

Document no. 3

TERMS AND CONDITIONS FOR THE SUPPLY OF CENTRALLY PROCURED MEDICINES

The Authority	The Secretary of State for Health and Social Care acting as part of the Crown through the UK Health Security Agency whose principal office is at 10 South Colonnade, London, E14 4PU
The Supplier	Kindeva Drug Delivery LP 11200 Hudson Road, Woodbury, MN 55129 USA

Date	19/12/2025
Description of Vaccine (the Goods)	DUODOTE® (atropine and pralidoxime chloride injection)

This Contract is made on the date set out above subject to the terms set out in the schedules listed below (“**Schedules**”). The Authority and the Supplier undertake to comply with the provisions of the Schedules in the performance of this Contract.

The Supplier shall supply to the Authority, and the Authority shall receive and pay for, the Goods on the terms of this Contract.

Save where the context does not permit, the definitions in Schedule 4 apply to the use of all capitalised terms in this Contract.

Schedules

Schedule 1	Key Provisions
Schedule 2	General Terms and Conditions
Schedule 3	Information Provisions
Schedule 4	Definitions and Interpretations
Schedule 5	Specification
Schedule 6	Commercial Schedule
Schedule 7	Proforma Change Control Note

Schedule 8	Tender Response Document
Schedule 9	Business Continuity Plan

Signed by the authorised representative of THE AUTHORITY

Redacted under section 40, personal information

Signed by the authorised representative of THE SUPPLIER

Redacted under section 40, personal information

Schedule 1
Key Provisions

1. Application of the Key Provisions

1.1 The Key Provisions at Clauses 1 to 10 of this Schedule 1 shall apply to this Contract.

2. Term

2.1 This Contract shall commence on the **19 December 2025** ("Commencement Date") and shall expire on **18 December 2026** ("Initial Term"). The Term may be extended by written agreement of the Parties provided that the extension period shall not exceed beyond 31 December 2028 ("Extension Period").

3. Contract Managers

3.1 The Contract Managers at the commencement of this Contract are:

3.1.1 for the Authority:

Redacted under section 40, personal information

3.1.2 for the Supplier:

Redacted under section 40, personal information

4. Notices

4.1 Subject to Clause 23.5 of Schedule 2, any notice required to be given by either Party under this Contract shall be in writing and shall be delivered by:

4.1.1 hand or sent by prepaid first class recorded delivery to the address listed in Clause 4.3 of this Schedule 1 or such other address as a Party may inform the other Party in writing from time to time; or

4.1.2 email to the person referred to in Clause 4.3 of this Schedule 1 or such other person as a Party may inform the other Party in writing from time to time.

4.2 A notice shall be treated as having been received:

4.2.1 if delivered by hand within normal business hours on a Business Day when so delivered, or, if delivered by hand outside normal business hours and/or Business Days, at the next start of normal business hours which is also a Business Day; or

- 4.2.2 if posted by first class recorded delivery mail on a Business Day, at 9.00 am on the second Business Day subsequent to the day of posting, or, if the notice was not posted on a Business Day, at 9.00 am on the third Business Day subsequent to the day of posting; or
- 4.2.3 if sent by email, where sent within normal business hours on a Business Day when so sent, or, where sent outside normal business hours and/or Business Days, at the next start of normal business hours which is also a Business Day, provided that regardless of when the notice was sent the sender has either received an electronic confirmation of delivery or has telephoned (and directly spoken with) the recipient to inform the recipient that the email has been sent.

4.3 Notices served under this Contract are to be delivered to:

4.3.1 for the Authority:

Commercial lead, **Redacted under section 40, personal information** or submitted on the Authority's e-Tendering Portal in accordance with Clause 4.1.3 of this Schedule 1

4.3.2 for the Supplier:

Redacted under section 40, personal information or submitted on the Authority's e-Tendering Portal in accordance with Clause 4.1.3 of this Schedule 1

5. Management levels for escalation and dispute resolution

5.1 The management levels at which a Dispute may be dealt with as referred to as part of the Dispute Resolution Procedure are as follows:

Level	Authority representative	Supplier representative
1	Redacted under section 40, personal information	Redacted under section 40, personal information
2	Redacted under section 40, personal information	Redacted under section 40, personal information
3	Redacted under section 40, personal information	Redacted under section 40, personal information

6. Order of precedence

6.1 Subject always to Clauses 5.1 and 7.11 of Schedule 2, should there be and only to the extent that there is, a conflict between any of the provisions of this Contract the descending order of priority for construction purposes shall be:

- 6.1.1 the provisions on page 1 of this Contract;
- 6.1.2 Schedule 1: Key Provisions;
- 6.1.3 Schedule 2: General Terms and Conditions;
- 6.1.4 Schedule 6: Commercial Schedule;
- 6.1.5 Schedule 5: Specification;
- 6.1.6 Schedule 4: Definitions and Interpretations;
- 6.1.7 Schedule 8: Tender Response Document;
- 6.1.8 Schedule 3: Information Provisions;
- 6.1.9 Schedule 9: Business Continuity Plan;
- 6.1.10 Schedule 10: Parent Company Guarantee; and
- 6.1.11 Schedule 7: Proforma Change Control Notice.

7. Purchase Orders

7.1 The Authority shall issue a Purchase Order to the Supplier in respect of the Goods to be supplied to the Authority under this Contract. The Supplier shall comply with the terms of such Purchase Order as though it were a term of this Contract. In the event of a conflict between the terms of the Purchase Order and the terms of this Contract, this Contract shall prevail. For the avoidance of doubt, any actions or work undertaken by the Supplier under this Contract prior to the receipt of a Purchase Order covering the relevant Goods shall be undertaken at the Supplier's risk and expense and the Supplier shall only be entitled to invoice for Goods covered by a valid Purchase Order.

7.2 A reference in the Purchase Order to 'current terms and conditions' or any similar reference is a reference to the terms and conditions of this Contract.

8. Time of the essence

8.1 Time is of the essence as to any delivery dates under this Contract and if the Supplier fails to meet any delivery date this shall be addressed in accordance with Clause 5.3 of Schedule 2.

9. Regulatory and information requirements

9.1 Where the Supplier manufactures, assembles or imports the Goods, the Supplier shall maintain and, where applicable, no later than any date on which

it would otherwise expire, the applicable US Marketing Authorization and UK MS Licence in accordance with applicable Law from time to time. This obligation shall apply until the earlier of a) Goods expiry or b) until such time as the Authority notifies the Supplier in writing that it has used or disposed of all Goods supplied under this Contract. The Authority acknowledges that Meridian Medical Technologies LLC (a wholly owned subsidiary of the Supplier) holds the relevant manufacturing and distribution licenses for the Supplier. The Authority acknowledges that Kindeva Drug Delivery Ltd holds the UK MS Licence and will act as an intermediary for the supply of the Goods from Meridian Medical Technologies LLC to the Supplier. The Authority approves the use of Kindeva Drug Delivery Ltd and Meridian Medical Technologies LLC as Sub-contractors. The Authority agrees that the requirements of clause 29.4 of Schedule 2 and, without prejudice to the Authority's rights under clause 29.5 of Schedule 2, any other provision of this Agreement that expressly or impliedly requires the Supplier to include certain provisions in Sub-contracts do not apply to the Sub-contracts between the Supplier and Kindeva Drug Delivery Ltd and between Kindeva Drug Delivery Ltd and Meridian Medical Technologies LLC.

- 9.2 Without prejudice to the provisions of Clause 9.10 of this Schedule 1, where the manufacturer, assembler or importer of the Goods is a third party, any obligation on the Supplier under this Contract shall be taken as a requirement on the Supplier to procure the compliance of the holder of the applicable US Marketing Authorization and/or UK MS Licence in accordance with applicable Law with such obligation to the extent necessary to ensure the relevant obligation is fully met.
- 9.3 During the Term of this Agreement, and without prejudice to the Supplier's obligations under Clause 9.10 of this Schedule 1, where the Supplier knows or believes there to be any delay or other problem with the applicable US Marketing Authorization and/or UK MS Licence or, where applicable, its renewal of the UK MS License, it shall promptly, and in any event within seven (7) days of such knowledge or belief, inform the Authority in writing.
- 9.4 If the applicable US Marketing Authorization and/or UK MS Licence is:
 - 9.4.1 withdrawn by the relevant Licensing Authority;
 - 9.4.2 suspended by the relevant Licensing Authority for a period in excess of one (1) month; or
 - 9.4.3 If applicable, not renewed by the relevant Licensing Authority following its expiry for a period in excess of one (1) month; and
 - 9.4.4 in each case (as set out in Clauses 9.4.1 to 9.4.3 of this Schedule 1) for reasons relating to the safety or efficacy of the Goods or deficiencies in any application made by the Supplier to the Licensing Authority, then the Authority shall be entitled either to:
 - a) terminate this Contract by issuing a Termination Notice to the

Supplier; or

b) exercise its rights under Clause 9.5 of this Schedule 1.

9.5 If the applicable US Marketing Authorization and/or UK MS Licence is amended or varied by the relevant Licensing Authority and such amendment or variation results in the Authority reducing the scope of its requirement for the Goods, the Authority shall be entitled to proportionately reduce the quantity of the Goods to be delivered during the Term upon written notice to the Supplier provided that it shall take due account of all relevant guidance received from the Licensing Authority. Any such reduction in the quantity of Goods to be delivered shall only apply to Goods that have not been accepted by the Authority pursuant to Clause 7.2 and Schedule 2.

9.6 The Supplier shall:

- 9.6.1 maintain or procure the maintenance of (as the case may be) the Manufacturing Licence, to be compliant with current good manufacturing practice for drug and combination products ("cGMP"), as required by applicable Law and Guidance;
- 9.6.2 reply promptly to all reasonable enquiries and complaints by the Authority relating to the use, effective administration, quality, performance and durability of the Goods;
- 9.6.3 to the extent relevant to the performance of this Contract, ensure that the Authority is kept aware at all times of all data or information obtained by the Supplier whether in clinical trials or otherwise or any other matters in each case relating to the quality, safety and/or efficacy of the Goods including the balance of risk and benefits of using the Goods. The Supplier will cooperate with the Authority and the Licensing Authority in investigating such data, information or other matters and shall keep the Authority up to date as to the outcome of such investigations;
- 9.6.4 promptly, and in any event within five (5) Business Days of becoming aware of the same, inform the Authority and provide full details of any claim brought by any third party in relation to the Goods; and
- 9.6.5 without prejudice to Clause 9.6.3 of this Schedule 1, should the Supplier become aware of an actual or suspected adverse reaction to the Goods which is not described in the Summary of Product Characteristics, promptly inform the Authority in writing and in any event within seven (7) days of becoming aware of the same.

9.7 The Supplier shall notify the Authority promptly, and in any event within two (2) Business Days, of any engagement or consultation with the Licensing Authority arising out of, or in connection with, any concerns relating to the safety or efficacy of the Goods.

- 9.8 Following any engagement or consultation with the Licensing Authority the Supplier shall provide the Authority with a copy of any report or other communication published or provided by the Licensing Authority in relation to the Goods.
- 9.9 Upon receipt of notice pursuant to Clause 9.7 of this Schedule 1 or any report or communication pursuant to Clause 9.8 of this Schedule 1 the Authority shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall comply with any such request.
- 9.10 Without prejudice to the Supplier's obligation to comply with all applicable Law and Guidance, where the sale, manufacture, assembly, importation, storage, distribution, supply, delivery, or installation of the Goods under this Contract relates to medical devices and/or medicinal products (both as defined under any applicable Law and Guidance), the Supplier warrants and undertakes that it will comply with any such applicable Law and Guidance relating to such activities in relation to such medical devices and/or medicinal products. In particular, but without limitation, the Supplier warrants that:
 - 9.10.1 at the point such Goods are supplied to the Authority, all such Goods which are medicinal products shall have a valid Marketing Authorisation as required by Law and Guidance in order to supply the Goods to the Authority and that all relevant authorisation, labelling, registration, approval and documentation requirements as required under Law and Guidance relating to the sale, manufacture, assembly, importation, storage, distribution, supply or delivery of such Goods shall have been complied with. Without limitation to the foregoing provisions of this Clause 9.10, the Supplier shall, upon written request from the Authority, make available to the Authority evidence of the grant of any required valid Marketing Authorisation, and evidence of any other authorisations, labelling, registrations, approvals or documentation required; and
 - 9.10.2 it shall maintain and, if applicable, no later than any due date when it would otherwise expire, obtain a renewal of any authorisation, registration or approval of the US Marketing Authorisation required in relation to the Goods in accordance with Law and Guidance until the earlier of a) the Goods expiry or b) the Authority notifies the Supplier in writing that it has used or disposed of all units of the Goods supplied under this Contract.

10. Right to terminate following a specified number of material breaches

- 10.1 Either Party may terminate this Contract by issuing a Termination Notice to the other Party if such other Party commits a material breach of this Contract in circumstances where it is served with a valid Breach Notice having already been served with at least two (2) previous valid Breach Notices within a period of twelve (12) consecutive calendar months prior to that as a result of any previous material breaches of this Contract which are capable of remedy (whether or not the Party in breach has remedied the breach in accordance

with a Remedial Proposal). “Termination rights under this clause are without prejudice to statutory termination rights under PA2023 section 78.

Schedule 2

General Terms and Conditions

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1. Supply of Goods

- 1.1 The Supplier shall use commercially reasonable efforts to supply the Goods ordered by the Authority under this Contract:
 - 1.1.1 promptly and in any event within any time limits as may be set out in this Contract;
 - 1.1.2 in accordance with the provisions of this Contract;
 - 1.1.3 using reasonable skill and care in their delivery;
 - 1.1.4 using reasonable skill and care in their installation, associated works and/or training to the extent that such installation, works and/or training is a requirement of this Contract;
 - 1.1.5 in accordance with any quality assurance standards as set out in the Key Provisions, the Specification, and/or the Tender Response Document;
 - 1.1.6 in accordance with the applicable Law and Guidance;
 - 1.1.7 in accordance with Good Industry Practice;
 - 1.1.8 in accordance with the Policies; and
 - 1.1.9 in a professional and courteous manner.
- 1.2 The Supplier shall comply fully with its obligations set out in the Specification and the Tender Response Document (to include, without limitation, the KPIs and all obligations in relation to the quality, performance characteristics, supply, delivery and installation, and training in relation to use of the Goods).
- 1.3 Unless otherwise agreed by the Parties in writing, the Goods shall: not previously have left the control of the Supplier nor have deviated from their defined distribution path; be consistent with any sample; have not been rejected by any other entity prior to their supply to the Authority under this Contract; and comply with any applicable specification set out in this Contract (to include, without limitation, the provisions of the Authority's requirements set out in the Specification and the Supplier's proposals for meeting such requirements set out in the Tender Response Document) and any applicable manufacturers' specifications.
- 1.4 The Supplier shall ensure that all relevant consents, authorisations, licences and accreditations required to supply the Goods are in place prior to the delivery of any Goods to the Authority. Supplier performance hereunder is conditioned on receiving all necessary approval from the United States government and other regulatory authorities. In the event Supplier is unable to obtain the necessary approvals, Supplier shall have the right to terminate this Agreement without any liability, costs or other claim for damages or expenses by the Authority. If there are any incidents that relate to the safety or efficacy of the Goods, the Supplier shall cooperate fully with the Authority

in relation to the Authority's application of the Policies on reporting and responding to all incidents, including serious incidents requiring investigation, and shall respond promptly to any reasonable and proportionate queries, questions and/or requests for information that the Authority may have in this context in relation to the Goods.

- 1.5 If there are any quality, performance and/or safety related reports, notices, alerts or other communications issued by the Supplier or any regulatory or other body in relation to the Goods, the Supplier shall promptly provide the Authority with a copy of any such reports, notices, alerts or other communications, redacted to remove any information not related to the Goods.
- 1.6 Upon receipt of any such reports, notices, alerts or other communications pursuant to Clause 1.5 of this Schedule 2, the Authority shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall cooperate fully with any such request.

2. Supply of Additional Goods

- 2.1 The Authority may, subject to the agreement of the Supplier, place orders for the delivery of additional Goods in excess of the Volume or the Extension Volume ("**Additional Goods Orders**"). Each Additional Goods Order shall be provided to the Supplier in writing and shall carry an authorised purchase order number which the Supplier shall quote on all correspondence relating to such Additional Goods Order. Upon Supplier's written acceptance of the Additional Goods Order, the Supplier shall supply to the Authority the additional Goods requested in any Additional Goods Order. To the extent that:
 - 2.1.1 the Additional Goods Order is for Goods to be delivered during the Initial Term and does not, in aggregate with any previous Additional Goods Orders, exceed 20% of the Volume, the Authority shall specify the required date for delivery of such Goods which do not exceed 20% of the Volume which shall be no less than 6 months from the date of such Additional Goods Order.
 - 2.1.2 the Additional Goods Order is for Goods to be delivered during the Extension Period and does not, in aggregate with any previous Additional Goods Orders, exceed 20% of the combined Volume and Extension Volume, the Authority shall specify the required date for delivery of such Goods which do not exceed 20% of the combined Volume and Extension Volume which shall be no less than 6 months from the date of such Additional Goods Order.
 - 2.1.3 the Additional Goods Order is for Goods which, in aggregate with any previous Additional Goods Orders, exceed 20% of the Volume, the delivery date(s) for such Goods which exceed 20% of the Volume shall be agreed (subject to any relevant Law) in writing between the Parties, each Party acting reasonably and promptly.

2.1.4 the Additional Goods Order is for Goods to be delivered during the Extension Period which, in aggregate with any previous Additional Goods Orders, exceed 10% of the combined Volume and the Extension Volume, the delivery date(s) for such Goods shall be agreed (subject to any relevant Law) in writing between the Parties, each Party acting reasonably and promptly.

2.2 The Authority may, by providing a minimum of 6 months' notice to the Supplier, reduce the Volume or the Extension Volume by up to 20% of the Volume or Extension Volume. Where the Authority seeks to reduce the Volume or the Extension Volume by more than 20% of the Volume or the Extension Volume, it shall obtain the prior consent of the Supplier to do this. Following any such reduction, the Parties shall agree revisions to the Delivery Schedule in writing, each Party acting reasonably and promptly. For the avoidance of doubt, where the Authority exercises its rights under this Contract to:

- 2.2.1 cancel its purchasing obligations in relation to any Rejected Goods in accordance with Clause 7.6 of this Schedule 2,
- 2.2.2 refuse or cancel its purchasing obligations in relation to Goods not delivered in accordance with the Delivery Schedule pursuant to Clause 5.4.1 of this Schedule 2; or
- 2.2.3 reduce its purchasing obligations in relation to Goods as a result of a change in Marketing Authorisation in accordance with Clause 9.5 of Schedule 1 to this Contract,

such exercise of its rights by the Authority shall not be taken into consideration when calculating the Volume or Extension Volume under this Clause 2 and shall not in any way have the impact of reducing the Volume or Extension Volume.

2.3 The price for all Goods ordered by the Authority in any Additional Goods Order shall be as set out in Schedule 6.

3. Performance review and delay

3.1 Reserved

3.2 In the event that the Supplier becomes aware that it is or it may become unable to supply the Goods in accordance with the Delivery Schedule or any Additional Goods Order the Supplier shall immediately notify the Authority of such fact.

3.3 Where the Supplier has breached any of the KPIs, the Authority shall be permitted to:

- 3.3.1 publish or disclose such fact to any third party and/or the public; and/or
- 3.3.2 publish details of any such breaches in such format as the Authority may determine in its absolute discretion from time to time (which may

include, without limit, rating the Supplier's performance against other suppliers' performance and publishing the results in a ranking format).

4. Quality assurance

- 4.1 The Supplier shall comply with its quality control monitoring system, details of which are included in the applicable Marketing Authorisation and the Manufacturing Licence. The Supplier shall manufacture the Goods in accordance with Good Manufacturing Practice.
- 4.2 The Supplier shall maintain the Manufacturing Licence(s) and all other licences necessary for the manufacture of the Goods during the Term of this Contract and shall not make any significant changes (including without limitation any changes which shall or may have a material impact on the quality or use of the Goods) to the same or to the Specification or the Supplier's quality control monitoring system in relation to the Goods without:
 - 4.2.1 notifying the Authority in writing in advance of its intention to implement such change and giving the Authority the opportunity to make representations to the Supplier within twenty one (21) days of receipt by the Authority of notice that the Supplier intends making such change. Such notice by the Supplier to include details of the consequences which will follow such change being implemented; and
 - 4.2.2 the relevant Licensing Authority formally approving such change.

5. Delivery

- 5.1 Subject to Supplier obtaining the relevant United State export licenses, the Supplier shall deliver the Goods in accordance with any delivery timescales, delivery dates and delivery instructions (to include, without limitation, as to delivery location and delivery times) set out in the Delivery Schedule or a Purchase Order or as otherwise agreed with the Authority in writing. For the avoidance of doubt and notwithstanding Clause 6.1 of Schedule 1, where there is any conflict between the provisions of any of the Specification, the Tender Response Document, the Delivery Schedule and a Purchase Order in relation to the time and/or location for delivery, the provisions of the Delivery Schedule shall always take precedence.
- 5.2 Delivery shall be completed when the Goods have been unloaded at the location specified by the Authority and such delivery has been received by a duly authorised agent, employee or location representative of the Authority. The Authority shall procure that such duly authorised agent, employee or location representative of the Authority is at the delivery location at the agreed delivery date and times in order to accept such delivery. Any arrangement by which the Goods are collected by the Authority in return for a discount on the Contract Price shall be agreed by the Parties in writing. Where the Authority collects the Goods, such collection by the Authority is deemed delivery for the purposes of the Contract. For the avoidance of doubt, any agreement reached between the Parties for the Authority's collection of the Goods pursuant to this

Clause 5.2 of this Schedule 2 shall not be subject to the Change Control Procedure in order to validly amend this Contract.

- 5.3 The Supplier acknowledges the critical importance that the Authority places on ensuring that all Goods are delivered in accordance with the Delivery Schedule. Time for delivery of all Goods as specified in the Delivery Schedule shall be of the essence.
- 5.4 Without prejudice to any other provisions of this Contract, where the Supplier does not deliver the Goods within twenty-one (21) days of the date specified in the Delivery Schedule and other than where such failure to deliver is due to (a) unanticipated delays occurring in the Goods manufacturing process where the delay is outside the control of the Supplier; (b) obtaining licenses, permits, or other authorisations necessary to deliver the Goods, where the delay is due to a third party or to the Authority, including as may be required by the MHRA or the U.S. Government and this shall also take into account, any time spent by the Supplier to arrange transportation for delivery of the Goods where delivery is affected by such delays; or (c) where such failure to deliver is due to the default of the Authority or its agents, without prejudice to its other rights or remedies under this Contract or under Law, the Authority shall:
 - 5.4.1 be entitled to refuse or cancel delivery of any such Goods not delivered in accordance with the Delivery Schedule provided that the Authority notifies Supplier on or before the Delivery Date of its intent to do so;
 - 5.4.2 cease to have any liability to pay for any such Goods not delivered in accordance with the Delivery Schedule where such Goods have been refused delivery or had their delivery cancelled in accordance with Clause 5.4.1 of this Schedule 2; and/or
 - 5.4.3 be entitled to treat this as a breach not capable of remedy and terminate this Contract in accordance with Clause 16.3 of this Schedule 2.
- 5.5 Minor variances to the Delivery Schedule of up to eight (8) weeks due to the unpredictable nature of the manufacturing process of the Goods shall be permitted and the provisions of clause 5.4 shall not apply so long as agreed with the Authority communicated in writing at least five (5) Business Days or as soon as practically possible prior to the delivery date for such Goods as set out in the Delivery Schedule. This shall be without prejudice to the Supplier's obligation to notify the Authority under Clause 3.2 of this Schedule 2 of the Supplier's inability to meet the Delivery Schedule. For the avoidance of doubt, while any agreement between the Parties for minor variances to the Delivery Schedule pursuant to this Clause 5.5 must be agreed in writing, such agreement shall not be subject to the Change Control Procedure in order to validly amend this Contract.
- 5.6 Reserved
- 5.7 The Supplier's obligations under Clauses 5.7 and 5.8 of this Schedule 2 are without prejudice to its obligations under Clause 19 of this Schedule 2. The

Supplier shall deliver all Goods securely packaged with the following details being shown clearly on the shipping carton or other such outer packaging:

- 5.7.1 a description of the Goods using the Supplier's brand name and/or generic drug name;
- 5.7.2 the quantity in the package;
- 5.7.3 special directions for storage (if any);
- 5.7.4 expiry date for the Goods in the package;
- 5.7.5 batch number;
- 5.7.6 name of Supplier; and
- 5.7.7 any other information required by the Licensing Authority to be provided.

5.8 The labelling and marking of all packages of the Goods and all relevant information accompanying them shall be in English. The Supplier shall discuss and, other than to the extent required by the Licensing Authority, use good faith efforts to cooperate with the Authority with respect to any reasonable changes requested by the Authority to be made to labelling, instructions and patient information relating to the Goods, provided that any such changes shall be at the Authority's expense and subject to the approval of the Licensing Authority.

5.9 The Supplier shall ensure that a delivery note shall accompany each delivery of the Goods. Such delivery note shall contain the information specified in the Specification or as otherwise agreed with the Authority in writing. Where such information requirements as to the content of delivery notes are not specified or separately agreed, such delivery notes shall, as a minimum, contain the Authority's order number, the name and address of the Authority, a description, weight, measure, batch number and expiry date and quantity of the Goods, and shall show separately any extra agreed charges for containers and/or any other item not included in the Contract Price or, where no charge is made, whether the containers are required to be returned. All ancillary paperwork and literature (including invoices) shall include the same information.

5.10 Part deliveries may be refused unless the Authority has previously agreed in writing to accept such part deliveries. Where delivery of the Goods is refused by the Authority in accordance with this Clause 5.10, the Supplier shall be responsible for all risks, costs and expenses associated with the re-delivery of the Goods in accordance with the agreed delivery times/dates.

5.11 Unless otherwise agreed with the Authority in writing (including where stated in the Specification and/or the Tender Response Document), the Supplier shall be responsible for carriage, insurance, transport, all relevant licences, all related costs, and all other costs associated with the delivery of the Goods to the delivery location.. Without limitation to the foregoing provision of this

Clause 5.11, unless otherwise agreed with the Authority in writing (including where stated in the Specification and/or the Tender Response Document), the Supplier shall be responsible for obtaining all export and import licences for the Goods and shall be responsible for any delays to the delivery time due to such licences not being available when required unless outside Supplier's control. In the case of any Goods supplied from outside the United Kingdom, the Supplier shall ensure that accurate information is provided to the Authority as to the country of origin of the Goods and shall be liable to the Authority for any extra duties or taxes for which the Authority may be accountable should the country of origin prove to be different from that set out in the Specification and/or the Tender Response Document.

5.12 All third party carriers engaged to deliver the Goods shall at no time be deemed agents of the Authority and accordingly the Supplier shall be liable to the Authority for the acts and omissions of all third party carriers engaged by Supplier to deliver the Goods to the Authority.

6. Passing of risk and ownership

6.1 Risk in the Goods shall pass to the Authority when the Goods are delivered as specified in this Contract.

6.2 Ownership of the Goods shall pass to the Authority on the earlier of:

- 6.2.1 full payment for such Goods; or
- 6.2.2 where the Goods are consumables or are non-recoverable (e.g. used in clinical procedures), at the point such Goods are delivered as specified in this Contract. For the avoidance of doubt, where ownership passes in accordance with this Clause 6.2.2, then the Contract Price for such Goods shall be recoverable by the Supplier from the Authority as a debt if there is non-payment of a valid undisputed invoice issued by the Supplier to the Authority in relation to such Goods.

6.3 All tools, equipment and materials of the Supplier required in the performance of the Supplier's obligations under this Contract shall be and remain at the sole risk of the Supplier, whether or not they are situated at a delivery location.

7. Inspection, rejection, return and recall

7.1 Subject to Global Trade Control Laws and as relevant and proportionate to the Goods in question and subject to reasonable written notice, the Supplier shall permit the Authority, to inspect work being undertaken in relation to the Goods and/or the storage facilities used in the storage of the Goods at all reasonable times at the Supplier's premises or at the premises of any Sub-contractor or agent of the Supplier in order to confirm that the Goods are being manufactured and/or stored in accordance with Good Industry Practice and Good Manufacturing Practice and in compliance with the requirements of this Contract and/or that stock holding and quality assurance processes are in accordance with the requirements of this Contract.

7.2 Without prejudice to the provisions of Clause 7.8 of this Schedule 2 and subject to Clause 0 of this Schedule 2, the Authority shall keep Goods in temperature controlled facility prior to inspection, visually inspect the Goods within five (5) business days following delivery and shall verify the batch numbers, expiry dates and temperature records within five (5) business days following delivery, and may by written notice no later than five (5) business days, following delivery, provide written notice of its intent to reject, any Goods found to be damaged or otherwise not in accordance with the requirements of this Specifications (“**Rejected Goods**”) on the Supplier, The whole of any delivery may be rejected if a reasonable sample of the Goods taken indiscriminately from that delivery is found not to conform in all material respects to the requirements of the Specifications. The written notice of rejection must contain sufficient details and evidence to support any rejection. Any disagreement between the Parties whether the Goods meet the Specifications shall be decided by the Dispute Resolution contained herein. However, if the Parties cannot resolve the matter, the Parties shall submit the question of non-conformance to an independent laboratory or consultant for resolution.

7.3 Without prejudice to the provisions of Clause 7.6 of this Schedule 2, upon the timely notice rejection of any Goods in accordance with Clauses 7.2 and/or 7.8 of this Schedule 2, and if Supplier or an independent laboratory and/or consultant agrees the Goods do not meet the Specifications, the Supplier shall at the Authority's written request:

- 7.3.1 collect the Rejected Goods at the Supplier's risk and expense within one hundred eighty (180) Business Days of issue of written notice from the Authority rejecting the Goods; and
- 7.3.2 without extra charge, promptly (and in any event within one hundred eighty (180) Business Days or such other time agreed by the Parties in writing acting reasonably and as quickly as commercially practicable) supply replacements for the Rejected Goods to the Authority, provided Supplier is still manufacturing the Goods, and subject to the Authority not cancelling its purchase obligations in accordance with Clause 7.6 of this Schedule 2. Where Supplier is no longer manufacturing the Goods, Supplier will have the option to refund the amount paid for such Rejected Goods not to exceed the amount paid for the Rejected product

7.4 If the Supplier requests and the Authority accepts that the Rejected Goods should be disposed of by the Authority rather than returned to the Supplier, the Authority reserves the right to charge the Supplier for reasonable costs associated with the disposal of the Rejected Goods and the Supplier shall pay any such costs within thirty (30) business days.

7.5 Risk and title in respect of any Rejected Goods shall pass to the Supplier on the earlier of: (a) collection by the Supplier in accordance with Clause 7.3 of this Schedule 2; or (b) immediately following the expiry of ten (10) Business Days from the Authority issuing written notification rejecting the Goods. If Rejected Goods are not collected within ten (10) Business Days of the Authority issuing written notification rejecting the Goods, the Authority may

return the Rejected Goods at the Supplier's risk and expense for the avoidance of doubt which includes the cost of transportation and charge the Supplier for the cost of storage from the expiry of ten (10) Business Days from the date of notification of rejection.

7.6 Where the Authority rejects any Goods in accordance with Clauses 7.2 and/or 7.8 of this Schedule 2 and the Authority no longer requires replacement Goods or elects to source replacement Goods or any substitute of the same from elsewhere, the Authority may by written notice cancel its purchase obligations in relation to such quantity of Rejected Goods. Should the Authority have paid for such Rejected Goods the Supplier shall refund such payment to the Authority within thirty (30) days of the Authority cancelling such purchase obligations and informing the Supplier that the Authority does not require replacements for such Rejected Goods.

7.7 Reserved

7.8 Without prejudice to any other provisions of this Contract or any other warranties or guarantees applicable to the Goods supplied and subject to Clause 7.10 of this Schedule 2, if at any time following the date of the delivery, up to and including the expiry date of any Goods, all or any part of such Goods are found to not meet Specifications as tested by standard testing methodologies. (“**Defective Goods**”), immediately, but in no event later than five (5) days of the identification of any defect, provide written notice of such defect with sufficient data and information to support such determination. Any disagreement between the Parties whether the Goods meet the Specifications shall be decided by the Dispute Resolution contained herein. However, if the Parties cannot resolve the matter, the Parties shall submit the question of non-conformance to an independent laboratory or consultant for resolution.

If the Supplier agrees, or the independent third party determines the Goods are Defective due to the fault of Supplier, the Supplier shall, at the Authority's discretion:

- 7.8.1 upon written request and without charge, use commercially reasonable efforts to (and in any event within ninety (90) Business Days or such other time agreed by the Parties in writing acting reasonably) remedy the deficiency by replacing such Defective Goods, provided Supplier is still being manufactured by Supplier; or
- 7.8.2 upon written notice of rejection from the Authority, treat such Defective Goods as Rejected Goods in accordance with Clauses 7.2 to 7.6 of this Schedule 2.

7.9 Reserved

7.10 The Supplier shall be relieved of its liabilities under Clauses 7.2 to 7.6 (inclusive) and/or Clause 7.8 of this Schedule 2 to the extent only that the Goods are damaged, there are defects in the Goods and/or the Goods fail to

comply with the requirements of this Contract due, in each case, to any acts or omissions of the Authority.

7.11 The Authority's rights and remedies under Clause 7.8 of this Schedule 2 shall cease within a reasonable period of time from the date on which the Authority discovers or might reasonably be expected to discover that the Goods are Defective Goods or within such other period as may be set out in the Key Provisions, if any. For the avoidance of doubt, Goods not used before their expiry date shall not be considered Defective Goods following the date of expiry provided that at the point such Goods were delivered to the Authority they met any shelf life requirements set out in the Specification and/or the Delivery Schedule or as otherwise agreed between the Parties in accordance with Clause 7.13 of this Schedule 2.

7.12 Notwithstanding Clause 6.1 of Schedule 1, unless otherwise agreed between the Parties in accordance with Clause 7.13 of this Schedule 2, the Goods will have at least the shelf life referred to in the Specification or the Delivery Schedule and where these documents set out conflicting shelf life periods, the longer of the periods shall apply.

7.13 Where the Supplier is unable to provide Goods that have a shelf life which is for no less than the period specified in the Specification or Delivery Schedule (as applicable), then this shall be notified to the Authority and the Supplier shall request a waiver in respect of that requirement in the Specification or Delivery Schedule (as applicable) for any such delivery of the Goods in question on a "sale or return" basis. If:

7.13.1 the Authority agrees (such agreement is in the Authority's absolute discretion) to waive the requirement in the Specification or Delivery Schedule (as applicable) in respect of any such delivery of Goods; and

7.13.2 such Goods are delivered with a shelf life less than the period specified in the Specification or Delivery Schedule (as applicable),

then all such Goods shall be supplied by the Supplier on a "sale or return" basis, on the following terms:

(a) The supply on a "sale or return" basis applies only to such Goods which have less than 18 months' shelf life at the time of delivery (**"Sale or Return Product"**).

(b) Supply on a "sale or return" basis will not apply to Goods which have at least 18 months' shelf life at the time of delivery.

(c) The Authority will rotate all stocks of the Sale or Return Product in its control following the "first expiry first out" ("**FEFO**") principle when delivering to health care professionals except in situations, as reasonably determined by the Authority, where the application of the FEFO principle would be operationally difficult.

(d) Where the Authority is holding stock of Sale or Return Products that has less than three months' shelf life, the Authority may ask

the Supplier to reimburse the Authority for the cost of such Sale or Return Product (“**Returnable Units**”) in accordance with Clause 7.13.2(e).of this Schedule 2.

- (e) Provided that the Authority provides the Supplier with:
 - (i) a properly issued invoice in respect of such Returnable Units;
 - (ii) evidence that the Authority is still holding Returnable Units; and
 - (iii) a statement signed by the Authority’s authorised representative confirming that the Authority has undertaken reasonable endeavours to comply with FEFO in respect of such Returnable Units except in situations where, as reasonably determined by the Authority, the application of the FEFO principle would be operationally difficult,

then the Supplier shall reimburse the Authority the cost of such Returnable Units within thirty (30) days following receipt of the properly issued invoice from the Authority.

- (f) Returnable Units shall be removed by the Supplier at its own expense within thirty (30) days from any date of request for removal by the Authority. If the Supplier fails to remove Returnable Units within such period the Authority may return to the Supplier such Returnable Units at the Supplier’s risk and expense.

7.14 Where the Supplier is required by Law, Guidance, and/or Good Industry Practice to order a product recall (“**Requirement to Recall**”) in respect of the Goods, the Supplier shall:

- 7.14.1 promptly (taking into consideration the potential impact of the continued use of the Goods on patients, service users and the Authority as well as compliance by the Supplier with any regulatory requirements) notify the Authority in writing of the recall together with the circumstances giving rise to the recall;
- 7.14.2 from the date of the Requirement to Recall treat the Goods the subject of such recall as Defective Goods in accordance with Clause 7.8 of this Schedule 2;
- 7.14.3 consult with the Authority as to the most efficient method of executing the recall of the Goods and use its reasonable endeavours to minimise the impact on the Authority of the recall; and
- 7.14.4 indemnify and keep the Authority indemnified against any loss, damages, costs, expenses (including without limitation legal costs and

expenses), claims or proceedings suffered or incurred by the Authority as a result of such Requirement to Recall.

8. Business continuity

- 8.1 The Supplier shall use reasonable endeavours to ensure its Business Continuity Plan operates effectively alongside the Authority's business continuity plan where relevant to the supply of the Goods. The Supplier shall also ensure that its Business Continuity Plan complies on an ongoing basis with any specific business continuity requirements, as may be set out in the Specification and the Supplier's proposals for meeting such requirements as set out in the Tender Response Document.
- 8.2 Throughout the Term, the Supplier will ensure its Business Continuity Plan provides for continuity during a Business Continuity Event. The Supplier confirms and agrees such Business Continuity Plan details and will continue to detail robust arrangements that are reasonable and proportionate to:
 - 8.2.1 the criticality of this Contract to the Authority; and
 - 8.2.2 the size and scope of the Supplier's business operations, regarding continuity of the supply of Goods during and following a Business Continuity Event.
- 8.3 Reserved
- 8.4 The Authority may suggest reasonable and proportionate amendments to the Supplier regarding the Business Continuity Plan at any time. Where the Supplier, acting reasonably, deems such suggestions made by the Authority to be relevant and appropriate, the Supplier will incorporate into the Business Continuity Plan all such suggestions made by the Authority in respect of such Business Continuity Plan. Should the Supplier not incorporate any suggestion made by the Authority into such Business Continuity Plan, it will explain the reasons for not doing so to the Authority.
- 8.5 Should a Business Continuity Event occur at any time, the Supplier shall implement and comply with its Business Continuity Plan and provide regular written reports to the Authority on such implementation.
- 8.6 During and following a Business Continuity Event, the Supplier shall use reasonable endeavours to continue to supply the Goods in accordance with this Contract.

9. Contract management

- 9.1 Each Party shall appoint and retain a Contract Manager who shall be its primary point of contact for the other Party in relation to matters arising from this Contract. Should the Contract Manager be replaced, the Party replacing the Contract Manager shall promptly inform the other Party in writing of the name and contact details for the new Contract Manager. Any Contract Manager appointed shall be of sufficient seniority and experience to be able

to make decisions on the day to day operation of the Contract. The Supplier confirms and agrees that it will be expected to work closely and cooperate fully with the Authority's Contract Manager.

- 9.2 Each Party shall ensure that its representatives (to include, without limitation, its Contract Manager) shall attend review meetings on a regular basis to review the performance of the Supplier under this Contract and to discuss matters arising generally under this Contract. Each Party shall ensure that those attending such meetings have the authority to make decisions regarding the day to day operation of the Contract. Review meetings shall take place at the frequency specified in the Specification. Should the Specification not state the frequency, then the first such meeting shall take place on a date to be agreed on or around the end of the first month after the Commencement Date. Subsequent meetings shall take place at monthly intervals or as may otherwise be agreed in writing between the Parties.
- 9.3 Reserved.
- 9.4 Unless specified otherwise in the Specification, the Authority shall take minutes of each review meeting and shall circulate draft minutes to the Supplier within a reasonable time following such review meeting. The Supplier shall inform the Authority in writing of any suggested amendments to the minutes within five (5) Business Days of receipt of the draft minutes. If the Supplier does not respond to the Authority within such five (5) Business Days the minutes will be deemed to be approved. Where there are any differences in interpretation of the minutes, the Parties will use their reasonable endeavours to reach agreement. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the Dispute Resolution Procedure.
- 9.5 The Supplier shall provide such management information as the Authority may request from time to time within seven (7) Business Days of the date of the request and such management information that the Authority may request shall include, but is not limited to the information set out in Schedule 5. The Supplier shall supply the management information to the Authority in such form as may be specified by the Authority and, where requested to do so, the Supplier shall also provide such management information to any Contracting Authority, whose role it is to analyse such management information in accordance with UK government policy (to include, without limitation, for the purposes of analysing public sector expenditure and planning future procurement activities) ("**Third Party Body**"). The Supplier confirms and agrees that the Authority may itself provide the Third Party Body with management information relating to the Goods purchased, any payments made under this Contract, and any other information relevant to the operation of this Contract.
- 9.6 Where the Supplier and/or the Authority provide the management information to a Third Party Body pursuant to Clause 9.5 of this Schedule 2 and such management information is subject to obligations of confidentiality under this Contract, the Authority shall ensure that any Third Party Body receiving the management information is bound by obligations of confidentiality no less

stringent than those which the Authority is bound by under this Contract in relation to such confidential management information.

9.7 Upon receipt of management information supplied by the Supplier to the Authority and/or the Third Party Body, or by the Authority to the Third Party Body, the Parties hereby consent to the Third Party Body and the Authority:

- 9.7.1 storing and analysing the management information and producing statistics; and
- 9.7.2 sharing the management information or any statistics produced using the management information with any other Contracting Authority.

9.8 If the Third Party Body and/or the Authority shares the management information or any other information provided under Clause 9.7 of this Schedule 2, any Contracting Authority receiving the management information shall, where such management information is subject to obligations of confidence under this Contract and such management information is provided direct by the Authority to such Contracting Authority, be informed of the confidential nature of that information by the Authority and shall be requested by the Authority not to disclose it to anybody that is not a Contracting Authority (unless required to do so by Law).

10. Price and payment

10.1 The Contract Price shall be calculated as set out in the Commercial Schedule.

10.2 Unless otherwise stated in the Commercial Schedule, the Contract Price:

- 10.2.1 shall remain fixed as stated in the Commercial Schedule during the Initial Term. In any Extension Period, Contract Price will be the then effective commercial list price, and;
- 10.2.2 is the entire price payable by the Authority to the Supplier in respect of the provision of the Goods and includes, without limitation:
 - c) packaging, packing materials, addressing, labelling, loading, the cost of any export licences, all appropriate taxes (excluding VAT), duties and tariffs, any expenses arising from export administration, any installation costs and associated works, the costs of all associated documentation and information supplied or made accessible to the Authority in any media, and any training in relation to the use, storage, handling or operation of the Goods;
 - d) any royalties, licence fees or similar expenses in respect of the making, use or exercise by the Supplier of any Intellectual Property Rights for the purposes of performing this Contract, and any licence rights granted to the Authority in accordance with Clause 12 of this Schedule 2; and
 - e) costs and expenses in relation to supplies and materials used by the Supplier or any third party in the manufacture of

the Goods, and any other costs incurred by the Supplier in association with the manufacture, supply or installation of the Goods.

- 10.2.3 Shipping and freight costs shall be quoted at time of order and invoiced separately to the Authority. Any tariffs, duties and other import charges incurred by the Supplier will also be invoiced separately to the Authority.
- 10.2.4 Prior to import, the Supplier shall obtain the Authority's written consent and shall use the Authority's Deferment Approval Number (DAN) solely for the purpose of accounting for import VAT on the Goods.
- 10.3 The Supplier shall invoice the Authority for Goods at any time following completion of the supply of the Goods in compliance with this Contract. Each invoice shall contain such information and be addressed to such individual as the Authority may inform the Supplier from time to time.
- 10.4 The Contract Price is exclusive of VAT, which, if properly chargeable, the Authority shall pay at the prevailing rate subject to receipt from the Supplier of a valid and accurate VAT invoice. Such VAT invoices shall show the VAT calculations as a separate line item.
- 10.5 Where the Contract Price is or may become subject to any pricing requirements of any voluntary and/or statutory pricing regulation schemes, the Parties shall comply with such pricing requirements as required by Law from time to time and specifically as required by the statutory pricing regulation scheme (and any future regulation) or to the extent applicable to the Supplier from time to time as an industry member of a voluntary scheme, including any reductions in price by reason of the application of such schemes.
- 10.6 The Authority shall verify and pay each valid and undisputed invoice received in accordance with Clause 10.3 of this Schedule 2 within thirty (30) days of receipt of such invoice at the latest. However, the Authority shall use its reasonable endeavours to pay such undisputed invoices sooner in accordance with any applicable government prompt payment targets. If there is undue delay in verifying the invoice in accordance with this Clause 10.6, the invoice shall be regarded as valid and undisputed for the purposes of this Clause 10.6 after a reasonable time has passed.
- 10.7 Where the Authority raises a query with respect to an invoice the Parties shall liaise with each other and agree a resolution to such query within thirty (30) days of the query being raised. If the Parties are unable to agree a resolution within thirty (30) days the query shall be referred to dispute resolution in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, the Authority shall not be in breach of any of its payment obligations under this Contract in relation to any queried or disputed invoice sums unless the process referred to in this Clause 10.7 has been followed and it has been determined that the queried or disputed invoice amount is properly due to the Supplier and the Authority has then failed to pay such sum within a reasonable period following such determination.

- 10.8 The Supplier shall pay to the Authority any service credits and/or other sums and/or deductions (to include, without limitation, deductions relating to a reduction in the Contract Price) that may become due in accordance with the provisions of the Specification.
- 10.9 Where the Authority is entitled to receive any sums (including, without limitation, any costs, charges or expenses) from the Supplier under this Contract, the Authority may invoice the Supplier for such sums. Such invoices shall be paid by the Supplier within thirty (30) days of the date of such invoice.
- 10.10 If a Party fails to pay any undisputed sum properly due to the other Party under this Contract, the Party due such sum shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

11. Warranties

- 11.1 The Supplier warrants and undertakes that (where applicable):

- 11.1.1 At the actual delivery of the Goods to the Authority, (a) the Goods are the subject of a valid Marketing Authorisation and (b) that all units of the Goods comply with the Specification and the Marketing Authorisation;
 - 11.1.2 it shall ensure that prior to actual delivery to the Authority the Goods are manufactured, stored and/or distributed using reasonable skill and care and in accordance with Good Industry Practice and Good Manufacturing Practice;
 - 11.1.3 without prejudice to the generality of the warranty at Clause 11.1.2 of this Schedule 2, it shall ensure that, the Goods are manufactured, stored and/or distributed in accordance with good manufacturing practice and/or good warehousing practice and/or good distribution practice, as may be defined under any Law, Guidance and/or Good Industry Practice relevant to the Goods, and in accordance with any specific instructions of the manufacturer of the Goods;
 - 11.1.4 it shall ensure that all facilities used in the manufacture, storage and distribution of the Goods are kept in a state and condition necessary to enable the Supplier to comply with its obligations in accordance with this Contract;
 - 11.1.5 it has, or the manufacturer of the Goods has, manufacturing and warehousing capacity sufficient to comply with its obligations under this Contract;
 - 11.1.6 it will ensure sufficient stock levels to comply with its obligations under this Contract;

- 11.1.7 it shall ensure that the transport and delivery of the Goods mean that they are delivered in good and useable condition;
- 11.1.8 where the Goods are required to be stored at a certain temperature, it shall provide, or shall procure the provision of, complete and accurate temperature records for each delivery of the Goods during the period of transport and/or storage of the Goods from the point of manufacture to the point of delivery to the Authority;
- 11.1.9 where there is any instruction information, including without limitation patient information leaflets, that accompany the Goods, it shall provide a sufficient number of copies to the Authority and provide updated copies should the instruction information change at any time during the Term;
- 11.1.10 all Goods delivered to the Authority shall comply with any shelf life requirements set out in the Specification or as otherwise agreed in accordance with Clause 7.13 of this Schedule 2;
- 11.1.11 it has and shall maintain a properly documented system of quality controls and processes covering all aspects of its obligations under this Contract and/or under Law and/or Guidance and shall at all times comply with such quality controls and processes;
- 11.1.12 unless in the case of urgency duly substantiated to the Authority (in which case the Supplier shall give the Authority as much notice as reasonably practicable), it shall not make any significant changes to its system of quality controls and processes in relation to the Goods without notifying the Authority in writing at least twenty one (21) days in advance of such change (such notice to include the details of the consequences which follow such change being implemented);
- 11.1.13 it shall not make any significant changes to the Goods without the prior written consent of the Authority, such consent not to be unreasonably withheld or delayed;
- 11.1.14 any equipment it uses in the manufacture, delivery, or installation of the Goods shall comply with all relevant Law and Guidance, be fit for its intended purpose and maintained fully in accordance with the manufacturer's specification;
- 11.1.15 where any act of the Supplier requires the notification to and/or approval by any regulatory or other competent body in accordance with any Law and Guidance, the Supplier shall comply fully with such notification and/or approval requirements;
- 11.1.16 it has and shall as relevant maintain all rights, consents, authorisations, licences and accreditations required to supply the Goods;
- 11.1.17 receipt of the Goods by or on behalf of the Authority and use of the Goods or of any other item or information supplied, or made available,

to the Authority will not infringe any third party rights, to include without limitation any Intellectual Property Rights;

11.1.18 it will comply with all Law, Guidance, Policies and the Supplier Code of Conduct in so far as is relevant to the supply of the Goods;

11.1.19 it will promptly notify the Authority of any health and safety hazard which has arisen, or the Supplier is aware may arise, in connection with the Goods and take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by such hazards;

11.1.20 it shall: (i) comply with all relevant Law and Guidance to ensure that there is no slavery or human trafficking in its supply chains; and (ii) notify the Authority immediately if it becomes aware of any actual or suspected incidents of slavery or human trafficking in its supply chains;

11.1.21 it shall at all times conduct its business in a manner that is consistent with any anti-slavery Policy of the Authority and shall provide to the Authority any reports or other information that the Authority may request as evidence of the Supplier's compliance with this Clause 11.1.21 and/or as may be requested or otherwise required by the Authority in accordance with its anti-slavery Policy.

11.1.22 it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Contract, the Goods, any complaints and any Disputes at the frequency, in the timeframes, and in the format as requested by the Authority from time to time (acting reasonably);

11.1.23 all information included within the Supplier's responses to any documents issued by the Authority as part of the procurement relating to the award of this Contract (to include, without limitation, as referred to in the Tender Response Document and Commercial Schedule) and all accompanying materials is accurate;

11.1.24 when supplying the Goods, it shall comply with all timescales set out in or agreed in accordance with this Contract ;

11.1.25 its Business Continuity Plan is sufficient to ensure continuity of supply of the Goods to the Authority in accordance with this Contract in the event of any manufacturing site failure, including emergency maintenance work;

11.1.26 it has the right and authority to enter into this Contract and that it has the capability and capacity to fulfil its obligations under this Contract;

11.1.27 it is a properly constituted entity and it is fully empowered by the terms of its constitutional documents to enter into and to carry out its obligations under this Contract and the documents referred to in this Contract;

11.1.28 all necessary actions to authorise the execution of and performance of its obligations under this Contract have been taken before such execution;

11.1.29 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Supplier;

11.1.30 there are no material agreements existing to which the Supplier is a party which prevent the Supplier from entering into or complying with this Contract;

11.1.31 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Contract; and

11.1.32 it has satisfied itself as to the nature and extent of the risks assumed by it under this Contract and has gathered all information necessary to perform its obligations under this Contract and all other obligations assumed by it.

11.2 If the Supplier is in breach of Clause 11.1 of this Schedule 2, then, without prejudice to any other right or remedy of the Authority, the Authority shall be entitled to reject and/or return the Goods and the Supplier shall, subject to Clause 14.2 of this Schedule 2, indemnify and keep the Authority indemnified against any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings suffered or incurred by the Authority as a result of such breach.

11.3 The Supplier agrees to use reasonable endeavours to assign to the Authority upon request the benefit of any warranty, guarantee or similar right which it has against any third party manufacturer or supplier of the Goods in full or part.

11.4 The Supplier warrants that all information, data and other records and documents required by the Authority as set out in the Specification and/or the Tender Response Document shall be submitted to the Authority in the format and in accordance with any timescales set out in the Specification and/or the Tender Response Document.

11.5 The Supplier warrants and undertakes to the Authority that, as at the Commencement Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance. If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

11.5.1 notify the Authority in writing of such fact within five (5) Business Days of its occurrence; and

11.5.2 promptly provide to the Authority:

a) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the

same from recurring, together with any mitigating factors that it considers relevant; and

b) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

11.6 The Supplier further warrants and undertakes to the Authority that it will inform the Authority in writing immediately upon becoming aware that any of the warranties set out in this Clause 11 have been breached or there is a risk that any warranties may be breached.

11.7 Any warranties provided under this Contract are both independent and cumulative and may be enforced independently or collectively at the sole discretion of the enforcing Party.

12. Intellectual property

12.1 Unless specified otherwise in the Specification, the Supplier hereby grants to the Authority, for the life of the use of Goods by the Authority, an irrevocable, royalty-free, non-exclusive licence of any Intellectual Property Rights required for the purposes of receiving and using, and to the extent necessary to receive and use, the Goods (to include any associated technical or other documentation and information supplied or made accessible to the Authority in any media) in accordance with this Contract.

13. Indemnity

13.1 The Supplier shall be liable to the Authority for, and shall indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings in respect of:

13.1.1 any injury or allegation of injury to any person, including injury resulting in death;

13.1.2 any loss of or damage to property (whether real or personal); and/or

13.1.3 any breach of Clause 11.1.17 and/or Clause 12 of this Schedule 2;

that arise or result from the Supplier's negligent acts or omissions or breach of contract in connection with the performance of this Contract including the supply of the Goods, except to the extent that such loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings have been caused by any act or omission by, or on behalf of, or in accordance with the instructions of, the Authority.

13.2 Liability under Clauses 13.1.1 and 13.1.3 of this Schedule 2 shall be unlimited. Liability under Clauses 7.14.4, 11.2, and 13.1.2 of this Schedule 2 shall be subject to the limitation of liability set out in Clause 14 of this Schedule 2.

13.3 In relation to all third party claims against the Authority, which are the subject of any indemnity given by the Supplier under this Contract, the Authority shall use its reasonable endeavours, upon a written request from the Supplier, to

transfer the conduct of such claims to the Supplier unless restricted from doing so. Such restrictions may include, without limitation, any restrictions:

- 13.3.1 relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Authority; and/or
- 13.3.2 relating to the Authority's membership of any indemnity and/or risk pooling arrangements.

Such transfer shall be subject to the Parties agreeing appropriate terms for such conduct of the third party claim by the Supplier (to include, without limitation, the right of the Authority to be informed and consulted on the ongoing conduct of the claim following such transfer, and any reasonable cooperation required by the Supplier from the Authority).

14. Limitation of liability

- 14.1 Nothing in this Contract shall exclude or restrict the liability of either Party:
 - 14.1.1 for death or personal injury to the extent resulting from its negligence in connection with this Contract;
 - 14.1.2 for its fraud or fraudulent misrepresentation in connection with this Contract; or
 - 14.1.3 in any other circumstances where liability may not be limited or excluded under any applicable law.
- 14.2 Subject to Clauses 13.2, 14.1 and 14.3 of this Schedule 2, the total liability of each Party to the other under or in connection with this Contract whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to the total Contract Price paid or payable by the Authority to the Supplier for the Goods for the past twelve months preceding the claim. Subject to Clauses 13.2, 14.1 and 14.3 of this Schedule 2, the total liability for any and all claims during the term of the Agreement shall not exceed the total amount paid under the Agreement.
- 14.3 There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with this Contract, whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise, to the extent that any losses, damages and/or other costs and expenses claimed are in respect of loss of production, loss of business opportunity or are in respect of indirect loss of any nature suffered or alleged. For the avoidance of doubt, without limitation, the Parties agree that for the purposes of this Contract the following costs, expenses and/or loss of income shall be direct recoverable losses (to include under any relevant indemnity) provided such costs, expenses and/or loss of income are properly evidenced by the claiming Party:
 - 14.3.1 costs incurred in relation to any product recall;

14.3.2 in each case to the extent to which such costs, expenses and/or loss of income arise or result from the other Party's breach of contract, gross negligent act or omission, breach of statutory duty, and/or other liability under or in connection with this Contract.

14.4 Each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which that Party is entitled to bring a claim against the other pursuant to this Contract.

14.5 Clause 14 shall survive the expiry of or earlier termination of this Contract for any reason.

15. Insurance

15.1 Subject to Clause 15.2 of this Schedule 2 and unless otherwise confirmed in writing by the Authority, as a minimum level of protection, the Supplier shall put in place and/or maintain in force, at its own cost with a reputable commercial insurer, insurance arrangements in respect of employer's liability, public liability and product liability in accordance with Good Industry Practice with the minimum cover per claim of the greater of five million GBP (£5,000,000) .

15.2 Provided that the Supplier maintains all insurance arrangements required by Law, the Supplier may self-insure in order to meet other relevant requirements referred to at Clause 15.1 of this Schedule 2 on condition that such self-insurance arrangements offer the appropriate levels of protection and are approved by the Authority in writing prior to the Commencement Date.

15.3 The amount of any indemnity cover and/or self-insurance arrangements shall not relieve the Supplier of any liabilities under this Contract. It shall be the responsibility of the Supplier to determine the amount of indemnity and/or self-insurance cover that will be adequate to enable it to satisfy its potential liabilities under this Contract. Accordingly, the Supplier shall be liable to make good any deficiency if the proceeds of any indemnity cover and/or self-insurance arrangement is insufficient to cover the settlement of any claim.

15.4 The Supplier warrants that it shall not take any action or fail to take any reasonable action or (in so far as it is reasonable and within its power) permit or allow others to take or fail to take any action, as a result of which its insurance cover may be rendered void, voidable, unenforceable, or be suspended or impaired in whole or in part, or which may otherwise render any sum paid out under such insurances repayable in whole or in part.

15.5 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Authority that insurance arrangements taken out by the Supplier pursuant to this Clause 15 are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.

15.6 Upon the expiry or earlier termination of this Contract, the Supplier shall ensure that any ongoing liability it has or may have arising out of this Contract

shall continue to be the subject of appropriate indemnity arrangements until such date as allowed by any statutory limitation period .

16. Term and termination

- 16.1 This Contract shall commence on the Commencement Date and, unless terminated earlier in accordance with the terms of this Contract or the general law, shall continue until the end of the Term.
- 16.2 In the case of a breach of any of the terms of this Contract by either Party that is capable of remedy (subject to Clause 10.7 of this Schedule 2, any breach of any payment obligations, under this Contract), the non-breaching Party may, without prejudice to its other rights and remedies under this Contract, issue a Breach Notice and shall allow the Party in breach the opportunity to remedy such breach in the first instance via a remedial proposal put forward by the Party in breach ("Remedial Proposal") before exercising any right to terminate this Contract in accordance with Clause 16.3.2 of this Schedule 2. Such Remedial Proposal must be agreed with the non-breaching Party (such agreement not to be unreasonably withheld or delayed) and must be implemented by the Party in breach in accordance with the timescales referred to in the agreed Remedial Proposal. Once agreed, any changes to a Remedial Proposal must be approved by the Parties in writing. Any failure by the Party in breach to:
 - 16.2.1 put forward and agree a Remedial Proposal with the non-breaching Party in relation to the relevant default or breach within a period of ten (10) Business Days (or such other period as the non-breaching Party may agree in writing) from written notification of the relevant default or breach from the non-breaching Party;
 - 16.2.2 comply with such Remedial Proposal (including, without limitation, as to its timescales for implementation, which shall be thirty (30) days unless otherwise agreed between the Parties); or
 - 16.2.3 remedy the default or breach notwithstanding the implementation of such Remedial Proposal in accordance with the agreed timescales for implementation,shall be deemed, for the purposes of Clause 16.3.2 of this Schedule 2, a material breach of this Contract by the Party in breach not remedied in accordance with an agreed Remedial Proposal.
- 16.3 Either Party may terminate this Contract by issuing a Termination Notice to the other Party if such other Party commits a material breach of any of the terms of this Contract which is:
 - 16.3.1 not capable of remedy; or
 - 16.3.2 in the case of a breach capable of remedy, which is not remedied in accordance with a Remedial Proposal.

16.4 The Authority may terminate this Contract by issuing a Termination Notice to the Supplier if:

- 16.4.1 the Supplier, or any third party guaranteeing the obligations of the Supplier under this Contract, ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any Law to be, unable to pay its debts as they fall due or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) otherwise than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation; has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction;
- 16.4.2 the Licensing Authority, the Commission on Human Medicines or other relevant regulatory body advises the Authority not to use the Goods;
- 16.4.3 the Supplier undergoes a change of control within the meaning of sections 450 and 451 of the Corporation Tax Act 2010 (other than for an intra-group change of control) without the prior written notification to the Authority;
- 16.4.4 the Supplier purports to, Sub-contract, create a trust in or otherwise transfer or dispose of this Contract in breach of Clause 29.1 of this Schedule 2;
- 16.4.5 pursuant to and in accordance with the Key Provisions and Clause 9.4 of Schedule 1 and Clauses 16.5, 24.8; 26.2; 26.4 and 30.2 of this Schedule 2; or
- 16.4.6 the warranty given by the Supplier pursuant to Clause 11.5 of this Schedule 2 is materially untrue, the Supplier commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause 11.5 of this Schedule 2, or the Supplier fails to provide details of proposed mitigating factors as required by Clause 11.5 of this Schedule 2 that in the reasonable opinion of the Authority are acceptable.

16.5 If the Authority, acting reasonably, has good cause to believe that there has been a material deterioration in the financial circumstances of the Supplier and/or any third party guaranteeing the obligations of the Supplier under this Contract and/or any material Sub-contractor of the Supplier when compared to any information provided to and/or assessed by the Authority as part of any procurement process or other due diligence leading to the award of this

Contract to the Supplier or the entering into a Sub-contract by the Supplier, the following process shall apply:

- 16.5.1 the Authority may (but shall not be obliged to) give notice to the Supplier requesting adequate financial or other security and/or assurances for due performance of its material obligations under this Contract on such reasonable and proportionate terms as the Authority may require within a reasonable time period as specified in such notice;
- 16.5.2 a failure or refusal by the Supplier to provide the financial or other security and/or assurances requested in accordance with this Clause 16.5 in accordance with any reasonable timescales specified in any such notice issued by the Authority shall be deemed a breach of this Contract by the Supplier and shall be referred to and resolved in accordance with the Dispute Resolution Procedure; and
- 16.5.3 a failure to resolve such breach in accordance with such Dispute Resolution Procedure by the end of the escalation stage of such process shall entitle, but shall not compel, the Authority to terminate this Contract in accordance with Clause 16.3.1 of this Schedule 2.

16.6 Reserved I

16.7 The Authority may terminate this Contract by issuing a Termination Notice to the Supplier where:

- 16.7.1 any of the termination grounds under section 78(2) of the Procurement Act 2023 have arisen and the Authority has followed the relevant procedural requirements of section 78 of the Procurement Act;
- 16.7.2 there has been a failure by the Supplier and/or one of its Sub-contractors to comply with legal obligations in the fields of environmental, social, labour or slavery and human trafficking Law. Where the failure to comply with legal obligations in the fields of environmental, social, labour or slavery and human trafficking Law is a failure by one of the Supplier's Sub-contractors, the Authority may request the replacement of such Sub-contractor and the Supplier shall comply with such request as an alternative to the Authority terminating this Contract under this Clause 16.7.2.

16.8 If the Authority novates this Contract to any body that is not a Contracting Authority, from the effective date of such novation, the rights of the Authority to terminate this Contract in accordance with Clauses 16.4.1 and 16.4.3 to 16.4.5 of this Schedule 2 shall be deemed mutual termination rights and the Supplier may terminate this Contract by issuing a Termination Notice to the entity assuming the position of the Authority if any of the circumstances referred to in such Clauses apply to the entity assuming the position of the Authority.

16.9 The Supplier shall be entitled to terminate this Contract by issuing a Termination Notice to the Authority (a) if the Authority fails to pay undisputed invoices within three (3) or more consecutive months of receipt of such undisputed invoices or (b) where the Supplier intends to cease manufacture of the Goods for termination by the Supplier on no less than twelve (12) months' prior notice.

17. Consequences of expiry or early termination of this Contract

17.1 Upon expiry or earlier termination of this Contract, the Authority agrees to pay the Supplier for the Goods which have been supplied and delivered by the Supplier and not rejected by the Authority in accordance with this Contract prior to expiry or earlier termination of this Contract, provided that this shall be the extent of the compensation due by the Authority to the Supplier upon termination of this Contract for any reason.

17.2 (Reserved).

17.3 The expiry or earlier termination of this Contract for whatever reason shall not affect any rights or obligations of either Party which accrued prior to such expiry or earlier termination.

17.4 The expiry or earlier termination of this Contract shall not affect any obligations which expressly or by implication are intended to come into or continue in force on or after such expiry or earlier termination.

17.5 Reserved

17.5.1 Reserved

17.5.2 Reserved

18. Post termination provisions

18.1 for the avoidance of doubt, any breach of any KPIs shall not be Confidential Information.

18.2 The Authority and any Central Government Body will not disclose the Contract Price to any Administering Entity (which for the purposes of this Clause 18.2 shall not include a Health Service Board constituted under section 2 of the National Health Service (Scotland) Act 1978, a Special Health Board constituted under that section, the NHS Wales, or any statutory successors to such entities) without the Supplier's written consent.

18.3 This Clause 18.3 and the following Clauses shall survive the expiry or termination for any reason of this Contract: Schedule 1 (Key Provisions) Clauses 4 (Notices), 5 (Management levels for escalation and dispute resolution), 6 (Order of precedence), Clause 9 (Regulatory and information requirements), Schedule 2 (General Terms and Conditions) Clauses 7 (Inspection, rejection, return and recall), 12 (Intellectual property), 13 (Indemnity), 14 (Limitation of liability), 17 (Consequences of expiry or early termination of this Contract), 23 (Dispute Resolution), 24.10 (Force majeure),

25 (Records retention and right of audit), 26.4 (Conflicts of interest and the prevention of fraud), 31.3 (waiver), 31.4 (severance), 31.11 (entire agreement), 31.12 (Governing law), 31.13 (jurisdiction), Schedule 3 (Information Provisions) Clauses 1 and 2, Schedule 4 (Definitions and Interpretations), and any Clauses and/or Schedules which are expressly or by implication intended to continue.

19. Packaging, identification and end of use

- 19.1 The Supplier shall comply with all obligations imposed on it by the applicable Law and Guidance relevant to the Goods in relation to packaging, identification, and obligations following end of use by the Authority.
- 19.2 Unless otherwise specified in the Specification or otherwise agreed with the Authority in writing, the Goods shall be securely packed in trade packages of a type normally used by the Supplier for deliveries of the same or similar goods in the same quantities within the United Kingdom.
- 19.3 The Supplier shall comply with any labelling requirements in respect of the Goods: (a) specified in the Specification; (b) agreed with the Authority in writing; and/or (c) required to comply with Law or Guidance.
- 19.4 The Supplier shall ensure that all Goods that are required by Law or Guidance to bear any safety information, environmental information, any mark, tab, brand, label, serial numbers or other device indicating place of origin, inspection by any government or other body or standard of quality at the point such Goods are delivered shall comply with such requirements at the point of delivery.
- 19.5 (reserved)
- 19.6 Without prejudice to the Supplier's obligation to comply with all applicable Law and Guidance, the Supplier shall comply in all material respects with applicable environmental laws and regulations in force from time to time in relation to the Goods. Where the provisions of any such legislation are implemented by the use of voluntary agreements or codes of practice, the Supplier shall comply with such agreements or codes of practice as if they were incorporated into English law subject to those voluntary agreements being cited in the Specification. Without prejudice to the generality of the foregoing, the Supplier shall:
 - 19.6.1 comply with all reasonable stipulations of the Authority aimed at minimising the packaging in which the Goods are supplied;
 - 19.6.2 promptly provide such data as may reasonably be requested by the Authority from time to time regarding the weight and type of packaging according to material types used in relation to the Goods;
 - 19.6.3 comply with all obligations imposed on it in relation to the Goods by the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024 (2024/1332) (or any other equivalent legislation

giving effect in any part of the European Economic Area to the Packaging and Packaging Waste Directive 94/62/EC as amended);

- 19.6.4 without prejudice to the Supplier's other obligations under this Contract, label all units of the Goods, and the packaging of those units, to highlight environmental and safety information as required by applicable Law;
- 19.6.5 promptly provide all such information regarding the environmental impact of the Goods as may reasonably be required by the Authority to permit informed choices by patients and other third parties; and
- 19.6.6 where the Goods are imported into the United Kingdom then for the purposes of the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024 (2024/1332) , assume the rolled-up obligations for all the activities performed outside the United Kingdom in relation to the Goods and the packaging which is used for the containment, protection, handling, delivery and presentation of the Goods, in addition to any other obligations it may have pursuant to the said Regulations.

19.7 The Supplier shall meet all reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of this Clause 19.

20. Sustainable development

- 20.1 The Supplier shall comply in all material respects with applicable environmental and social and labour Law requirements in force from time to time in relation to the Goods. Where the provisions of any such Law are implemented by the use of voluntary agreements, the Supplier shall comply with such agreements as if they were incorporated into English law subject to those voluntary agreements being cited in the Specification. Without prejudice to the generality of the foregoing, the Supplier shall:
 - 20.1.1 comply with all Policies and/or procedures and requirements set out in the Specification and/or any applicable Crown Commercial Services' Procurement Policy Note (as may be in force from time to time) in relation to any stated environmental and social and labour requirements, characteristics and impacts of the Goods and the Supplier's supply chain;
 - 20.1.2 maintain relevant policy statements documenting the Supplier's significant labour, social and environmental aspects as relevant to the Goods being supplied and as proportionate to the nature and scale of the Supplier's business operations; and
 - 20.1.3 maintain plans and procedures that support the commitments made as part of the Supplier's significant labour, social and environmental policies, as referred to at Clause 20.1.2 of this Schedule 2.

20.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of this Clause 20.

21. Electronic product information

21.1 Where requested by the Authority, the Supplier shall provide the Authority the Product Information, in such manner and upon such media as agreed between the Supplier and the Authority from time to time, for the sole use by the Authority.

21.2 The Supplier warrants that to the best of its knowledge the Product Information is complete and accurate as at the date upon which it is delivered to the Authority and that the Product Information shall not knowingly contain any data or statement which gives rise to any liability on the part of the Authority following publication of the same in accordance with this Clause 21.

21.3 If the Product Information ceases to be complete and accurate, the Supplier shall promptly notify the Authority in writing of any modification or addition to or any inaccuracy or omission in the Product Information.

21.4 Reserved

21.5 Before any publication of the Product Information (electronic or otherwise) is made by the Authority, the Authority will submit a copy of the relevant sections of the Authority's product catalogue to the Supplier for approval.. For the avoidance of doubt the Supplier shall have no right to compel the Authority to exhibit the Product Information in any product catalogue as a result of the approval given by it pursuant to this Clause 21.5 or otherwise under the terms of this Contract.

21.6 If requested in writing by the Authority, and to the extent not already agreed as part of the Specification and/or the Tender Response Document, the Supplier and the Authority shall discuss and seek to agree in good faith arrangements to use any Electronic Trading System.

22. Change Control

22.1 The Supplier acknowledges to the Authority that the Authority's requirements for the Goods may change during the Term and the Supplier shall not unreasonably withhold or delay its consent to any reasonable variation or addition to the Specification, as may be requested by the Authority from time to time.

22.2 Either Party may submit a written request for Change to the other Party in accordance with this Clause 22, but, without prejudice to Clauses 5.2 and 5.5 of this Schedule 2, no Change will come into effect until a Change Control Note has been signed by the authorised representatives of both parties.

22.3 If the Authority requests a Change:

- 22.3.1 the Authority will submit a written request to the Supplier containing as much information as is necessary to enable the Supplier to prepare a Change Control Note; and
- 22.3.2 within 20 Business Days of receipt of a request, the Supplier will, unless otherwise agreed, send to the Authority a Change Control Note.

22.4 If the Supplier requests a Change, it will send to the Authority a Change Control Note.

22.5 A Change Control Note will be in the form set out in Schedule 7.

22.6 If, following the Authority's receipt of a Change Control Note pursuant to Clauses 22.3 or 22.4 of this Schedule 2:

- 22.6.1 the parties agree the terms of the relevant Change Control Note, then it shall, once signed by each of the Parties, constitute a binding change to the Contract for the purposes of Clause 22.8 of this Schedule 2; or
- 22.6.2 Reserved.

22.7 Each Party will bear its own costs in relation to compliance with the Change Control Procedure, except for those changes required by Law shall be paid for by the Authority.

22.8 Any change to the Goods or other variation to this Contract shall only be binding once it has been agreed in writing and signed by an authorised representative of both Parties.

22.9 Subject to Clause 10.5 of this Schedule 2, the Supplier shall neither be relieved of its obligations to supply the Goods in accordance with the terms and conditions of this Contract as a result of a Change in Law.

23. Dispute resolution

- 23.1 During any Dispute, including a Dispute as to the validity of this Contract, it is agreed that the Supplier shall continue its performance of the provisions of the Contract (unless the Authority requests in writing that the Supplier does not do so) and if the Supplier so continues, the Authority shall continue to pay Supplier for such performance, provided said Dispute is not related to the Authority's failure to pay.
- 23.2 In the case of a Dispute arising out of or in connection with this Contract the Supplier and the Authority shall make every reasonable effort to communicate and cooperate with each other with a view to resolving the Dispute, and shall follow the procedure set out in Clause 23.3 of this Schedule 2 as the first stage in the Dispute Resolution Procedure.
- 23.3 If any Dispute arises out of the Contract either Party may serve a notice on the other Party to commence formal resolution of the Dispute. The Parties shall first seek to resolve the Dispute by escalation in accordance with the management levels as set out in Clause 5 of Schedule 1. Respective

representatives at each level, as set out in Clause 5 of Schedule 1, shall have ten (10) Business Days at each level during which they will use their reasonable endeavours to resolve the Dispute before escalating the matter to the next level until all levels have been exhausted. Level 1 will commence on the date of service of the Dispute Notice. The final level of the escalation process shall be deemed exhausted on the expiry of ten (10) Business Days following escalation to that level unless otherwise agreed by the Parties in writing.

- 23.4 If the procedure set out in Clause 23.3 of this Schedule 2 above has been exhausted and fails to resolve such Dispute, as part of the Dispute Resolution Procedure, the Parties will attempt to settle it by non-binding mediation. The Parties shall, acting reasonably, attempt to agree upon a mediator. In the event that the Parties fail to agree a mediator within ten (10) Business Days following the exhaustion of all levels of the escalation procedure at Clause 23.3 of this Schedule 2, the mediator shall be nominated and confirmed by the Centre for Effective Dispute Resolution, London.
- 23.5 The mediation shall commence within twenty eight (28) days of the confirmation of the mediator in accordance with Clause 23.4 of this Schedule 2, or at such other time as may be agreed by the Parties in writing. Neither Party will terminate such mediation process until each Party has made its opening presentation and the mediator has met each Party separately for at least one hour, or one Party has failed to participate in the mediation process. After this time, either Party may terminate the mediation process by notification to the other Party (such notification may be verbal provided that it is followed up by written confirmation). The Authority and the Supplier will cooperate with any person appointed as mediator, providing them with such information and other assistance as they may require and will pay their costs, as they shall determine, or in the absence of such determination such costs will be shared equally.
- 23.6 Nothing in this Contract shall prevent:
 - 23.6.1 the Authority taking action in any court in relation to any death or personal injury arising or allegedly arising in connection with supply of the Goods; or
 - 23.6.2 either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates to the safety of patients or the security of Confidential Information, pending resolution of the relevant Dispute in accordance with the Dispute Resolution Procedure.
- 23.7 This Clause 23 shall survive the expiry of or earlier termination of this Contract for any reason.

24. Force majeure

- 24.1 Subject to Clause 24.2 of this Schedule 2, neither Party shall be considered to be in default nor liable to the other for any failure to perform all or any of its

obligations under this Contract nor be liable to the other Party for any loss or damage arising out of the failure to perform its obligations to the extent only that such performance is prevented, hindered, or delayed by a Force Majeure Event.

- 24.2 The Supplier shall only be entitled to rely on a Force Majeure Event and the relief set out in this Clause 24, and will not be considered to be in default or liable for breach of any obligations under this Contract, if:
 - 24.2.1 the Supplier has fulfilled its obligations pursuant to Clause 8 of this Schedule 2;
 - 24.2.2 the Force Majeure Event does not arise directly or indirectly as a result of any wilful or negligent act or default of the Supplier; and
 - 24.2.3 the Supplier has complied with the procedural requirements set out in this Clause 24.
- 24.3 Where a Party is (or claims to be) affected by a Force Majeure Event, it shall use reasonable endeavours to mitigate the consequences of such a Force Majeure Event upon the performance of its obligations under this Contract, and shall resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.
- 24.4 Where the Force Majeure Event affects the Supplier's ability to perform part of its obligations under the Contract, the Supplier shall fulfil all such contractual obligations that are not so affected and shall not be relieved from its liability to do so.
- 24.5 If either Party is prevented or delayed in the performance of its obligations under this Contract by a Force Majeure Event, that Party shall as soon as reasonably practicable serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to its failure to perform or any anticipated delay in performance of its obligations.
- 24.6 Subject to service of such notice, the Party affected by such circumstances shall have no liability for its failure to perform or for any delay in performance of its obligations affected by the Force Majeure Event only for so long as such circumstances continue and for such time after they cease as is necessary for that Party, using its best endeavours, to recommence its affected operations in order for it to perform its obligations.
- 24.7 The Party claiming relief shall notify the other in writing as soon as the consequences of the Force Majeure Event have ceased and of when performance of its affected obligations can be resumed.
- 24.8 If the Supplier is prevented from performance of its obligations as a result of a Force Majeure Event, the Authority may at any time, if the Force Majeure Event subsists for thirty (30) days or more, terminate this Contract by issuing a Termination Notice to the Supplier.

24.9 Following such termination in accordance with Clause 24.8 of this Schedule 2 and subject to Clause 24.10 of this Schedule 2, neither Party shall have any liability to the other.

24.10 Any rights and liabilities of either Party which have accrued prior to such termination in accordance with Clause 24.8 of this Schedule 2 shall continue in full force and effect unless otherwise specified in this Contract.

25. Records retention and right of audit

25.1 Subject to any statutory requirement and Clause 25.2 of this Schedule 2, the Supplier shall keep secure and maintain for the Term and seven (7) years afterwards, or such longer period as may be agreed between the Parties, full and accurate records of all matters relating to this Contract.

25.2 Where any records could be relevant to a claim for personal injury, such records shall be kept secure and maintained for such a period of as set by the relevant statute from the date of expiry or earlier termination of this Contract.

25.3 During the term of this Contract and three (3) years thereafter, and subject to Global Trade Control Laws, the Authority shall have the right to audit the Supplier's compliance with this Contract. The Supplier shall permit or procure permission for the Authority or its authorised representative, during normal business hours and having given advance written notice of no less than thirty (30) Business Days, to access any premises and facilities, books and records reasonably required to audit the Supplier's compliance with its obligations under this Contract.

25.4 Should the Supplier Sub-contract any of its obligations under this Contract, the Authority shall have the right to audit and inspect such third party. The Supplier shall procure permission for the Authority or its authorised representative, during normal business hours, no more than once in any twelve (12) months, and having given advance written notice of no less than five (5) Business Days, to access any premises and facilities, books and records used in the performance of the Supplier's obligations under this Contract that are Sub-contracted to such third party. The Supplier shall cooperate with such audit and inspection and accompany the Authority or its authorised representative if requested.

25.5 The Supplier shall grant to the Authority or its authorised representative such access to those records as they may reasonably require in order to check the Supplier's compliance with this Contract for the purposes of:

25.5.1 the examination and certification of the Authority's accounts; or

25.5.2 any examination pursuant to section 6(1) of the National Audit Act 1983 of the economic efficiency and effectiveness with which the Authority has used its resources.

25.6 The Comptroller and Auditor General may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier, and may require the Supplier to provide such oral and/or

written explanations as they consider necessary. This Clause 25 does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Supplier under sections 6(3)(d) and 6(5) of the National Audit Act 1983.

- 25.7 The Supplier shall provide reasonable cooperation to the Authority, its representatives and any regulatory body in relation to any audit, review, investigation or enquiry carried out in relation to the subject matter of this Contract.
- 25.8 The Supplier shall provide all reasonable information as may be reasonably requested by the Authority to evidence the Supplier's compliance with the requirements of this Contract.

26. Conflicts of interest and the prevention of fraud

- 26.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff are placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Contract. The Supplier will disclose to the Authority full particulars of any such conflict of interest which may arise.
- 26.2 The Authority reserves the right to terminate this Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Contract. The actions of the Authority pursuant to this Clause 26.2 shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the Authority.
- 26.3 The Supplier shall take all reasonable steps to prevent Fraud by Staff and/or the Supplier (including its owners, members and directors). The Supplier shall notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- 26.4 If the Supplier or its Staff commits Fraud the Authority may terminate this Contract and recover from the Supplier the amount of any direct loss suffered by the Authority resulting from the termination.

27. Equality and human rights

- 27.1 The Supplier shall:

- 27.1.1 ensure that (a) it does not, whether as employer or as supplier of the Goods and any associated services, engage in any act or omission that would contravene the Equality Legislation, and (b) it complies with all its obligations as an employer or supplier of the Goods and any associated services as set out in the Equality Legislation, and takes reasonable endeavours to ensure its Staff do not unlawfully discriminate within the meaning of the Equality Legislation;

- 27.1.2 in the management of its affairs and the development of its equality and diversity policies, cooperate with the Authority in light of the Authority's obligations to comply with its statutory equality duties, whether under the Equality Act 2010 or otherwise. The Supplier shall take such reasonable and proportionate steps as legally required pursuant to the Equality Legislations to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age; and
- 27.1.3 the Supplier shall impose on all its Sub-contractors and suppliers obligations substantially similar to those imposed on the Supplier by this Clause 27.

27.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of this Clause 27.

28. Modern Slavery in Government Supply Chains

28.1 The Supplier:

- 28.1.1 shall not require any Staff to lodge deposits or identity papers with their employer and shall be free to leave their employer after reasonable notice;
- 28.1.2 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 28.1.3 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;
- 28.1.4 shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Sub-contractors anti-slavery and human trafficking provisions;
- 28.1.5 shall implement if practicably reasonable due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain that is responsible for performing its obligations under this Contract;
- 28.1.6 The Supplier shall provide to the Authority, within 30 days of the Commencement Date, a copy of its current anti-slavery and human trafficking policy and a written statement confirming that it has taken steps to ensure that slavery and human trafficking is not taking place in any part of its business. ;
- 28.1.7 shall not use, or allow its Staff or Sub-contractors to use, physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation;

- 28.1.8 shall not use, or allow its Sub-contractors to use, child or slave labour;
- 28.1.9 shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by its Staff or its Sub-contractors to the Authority and Modern Slavery Helpline and relevant national or local law enforcement agencies; and
- 28.1.10 shall, if the Authority identifies any occurrence of modern slavery connected to this Contract, comply with any request of the Authority to submit a remedial action plan which follows the form set out in Annex D of the Tackling Modern Slavery in Government Supply Chains guidance.

29. Assignment, novation and Sub-contracting

- 29.1 The Supplier shall not, except where Clause 29.2 of this Schedule 2 applies, , Sub-contract, , create a trust in, or in any other way dispose of the whole or any part of this Contract without the prior notification in writing of the Authority, such notification not to be unreasonably withheld or delayed. If the Supplier Sub-contracts any of its obligations under this Contract, every act or omission of the Sub-contractor shall for the purposes of this Contract be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Authority as if such act or omission had been committed or omitted by the Supplier itself.
- 29.2 Notwithstanding Clause 29.1 of this Schedule 2, the Supplier may assign to a third party ("Assignee") the right to receive payment of any sums due and owing to the Supplier under this Contract for which an invoice has been issued. Any assignment under this Clause 29.2 shall be subject to:
 - 29.2.1 all related rights of the Authority in relation to the recovery of sums due but unpaid;
 - 29.2.2 the Authority receiving notification of the assignment and the date upon which the assignment becomes effective together with the Assignee's contact information and bank account details to which the Authority shall make payment;
 - 29.2.3 the provisions of Clause 10 of this Schedule 2 continuing to apply in all other respects after the assignment which shall not be amended without the prior written approval of the Authority; and
 - 29.2.4 payment to the Assignee being full and complete satisfaction of the Authority's obligation to pay the relevant sums in accordance with this Contract.
- 29.3 Any authority given by the Authority for the Supplier to Sub-contract any of its obligations under this Contract shall not impose any duty on the Authority to enquire as to the competency of any authorised Sub-contractor. The Supplier shall ensure that any authorised Sub-contractor has the appropriate capability and capacity to perform the relevant obligations and that the obligations carried out by such Sub-contractor are fully in accordance with this Contract.

29.4 Where the Supplier enters into a Sub-contract in respect of any of its obligations under this Contract relating to the manufacture, supply, delivery or installation of or training in relation to the Goods, the Supplier shall include provisions in each such Sub-contract, unless otherwise agreed with the Authority in writing, which:

- 29.4.1 contain at least equivalent obligations as set out in this Contract in relation to such manufacture, supply, delivery or installation of or training in relation to the Goods to the extent relevant to such Sub-contracting;
- 29.4.2 contain at least equivalent obligations as set out in this Contract in respect of confidentiality, information security, data protection, Intellectual Property Rights, compliance with Law and Guidance and record keeping;
- 29.4.3 contain a prohibition on the Sub-contractor Sub-contracting, assigning or novating any of its rights or obligations under such Sub-contract without the prior written approval of the Authority (such approval not to be unreasonably withheld or delayed);
- 29.4.4 contain a right for the Authority to take an assignment or novation of the Sub-contract (or part of it) upon expiry or earlier termination of this Contract;
- 29.4.5 require the Supplier or other party receiving goods under the contract to consider and verify invoices under that contract in a timely fashion;
- 29.4.6 provide that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 29.4.5 of this Schedule 2, the invoice shall be regarded as valid and undisputed for the purpose of Clause 29.4.7 of this Schedule 2 after a reasonable time has passed;
- 29.4.7 require the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
- 29.4.8 permit the Supplier to terminate, or procure the termination of, the relevant Sub-contract in the event the Sub-contractor fails to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour Law, where the Supplier is required to replace such Sub-contractor in accordance with Clause 16.7.2 of this Schedule 2;
- 29.4.9 permit the Supplier to terminate, or to procure the termination of, the relevant Sub-contract where the Supplier is required to replace such Sub-contractor in accordance with Clause 29.5 of this Schedule 2; and
- 29.4.10 require the Sub-contractor to include a clause to the same effect as this Clause 29.4 in any Sub-contract which it awards.

29.5 Where the Authority considers that the grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015 (as amended) apply to any Sub-contractor, then:

29.5.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall ensure, or shall procure, that such Sub-contractor is replaced or not appointed; or

29.5.2 if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Supplier to ensure, or to procure, that such Sub-contractor is replaced or not appointed and the Supplier shall comply with such a requirement.

29.6 The Supplier shall pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days of verifying that the invoice is valid and undisputed. Where the Authority pays the Supplier's valid and undisputed invoices earlier than thirty (30) days from verification in accordance with any applicable government prompt payment targets, the Supplier shall use its reasonable endeavours to pay its relevant Sub-contractors within a comparable timeframe from verifying that an invoice is valid and undisputed.

29.7 The Authority shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the provision of the Goods and the Supplier shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from the Authority. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Sub-contracts.

29.8 The Authority may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Contract or any part of this Contract and the Supplier warrants that it will carry out all such reasonable further acts required to effect such transfer, assignment, novation, sub-contracting or disposal. If the Authority novates this Contract to any body that is not a Contracting Authority, from the effective date of such novation, the party assuming the position of the Authority shall not further transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Contract or any part of this Contract without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed by the Supplier.

30. Prohibited Acts

30.1 The Supplier warrants and represents that:

30.1.1 it has not committed any offence under the Bribery Act 2010 or done any of the following ("**Prohibited Acts**"):

a) offered, given or agreed to give any officer or employee of the Authority any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining

or performance of this or any other agreement with the Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Authority; or

b) in connection with this Contract paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the Authority; and

30.1.2 it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 of the Bribery Act 2010.

30.2 If the Supplier or its Staff (or anyone acting on its or their behalf) has done or does any of the Prohibited Acts or has committed or commits any offence under the Bribery Act 2010 with the knowledge of the Supplier in relation to this or any other agreement with the Authority:

30.2.1 the Authority shall be entitled:

- a) to terminate this Contract and recover from the Supplier the amount of any loss resulting from the termination;
- b) to recover from the Supplier the amount or value of any gift, consideration or commission concerned; and
- c) to recover from the Supplier any other loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010;

30.2.2 any termination under Clause 30.2.1 of this Schedule 2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Authority; and

30.2.3 notwithstanding the Dispute Resolution Procedure, any Dispute relating to:

- a) the interpretation of this Clause 30; or
- b) the amount or value of any gift, consideration or commission, shall be determined by the Authority, acting reasonably, and the decision shall be final and conclusive.

31. General

31.1 Each of the Parties is independent of the other and nothing contained in this Contract shall be construed to imply that there is any relationship between the Parties of partnership or of principal/agent or of employer/employee nor are the Parties hereby engaging in a joint venture and accordingly neither of the Parties shall have any right or authority to act on behalf of the other nor to bind the other by agreement or otherwise, unless expressly permitted by the terms of this Contract.

- 31.2 Failure or delay by either Party to exercise an option or right conferred by this Contract shall not of itself constitute a waiver of such option or right.
- 31.3 The delay or failure by either Party to insist upon the strict performance of any provision, term or condition of this Contract or to exercise any right or remedy consequent upon such breach shall not constitute a waiver of any such breach, or any subsequent breach, of such provision, term or condition.
- 31.4 Any provision of this Contract which is held to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of this Contract and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.
- 31.5 Each Party acknowledges and agrees that it has not relied on any representation, warranty or undertaking (whether written or oral) in relation to the subject matter of this Contract and therefore irrevocably and unconditionally waives any rights it may have to claim damages against the other Party for any misrepresentation or undertaking (whether made carelessly or not) or for breach of any warranty unless the representation, undertaking or warranty relied upon is set out in this Contract or unless such representation, undertaking or warranty was made fraudulently.
- 31.6 Each Party shall bear its own expenses in relation to the preparation and execution of this Contract including all costs, legal fees and other expenses so incurred.
- 31.7 This Contract is not exclusive and accordingly the Authority shall not be restricted from purchasing any products whatsoever including the Goods and any products that are equivalent to or substitutable for the Goods from other parties.
- 31.8 The rights and remedies provided in this Contract are independent, cumulative and not exclusive of any rights or remedies provided by general law, any rights or remedies provided elsewhere under this Contract or by any other contract or document. In this Clause 31.8, right includes any power, privilege, remedy, or proprietary or security interest.
- 31.9 The Supplier acknowledges that the Authority has entered into this Contract in the context of the exercise of performance of the duties of the Secretary of State for Health and Social Care under the National Health Service Act 2006, and on behalf of the Welsh Ministers under the National Health Service (Wales) Act 2006 (c.42), the Secretary of State under the National Health Service (Scotland) Act 1978 (c.29) and the Minister under the Health and Personal Social Services (Northern Ireland) Order 1972 S.I 1972/1265 (N.I.14). Accordingly, for the purpose of assessing the extent of any liability of the Supplier to the Authority, any relevant loss or damage or any liability incurred by any Administering Entity or Devolved Administration shall be deemed to be loss or damage or liability incurred by the Authority provided

that the Supplier shall not be subject to multiple recoveries of the same damages claim.

- 31.10 A person who is not a party to this Contract shall have no right to enforce any terms of it which confer a benefit on such person. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of this Contract.
- 31.11 This Contract, any variation in writing signed by an authorised representative of each Party and any document referred to (explicitly or by implication) in this Contract or any variation to this Contract, contain the entire understanding between the Supplier and the Authority relating to the supply of the Goods to the exclusion of all previous agreements, confirmations and understandings and there are no promises, terms, conditions or obligations whether oral or written, express or implied other than those contained or referred to in this Contract. Nothing in this Contract seeks to exclude either Party's liability for Fraud. Any tender conditions and/or disclaimers set out in the Authority's procurement documentation leading to the award of this Contract shall form part of this Contract.
- 31.12 This Contract, and any Dispute or claim arising out of or in connection with it or its subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the laws of England and Wales.
- 31.13 Subject to Clause 23 of this Schedule 2, the Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any Dispute or claim that arises out of or in connection with this Contract or its subject matter.
- 31.14 All written and oral communications and all written material referred to under this Contract shall be in English.

SCHEDULE 3

Information Provisions

1. Confidentiality

- 1.1 In respect of any Confidential Information it may receive directly or indirectly from the other Party ("Discloser") and subject always to the remainder of this Clause 1, each Party ("Recipient") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Discloser's prior written consent provided that:
 - 1.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date;
 - 1.1.2 the provisions of this Clause 1 shall not apply to any Confidential Information:
 - a) which is in or enters the public domain other than by breach of this Contract or other act or omissions of the Recipient;
 - b) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;
 - c) which is authorised for disclosure by the prior written consent of the Discloser;
 - d) which the Recipient can demonstrate by its written records was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or
 - e) which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.
- 1.2 Nothing in this Clause 1 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law, including the Freedom of Information Act 2000 ("FOIA"), Codes of Practice on Access to Government Information, on the Discharge of Public Authorities' Functions or on the Management of Records ("Codes of Practice"), or the Environmental Information Regulations 2004 ("Environmental Regulations").
- 1.3 The Authority may disclose the Supplier's Confidential Information:
 - 1.3.1 on a confidential basis, to any Contracting Authority to the extent required for the proper performance of this Contract;

- 1.3.2 on a confidential basis, to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 1.3.1 of this Schedule 3 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
- 1.3.3 on a confidential basis, to any consultant, contractor or other person engaged by the Authority and/or the Contracting Authority receiving such information;
- 1.3.4 to any relevant party for the purpose of the examination and certification of the Authority's accounts;
- 1.3.5 to any relevant party for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
- 1.3.6 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirements; or
- 1.3.7 on a confidential basis, to a proposed successor body in connection with any proposed, or actual, assignment, novation or other disposal of rights, obligations, liabilities or property in connection with this Contract;

and for the purposes of this Contract, references to disclosure "on a confidential basis" shall mean the Authority making clear the confidential nature of such information and that it must not be further disclosed except in accordance with Law or this Clause 1.3.

- 1.4 The Supplier may only disclose the Authority's Confidential Information, and any other information provided to the Supplier by the Authority in relation to this Contract, to the Supplier's Staff, Supplier Affiliates, or professional advisors who are directly involved in the performance of or advising on the Supplier's obligations under this Contract. The Supplier shall ensure that such Staff, Supplier Affiliates, or professional advisors are aware of and shall comply with the obligations in this Clause 1 as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the Authority's written discretion, destroyed securely or returned to the Authority when it is no longer required. The Supplier shall not, and shall ensure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of performing the Supplier's obligations in this Contract.
- 1.5 For the avoidance of doubt, save as required by Law or as otherwise set out in this Schedule 3, the Supplier shall not, without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed), announce that it has entered into this Contract and/or that it has been appointed as a supplier to the Authority and/or make any other announcements about this Contract.

1.5.1

1.6 This Clause 1 shall remain in force:

- 1.6.1 without limit in time in respect of Confidential Information which comprises Personal Data or which relates to national security; and
- 1.6.2 for all other Confidential Information for a period of three (3) years after the expiry or earlier termination of this Contract unless otherwise agreed in writing by the Parties.

2. Freedom of Information and Transparency

- 2.1 The Parties acknowledge the duties of Contracting Authorities under the FOIA, Codes of Practice and Environmental Regulations and shall give each other all reasonable assistance as appropriate or necessary to enable compliance with those duties.
- 2.2 The Supplier shall assist and cooperate with the Authority to enable it to comply with its disclosure obligations under the FOIA, Codes of Practice and Environmental Regulations. The Supplier agrees:
 - 2.2.1 that this Contract and any recorded information held by the Supplier on the Authority's behalf for the purposes of this Contract are subject to the obligations and commitments of the Authority under the FOIA, Codes of Practice and Environmental Regulations;
 - 2.2.2 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA, Codes of Practice and Environmental Regulations is a decision solely for the Authority;
 - 2.2.3 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier itself is subject to the FOIA, Codes of Practice and Environmental Regulations, it will liaise with the Authority as to the contents of any response before a response to a request is issued and will promptly (and in any event within two (2) Business Days) provide a copy of the request and any response to the Authority;
 - 2.2.4 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier is not itself subject to the FOIA, Codes of Practice and Environmental Regulations, it will not respond to that request (unless directed to do so by the Authority) and will promptly (and in any event within two (2) Business Days) transfer the request to the Authority;
 - 2.2.5 that the Authority, acting in accordance with the Codes of Practice issued and revised from time to time under both section 45 of FOIA and

regulation 16 of the Environmental Regulations, may disclose information concerning the Supplier and this Contract; and

2.2.6 to assist the Authority in responding to a request for information, by processing information or environmental information (as the same are defined in FOIA and the Environmental Regulations) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA, and providing copies of all information requested by the Authority within five (5) Business Days of that request and without charge.

2.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations, the content of this Contract is not Confidential Information.

2.4 Notwithstanding any other term of this Contract, the Supplier consents to the publication of this Contract in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations.

2.5 In preparing a copy of this Contract for publication under Clause 2.4 of this Schedule 3, the Authority may consult with the Supplier to inform decision making regarding any redactions but the final decision in relation to the redaction of information will be at the Authority's absolute discretion.

2.6 The Supplier acknowledges that the Authority is subject to the transparency obligations set out in the Crown Commercial Services' Procurement Policy Note 02/17 (as amended or replaced from time to time) and shall assist and cooperate with the Authority to enable and facilitate the Authority to comply with its obligations thereunder including but not limited to publishing this Contract.

2.7 Where any information is held by any Sub-contractor of the Supplier in connection with this Contract, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in this Clause 2, as if such Sub-contractor were the Supplier.

3. Information Security

3.1 Without limitation to any other information governance requirements set out in this Schedule 3, the Supplier shall:

3.1.1 notify the Authority forthwith of any information security breaches or near misses (including, without limitation, any potential or actual breaches of confidentiality or actual information security breaches) in line with the Authority's information governance Policies; and

- 3.1.2 fully cooperate with any audits or investigations relating to information security and any privacy impact assessments undertaken by the Authority and shall provide full information as may be reasonably requested by the Authority in relation to such audits, investigations and assessments.

Schedule 4

Definitions and Interpretations

1. Definitions

1.1 In this Contract the following words shall have the following meanings unless the context requires otherwise:

“Additional Goods Order”	has the meaning set out in Clause 2.1 of Schedule 2;
“Administering Entity”	means any body administering the Goods including all Health Service Bodies;
“Authority”	means the authority named on the form of Contract on page 1;
“Breach Notice”	means a written notice of breach given by one Party to the other, notifying the Party receiving the notice of its breach of this Contract;
“Business Continuity Event”	means any event or issue that could impact on the operations of the Supplier and its ability to supply the Goods including, without limitation, an influenza pandemic and any Force Majeure Event but excluding, for the avoidance of doubt, the withdrawal of the United Kingdom (or any part of it) from the European Union and any related circumstances, events, changes or requirements;
“Business Continuity Plan”	means the Supplier’s business continuity plan which includes its plans for continuity of the supply of the Goods during a Business Continuity Event;
“Business Day”	means any day other than a Saturday, Sunday or bank holiday in England;
“Central Government Body”	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency;
“Change”	means any change to this Contract;
“Change Control Note”	means the written record of a Change agreed or to be agreed by the Parties pursuant to the procedure set out in Clause 22 of Schedule 2;
“Change in Law”	means any change in Law which impacts on the supply of the Goods (including taxation or duties of any sort affecting the Supplier) which comes into force after the Commencement Date;

“Charges”	means the Contract Price together with any applicable VAT;
“Codes of Practice”	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
“Commencement Date”	shall have the meaning given to it in Clause 2.1 of Schedule 1;
“Commercial Schedule”	means the document set out at Schedule 6;
“Competent Authority”	means the competent authority of an EEA state which has granted in relation to any of the Goods a Marketing Authorisation, Manufacturing Licence and/or other licence in accordance with applicable Law;
“Confidential Information”	<p>means information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of the Contract, including any procurement process, which is:</p> <ul style="list-style-type: none"> (a) Personal Data including, without limitation, that which relates to any patient or other service user or his or her treatment or clinical or care history; (b) designated as confidential by either Party or that ought reasonably to be considered as confidential (whether or not it is expressly marked as “confidential”); including information that relates to the business, affairs, developments, trade secrets, know-how, personnel, contractors, and suppliers of the Supplier together with all information derived from the above (however it is conveyed or on whatever media it is stored); and/or (c) Policies and such other documents which the Supplier may obtain or have access to through the Authority’s intranet;
“Contract”	means the agreement between the Parties in the form of contract at the front of this document and all schedules attached to the form of contract;
“Contracting Authority”	means any contracting authority as defined in regulation 3 of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than the Authority;
“Contract Manager”	means for the Authority and for the Supplier the individuals specified in the Key Provisions or such other person notified by a Party to the other Party from time to time in accordance with Clause 9.1 of Schedule 2;
“Contract Price”	means the price exclusive of VAT that is payable to the Supplier by the Authority under the Contract for the full and proper performance by the Supplier of its obligations under the Contract;
“Defective Goods”	has the meaning given under Clause 7.8 of Schedule 2;

“Delivery Period”	means the month(s) during the Term that the Authority requires the supply of the Goods as set out in Schedule 6;
“Delivery Schedule”	means the delivery schedule setting out deliveries during the Term as set out in Schedule 6 and any delivery schedule agreed as part of an Additional Goods Order by the Parties in accordance with Clause 2.1 of Schedule 2 and any delivery schedule agreed as part of an Additional Goods Order by the Parties in accordance with Clause 2.1 of Schedule 2 or any revised Delivery Schedule agreed in accordance with Clauses 2.2 or 5.3 of Schedule 2;
“Devolved Administration”	means the devolved administrations of Scotland, Wales and Northern Ireland (the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly);
“Directive 2001/83”	means Directive 2001/83/EC of 6 November 2001 on the Community code relating to medicinal products for human use (and any implementing, amended and/or successor legislation applicable to the UK or any part of it);
“Directive 2003/94”	means Directive 2003/94/EC of 8 October 2003 laying down the principles and guidelines of good manufacturing practice in respect of medicinal products for human use and investigational medicinal products for human use (and any implementing, amended and/or successor legislation applicable to the UK or any part of it);
“Discloser”	has the meaning given under Clause 1.1 of Schedule 3;
“Dispute(s)”	means any dispute, difference or question of interpretation or construction arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Goods, any matters of contractual construction and interpretation relating to the Contract, or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
“Dispute Notice”	means a written notice served by one Party to the other stating that the Party serving the notice believes there is a Dispute;
“Dispute Resolution Procedure”	means the process for resolving Disputes as set out in Clause 23 of Schedule 2. For the avoidance of doubt, the Dispute Resolution Procedure is subject to Clause 30.2.3 of Schedule 2;
“DOTAS”	means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue and Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in

	Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;
“e-Tendering Portal”	means the Atamis Health Family eCommercial System, which is the e-tendering service used by the Authority, or such other e-tendering portal that the Authority uses from time to time;
“Electronic Trading System(s)”	means such electronic data interchange system and/or world wide web application and/or other application with such message standards and protocols as the Authority may specify from time to time;
“Environmental Regulations”	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
“Equality Legislation”	means any and all legislation, applicable guidance and statutory codes of practice relating to equality, diversity, non-discrimination and human rights as may be in force in England and Wales from time to time including, but not limited to, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (SI 2002/2034), and the Human Rights Act 1998;
“EU References”	has the meaning given to it in Clause 1.3.1 of Schedule 4;
“Exit Day”	shall have the meaning in the European Union (Withdrawal) Act 2018;
“Extension Period”	Shall have the meaning given in Clause 2.1 of Schedule 1;
“Extension Volume”	means the volume of Goods to be delivered during the Extension Period and this shall be determined either: <ul style="list-style-type: none"> (a) by agreement in writing between the Authority and the Supplier within ten (10) Business Days' of the Authority's notice to extend the Term; or (b) if both parties do not agree within such period as specified in (a) above, then the Authority shall have the right to determine the extension volume from within the volume range specified in Schedule 5. For the avoidance of doubt, the Supplier shall not reject an extension volume put forward by the Authority where it is within the range specified in Schedule 5.
“FEFO”	has the meaning given to it in Clause 7.13.2(c) of Schedule 2;
“FOIA”	shall have the meaning given to the term in Clause 1.2 of Schedule 3;

<p>“Force Majeure Event”</p>	<p>means any event beyond the reasonable control of the Party in question to include, without limitation:</p> <ul style="list-style-type: none"> (a) war including civil war (whether declared or undeclared), riot, civil commotion or armed conflict materially affecting either Party's ability to perform its obligations under this Contract; (b) acts of terrorism; (c) flood, storm or other natural disasters; (d) fire; (e) unavailability of public utilities and/or access to transport networks to the extent no diligent supplier could reasonably have planned for such unavailability as part of its business continuity planning; (f) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by the Supplier to comply with any relevant regulations, laws or procedures (including such laws or regulations relating to the payment of any duties or taxes) and subject to the Supplier having used all reasonable legal means to resist such requisition or impoundment; (g) compliance with any local law or governmental order, rule, regulation or direction applicable outside of England and Wales that could not have been reasonably foreseen; (h) Pandemic or epidemic; (i) industrial action which affects the ability of the Supplier to supply the Goods, but which is not confined to the workforce of the Supplier or the workforce of any Sub-contractor of the Supplier; and (j) a failure in the Supplier's and/or Authority's supply chain to the extent that such failure is due to any event suffered by a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties; <p>but excluding, for the avoidance of doubt, any event or other consequence arising as a result of or in connection with:</p> <ul style="list-style-type: none"> (i) the withdrawal of the United Kingdom from the European Union; or (ii) the COVID-19 pandemic, except for circumstances caused by or related to the COVID-19 pandemic which are changes in applicable Law and/or governmental
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	guidance which mean that the Goods cannot be provided as set out in this Contract (in all material respects) without such Laws and/or government guidance being breached, or if the Supplier can reasonably demonstrate that despite all reasonable endeavours, it is unable to secure non-COVID-19 infected personnel to provide the Goods due to the levels of COVID-19 infections in the population of the United Kingdom;
“Fraud”	means any offence under any law in respect of fraud in relation to this Contract or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority;
“General Anti-Abuse Rule”	means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
Global Trade Control Laws	Global trade control laws and regulations applicable to the Product, including the U.S. Department of Commerce, Bureau of Industry and Security (BIS) Export Administration Regulations (EAR) (15 C.F.R. Part 730 et seq.). Specifically, Meridian's medical countermeasure auto-injectors are classified in Export Control Classification Number (ECCN) 1A607.k and related controlled Technology is classified in ECCN 1E607 of the Commerce Control List (CCL). A license or other authorisation is required for exports, re-exports, and in-country transfers in and to all countries except Canada.
“Good Industry Practice”	means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced supplier engaged in the manufacture and/or supply of goods similar to the Goods under the same or similar circumstances as those applicable to this Contract, including in accordance with any codes of practice published by relevant trade associations;
“Good Manufacturing Practice”	shall have the meaning set out in Directive 2003/94;
“Goods”	means all goods, materials or items that the Supplier is required to supply to the Authority under this Contract (including, without limitation, under Schedule 5 which sets out the requirements of the Authority as issued to tenderers

	as part of the procurement process and Schedule 8 which sets out the Supplier's response to these requirements);
“Guidance”	means any applicable guidance, direction or determination and any policies, advice or industry alerts which apply to the Goods, to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Supplier by the Authority and/or have been published and/or notified to the Supplier by the Authority, NHS Improvement, NHS England, the MHRA, the EMA, the European Commission or a Competent Authority (in each case to the extent applicable to the UK), the Care Quality Commission and/or any other regulator or competent body;
“Halifax Abuse Principle”	means the principle explained in the CJEU Case C-255/02 Halifax and others;
“Health Service Bodies”	<p>means:</p> <ul style="list-style-type: none"> (a) the Department of Health and Social Care and all divisions and agencies thereof and any independent NHS board or similar body that may be established including regional agencies of such board; (b) a GP (being a medical practitioner providing general medical services or personal medical services under the National Health Service Act 2006 (c.41) (whether operating in partnership with others or not)); (c) health service bodies referred to in section 9 of the National Health Service Act 2006 (c.41); (d) the Secretary of State for Health and Social Care; (e) any care trust as defined in section 77 of the National Health Service Act 2006 (c.41); (f) any NHS foundation trust listed in the register of NHS foundation trusts maintained pursuant to section 39 of the National Health Service act 2006 (c.41); (g) any body replacing or providing similar or equivalent services to any of the above in any area of the United Kingdom including any bodies established pursuant to the Health and Social Care Act 2012, including but not limited to NHS England; and (h) any statutory successor to any of the above;
“Initial Term”	shall have the meaning given to the term in Clause 2.1 of Schedule 1;
“Intellectual Property Rights”	means all patents, copyright, design rights, registered designs, trade marks, know-how, database rights, confidential formulae and any other intellectual property rights, and the rights to apply for patents and trade marks and registered designs;
“Issuing Party”	has the meaning given to it in Clause 1.12 of Schedule 4;

“Key Provisions”	means the key provisions set out in Schedule 1;
“KPI”	means the key performance indicators as set out in Part 3 of Schedule 6;
“Law”	<p>means any applicable legal requirements including, without limitation:</p> <ul style="list-style-type: none"> (a) any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales; (b) to the extent binding under UK law, any applicable European Union obligation, directive, regulation, decision, law or right (including any such obligations, directives, regulations, decisions, laws or rights that are incorporated into the law of England and Wales or given effect in England and Wales by any applicable statute, proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument); (c) to the extent in force in the UK or any part of it, any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales; (e) requirements set by any regulatory body as applicable in England and Wales; (f) any relevant code of practice as applicable in England and Wales; (g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);
“Licensing Authority”	means the MHRA or other Competent Authority as the case may be (in the case of the other Competent Authority, to the extent that any Marketing Authorisation, Manufacturing Licence and/or other license(s) issued by such entity is valid in the UK);
“Loss Costs”	<p>means to the extent that the Authority and/or Administering Entity and/or Devolved Administration has taken all reasonable steps to mitigate such losses:</p> <ul style="list-style-type: none"> (a) all costs in connection with receiving and storing Defective Goods; (b) where the Defective Goods have been despatched by or on behalf of the Authority or Devolved Administration, the costs of recalling the Defective Goods; (c) all wasted administrative and personnel costs of the Authority and/or any Administering Entity and/or Devolved Administration relating to Defective Goods;

	<p>(d) where individuals are required to be given further treatments of the Goods because their initial course was Defective Goods, the costs of providing such further treatments of the Goods to such individuals;</p> <p>(e) all costs in excess of the Charges paid or payable by the Authority for Rejected Goods incurred in sourcing alternative products from third parties; and</p> <p>(f) all costs associated with advising, screening, testing, treating or otherwise providing healthcare to patients in relation to Defective Goods;</p>
“Manufacturing Licence”	means the manufacturing licence in respect of the Goods granted by the Licensing Authority;
“Marketing Authorisation”	means the marketing authorisation number as specified in Schedule 8 for Goods for use in the United Kingdom granted by the Licensing Authority as amended or varied by the Licensing Authority from time to time;
“MHRA”	means the Medicines and Healthcare products Regulatory Agency;
“Modern Slavery Helpline”	means the modern slavery helpline phone number on 08000 121 700 or the online reporting tool which can be found online at: www.modernslaveryhelpline.org ;
“Occasion of Tax Non-Compliance”	<p>means:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 that is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> i. a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; ii. the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or <p>(b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 that gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date, or to a civil penalty for fraud or evasion;</p>
“Pandemic”	means any period of time in respect of which the ‘Pandemic Phase’ alert pursuant to the Revised WHO Classification System applies, or such other categorisation

	the World Health Organization may give to a pandemic from time to time;
“Party”	means the Authority or the Supplier as appropriate and Parties means both the Authority and the Supplier;
“Personal Data”	shall have the same meaning as set out in Section 3(2) of the Data Protection Act 2018 (as amended) in relation to data processed under this Contract;
“Policies”	means the policies, rules and procedures of the Authority as notified to the Supplier from time to time;
“Product Information”	means information concerning the Goods as may be reasonably requested by the Authority and supplied by the Supplier to the Authority in accordance with Clause 21 of Schedule 2 for inclusion in the Authority's product catalogue from time to time;
“Prohibited Acts”	has the meaning given under Clause 30.1.1 of Schedule 2;
“Purchase Order”	means the purchase order required by the Authority's financial systems substantially in the form set out in Part 4 of Schedule 6, where a purchase order is referred to in the Key Provisions;
“Recipient”	has the meaning given under Clause 1.1 of Schedule 3;
“Receiving Party”	has the meaning given to it in Clause 1.12 of Schedule 4;
“Regulation 726/2004”	means Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (and any implementing, amended and/or successor legislation applicable to the UK or any part of it);
“Rejected Goods”	has the meaning given under Clause 7.2 of Schedule 2;
“Relevant Tax Authority”	means HM Revenue and Customs, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;
“Remedial Proposal”	has the meaning given under Clause 16.2 of Schedule 2;
“Requirement to Recall”	has the meaning given under Clause 7.12 of Schedule 2;
“Returnable Units”	has the meaning given under Clause 7.13.2(d) of Schedule 2;
“Sale or Return Products”	has the meaning given under Clause 7.13.2(a) of Schedule 2;
“Specification”	means the document set out in Schedule 5 as amended and/or updated in accordance with this Contract as applicable;
“Staff”	means all persons employed or engaged by the Supplier to perform its obligations under this Contract including any Sub-contractors and person employed or engaged by such Sub-contractors;

“Sub-contract”	means a contract between two or more suppliers, at any stage of remoteness from the Supplier in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract;
“Sub-contractor”	means a party to a Sub-contract other than the Supplier;
“Summary of Product Characteristics”	means the summary of product characteristics approved by the Licensing Authority for the Marketing Authorisation;
“Supplier”	means the supplier named on the form of Contract on page 1;
“Supplier Affiliate”	any entity owned or controlled by Supplier
“Supplier Code of Conduct”	means the code of that name published by the Government Commercial Function originally dated September 2017, as may be amended, restated, updated, re-issued or re-named from time to time;
“Tender Response Document”	means the part of the Supplier’s response submitted pursuant to the competitive process carried out by the Authority in relation to the Goods, as set out in Schedule 8;
“Term”	means the Initial Term as set out in the Key Provisions and where required by the Authority, any Extension Period;
“Termination Notice”	means a written notice of termination given by one Party to the other notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;
“Third Party Body”	has the meaning given under Clause 9.5 of Schedule 2;
“UK MS Licence”	means the manufacturer’s specials licence granted by the MHRA for the importation of unlicensed medicines into the UK from countries outside the UK and the European Economic Area;
“US Marketing Authorization”	means the marketing authorisation granted by the US Food and Drug Administration as amended or varied by the US Food and Drug Administration from time to time;
“VAT”	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax; and
“Volume”	means the total quantity of the Goods to be delivered during the Initial Term.

1.2 References to any Law shall be deemed to include a reference to that Law as amended, extended, consolidated, re-enacted, restated, implemented or transposed from time to time.

1.3 A reference in this Contract which immediately before Exit Day was a reference to (as it has effect from time to time):

- 1.3.1 any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (“**EU References**”) which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
- 1.3.2 any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred.

- 1.4 References to any legal entity shall include any body that takes over responsibility for the functions of such entity.
- 1.5 References in this Contract to a “Schedule”, “Appendix”, “Paragraph” or to a “Clause” are to schedules, appendices, paragraphs and clauses of this Contract.
- 1.6 References in this Contract to a day or to the calculation of time frames are references to a calendar day unless expressly specified as a Business Day.
- 1.7 Unless set out in the Commercial Schedule as a chargeable item and subject to Clause 31.6 of Schedule 2, the Supplier shall bear the cost of complying with its obligations under this Contract.
- 1.8 The headings are for convenience only and shall not affect the interpretation of this Contract.
- 1.9 Words denoting the singular shall include the plural and vice versa.
- 1.10 Where a term of this Contract provides for a list of one or more items following the word “including” or “includes” then such list is not to be interpreted as an exhaustive list. Any such list shall not be treated as excluding any item that might have been included in such list having regard to the context of the contractual term in question. General words are not to be given a restrictive meaning where they are followed by examples intended to be included within the general words.
- 1.11 Where a document is required under this Contract, the Parties may agree in writing that this shall be in electronic format only.
- 1.12 Any Breach Notice issued by a Party in connection with this Contract shall not be invalid due to it containing insufficient information. A Party receiving a Breach Notice (“**Receiving Party**”) may ask the Party that issued the Breach Notice (“**Issuing Party**”) to provide any further information in relation to the subject matter of the Breach Notice that it may reasonably require to enable it to understand the Breach Notice and/or to remedy the breach. The Issuing Party shall not unreasonably withhold or delay the provision of such further

information as referred to above as may be requested by the Receiving Party but no such withholding or delay shall invalidate the Breach Notice.

- 1.13 Any terms defined as part of a Schedule or other document forming part of this Contract shall have the meaning as defined in such Schedule or document.
- 1.14 Any reference to a Party "procuring" another person to act or omit to act in a certain manner shall mean that the Party so procuring shall be liable for any default on the part of the person acting or omitting to act in that manner.
- 1.15 In this Contract the Authority is acting as part of the Crown.

SCHEDULE 5

Specification

Redacted under section 43 (2)

SCHEDULE 6

Commercial Schedule

Redacted under section 43 (2)

Commercial Schedule

Part 2 - Delivery Schedule

Redacted under section 43 (2)

Commercial Schedule

Part 3 - Key performance indicators to be published

	KPI	Contract Schedules and Clauses containing Supplier obligations in relation to this indicator
1	Goods delivered to Specification	The Goods delivered must be as described in the Specification.
2	Volume of Goods delivered	The volume of Goods being delivered must be as specified in the Delivery Schedule.
4	Shelf life remaining on delivery	The Goods must be delivered with at least the minimum shelf life remaining as stated in the Specification.

Part 4 – Performance indicators for internal review

	Performance indicator	Contract Schedules and Clauses containing Supplier obligations in relation to this indicator
1.	Date of Delivery	The date the goods are to be delivered must be as specified in the delivery schedule
2.	Production of social value reports	The Supplier must produce regular reports in accordance with their plans to deliver social value as specified in Schedule 8 of this Contract.
3.	Production of modern slavery reports	The Supplier must produce regular reports in accordance with their plans to tackle modern slavery as specified in Clause 28.1.6 of Schedule 2 of this Contract.

Commercial Schedule

Part 4 - Proforma Purchase Order



Purchase Order Number

P

Purchase Order

Order Number and Date must be quoted on Invoices,
Delivery Notes and any other Correspondence.

Page Number: of
Date

Supplier Name and Address:	Delivery Address:	All Invoices To Be Sent To:
		UKHSA ACCOUNTS PAYABLE TEAM MANOR FARM ROAD PORTON DOWN SALISBURY SP4 0JG United Kingdom Email: payables@ukhsa.gov.uk

Special Instructions :

Your Reference	Description	Unit Of Measure	Quantity	Unit Price (excl. VAT)	Total Price (excl. VAT)
					Order Total GBP

SCHEDULE 7

Proforma Change Control Note

CCN No:	Contract:	Effective date of Change:
Initiated by: Change requested by [Supplier OR Authority]		
Date of request:		
Period of validity: This Change Control Note is valid for acceptance until [DATE].		
Reason for Change:		
Description and impact of the Change (including to delivery and performance):		
Required amendments to wording of Contract or Schedules:		
Adjustment to Contract Price resulting from Change:		
Additional one-off charges and means of determining these (for example, fixed price basis):		
Supporting or additional information:		
SIGNED ON BEHALF OF THE AUTHORITY	SIGNED ON BEHALF OF THE SUPPLIER	

SCHEDULE 9

Business Continuity Plan

Redacted under section 43 (2)