

BILATERAL AGREEMENT

A BILATERAL COMMONWEALTH / STATE DISABILITY AGREEMENT (“this Bilateral Agreement”) is made the day of 2005

- (1) **COMMONWEALTH OF AUSTRALIA** (“the Commonwealth”) of the one part
- (2) **THE STATE OF SOUTH AUSTRALIA** (“the State”) of the other party

RECITALS

- A. The Commonwealth and the State are parties to an Agreement made between the Commonwealth and the State dated the 30th day of June 2003 (“the CSTDA”) the purposes of which Agreement are set out in paragraphs (a) to (g) inclusive of Recital A to the CSTDA including:
 - “(a) provide for a national framework outlining the objective and policy priorities for services to people with disabilities across Australia to be progressed over the life of the Agreement, and outline a means for measuring and publicising the progress of Governments towards achieving this national framework (clauses 4 and 7)”.
- B. Recital B of the CSTDA provides that the Commonwealth and individual States/Territories may make Bilateral Agreements, the purposes of the Bilateral Agreements being set out in Recital B of the CSTDA, including to:
 - “(a) provide for action between the Commonwealth and individual States/Territories on strategic disability issues within the broad national framework”.
- C. Clause 2 of Part 2 of the CSTDA provides that:
 - “2(1) A Bilateral Agreement made between the Commonwealth and a State/Territory shall come into effect in respect of those parties on a date to be specified in the Bilateral Agreement and shall continue for the term to be specified in the Bilateral Agreement.
 - 2(2) A Bilateral Agreement shall (unless otherwise agreed between the parties to the Bilateral Agreement) contain the same terms and conditions as those which are contained in this Agreement.
- D. Clause 8(7) of Part 8 of the CSTDA provides that:
 - “8(7) Ministers may negotiate additional funding to progress policy priorities and systemic and service reforms within the scope of the Agreement, including the transfer of services and or recipients from one jurisdiction to another. The Commonwealth and the States/Territories may agree bilaterally on the contribution of funds, new or existing, for this purpose”.
- E. The Commonwealth and the State wish to make this Bilateral Agreement under which, subject to the appropriation of funds by their respective Parliaments, both parties will make funds available in accordance with the attached Schedule so that

the State may provide the additional Respite Services set out in clause 3(9) of this Bilateral Agreement.

NOW IT IS AGREED AS FOLLOWS:

PART 1 - TERM AND DURATION

- 1(1) This Bilateral Agreement shall come into force and effect on signing by both parties.
- 1(2) This Bilateral Agreement shall continue in force and effect until the earlier of the following dates or events:
 - (i) 30 June 2007;
 - (ii) earlier termination of the CSTDA.
- 1(3) The Bilateral Agreement may be varied at any time by written agreement of both parties which agreement can be signified by exchange of correspondence.

PART 2 – CONDITIONS AND INTERPRETATION OF BILATERAL AGREEMENT

- 2(1) Except where they are excluded by, or are inconsistent with, the conditions of this Bilateral Agreement, the conditions contained in the CSTDA are conditions of this Bilateral Agreement and the words and phrases used in the CSTDA have the same meaning when used in this Bilateral Agreement.
- 2(2) Although the parties are bound by the terms and conditions of this Bilateral Agreement and the CSTDA, in the event of any inconsistency between the terms and conditions of each of this Bilateral Agreement or the CSTDA, the terms and conditions of this Bilateral Agreement will prevail.
- 2(3) The parties acknowledge the purpose and cooperative nature of the CSTDA and of the purposes of bilateral agreements made pursuant to the CSTDA.

PART 3 – ARRANGEMENTS FOR THE PROVISION OF RESPITE SERVICES UNDER THIS BILATERAL AGREEMENT

Financial arrangements

- 3(1) Under this Bilateral Agreement, the parties agree that, subject to the approval of their respective Parliaments, they will contribute funds in accordance with the attached Schedule for the provision of the Respite Services.
- 3(2) These funds shall be additional to the funds which each of the parties had agreed to contribute in accordance with Schedule A1 of the CSTDA at the time of signing that agreement.
- 3(3) Subject to compliance with the conditions of this Bilateral Agreement and the CSTDA, the Commonwealth funds to be contributed to the State under this Bilateral Agreement will be made available to the State fortnightly in advance.
- 3(4) All funds will be acquitted in a manner consistent with the requirements of clauses 4(1) and 4(2).
- 3(5) If, in a particular financial year, the State does not fully expend Commonwealth funds made available under this Bilateral Agreement for that financial year

("Unexpended Funds"), the State must report the Unexpended Funds to the Commonwealth in accordance with clauses 4(1) and 4(2) of this Bilateral Agreement providing details as to how the State intends to apply the Unexpended Funds to the Respite Services during the next financial year.

- 3(6) Unless the Commonwealth is satisfied that the State will apply the Unexpended Funds to the Respite Services in accordance with clause 3(5), the Commonwealth, in its absolute discretion, shall not be liable to pay the amount of any Unexpended Funds from the funds allocated to the State for the next financial year.
- 3(7) Subject to clauses 3(6) and 3(8), the Commonwealth's contribution to the State in accordance with the attached Schedule represents the total amount required to meet its responsibilities under this Bilateral Agreement.
- 3(8) Indexation on Commonwealth funds to be transferred to the State will be calculated each year in accordance with indexation requirements of the CSTDA

Purpose

- 3(9) This initiative aims to support older carers who are caring for people with disabilities. The priority for funding provided by the Parties under this Bilateral will therefore be to:
- (a) provide those carers aged over 70 years with Respite Services, on request and for up to four weeks in each year;
 - (b) provide those older carers aged 65 to 69 years with Respite Services, on request and for a maximum of two weeks in a year

Once these needs have been met, the funding may be used to provide other CSTDA services to this group that have a respite effect.

Service provision arrangements

- 3(10) Subject to the provisions of clauses 3(9) to 3(14), and the availability of funds, the State shall, based on request and assessed need, use its best endeavours to improve support for ageing carers through funding and the provision of:
- (a) respite services (including any capital related funding);
 - (b) other services that achieve a respite effect; and
 - (c) services agreed with the carer as enabling them to continue their caring role.
- 3(11) In recognition of the shorter life expectancies, higher mortality rates at all ages and earlier ageing experiences of Aboriginal and Torres Strait Islander people, the provisions of clause 3 (9) shall apply to Aboriginal and Torres Strait Islander persons aged 45 years and over.
- 3(12) For the purposes of this Bilateral Agreement:
- (a) "Aboriginal and Torres Strait Islander" means a person who:
 - i. is of Aboriginal descent and/or Torres Strait Islander descent;
 - ii. identifies as an Aboriginal person and/or Torres Strait Islander person; and

- iii. is recognised by an Aboriginal or Torres Strait Islander community as an Aboriginal and/or Torres Strait Islander person;
 - (b) "Eligible Carer" means the carers described in clause 3(9) and 3(11); and
 - (c) "Respite Services" means respite services defined in clause 3(1) of the CSTDA, and to other CSTDA services that are accepted by the carer as providing them with respite from their caring role.
- 3(13) Respite Services provided by virtue of this Bilateral Agreement shall be in addition to Respite Services otherwise provided by the State under the CSTDA in the financial year 2003 / 2004 (the "base level of respite") and the State shall at least maintain that base level of Respite Services for the duration of the CSTDA.
- 3(14) In administering the Services under this Bilateral Agreement, the State shall have regard to:
- (a) the Objectives;
 - (b) the diverse range of family structures currently operating within Australian society; and
 - (c) culturally diverse definitions of "parent", "son" and "daughter", especially in relation to Aboriginal and Torres Strait Islander people.

PART 4 – REPORTING ARRANGEMENTS

Financial Information

- 4(1) Subject to clause 4(2), the State shall provide the Commonwealth with an audited financial statement acquitting each and both of the Commonwealth and State government funding actually expended on the provision of the Services under this Bilateral Agreement.
- 4(2) The statement provided under clause 4(1):
- a) may be combined with another report, whether under the CSTDA or otherwise but, in such circumstances, the acquittal for this funding shall be able to be identified and considered separately and
 - b) shall be provided no later than six months after the end of the financial year for which the funding was contributed.

Performance Reporting

- 4(3) The overall performance and reporting requirements that apply to this Bilateral Agreement will be those that apply to the broader CSTDA. Performance reporting will be based on data collected using the CSTDA National Minimum Data Set (NMDS).
- 4(4) The State agrees that from the performance and reporting information included in its annual report made in accordance with Schedule A3 of the CSTDA, it will provide to the Commonwealth, for each financial year covered by this Bilateral Agreement,:
- a) a count of all clients provided with a respite service, or a service designed to give a respite effect, in the reporting period;
- and data from its NMDS collections for the reporting period on:
- b) carer – existence of;

- c) carer – relationship to service user; and
 - d) carer – age group.
- 4(5) The data described in clause 4(4) shall be provided to the Commonwealth:
- a) for the reporting period being the 2003-04 financial year, by no later than 31 March 2005; and
 - b) for the reporting periods being the 2004-05 and 2005-06 financial years, within seven days of the day on which data is exchanged between jurisdictions in accordance with Schedule A3 of the CSTDA for each of those financial years.
- 4(6) Once provided with the data described in clauses 4(4) to 4(5), the Commonwealth agrees to prepare and provide estimates, with reference to population data available from the Australian Bureau of Statistics, of the number of services provided to Eligible Carers.
- 4(7) The State agrees to acknowledge the contribution made by the Commonwealth under this Bilateral Agreement in any public statements, whether in writing or otherwise, made by the State, or on its behalf, in connection with Respite Services.

PART 5 - GENERAL

Giving effect to this Agreement

- 5(1) Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this Bilateral Agreement.

Entire Agreement

- 5(2) This Bilateral Agreement and the CSTDA represent the parties' entire agreement on the subject matter. All representations, communications, statements, understandings and prior agreements in relation to this subject matter are merged in and are superseded by this Agreement and the CSTDA.

EXECUTED as an agreement.

SIGNED by **THE HONOURABLE K PATTERSON,**
MINISTER OF STATE FOR FAMILY AND
COMMUNITY SERVICES for and on behalf
of the **Commonwealth of Australia** in the presence of:

SIGNED by **THE HONOURABLE J WEATHERILL,**
MINISTER FOR FAMILIES AND COMMUNITIES, MINISTER
FOR HOUSING, MINISTER FOR AGEING, MINISTER
FOR DISABILITY for and on behalf of the **State of South**
Australia in the presence of:

SCHEDULE

In accordance with clause 3(1) of this Bilateral Agreement, the parties agree to provide the following funds for the purposes set out in Part 3 of the Bilateral Agreement:

	2004-05	2005-06	2006-07	Total over three years
Australian Government	\$0	\$3,000,000	\$1,182,000	\$4,182,000
South Australia	\$1,600,000	\$0	\$2,582,000	\$4,182,000