be provided to Patients by Cardiologists accredited to practice at the Hospital;
  - (b) Cardiologists providing the Medical Services are independent contractors to the Hospital and each Cardiologist remains liable for his or her own acts or omissions;
  - (c) the Hospital is not liable for the acts or omissions of a Cardiologist providing Medical Services pursuant to this agreement.

#### **4. WARRANTIES BY SERVICE PROVIDER**

4.1 The Service Provider warrants that:

- (a) at the date of this agreement and to the best of its knowledge, the Cardiologists providing the Medical Services under the Agreement who are accredited to practice at the Hospital possess current qualifications, are registered with the Medical Practitioners Board of Queensland of the National Medical Board and are recognised by the National Specialist Qualifications Advisory Committee of Australia and the Royal Australian College of Cardiologists, excepting only for cardiology registrars enrolled in an accredited training program;
- (b) at the date of this agreement and to the best of its knowledge, none of the Cardiologists providing the Medical Services are debarred from practice in Queensland or any other State or Territory of Australia;
- (c) at the date of this agreement and to the best of its knowledge, all Cardiologists providing the Medical Services shall observe any conditions which may have been imposed upon them by the Medical Practitioners Board of Queensland of National Board or the Royal Australian College of Physicians;
- (d) all other staff employed by the Hospital who provide services in accordance with this Agreement are licensed or registered to do so as required by law and are covered by it for professional indemnity insurance purposes;
- (e) at the date of this agreement and to the best of its knowledge, all Cardiologists are financial members of a medical defence union or hold equivalent professional indemnity insurance;
- (f) it shall provide to NRAHS on and from the Service Commencement Date documentary evidence in the form of a certificate of currency as to the insurance coverage required by sub-clause (d) and, subject to the consent of the relevant Cardiologist evidence of insurance required under sub-clause (e) and it shall subsequently produce such documentary evidence on an annual basis thereafter during the term of this Agreement;
- (g) it shall advise NRAHS as soon as it becomes aware if any matter covered by sub-

clauses (a), (b), (c), (d) or (e) alter in any way during the term of this Agreement;

- (h) it (or where appropriate, the Cardiologist) holds and shall continue to hold all required legal licences and authorisations to provide the Services (and in relation to the Cardiologist the Medical Services) under this Agreement; and
- (i) The Service Provider agrees to provide facilities deemed suitable and appropriate to provide the Services in accordance with the Tender Response, the Quality Standards and in an environment consistent with Good Operating Practice.
- (j) The Service Provider acknowledges that the provisions contained in this clause 4 are regarded as material by NRAHS and if breached NRAHS must notify the Service Provider in writing that the breach must be rectified within two (2) Business Days of notification.

4.2 In the event of the Medical Services being provided by an unregistered or uninsured Cardiologist or a Cardiologist who is a non-financial member of a medical defence union, and who is the subject of a rectification notice under subclause b above, the Service Provider must immediately withdraw the services of that Cardiologist under this Agreement.

## **5. NRAHS OBLIGATIONS**

- 5.1 NRAHS must only refer Eligible Patients to the Service Provider for Emergency Interventional Cardiology Services.
- 5.2 NRAHS must provide the information set out in protocols at the time of referral.
- 5.3 The Service Provider may refuse to treat a Patient referred by NRAHS on the basis that:
  - 5.3.1 the Patient is not medically fit to receive the Medical Services or because of the likelihood of medical complications relating to the Medical Services for that particular Patient; or
  - 5.3.2 the Service Provider does not have capacity to admit the Patient.

## **6. CHARGES AND FEES**

- 6.1 The fees to be charged by the Service Provider and paid by NRAHS must be calculated in accordance with Schedule 3.

## **7. GST**

- 7.1 For the purpose of this clause:

- (a) Adjustment Note includes any document or record treated by the Commissioner

of Taxation as an adjustment note or as enabling the claiming of an input tax credit for which an entitlement otherwise arises;

- (b) GST includes any replacement or subsequent similar Tax;
- (c) GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- (d) New Tax System changes has the same meaning as in the Trade Practices Act 1975 (Cth) as amended; and
- (e) Tax Invoice includes any document or record treated by the Commissioner of Taxation as a tax invoice or as enabling the claiming of an input tax credit for which an entitlement otherwise arises,

7.2 Terms defined in the GST Act have the same meaning in this clause unless provided otherwise

7.3 If the GST is or will be imposed on a supply made under or in connection with this agreement, the supplier may, to the extent that the consideration otherwise provided for that supply under this agreement is not stated to already include an amount in respect of GST on the supply

- (a) Increase the consideration otherwise provided for that supply under this agreement by the amount of that GST; or
- (b) Otherwise receive from the recipient the amount of that GST.
- (c) The recovery of any amount in respect of GST by the supplier under this agreement on a supply is subject to the issuing of the relevant Tax Invoice or Adjustment Note to the recipient.
- (d) If the consideration for a supply under this agreement is calculated by reference to the consideration of other supplies, in performing that calculation, the consideration for those other supplies excludes any amount in respect of GST payable on those supplies.
- (e) Cost required to be reimbursed or indemnified under this agreement must exclude any amount in respect of GST included in the costs for which an entitlement arises to claim an input tax credit.
- (f) The supplier may increase or reduce the consideration provided for a supply under this agreement (excluding any amount in respect of GST on the supply) having regard alone to the direct and indirect impact of the New Tax System changes in a manner consistent with Part VS of the Trade Practices Act 1974 (Cth) and any guidelines made under that Act, whether or not that Act and the guidelines would otherwise apply to the supplier.

## **8. GOOD STANDING**

- 8.1 The Service Provider shall not knowingly employ on its staff or appoint any director, secretary or Chief Executive Officer of the Hospital to work in the management of the Services or in connection with the provision of any of the Services to Patients any person who has been convicted of a Criminal Offence,
- 8.2 The Service Provider shall make appropriate information available to NRAHS, subject to its obligations to observe all Laws, including with respect to privacy and confidentiality, to ascertain whether a person has been or may be the subject of an action described in subclause 1 before employing or appointing that person.
- 8.3 The Service Provider shall cease to employ or will remove from office a person who becomes subject to a conviction described in subclause 1 in the management of the Services, or in connection with the provision of the Services, upon becoming aware of that fact.

## **9. INDEPENDENT CONTRACTORS**

- 9.1 The parties agree that the Service Provider is an independent contractor with NRAHS. This Agreement does not constitute in any form a partnership, joint venture or employment relationship between the parties.

## **10. INDEMNITY AND LIABILITY**

- 10.1 The Service Provider agrees to indemnify NRAHS for any action taken against NRAHS, its employees, agents or contractors as a result of any negligent act or omission of the Service Provider, its employees or agents in providing the Services. The Service Provider agrees that this indemnity will be a continuing indemnity and will survive the termination of this Agreement.
- 10.2 The Service Provider shall not be liable for any loss or damage suffered by NRAHS or a third party to the extent it is contributed to or caused by any negligent act or omission of the relevant Cardiologists providing the Medical Services or NRAHS, any of its employees, agents or contractors have contributed to or caused any action referred to in clause 10.1.
- 10.3 NRAHS acknowledges and agrees that each Cardiologists is liable for his or her acts or omissions in providing the Medical Services.

## **11. INSURANCE**

- 11.1 At the time of execution of this Agreement and annually thereafter, the Service Provider will provide to NRAHS certificates of currency evidencing that the Service Provider has effected liability insurance with a reputable insurer and has paid the premium required by such insurer.

11.2 Such insurance must:

- (a) have an initial currency of at least 12 (twelve) months and be maintained continuously throughout the term of this Agreement and any option period contained in this Agreement;
- (b) be written for professional indemnity insurance on a claims made basis;
- (c) maintain professional indemnity policies to the limit of \$10,000,000 for any one claim and \$20,000,000 in one year, claims by the State or by any other person arising out of, or incidental to any negligent act, error or omission in connection with the professional activities and duties of the Service Provider or its employees or agents Service Provider;
- (d) not include any exclusion relating to Human Immuno-Deficiency Virus or Acquired Immune Deficiency Syndrome; and
- (e) The Service Provider must comply with its obligations to take out and maintain workers compensation insurances and to pay all premiums required to be paid under the applicable legislation, except to the extent that the Service Provider is an approved self-insurer.

## **12. AGREEMENT MANAGER**

- 12.1 To assist in the administration and management of the Agreement, NRAHS appoints the Executive Officer, The Tweed Hospital, Agreement Manager.
- 12.2 The Service Provider appoints the Chief Executive Officer as the Service Provider Agreement Manager.

## **13. MEETINGS**

- 13.1 The parties agree to hold regular meetings to discuss the Agreement and operations and service being provided to NRAHS under this Agreement.
- 13.2 In the first six(6) months of the term of this Agreement meetings shall be held once every three months and thereafter no less than once in every six months.
- 13.3 The parties agree that they shall be represented at such meetings by appropriately senior representatives and such meetings shall be conducted in a manner to seek to mutually advance the objectives of both parties.

## **14. CONFIDENTIALITY**

- 14.1 A party to this Agreement shall not disclose to any third party, without the prior written

consent of the other party, any Confidential Information provided by the other. This obligation does not extend to information which:

- (a) is or becomes public knowledge without the fault of the receiving party;
- (b) is or becomes available to the receiving party from a source other than the disclosing party; or
- (c) is independently developed by the receiving party.

14.2 No party to this Agreement may, without the prior written consent of the other party, provide to any other person a copy of this Agreement or any provision hereof or disclose the contents of this Agreement or any provision of it to any other person except as is necessary for the performance of this Agreement or required to obtain legal or financial advice.

14.3 Notwithstanding subclause 1 and 2, a party may release information necessary to conform to all applicable laws and regulations.

14.4 The obligations of confidentiality referred to in this clause 14 shall survive the termination of this Agreement.

## **15. NO DISCRIMINATION**

15.1 The Service Provider acknowledges it will not discriminate in any way between any Patient or any Patient referred by any person other than according to the Protocol for clinical treatment in Schedule 2.

## **16. DISPUTE RESOLUTION PROCESS**

16.1 If the parties are unable to agree on any matter under this Agreement either of them may give written notice to the other stating details of the matter in dispute and requiring that the matter be resolved by a meeting between the parties.

16.2 The parties agree that the representatives of the parties for such meetings will be the nominee of the Executive Officer, The Tweed Hospital, representing NRAHS and the Service Provider will be represented by the Chief Executive Officer or nominee, an independent nominee of NRAHS will be the chairperson of such meetings.

16.3 The parties must meet in good faith to seek to resolve any area of dispute. The parties must meet together within seven days of the serving of notice of a dispute under this Agreement.

16.4 If the parties cannot resolve the dispute within seven days of the initial meeting as set out in sub-clause 3 above, the parties agree to refer the dispute to mediation established in accordance with the rules of the Australian Commercial Dispute Centre Limited.

- 16.5 If such mediation as outlined under sub-clause 4 does not result in a satisfactory resolution between the parties the parties agree to arbitration established under the rules of the Australian Commercial Dispute Centre Limited. The mediator must not be the arbitrator.
- 16.6 Each party to the dispute is entitled to be represented by qualified legal practitioners.
- 16.7 The arbitrators decision will be final and binding.
- 16.8 The parties agree to meet equally the costs of their own representation and to share equally in the costs incurred by the arbitration being conducted.
- 16.9 Pending determination of any dispute under this Agreement the parties agree to continue to perform all their obligations under this Agreement.

## **17. TERMINATION**

- 17.1 NRAHS may terminate this Agreement with written notice to the Service Provider if:
- (a) the Service Provider breaches any material term of this Agreement and does not rectify that breach within 30 days of being required to do so in writing by NRAHS; and
  - (b) a liquidator is appointed over the Service Provider or a receiver or receiver and manager is appointed in respect of any part of the property of the Service Provider.
- 17.2 The Service Provider may terminate this Agreement with written notice to NRAHS if NRAHS breaches any material term of this Agreement and does not rectify that breach within 30 days of being required to do so in writing by the Service Provider.

## **18. CO-OPERATION ON HAND OVER**

- 18.1 Should this Agreement be terminated for any reason the Service Provider agrees to co-operate with a hand over to any replacement Interventional Cardiology Service and/or NRAHS so as to ensure an appropriate professional standard of Interventional Cardiology Service and service to NRAHS and its Patients during the hand over period.

## **19. FURTHER REPRESENTATIONS AND WARRANTIES**

- 19.1 The Service Provider represents and warrants that:
- (a) (status) it is not bankrupt or subject to liquidation proceedings;
  - (b) (power) it has full legal capacity and power to:

- (i) own its property and to carry on its business; and
  - (ii) enter into this document and to carry out the transactions that this document contemplates;
- (c) (Authorisations) it holds each authorisation that is necessary or desirable to:
- (i) enable it to properly execute this document and to carry out the transactions that this document contemplates;
  - (ii) ensure that this document is legal, valid, binding and admissible in evidence; or
  - (iii) enable it to properly carry on its business, and it is complying with any conditions to which any of these authorisations is subject;
- (d) (documents effective) this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors rights generally);

## 20. NOTICES

- (a) A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or fax. If it is sent by mail, it is taken to have been received 3 Business Days after it is posted. If it is sent by fax, it is taken to have been received when the addressee actually receives it in full and in legible form.
- (b) A person's address and fax number are those set out below, or as the person notifies the sender:

NRAHS  
 Address: Hunter Street, Lismore NSW 2460  
 Fax number: 02 6620 2166  
 Attention: Chief Executive Officer

John Flynn Private Hospital  
 Address: 42 Inland Drive, Tugun QLD 4224  
 Fax number: (07) 5598 0173  
 Attention: Chief Executive Officer



## **21. AMENDMENT AND ASSIGNMENT**

### 21.1 Amendment

This document can only be amended, supplemented, replaced or novated by another document signed by the parties.

### 21.2 Assignment

A party may only dispose of, declare a trust over or otherwise create an interest in its rights under this document with the consent of each other party.

## **22. GENERAL**

### 22.1 Governing law

This Agreement is governed and construed in accordance with the laws of the State of New South Wales. The parties agree to submit to the jurisdiction of the Courts of New South Wales and all Courts of Appeal from them.

### 22.2 Liability for expenses

Each party must pay its own expenses incurred in negotiating, executing and registering this document.

### 22.3 Giving effect to this document

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this document.

### 22.4 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again: and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

## 22.5 Operation of this document

- (a) This document and documents referred to in this agreement contain the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and documents referred to in this agreement and has no further effect
- (b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

## 22.6 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

## 22.7 Operation of relevant provisions

Clauses 10 and 14 survive the expiry or termination of this document.

## 22.8 Consents

Where this document contemplates that NRAHS may agree or consent to something (however it is described), NRAHS may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
- (b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

## 22.9 Inconsistency with other documents

If this document is inconsistent with any other document or agreement between the parties, this document prevails to the extent of the inconsistency.

22.10 Counterparts

This document may be executed in counterparts.

22.11 Attorneys

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

Executed as an agreement

THE COMMON SEAL of NORTHERN RIVERS AREA HEALTH SERVICE the fixing of which was witnessed by:

.....  
Signature of witness

.....  
Name of Witness

.....  
Signature of Chairman

.....  
Name

.....  
Signature of Chief Executive Officer  
Name

Executed by HCoA Operations (Australia) Pty Ltd pursuant to s127 of the *Corporations Act 2001* (Cth)

.....  
Signature of Director

.....  
Name

.....  
Signature of Director/Company Secretary

.....  
Name

## **SCHEDULE 1 SERVICES**

### **1.1 HOSPITAL SERVICES**

- 1.1.1 The provision of appropriate treatment to the Patients treated under this Agreement is of primary importance. If the treating physician in the course of the treatment believes that there is reasonable clinical need for additional urgent treatment to be undertaken, then the treating physician may proceed with these procedures. NRAHS will not be liable for the costs of services provided, that are not specified in this Agreement, unless reasonable clinical need is demonstrated arising out of the service provided. If procedure required is of a non-urgent nature referral must be made to the public service.
- 1.1.2 If major complications occur during the course of the treatment that require a level of care which the Service Provider is not contracted to provide, or care which will be long-term in nature, then the Patient will be referred back to the public sector for management.
- 1.1.3 The Director of Clinical Services or delegate at the John Flynn Gold Coast Private Hospital is the contact person for all matters concerning the referral and treatment of Eligible Patients.
- 1.1.4 Hospital Services means the provision of and access to hospital accommodation, facilities, equipment and any nursing and allied health staff necessary to support the provision of the medical services to a patient at the hospital by an accredited Cardiologist to the Hospital,

### **1.2 MEDICAL SERVICES – INTERVENTIONAL CARDIOLOGY SERVICES**

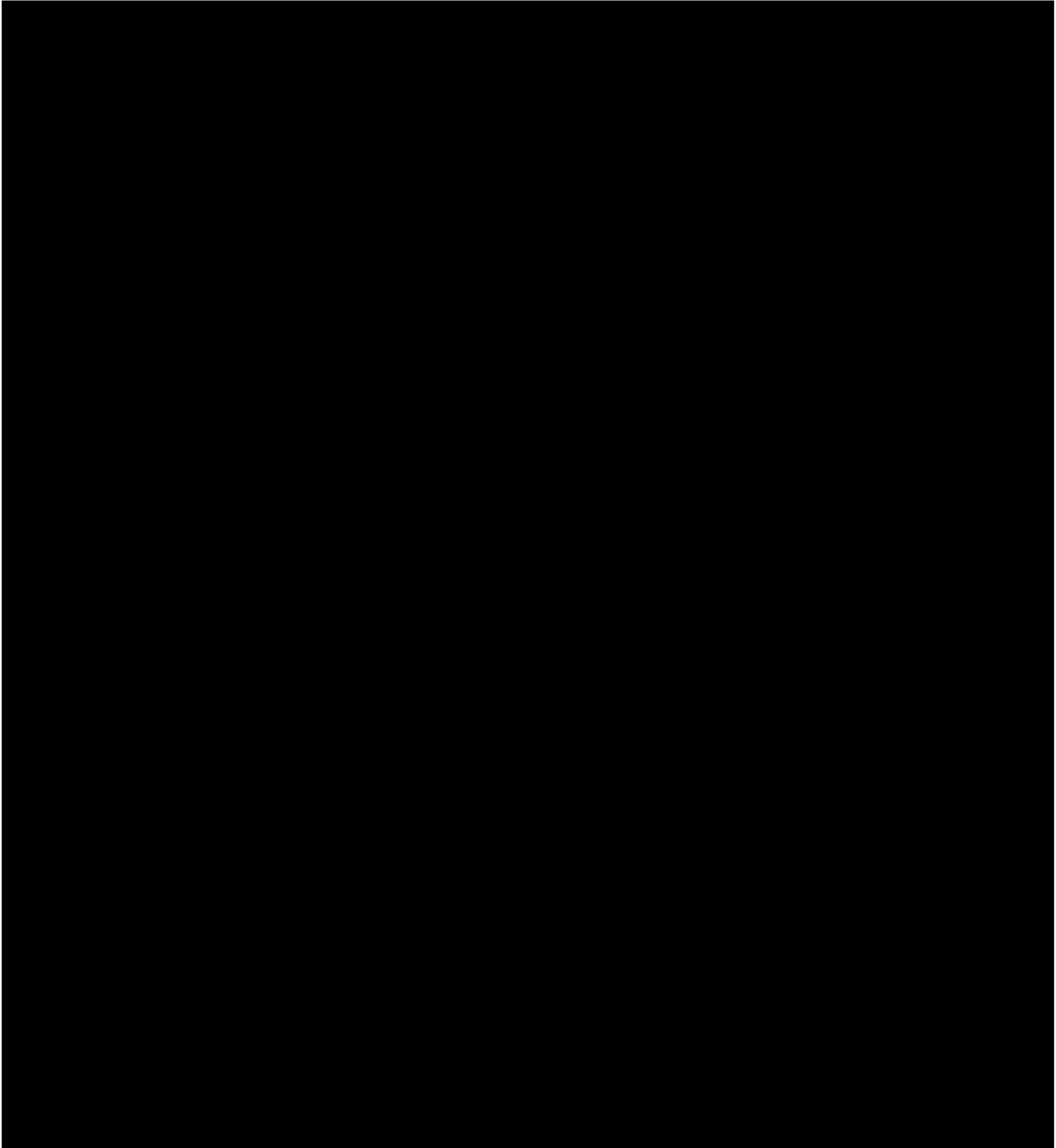
- 1.2.1 The medical service of interventional cardiology will be provided by an interventional cardiologist (IC) accredited to the hospital. All interventional procedures will be conducted by the IC in the Cardiac Cath Lab. Following interventional procedures patients will be managed in the Coronary Care Unit or in an appropriately monitored bed in the Cardiac Unit. Patients will be transferred back to The Tweed Hospital the following day subject to review by the IC.

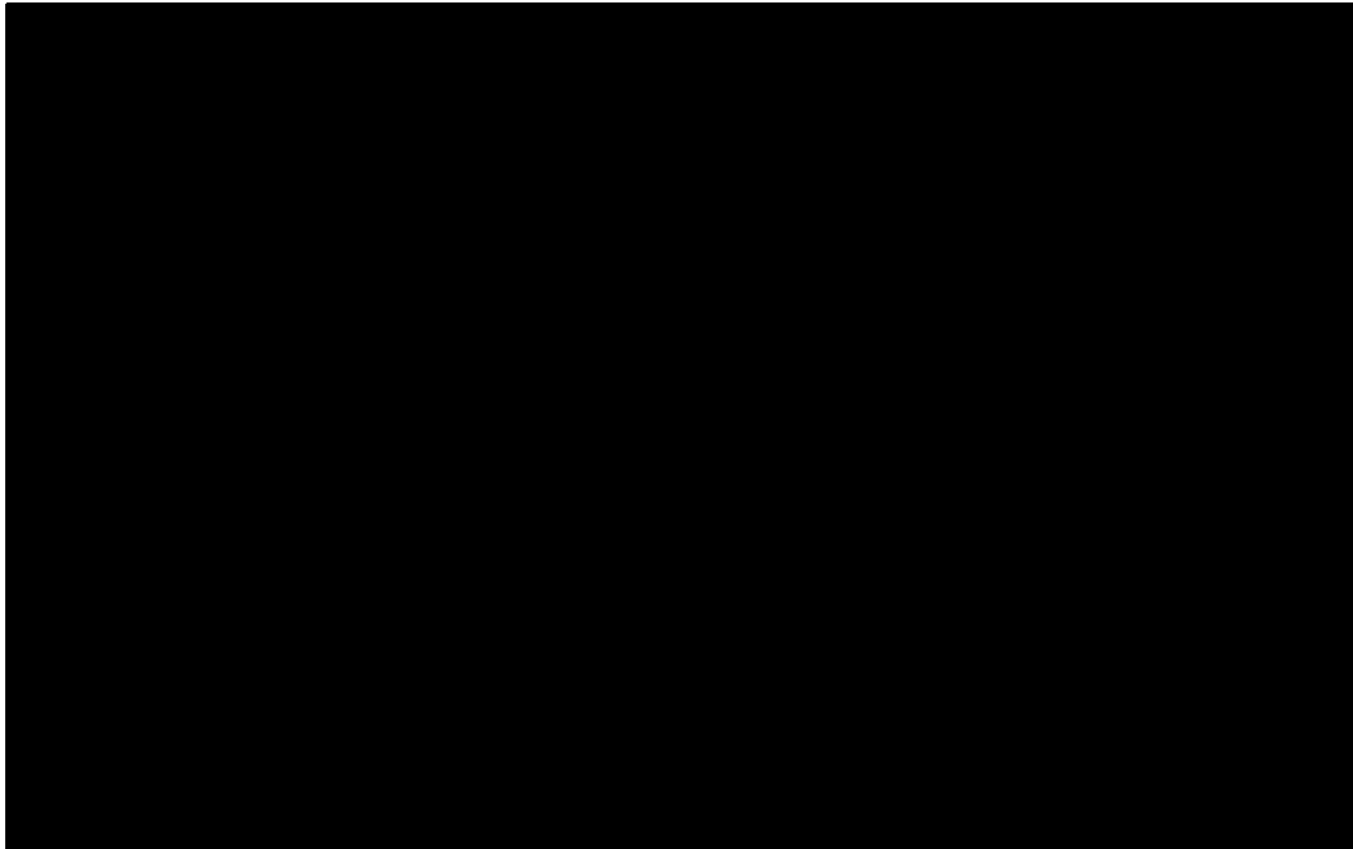
## **SCHEDULE 2 PROTOCOLS**

### **1. PROTOCOLS**

- 2.1 Eligible Patients will be referred according to The Tweed Hospital guidelines for acute interventional cardiology.
- 2.2 Once the Patient has been referred to and accepted by John Flynn Gold Coast Private Hospital they cannot be deemed ineligible under this Agreement unless their behaviour prevents the provision of services or in the opinion of the Service Provider is detrimental to the good order and reputation of the Hospital.
- 2.3 The John Flynn Gold Coast Private Hospital Interventional Cardiology Unit will adhere to the Hospital Infection Control guidelines as reviewed from time to time and universal precaution procedures.
- 2.4 All patient transport costs will be the responsibility of Northern Rivers Area Health Service (NRAHS)

**SCHEDULE 3  
SERVICE FEES**







## **SCHEDULE 4 PERFORMANCE CRITERIA**

### **4.1 QUALITY OF CARE**

- 4.1.1 The Service Provider will provide the Services in accordance with good operational practices.
- 4.1.2 If the Service Provider is ACHS or ISO equivalent accredited at the commencement of this Agreement and this status alters during the period that this Agreement is in force, NRAHS must be notified immediately.

### **4.2 PERFORMANCE STANDARDS**

- 4.2.1 The Service Provider is required to monitor performance in relation to the following indicators in respect of Patients covered by this Agreement on a quarterly basis:
- incidents (including medication errors), accidents or adverse Patient outcomes;
  - adequacy of interventional cardiology;
  - other clinical indicators, which may be considered relevant by NRAHS as agreed by the Service Provider.
- 4.2.2 The Service Provider will provide the following information on a quarterly basis:
- Total number of Patient and services provided
  - Hours between referral and service.
- 4.2.3 Outcomes of Service
- Information on stenting adequacy and patient outcomes
  - Number of Non-coated and drug coated stents

### **4.3 INFORMATION TRANSFER REQUIREMENTS**

- 4.3.1 The Service Provider will provide to NRAHS all necessary information on treatment provided under this Agreement to enable NRAHS and NSW Health to fulfil all requisite-reporting obligations.
- 4.3.2 The Service Provider will comply with any reasonable request for information to evaluate the operation of this Agreement.

- 4.3.3 The Service Provider agrees, upon written request of NRAHS, to forward copies of John Flynn Gold Coast Private Hospital public Patients' medical records and any other material necessary to ensure continuity of care and enable NSW Health to meet its obligations under the *Freedom of Information Act 1989*(NSW).
- 4.3.4 To the extent permitted by law, the Service Provider agrees to provide access to patient records for the review of services on a quarterly basis to the NRAHS Agreement Manager, to ensure service delivery complies with the standards as detailed in this agreement.
- 4.3.5 The Service Provider agrees to provide data to NRAHS, which complies to ANZDATA and NSW Health In-patient Statistics Collection requirements.
- 4.3.6 The Service Provider and NRAHS will establish a referral system with clear processes for the exchange of relevant Patient data, and facilitate access to appropriate public sector support services.