

APPENDIX H – Mandatory contractual clauses for inclusion in agreements between NSW Public Health Organisations and Medical Locum Agencies

Each Public Health Organisation is required to negotiate a written agreement with each Medical Locum Agency that supplies Locum Medical Officers to the Public Health Organisation. The written agreement must contain the mandatory contractual clauses set out below. These mandatory clauses are not intended to be used as a “template” contract, but rather address only those matters the Ministry requires Public Health Organisations to include in their agreements with Medical Locum Agencies as a matter of state wide policy. Public Health Organisations should negotiate with Medical Locum Agencies to include in their written agreements additional appropriate contractual clauses that are not inconsistent or conflict with the mandatory clauses.

A template Agreement for the Provision of Locum Medical Services to a Public Health Organisation is available at <http://internal.health.nsw.gov.au/legal/>

MANDATORY CLAUSES

Definitions

Unless otherwise defined, all terms used in this Agreement have the same meaning as in the Policy and the NSW Health Standards and Conditions.

“**Agreement**” means this agreement and includes:

- (a) any Schedules annexed to it; and
- (b) the NSW Health Standards and Conditions.

“**Confirmed Order**” has the meaning given to it by clause 14 of this Agreement.

“**Locum Medical Officer**” means a medical practitioner introduced to **[insert named Public Health Organisation]** by the Medical Locum Agency in accordance with this Agreement, and who may be employed by **[insert named Public Health Organisation]** in casual or temporary capacity to provide cover for an absent member of the permanent non-specialist medical staff or when shifts are unable to be filled by overtime or casual medical employees, and who is not a current member of the **[insert named Public Health Organisation]**’s casual medical pool.

“**Order**” means a request made by **[insert named Public Health Organisation]** made in accordance with this Agreement seeking an appropriate Locum Medical Officer to fill a shift or shifts at a **[insert named Public Health Organisation]** facility.

“**Policy**” means NSW Health Policy Directive PD2009_051 *Locums Medical Officers – Employment and Management* as amended or replaced from time to time.

“**Services**” means the supply of Locum Medical Officers to the **[insert named Public Health Organisation]** in accordance with requirements of the NSW Health Standards and Conditions.

“**NSW Health Standards and Conditions**” means the NSW Health Standards and Conditions for the Provision of Locum Medical Officers to the NSW Health Services, a copy of which is available at <http://www.health.nsw.gov.au/aboutus/business/locums/index.asp>, and which are incorporated as terms and conditions of this Agreement.

Responsibilities of the Medical Locum Agency

1. The Medical Locum Agency must at all times during the term of this Agreement:
 - (a) remain listed on the NSW Health Register of Medical Locum Agencies;
 - (b) comply with all requirements of the Policy and NSW Health Standards and Conditions, including any changes or updates to the Policy and NSW Health Standards and Conditions of which the Medical Locum Agency is advised in writing by the NSW Ministry of Health from time to time;
 - (c) ensure that Locum Medical Officers consent to **[insert named Public Health Organisation]** notifying the Medical Locum Agency of the matters referred to in clause 4(d) of this Agreement;
 - (d) provide the Services diligently and with all reasonable skill and care expected in the provision of such Services and in accordance with all representations and warranties as to the Medical Locum Agency's experience and ability expressly or impliedly made by reference to:
 - (i) its application for inclusion on the NSW Health Register of Medical Locum Agencies;
 - (ii) this Agreement;
 - (iii) by law; or
 - (iv) any and all information, documents, forms and the like submitted by the Medical Locum Agency to the NSW Ministry of Health and/or to any third party auditor body accredited with Joint Accreditation System of Australia & New Zealand (JAS-ANZ) for the purposes of inclusion on the NSW Health Register of Medical Locum Agencies;
 - (e) ensure that its agreements with Locum Medical Officers includes a requirement that where a Locum Medical Officer is unable to work a shift or shifts in a Confirmed Order for any reason, the Locum Medical Officer must advise the **[insert named Public Health Organisation]** Casual and Locum Staffing Service and/or the Medical Locum Agency as soon as possible.
2. The parties agree that for the purpose of providing the Services the Medical Locum Agency is required to obtain information from third parties (including but not limited to health professional registration bodies) and that it shall not be liable for any errors or inaccuracies contained in such information, provided that the Medical Locum Agency acts with reasonable skill and care in obtaining and considering such information prior to passing it on to **[insert named Public Health Organisation]**.

Responsibilities of [insert named Public Health Organisation]

3. **[insert named Public Health Organisation]** acknowledges and agrees that:
 1. Locum Medical Officers supplied by the Medical Locum Agency under this Agreement are, at the time they commence a shift at a **[insert named Public Health Organisation]** facility, engaged by **[insert named Public Health Organisation]** as employees of the NSW Health Service pursuant to the *Health Services Act 1997*;
 2. it assumes, as the delegate of the Director-General of the NSW Ministry of Health, all statutory and other legal obligations in respect of that employment relationship; and
 3. it will comply with all applicable NSW Health policy directives in respect of that employment relationship, including NSW Health Policy Directive PD2009_001 *Special Remuneration Rates Payable to Non-Specialist Medical Staff engaged on a short term or casual locum basis for the period ending 30 June 2012*, and where rates are approved in accordance with PD2009_001 that exceed the rates prescribed by that

policy **[insert named Public Health Organisation]** must provide a copy of the approval to the Medical Locum Agency at the time of the Confirmed Order.

4. **[insert named Public Health Organisation]** must at all times during the term of this Agreement:
 1. ensure that the level of responsibilities and duties at which it requires a Locum Medical Officer to work in its facilities are consistent with those specified in the Order;
 2. provide appropriate supervision and direction of the Locum Medical Officer whilst the Locum Medical Officer works at any facility of **[insert named Public Health Organisation]**;
 3. ensure Locum Medical Officers are made aware of any applicable **[insert named Public Health Organisation]** policies and procedures and any changes to them from time to time; and
 4. notify the Medical Locum Agency in writing of any concerns held by **[insert named Public Health Organisation]** about the performance or conduct of a Locum Medical Officer that arise where the Locum Medical Officer is working at a **[insert named Public Health Organisation]** facility pursuant to a Confirmed Order.

Insurance

5. Without limiting the Medical Locum Agency's obligations under this Agreement, the Medical Locum Agency will during the continuance of this Agreement and for a period of twelve (12) months after its expiration or termination, take out and maintain with a reputable insurance company the following insurance policies:
 - a) a broad form public liability policy of insurance in the amount of not less than Fifteen Million Dollars (\$15,000,000) in respect of any one occurrence and in the aggregate for any one period of cover;
 - b) workers compensation insurance in accordance with applicable legislation in respect of all employees of the Medical Locum Agency; and
 - c) a professional indemnity policy of insurance in the amount of not less than Ten Million dollars (\$10,000,000) in respect of any claim and Twenty Million dollars (\$20,000,000) in the aggregate for any one period of cover, and which must be maintained by the Medical Locum Agency until the expiry or termination of this Agreement and a period of not less than six (6) years after the expiry or termination of this Agreement.
6. The Medical Locum Agency will, on request, produce to **[insert named Public Health Organisation]** satisfactory evidence that the Medical Locum Agency has effected and renewed the insurance policies referred to in Clause 5.

Indemnity

Indemnity provided by Medical Locum Agency

7. The Medical Locum Agency must indemnify and keep indemnified **[insert named Public Health Organisation]** and the State of New South Wales and each of their officers, employees and agents ("those indemnified") from and against all actions, proceedings, claims, demands, costs, losses, damages and expenses (including reasonable legal costs and expenses), which may be brought against, made upon, or suffered or incurred by any of those indemnified arising directly or indirectly as a result of or in connection with:
 - a) the provision of the Services to the extent that the same is due to a breach of the terms of the Agreement or a negligent, wilful or reckless act, default or omission of the Medical Locum Agency or any of its officers, employees, agents and/or subcontractors; and/or

- b) any act or omission of the Medical Locum Agency or any of its officers, employees, agents and/or subcontractors in connection with the provision of the Services under this Agreement resulting in personal injury to or death of any person, or the loss of or damage to property.
8. The Medical Locum Agency's liability to indemnify those indemnified under clause 7 shall be reduced proportionately to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

Indemnity provided by [insert named Public Health Organisation]

9. **[insert named Public Health Organisation]** must indemnify and keep indemnified the Medical Locum Agency and its employees and agents ("those indemnified") from and against all actions, proceedings, claims, demands, costs, losses, damages and expenses (including reasonable legal costs and expenses) which may be brought against, made upon, or suffered or incurred by any of those indemnified arising directly or indirectly as a result of or in connection with:
- (a) any act or omission on the part of a Locum Medical Officer in the course of the Officer's employment at a **[insert named Public Health Organisation]** facility following the supply of the Locum Medical Officer by the Medical Locum Agency under this Agreement; and/or
 - (b) any negligent, wilful or reckless act, default or omission of **[insert named Public Health Organisation]** or any of its officers, employees, agents and/or subcontractors in connection with this Agreement.
10. **[insert named Public Health Organisation]**'s liability to indemnify those indemnified under clause 9 shall be reduced proportionately to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

Orders

11. **[insert named Public Health Organisation]** may place Orders for Locum Medical Officers in accordance with the NSW Health Standards and Conditions and Schedule **[X]** to this Agreement.
12. **[insert named Public Health Organisation]** does not make any representation or provide any guarantee or undertaking that it will place any particular volume of Orders, or any Orders at all, with the Medical Locum Agency for supply of Locum Medical Officers under this Agreement, or that any Order placed will result in a Confirmed Order with the Medical Locum Agency.
13. The Medical Locum Agency does not make any representation or provide any guarantee or undertaking that it will be able to supply a Locum Medical Officer in response to an Order placed by the **[insert named Public Health Organisation]**.
14. Following the placing of an Order:
- (a) the Medical Locum Agency may offer to fill the Order with a Locum Medical Officer in accordance with the requirements of Schedule **[X]** to this Agreement; and
 - (b) **[insert named Public Health Organisation]** may accept the Locum Medical Officer offered by the Medical Locum Agency in accordance with the requirements of Schedule **[X]** to this Agreement,
- in which case the Order becomes confirmed (a "**Confirmed Order**").

15. All Orders and Confirmed Orders must be placed through the **[insert named Public Health Organisation]** Casual and Locum Staffing Service and in accordance with the requirements of Schedule **[X]** to this Agreement.
16. **[insert named Public Health Organisation]** will not have any obligation to pay commission to the Medical Locum Agency in respect of any Confirmed Orders made otherwise than in accordance with clause 15 unless:
- (a) where **[insert named Public Health Organisation]** has an on-line booking system, the on-line booking system is temporarily unavailable due to technical problems and the Order or Confirmed Order is placed in accordance with the requirements of Schedule **[X]** to this Agreement; or
 - (b) the Medical Locum Agency is advised by an officer of **[insert named Public Health Organisation]** that the Order or Confirmed Order is required to be placed as an emergency and in accordance with the requirements of Schedule **[X]** to this Agreement.
17. Where there is a Confirmed Order in respect of a particular Locum Medical Officer:
- (a) the Medical Locum Agency must provide the Locum Medical Officer in accordance with the requirements of the Confirmed Order and must not unreasonably cancel the Confirmed Order;
 - (b) where the Medical Locum Agency is unable to fulfil the Confirmed Order for any reason, the Medical Locum Agency must:
 - (i) notify the Casual and Locum Staffing Service in writing or orally in accordance with the requirements of Schedule **[X]** as soon as reasonably practicable to enable alternative filling of the vacancy;
 - (ii) not offer to supply that Locum Medical Officer for another shift or shifts at the same time at any NSW Health facility (except with the agreement of **[insert named Public Health Organisation]**);
 - (iii) use its best endeavours to offer **[insert named Public Health Organisation]** a suitable alternative Locum Medical Officer for the shift or shifts; and
 - (iv) if a suitable alternative Locum Medical Officer is not able to be supplied, reimburse **[insert named Public Health Organisation]** any expenses (such as airfares or accommodation) which have been reasonably incurred by **[insert named Public Health Organisation]** as a result of the placement of the Confirmed Order and prior to receiving notice of its cancellation;
 - (c) **[insert named Public Health Organisation]** must:
 - (i) not further promote or advertise (internally or externally) the shift or shifts which are the subject of the Confirmed Order;
 - (ii) fulfil the requirements of the Confirmed Order and must not unreasonably cancel the Confirmed Order;
 - (d) where **[insert named Public Health Organisation]** is unable to fulfil the Confirmed Order for any reason (including without limitation that the shift or shifts the subject of the Confirmed Order are no longer available), **[insert named Public Health Organisation]** must:
 - (i) notify Medical Locum Agency of the cancellation in writing or orally in accordance with the requirements of Schedule **[X]** as soon as reasonably practicable;

- (ii) where **[insert named Public Health Organisation]** provides notice of cancellation to the Medical Locum Agency less than 24 hours prior to the commencement of the shift or shifts covered by Confirmed Order, the Medical Locum Agency shall be entitled to payment of the commission that would otherwise have been payable in respect of the shift or shifts covered by the Confirmed Order, unless:
 - (A) **[insert named Public Health Organisation]** becomes aware that the Locum Medical Officer does not meet the requirements of the Order, in which case no commission is payable; (Note: this paragraph will also apply where a Confirmed Order is cancelled during the course of the shift or shifts covered by the Confirmed Order)
 - (B) the shift or shifts the subject of the Confirmed Order become unavailable due to unforeseen circumstances beyond the reasonable control of **[insert named Public Health Organisation]** (such as a major incident), in which case no commission is payable;
 - (C) the Locum Medical Officer is placed in alternative work by the Medical Locum Agency during the whole of the working period covered by the Confirmed Order, in which case no commission is payable; or
 - (D) the Locum Medical Officer is placed in alternative work for part of the working period covered by the proposed Order, in which case Medical Locum Agency shall be entitled to payment of commission for the balance of the working period only; and
- a. reimburse the Medical Locum Agency and the Locum Medical Officer any expenses (such as airfares or accommodation) which have been reasonably incurred as a result of the placement of the Confirmed Order and prior to receiving notice of its cancellation;
- (e) **[insert named Public Health Organisation]** is required under NSW Health PD2009_004 *Service Check Register for NSW Health Services* to complete a check of the NSW Health Service Check Register in respect of the Locum Medical Officer the subject of the Confirmed Order and, in the event the Locum Medical Officer is identified on the Register, **[insert named Public Health Organisation]**:
 - (i) will conduct a risk assessment of the Locum Medical Officer pursuant to PD2009_004;
 - (ii) may at its absolute discretion cancel the Confirmed Order; and
 - (iii) will advise the Locum Medical Agency the Confirmed Order has been cancelled because:
 - (A) a risk assessment is required to be conducted pursuant to PD2009_004; or
 - (B) following a risk assessment conducted pursuant to PD2009_004, **[insert named Public Health Organisation]** has decided not to accept placement of the Locum Medical Officer;
- (f) other than as expressly provided in sub-clause 17(d)(ii), the Medical Locum Agency and the Locum Medical Officer shall not be entitled to any commission, compensation, remuneration or other payment arising from the cancellation of a Confirmed Order by **[insert named Public Health Organisation]**.

Information to be provided by Medical Locum Agency

18. The Medical Locum Agency must provide the **[insert named Public Health Organisation]** with:

- (a) the information required by the NSW Health Standards and Conditions; and
- (b) personal information relating to Locum Medical Officers required for the purposes of employment records and payment of Locum Medical Officers by the **[insert named Public Health Organisation]**.

The parties acknowledge and agree that Locum Medical Officers may also supply their own personal information directly to **[insert named Public Health Organisation]** for the purposes of clause 18(b).

19. The Medical Locum Agency must ensure that all information required to be provided by it under clause 18 is provided in accordance with applicable privacy legislation.
20. **[insert named Public Health Organisation]** must ensure that it keeps confidential all information provided to it under clause 18, and only uses or discloses the information:
- (a) in accordance with this Agreement; or
 - (b) as required or permitted by law or NSW Health policy directive.
21. If the quality of the information required to be provided by the Medical Locum Agency under clause 18 does not meet the reasonable requirements of **[insert named Public Health Organisation]**, the Locum Medical Officer cannot be registered in the on-line system (where applicable), nor placed in a facility until the information is considered satisfactory.
22. It is the responsibility of the Medical Locum Agency to ensure that its contact details, in particular, email and mobile phone number, are up to date. **[insert named Public Health Organisation]** cannot be held responsible for a non-receipt of an Order or Confirmed Order by a Medical Locum Agency where information provided by the Medical Locum Agency is incorrect or out of date.

Secondary employment approval

23. The Medical Locum Agency accepts that if the Locum Medical Officer is otherwise employed anywhere in the NSW Health Service, it is the responsibility of the Locum Medical Officer to seek secondary employment approval from the relevant Chief Executive or delegate in accordance with applicable NSW Health and/or **[insert named Public Health Organisation]** policy directives. This approval must be provided prior to acceptance of the Locum Medical Officer by **[insert named Public Health Organisation]**.

Subsequent employment of Locum Medical Officers within NSW Health

24. The parties agree that:
- (a) at any time after a Locum Medical Officer completes his or her initial placement period at a facility of **[insert named Public Health Organisation]**, the Locum Medical Officer is free to enter into an alternative employment arrangement with any Public Health Organisation, including permanent, temporary and casual employment, and that subject to clause 24(b) below no compensation or other payment shall be required to be made by the Public Health Organisation to the Medical Locum Agency in respect of such employment of the Locum Medical Officer;

- (b) in the event the Locum Medical Officer subsequently joins **[insert named Public Health Organisation]**'s casual medical pool, provided no more than 13 weeks has passed between the last shift worked by the Locum Medical Officer with **[insert name of Public Health Organisation]** through the Medical Locum Agency and the first shift worked by the Locum Medical Officer through the casual medical pool of **[insert named Public Health Organisation]**, then the Medical Locum Agency is entitled to a one off payment from **[insert named Public Health Organisation]** calculated as follows:
- (i) where the Locum Medical Officer has worked 12 shifts or more through the Medical Locum Agency in the 13 week period prior to the first shift worked by the Locum Medical Officer through the casual medical pool – \$750;
 - (ii) where the Locum Medical Officer has worked less than 12 shifts through the Medical Locum Agency in the 13 week period prior to the first shift worked by the Locum Medical Officer through the casual medical pool – \$1,250;
- (c) following the one off payment in clause 24(b), no further compensation or commission is payable by **[insert named Public Health Organisation]** to the Medical Locum Agency in respect of the Locum Medical Officer;
- (d) where a period greater than 13 weeks has passed between the last shift worked by the Locum Medical Officer with **[insert name of Public Health Organisation]** through Medical Locum Agency and the first shift worked by the Locum Medical Officer through the casual medical pool of **[insert named Public Health Organisation]**, then no compensation or further commission is payable by the **[insert named Public Health Organisation]** to Medical Locum Agency in respect of the Locum Medical Officer; and
- (e) prior to the Locum Medical Officer joining **[insert named Public Health Organisation]**'s casual medical pool, **[insert named Public Health Organisation]** will be required to undertake the appropriate check in accordance with the PD2008_029 Employment Screening Policy. It is recognised that the Locum Medical Officer's decision to join the casual medical pool is a choice to be exercised freely by the individual Locum Medical Officer and must not be influenced by the Medical Locum Agency or **[insert named Public Health Organisation]**. **[Insert named Public Health Organisation]** staff will at all times act in accordance with PD2005_626 Code of Conduct NSW Health;
- (f) a Locum Medical Officer who has joined the **[insert named Public Health Organisation]** casual medical pool is free at any time to leave the casual medical pool and re-join the Medical Locum Agency, however in that event if the Locum Medical Officer subsequently re-joins the **[insert named Public Health Organisation]** casual medical pool **[insert named Public Health Organisation]** will not be liable to make any further payment under clause 24(b); and
- (g) the amounts specified in clause 24(b) shall be increased on 1 July of each year during the term of this Agreement by the amount of the Australian Consumer Price Index (weighted average of eight capital cities) as published by the Australian Bureau of Statistics for the most recently published twelve month period ending prior to 1 July in that year.

Communication between [insert named Public Health Organisation] and Locum Medical Officers

25. **[insert named Public Health Organisation]** acknowledges and agrees that it will not communicate directly with a Locum Medical Officer for the purpose of offering the Locum Medical Officer a specific shift or shifts at a **[insert named Public Health Organisation]** facility.
26. The parties agree that nothing in clause 25 prevents **[insert named Public Health Organisation]** from:
- (a) communicating directly with a Locum Medical Officer for the purpose of offering the Locum Medical Officer a shift at a **[insert named Public Health Organisation]** facility where the Locum Medical Officer is employed (including full-time, part-time or through a casual medical pool) as a medical officer elsewhere within the NSW Health Service, but not where the Locum Medical Officer's employment in the NSW Health Service arises exclusively through a locum arrangement;
 - (b) communicating directly with a Locum Medical Officer in the event of a pandemic or other emergency or disaster;
 - (c) complying with a requirement of the law or NSW Ministry of Health policy directive; or
 - (d) using information provided by either the Medical Locum Agency or Locum Medical Officers in accordance with clause 18 of this Agreement to communicate directly with Locum Medical Officers:
 - (i) for the purpose of providing information to Locum Medical Officers relating to their rights and obligations as employees within the NSW Health Service; or
 - (ii) for the purpose of providing information to Locum Medical Officers relating to general employment opportunities (but not a specific shift or shifts) within NSW Health (including employment through casual medical pools),and the Medical Locum Agency is responsible for ensuring that Locum Medical Officers are aware their personal information may be used by **[insert named Public Health Organisation]** for these purposes.

Termination

Termination for Convenience

27. Either party may terminate this Agreement for convenience by giving not less than three (3) month's notice in writing, with such termination being effective upon the expiry of this three (3) month period.

Settlement of outstanding monies

28. If either party terminates this Agreement for convenience:

- (a) the party terminating the Agreement must reimburse the other party for any unavoidable costs and expenses directly incurred as a result of termination provided that any claim is supported by satisfactory written evidence of the costs claimed;
- (b) the parties must do everything reasonably possible to prevent or otherwise mitigate any losses resulting from the termination.

Termination For Cause

29. Where the Medical Locum Agency:

- (a) ceases to be listed on the NSW Health Register of Medical Locum Agencies; or
- (b) breaches the Agreement in circumstances which **[insert named Public Health Organisation]** reasonably considers give rise to a risk to the health or life of any person,

[insert named Public Health Organisation] may terminate this Agreement with immediate effect by providing notice in writing to the Medical Locum Agency.

30. With the exception of the circumstances in clause 29, this Agreement may be terminated by either party for any breach of this Agreement where such breach has failed to be rectified within thirty (30) days of written notification of the breach by the other party.

Effect of termination on prior rights and Confirmed Orders

31. Subject to clause 32, termination of this Agreement for any reason shall not:

- (a) extinguish, prejudice or affect any antecedent rights that may have accrued to a party prior to the date of termination; or
- (b) affect the rights and obligations of the parties in respect of a Confirmed Order made prior to termination (including the right of **[insert named Public Health Organisation]** to cancel the Confirmed Order in accordance with clause 17(c) of this Agreement).

32. Where this Agreement is terminated pursuant to clause 29, any Confirmed Orders made prior to termination are deemed to have been cancelled by **[insert named Public Health Organisation]** at the time notice of termination is provided, and the Medical Locum Agency shall not be entitled to any payment in respect of such cancelled Confirmed Orders.

33. Notwithstanding any other provision of this Agreement, the covenants provided by either party shall survive the expiration or earlier termination of this Agreement

Previous arrangements or agreements superseded

34. These arrangements supersede any former arrangement or agreement with the Medical Locum Agency in place at the hospitals or facilities of the **[insert named Public Health Organisation]**.

Relationship between parties

35. The Medical Locum Agency shall not represent itself, and shall ensure that its employees and agents do not represent themselves, as being employees or agents of **[insert named Public Health Organisation]**.

Disputes

36. In the event of any dispute about the terms of operation of this Agreement, before taking any other action:

- (a) the party raising the dispute will notify the other party in writing of the dispute and the nature of it;
- (b) upon the giving and receiving of a notice of dispute, the **[insert named Public Health Organisation]** Director, Workforce Development or delegate and the Principal / Director / Chief Executive of the Medical Locum Agency will attempt to resolve the dispute through negotiation;
- (c) if the dispute remains unresolved after one (1) week of receipt of the notification of the dispute, the parties will constitute a joint committee, consisting of two (2) representatives of each party. The parties will endeavour to constitute this committee within two (2) weeks of the receipt of notification of the dispute. The joint committee will attempt to resolve the dispute by negotiation;
- (d) if the dispute is not resolved by negotiation after one (1) month of the committee being constituted, unless the committee agrees that the dispute can be dealt with in an alternative way, the parties will refer the dispute to a meeting of the Director General of the NSW Ministry of Health or delegate, and a nominee of the Medical Locum Agency, who will jointly attempt to resolve the dispute;
- (e) if a resolution of the dispute is still not possible, the dispute will be referred to an independent mediator or arbitrator nominated by the President of the Law Society of NSW who will mediate an outcome or, failing a successful mediated resolution, make a decision that will be binding on both parties.
- (f) Each party will bear their own costs; with the costs associated with the use of an independent mediator/arbitrator to be shared equally by the parties.

Variation and change in law

37. Any variation to the Agreement must be in writing signed by both parties.

38. The **[insert named Public Health Organisation]** may advise the Medical Locum Agency of any proposed amendment to the terms of this Agreement by providing at least three (3) month's notice in writing, unless the proposed amendment results from a change in legislation, regulation or the law in which case **[insert named Public Health Organisation]** must provide notice in writing to the Medical Locum Agency of the

proposed amendment as soon as practicable. If the Medical Locum Agency fails to agree in writing to an amendment proposed by **[insert named Public Health Organisation]** in accordance with this clause, the Agreement shall terminate at the expiration of the period of notice provided by **[insert named Public Health Organisation]**.