1. **The Annual Notice**

(a) At least three months prior to the anticipated commencement of the Operating Term and then at least three months prior to the commencement of each Operating Year during the Operating Term, the Client Representative will provide the Operator with the Annual Notice for the coming Operating Year, provided that if the State fails to issue an Annual Notice by the date specified in this section 1(a):

(i) it will not prejudice the State's ability to issue an Annual Notice for the relevant Operating Year at any stage after that date, which Annual Notice will apply from the date specified in the Annual Notice (being not less than three months following the issue of that Annual Notice); and

(ii) the previous Operating Year's Annual Notice will be deemed to have been re-issued as the Annual Notice for that Operating Year until the date on which the new Annual Notice will commence its application as set out in subparagraph 1(a)(i).

(b) The Annual Notice will specify, for the upcoming Operating Year:

(i) the Activity Profile;

(ii) the NWAUs for the Services as set out in the Activity Profile;

(iii) the State Price;

(iv) the Maximum Payment Amount;

(v) changes in the Role Delineation that impact on the Facility, and the date from which those changes must be implemented in relation to the Services;

(vi) templates and reporting requirements, counting and coding rules and guidelines for the Monthly Performance Reports, Monthly Activity Reports and other reports required under the Reporting Schedule;

(vii) without limiting section 1(a) of the Performance Schedule, any changes to the KPIs;

(viii) the current State strategic priorities;

(ix) the current list of restricted Services (**Restricted Services**);

(x) capped volumes within certain Service Categories or elements of Service Categories (**Capped Services**) as contemplated by section 2.4 of the Payment Schedule;

(xi) the JMO Minimum Number for that Operating Year; and

(xii) any other matter which the State deems relevant, acting reasonably, for inclusion in the Annual Notice.
2. **The Activity Profile**

(a) The Activity Profile will provide the profile and volume of Clinical Services the State expects to purchase from the Operator in the coming Operating Year by reference to Service Category or elements within a Service Category. The Activity Profile will be expressed both in terms of funding units of measure, and volume and type of Service.

(b) In determining the Activity Profile, the State must, amongst other things, in good faith, take account of the following:

(i) estimated total Actual Service Volume for the previous Operating Year;

(ii) other changes in the need for Clinical Services;

(iii) the Operator's performance in the provision of Services to the Catchment Area;

(iv) the Operator's performance in providing Services in accordance with the Role Delineation, the Quality Standards, the Performance Schedule and the Services Specification in the previous and current Operating Year;

(v) movement in funding by the Commonwealth or the NSW Treasury;

(vi) changes in the incidence of private health insurance in the Catchment Area;

(vii) changes in the NSLHD Service Agreement;

(viii) changes in the Role Delineation; and

(ix) the Hospital Licence.

(c) In preparing the Activity Profile:

(i) for the first Operating Year, the State must ensure that the MPA is not less than the MPA that would be derived from the activity volumes set out for that Operating Year in the Projected Activity Schedule; and

(ii) for the second and subsequent Operating Years, the State must ensure that the MPA is not less than 95% of the MPA for the previous Operating Year.

3. **Service Categories**

(a) The Activity Profile contains volumes of activity by Service Category. These are aggregated within the Patient service types as set out below:

<table>
<thead>
<tr>
<th>Patient Service Type</th>
<th>Service Category</th>
<th>Unit of Measure (subject to section 3(b))</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Admitted Services</strong></td>
<td>General Admitted Activity</td>
<td>NWAU</td>
</tr>
<tr>
<td></td>
<td>Mental Health Activity</td>
<td>NWAU</td>
</tr>
<tr>
<td><strong>Emergency Department</strong></td>
<td>Emergency Department Activity</td>
<td>NWAU</td>
</tr>
<tr>
<td><strong>Non-Admitted Services</strong></td>
<td>Outpatient Activity</td>
<td>NWAU</td>
</tr>
</tbody>
</table>
(b) If any Service Category or element within a Service Category is not measured in NWAUs as at the Date of Operational Readiness, or ceases to be measured in NWAUs, then:

(i) the State must give the Operator written notice to that effect; and

(ii) the unit of measure for that Service Category or element within a Service Category will, for the purposes of this Schedule, the Reporting Schedule and the Payment Schedule, be as directed by the State in that written notice, applying the same unit of measure as is used to determine the State Price for that Service Category or element within that Service Category.

4. Volume Management

(a) The Operator is responsible for managing:

(i) activity levels within all Service Categories throughout each Operating Year taking into account seasonal variations;

(ii) activity levels throughout an Operating Year in such a manner as to not exceed the Maximum Payment Amount; and

(iii) activity in accordance with both the levels specified within the Activity Profile and actual Patient presentations and referrals.

(b) The Operator must promptly notify the State:

(i) if it anticipates (acting reasonably and diligently) that the total of all monthly Actual Services Volumes will not meet the volume of Services set out in the Activity Profile within that Operating Year;

(ii) if the Actual Service Volume in respect of any Service Category for an Operating Month is less than of the anticipated total volume of Services for that Operating Year as set out in the Activity Profile, which notification must set out (to the State's satisfaction):

(A) the reasons for the shortfall in activity;

(B) evidence (including methodology and risk management strategies) that the Operator will not compromise future patient safety and quality in complying with the Activity Profile for that Operating Year; and

(C) all supporting data and other information reasonably required by the State; or

(iii) if a notice has previously been issued under subparagraph 4(b)(ii), once the shortfall in that particular Service has been made up.

(c) If:

(i) demand for Emergency Department Services and/or Non-Elective Activity within an Operating Year causes or is anticipated to cause the relevant volume or quantity of that Service to be significantly greater than the volume outlined in the Annual Notice; and

(ii) that increase in demand is, in the reasonable opinion of the Operator, likely to prevent the Operator from complying with its obligations as set out in this document; and
(iii) the Operator has complied with its obligations under clauses 52.11(f), (g), (h) and (i) of the Project Deed and the Commercial Plan and has met the Performance Threshold for KPI 4 within section 2(b) of the Performance Schedule, then the State:

(iv) must, at the request of the Operator, meet with the Operator; and

(v) may, in its discretion:

(A) adjust the Activity Profile for that Operating Year in a manner that ensures that the payment amount will not exceed the MPA for that Operating Year (a **Demand Variation**) (in which case the Operator must comply with the adjusted Activity Profile for the balance of the relevant Operating Year as if it was the Activity Profile issued within the then-current Annual Notice);

(B) purchase Further Services from the Operator; or

(C) direct the Operator to continue to provide the Services in accordance with this document.

(d) For the avoidance of doubt, irrespective of whether or not the State elects to implement a Demand Variation or purchase Further Services from the Operator, the Operator must continue to provide the Services in accordance with this document (including the Performance Regime) and comply with clause 52 of the Project Deed.

(e) In respect of Capped Services:

(i) the Operator must not exceed of the NWAUs for those Capped Services for that Operating Year in any Operating Month without first receiving permission from the State;

(ii) if it wishes to exceed the limit set out in subparagraph 4(e)(i), the Operator must submit a request to the State detailing the variations it seeks to make to the Activity Profile, the reasons for these variations and how it will manage the Activity Profile for the remainder of the Operating Year;

(iii) permission for any modifications to the Activity Profile following an Operator request under subparagraph 4(e)(ii) may be given solely at the discretion of the State; and

(iv) where written permission has not been given by the State, the Operator will not be entitled to receive payment for any volume of the relevant Capped Service provided above the cap as specified in the Annual Notice.

(f) The Operator will have no entitlement to payment in respect of the performance of any Service within an Operating Year which is not specified in both the Services Specification and the Activity Profile, or is purchased as a Further Service, for that Operating Year.
5. Further Services

   (a) The State may from time to time request to procure further services from the Operator separate from the Activity Profile and the MPA (the Further Services), in which case the State will provide to the Operator a notice detailing the type and volume of Further Services required as well as the State's proposed Further Services Fee, which will be determined in accordance with Section 4 of the Payment Schedule.

   (b) The Operator must provide the Further Services during the relevant Operating Year in accordance with its obligations under this document as if they were the Services.

   (c) Within the Monthly Performance Report and Monthly Activity Report, Further Services are to be reported separately from those Services within the MPA.

   (d) Further Services and the Further Services Fee will not be included for the purposes of any of the calculations or determinations related to the volume targets set in the Activity Profile and the associated Maximum Payment Amount.

6. Reversal of Patient election

   (a) Subject to paragraphs 6(b) and 6(c), the Operator may only claim payment for an Episode of Care which relates to a reversal of Patient election from being a Compensable Patient to a Public Patient in relation to Admitted Services, provided that, in relation to that reversal and Episode of Care, the Operator:

      (i) complies at all times with the NHRA; and

      (ii) certifies to the State that the relevant reversal and resulting Episode of Care resulted from 'unforeseen circumstances' (as defined in the NHRA).

   (b) Where a claim for payment is made by the Operator under paragraph 6(a), this will be subject to review and approval by the State, and will only be paid for by the State to the extent that the Operator has complied with its obligations under paragraph 6(a).

   (c) Episodes of Care that incorporate a change in Patient election from being a Public Patient to a Compensable Patient in the same or next day cannot be charged to the State.