

Cooperation and Conduct Agreement

Dated

8 December 2006

Parties

1. **General Practice Tasmania Limited** ABN 47 082 572 629 of GPO Box 1827 Hobart in Tasmania (**'General Practice Tasmania'**)

and
2. **The Division of General Practice (Tasmania – Southern Region) Inc** ABN 56 704 533 189 of 235 Murray Street, Hobart in Tasmania (**'General Practice South'**)

and
3. **The Division of General Practice Northern Tasmania Inc** ABN 21 035 139 193 of York House, Second Floor, 25 York Street, Launceston in Tasmania (**'General Practice North'**)

and
4. **The North West Tasmania Division of General Practice Inc** ABN 54 801 950 482 of 49-51 Cattley Street, Burnie in Tasmania (**'General Practice North West'**)

and
5. **General Practice Workforce Inc** ABN 33 922 612 254 of Suite 5, 7 High Street, Launceston in Tasmania (**'General Practice Workforce'**)

Recitals

- A. The Parties all represent general practice in Tasmania, and are currently loosely connected in an *ad hoc* network and collaborative arrangement.
- B. The Parties wish to strengthen and formalise their connections and collaboration in this Agreement.

Agreement

1. Definitions

In this Agreement:

General Practice is the provision of primary continuing comprehensive whole-patient medical care to individuals, families and their communities;

General Practitioner means a registered medical practitioner who is providing General Practice;

Members means the Regional Members and General Practice Workforce;

Party means a party to this Agreement;

Regional Members means General Practice South, General Practice North, and General Practice North West; and

State Plans means the plans established pursuant to clause 3.1(b).

2. Objectives

2.1 Objectives

The objectives of the Parties in entering this Agreement are to:

- (a) enhance trust and unity between them;
- (b) enhance their respective capacities to perform the objectives for which each of them were formed;
- (c) delineate and define their respective responsibilities and functions; and
- (d) govern the development of unified positions to advocate and represent the needs of Tasmanian General Practitioners,

in order to:

- (e) improve the health of Tasmanians by providing effective, efficient and equitable primary health care;
- (f) improve coordination, efficiency and effectiveness of General Practice service delivery in Tasmania;
- (g) position and promote Tasmanian General Practitioners as leading providers of primary health services; and
- (h) improve the education, training and research of Tasmanian General Practitioners and other individuals involved in General Practice.

2.2 Carrying out Objectives

In carrying out the objectives and performing this Agreement, the Parties must:

- (a) act in good faith and provide full information to each other in relation to all relevant matters;
- (b) act independently but cooperate closely and work together with the other Parties with unity of purpose, combined strength, and mutual respect and support;
- (c) treat each other, and ensure their representatives treat the other Parties and their representatives, fairly, with respect, and so as to assist in carrying out the objectives;
- (d) not unreasonably delay any action, approval, direction, determination or decision required under this Agreement; and
- (e) seek to reduce and avoid duplication and overlap of their responsibilities and functions.

3. Responsibilities and Functions

3.1 General Practice Tasmania

General Practice Tasmania must:

- (a) contract for and oversee delivery of statewide programs, excepting those relating to statewide workforce services for which General Practice Workforce has primary responsibility;
- (b) consult with the Members and thereafter establish and follow strategic and business plans for the whole of Tasmania to be used to guide approaches and priorities across the State;
- (c) represent and advocate on behalf of general practice and primary care interests in matters of a statewide nature (excluding those that are specific to the membership of GP Workforce), after establishing mechanisms to ensure the views of its members are accounted for; and
- (d) offer to the Parties services common to them, potentially including, by way of example, State level stakeholder liaison, representation on statewide committees, research and development, developing new initiatives and funding proposals, data and information management, media monitoring and alerts, and marketing.
- (e) whenever reasonable, accept from a Member a service that has been determined by the Parties to be more appropriately supplied by that Member.

3.2 Regional Members

The Regional Members must:

- (a) contract for and oversee delivery of regional programs within their respective areas of operation;

- (b) deliver statewide programs within their respective areas of operation in a manner best suited to those areas except in cases where the Parties agree to the contrary;
- (c) advise General Practice Tasmania of local priorities for statewide planning and the contents of relevant strategic plans;
- (d) establish and follow business plans for their respective areas of operation that are consistent with relevant strategic plans but that tailor priorities and strategies to meet the needs of those areas;
- (e) represent and advocate on behalf of General Practitioners and primary care interests in matters specific to their respective areas of operation;
- (f) whenever reasonable, accept from:
 - (i) General Practice Tasmania such services as it offers that are common to the Parties; and
 - (ii) another Party a service that has been determined by the Parties to be more appropriately supplied by that other Party.

3.3 **General Practice Workforce**

General Practice Workforce must:

- (a) contract for and oversee delivery of programs specific to its membership;
- (b) deliver statewide programs to rural communities (although the Parties acknowledge and agree that the Regional Members will also on occasion deliver statewide programs to rural communities within their respective areas of operation and pursuant to their contractual arrangements);
- (c) advise General Practice Tasmania of General Practice Workforce's priorities for statewide planning and the contents of relevant strategic plans;
- (d) establish and follow business plans for its membership that are consistent with relevant strategic plans but that tailor priorities and strategies to meet the needs of its membership;
- (e) represent and advocate on behalf of rural communities and their general practice needs, and general practice and primary care interests in matters specific to its membership but not to Tasmanian General Practitioners as a whole, after establishing mechanisms to ensure the views of its members are accounted for; and
- (f) whenever reasonable, accept from:
 - (i) General Practice Tasmania such services as it offers that are common to the Parties; and
 - (ii) another Party a service that has been determined by the Parties to be more appropriately supplied by that other Party.

4. **Contracts between the Parties**

4.1 **New Arrangements**

The Parties may enter into contractual arrangements between themselves at their discretion. Any such arrangements must comply with the spirit of this Agreement and in particular the provisions of clause 2, and shall be read and construed as being subject to the terms of this Agreement, where possible.

4.2 **Existing Arrangements**

Contractual arrangements in place between any of the Parties as at the date of this Agreement shall to the extent possible be performed so as to comply with the spirit of this Agreement and in particular the provisions of clause 2, and shall be read and construed as being subject to the terms of this Agreement.

5. **Confidentiality of Information**

5.1 **Confidentiality**

The Parties agree that information they receive from the other Parties pursuant to this Agreement (**‘Information’**) is confidential and each Party must:

- (a) keep confidential the Information;
- (b) use the Information solely to advance the objectives of this Agreement; and
- (c) disclose the Information only to those of its officers, employees, and advisers who have a need to know (and only to the extent each has a need to know) and who are aware and agree that the Information must be kept confidential.

5.2 **Exceptions**

The obligations of confidentiality under this Agreement do not extend to Information that (whether before or after the date of this Agreement):

- (a) is disclosed to a Party under this Agreement, but at the time of disclosure is rightly known to that Party and not subject to an obligation of confidentiality on that Party;
- (b) at the time of disclosure is within the public domain or after disclosure comes into the public domain other than by a breach or breaches of any obligation under this clause 5;
- (c) is required by law, the terms of any funding arrangements binding the Parties, or the rules of any securities exchange (whether in Australia or elsewhere) to be disclosed and the Party required to make the disclosure ensures that the Information is disclosed only to the extent required; or
- (d) the disclosing party agrees in writing need not be subject to those obligations.

6. Consultation and Cooperation

In carrying out their obligations in connection with this Agreement, each Party is to consult and cooperate with the other Parties, including in respect of:

- (a) the services they provide; and
- (b) applications for funding for particular programs.

7. Indemnities

Each Party indemnifies the other Parties, and shall at all times keep the other Parties indemnified, from and against any damages, losses, costs and expenses (including reasonable legal fees and costs) incurred through claims against those other Parties, to the extent caused or contributed to by that first Party out of its negligence or default under this Agreement.

8. Insurance

Each Party must effect and maintain appropriate amounts of workers' compensation, public risk and property insurance to cover loss or damage it may suffer or cause in connection with its activities, including activities carried out on its own behalf and on behalf of the other Parties, under this Agreement whether as subcontractor or otherwise.

9. Nominations Committee

If requested to do so by GP Tasmania, the Members must ensure that:

- (a) they supply such representatives as may be requested by GP Tasmania to attend any nominations committee formed by GP Tasmania in accordance with its constitution; and
- (b) whilst attending, those representatives act in accordance and comply with the rules governing such nominations committee as the directors of GP Tasmania may put in place from time to time.

10. Relationship

This Agreement does not create a relationship of employment, agency or partnership between the Parties.

11. Further Action

Each Party must:

- (a) use reasonable efforts to do all things necessary or desirable to give full effect to this Agreement; and
- (b) refrain from doing anything that might hinder performance of this Agreement.

12. Resolution of Disputes

12.1 No Proceedings

A Party must not start court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this Agreement (**‘Dispute’**) unless it has complied with this clause.

12.2 Notice of Dispute

A Party claiming that a Dispute has arisen must notify each other party to the Dispute, giving details of the Dispute in writing (**‘Notice’**).

12.3 Best Efforts to Resolve Dispute

During the 5 working day period after a Notice is given (or longer period unanimously agreed in writing by the parties to the Dispute) (**‘Initial Period’**), each party to the Dispute (**‘Disputant’**) must use its best efforts to resolve the Dispute.

12.4 Referral to Chairpersons

If the Disputants are unable to resolve the Dispute within the Initial Period, each Disputant agrees that the Dispute must be referred, at the request of any Disputant, to the respective chairpersons of the Disputants (**‘Chairpersons’**).

12.5 Referral to Mediation

If the Chairpersons are unable to resolve the Dispute within 30 days after the Initial Period, each Disputant agrees that they must participate in a mediation of the Dispute in accordance with the *Institute of Arbitrators and Mediators Australia Mediation and Conciliation Rules* in force at the date of the Notice, or if there is no version at that date, the version of the rules most recently published.

12.6 Termination of Dispute Resolution Process

If the required timeframe has elapsed, and a Disputant has complied with clauses 12.4 and 12.5 and the Dispute has still not been resolved, the dispute resolution process is terminated.

13. Termination

13.1 Termination

This Agreement will terminate:

- (a) by mutual agreement of all Parties; or
- (b) in respect of a Party if the Party is wound up by resolution of its members or an order of a Court.

13.2 Without Prejudice

Termination of this Agreement under clause 13.1 will be without prejudice to any accrued rights of the Parties.

13.3 Continuing Obligations

Each Party agrees that after termination of this Agreement, the obligations under clauses 5 and 7 will remain in force.

14. Assignment

A Party must not assign this Agreement or any right under this Agreement without the prior written consent of each other Party.

15. No Waiver

The failure of a Party at any time to require performance of any obligation under this Agreement is not a waiver of that Party's right:

- (a) to insist on performance of, or claim damages for breach of, that obligation unless that Party acknowledges in writing that the failure is a waiver; and
- (b) at any other time to require performance of that or any other obligation under this Agreement.

16. Governing Law

This Agreement is governed by the law applicable in Tasmania. Each Party submits to the exclusive jurisdiction of the courts of Tasmania.

17. Notice

17.1 A Party giving notice or notifying under this Agreement must do so in writing:

- (a) directed to the recipient's address specified in this clause, as varied by any

notice; and

(b) hand delivered or sent by prepaid post, facsimile or e-mail to that address.

The Parties' delivery, postal, facsimile and e-mail addresses and facsimile numbers are:

General Practice Tasmania
GPO Box 1827
HOBART TAS 7000
Attention: Sarah Male
Ph: (03) 6224 1114
Fax: (03) 6224 3384
Email: smale@gptasmania.com.au

General Practice South
235 Murray Street
HOBART TAS 7000
Attention: Sue Moir
Ph: (03) 6234 4230
Fax: (03) 6234 4750
Email: smoir@gpsoutht.com.au

General Practice North
York House Second Floor
25 York Street
LAUNCESTON TAS 7250
Attention: Phil Edmondson
Ph: (03) 6331 9296
Fax: (03) 6334 2443
Email: pedmondson@gpnorth.com.au

General Practice North West
49-51 Catley Street
BURNIE TAS 7320
Attention: Elvie Hales
Ph: (03) 6432 1440
Fax: (03) 6431 7827
Email: elviehales@gpnw.com.au

General Practice Workforce
Queen Victoria Centre
7 High Street
Launceston, 7250
Attention: Peter Barns
Ph: (03) 6334 2355
Fax: (03) 6334 3851
Email: pbarns@tgpd.com.au

17.2 A notice given in accordance with clause 17.1 is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, three working days after the date of posting; or
- (c) if sent by facsimile or e-mail, when the sender's facsimile system generates a message or the e-mail system generates a message confirming successful transmission/delivery of the notice unless, within eight business hours after that transmission, the recipient informs the sender that it has not received the entire notice.

18. **Review**

In May 2008, and in every third May thereafter, the Parties are to together review the progress and efficacy of this Agreement.

19. Severability

Part or all of any provision of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining provisions of this Agreement continue in force.

20. Counterparts

This Agreement may be executed in any number of counterparts.

21. Interpretation

In this Agreement, unless the contrary intention appears:

- (a) headings are for ease of reference only and do not affect the meaning of this Agreement;
- (b) the singular includes the plural and vice versa and words importing a gender include other genders;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this Agreement and a reference to this Agreement includes any schedules and annexures;
- (e) a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (f) a reference to 'A\$', '\$A', 'dollar' or '\$' is a reference to Australian currency;
- (g) a reference to a specific time for the performance of an obligation is a reference to that time in the State, Territory or other place where that obligation is to be performed;
- (h) a reference to a party includes its executors, administrators, successors and permitted assigns;
- (i) words and expressions importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
- (j) a reference to any legislation or statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901 (Cth)* or the equivalent State legislation, as applicable; and
- (k) words and expressions defined in the *Corporations Act 2001* as at the date of this agreement have the meanings given to them in the *Corporations Act 2001* at that date.

Executed as a deed.

[Insert execution clauses once details determined.]

Table of contents

1.	Definitions.....	2
2.	Objectives.....	2
3.	Responsibilities and Functions	3
4.	Contracts between the Parties.....	5
5.	Confidentiality of Information	5
6.	Consultation and Co-operation	6
7.	Indemnities	6
8.	Insurance.....	6
9.	Nominations Committee	6
10.	Relationship.....	6
11.	Further Action	7
12.	Resolution of Disputes.....	7
13.	Termination.....	8
14.	Assignment.....	8
15.	No Waiver.....	8
16.	Governing Law.....	8
17.	Notice	8
18.	Review.....	10
19.	Severability	11
20.	Counterparts.....	11
21.	Interpretation	11

EXECUTED on behalf of)
General Practice Tasmania)

[original signed]

Name: Patrick O'Sullivan

Director

EXECUTED on behalf of)
General Practice North)

[original signed]

Name: Leanne Jones

Director

EXECUTED on behalf of)
General Practice North West)

[original signed]

Name: Nick Barnes

Director

EXECUTED on behalf of)
General Practice South)

[original signed]

Name: Graeme Bleach

Director

EXECUTED on behalf of)

General Practice Workforce)

[original signed]

Name: Annette Douglas

Director