



Office of Hon Tony Ryall

Minister of Health
Minister of State Services

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09 FEB 2009

Mr Richard Waddell
Chair
PHARMAC
PO Box 10-254
WELLINGTON 6143

Dear Mr Waddell

Variation to PHARMAC 2008/09 Output Agreement and Transfer of Funds to MOH

To implement funding of 12 months treatment with herceptin for HER2+ early breast cancer, I have asked the Ministry of Health to administer a fund from which District Health Boards (DHBs) can claim re-imbursment. Agreements between Roche (New Zealand) Limited ("Roche") and the Ministry of Health, and between Roche and PHARMAC, each dated 9 December 2008, record those arrangements.

As a result, various matters need to be agreed and recorded as between us. I propose as follows:

Repayment of funds transferred to Pharmac in the 2007/08 and 2008/09 financial years

Consequent on the funding of 12 months treatment with herceptin for HER2+ early breast cancer, separate funding for 12 months treatment as part of the SOLD clinical trial will no longer need to be administered by PHARMAC. This funding was devolved to PHARMAC as part of the 2007/08 Output Agreement and the 2008/09 Output Agreement.

I would now like you to transfer monies back to the Ministry of Health as follows, upon request by the Ministry of Health:

- **\$5.0 million** (plus GST) paid in 2007/08 for the treatment costs in New Zealand associated with the 12 month treatment regimen of the SOLD study (\$5,625,000.00 GST inclusive); and
- **\$3,333,332.00** (plus GST) paid in 2008/09 for the treatment costs in New Zealand associated with the twelve months treatment regimen of the SOLD study (\$3,749,998.50 GST inclusive).

Total re-payment = \$8,333,332.00 (plus GST) (\$9,374,998.50 GST inclusive)

For the avoidance of doubt, the \$5M payment scheduled for the 2009/10 financial year will now not be paid to PHARMAC, and the "wash up" referred to in clause 2.4.2 of the variation to the 2007/08 Output Agreement dated 28 May 2008 will now not take place.

Variation to 2008/2009 Output Agreement

Amendments to the 2008/2009 Output Agreement will also be needed:

- The obligation in the 2008/09 Output Agreement for further monthly payments from the Ministry for the treatment costs in New Zealand associated with the 12 month treatment regimen of the SOLD study will be removed; and
- Deliverable 5.2 of Schedule B is redundant and will be deleted.

The terms of the variation will be:

VARIATION TO PHARMAC 2008/09 OUTPUT AGREEMENT

Pursuant to 170(3) of the Crown Entities Act 2004 and clauses 5.2-5.5 of PHARMAC's 2008/09 Output Agreement, that Output Agreement is varied as follows:

Service Delivery Performance

1. Section 2. Service Delivery Performance shall be amended by deleting section 2.4 and replacing it as follows:

Funding from Vote Health

2.4 *The Minister, on behalf of the Crown, agrees that PHARMAC will be paid a total of eleven million, nine hundred and eighty nine thousand dollars (\$11,989,000) for the year (GST exclusive) from Vote Health for delivering the Services in Schedule B, consistent with the payment Schedule set out in Schedule C of this Output Agreement. Payment in accordance with Schedule C to this Output Agreement is contingent upon PHARMAC providing the Services in accordance with this Output Agreement.*

Schedule B: Services to be provided fully or in part under Vote Health

2. The current Section 5 to Schedule B shall be deleted and replaced as follows:

Research - PHARMAC will manage research to generate further information on the optimal duration of Herceptin therapy		
5.1	Manage funding for the support of the SOLD clinical trial	As per contract milestones

Schedule C: Payment Terms and Schedule of Payments

3. The current Schedule C shall be deleted and replaced as follows:

SCHEDULE C: PAYMENT TERMS AND SCHEDULE OF PAYMENTS

The Minister shall pay a total of eleven million, nine hundred and eighty nine thousand dollars (\$11,989,000) for the period 1 July 2008 to 30 June 2009 by way of direct credit to PHARMAC's nominated bank account. The Minister shall pay monthly installments of the 4th day of each month of \$999,083.30 (GST excl).

Except as expressly amended by this letter, the terms of the 2008/09 Output Agreement are to remain in full force and effect.

If you agree to amending the 2008/09 Output Agreement in the manner set out in this letter and to transferring the funds described on the first page of this letter to the Ministry, please record your agreement by initialling and signing both copies of this letter, and then returning one copy of this letter to Richard Schmidt, your Relationship Manager at the Ministry of Health.

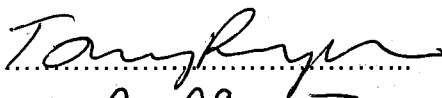
By signing this letter you warrant that you have authority to agree these matters on behalf of PHARMAC.

EXECUTED BY HER MAJESTY

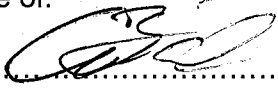
THE QUEEN IN RIGHT OF NEW ZEALAND acting by and through

Hon Tony Ryall

Minister of Health


Date: 4. 2. 09

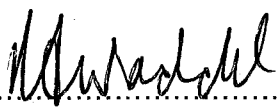
In the presence of:

Signature 
Name Andrew Bechan
Address 40 Parliament Buildings
Occupation Health Advisor


And for the **Pharmaceutical Management Agency** by

Richard Waddell

Chair


Date: 12/2/09

In the presence of:

Signature 
Name LISA WILLIAMS
Address PO BOX 10-254, PHARMAC, WGITN
Occupation SOLICITOR