

15 December 2006

Dear Supplier

INVITATION TO TENDER – SUPPLY OF PHARMACEUTICALS TO DHB HOSPITALS AND/OR TO COMMUNITY PHARMACIES

PHARMAC invites tenders for the supply of certain pharmaceuticals to DHB hospitals and/or to community pharmacies in New Zealand.

This invitation to tender incorporates the following schedules:

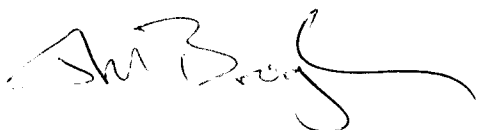
- (a) Schedule 1 sets out the definitions used in this invitation;
- (b) Schedule 2 specifies the pharmaceuticals for which you may submit a tender bid in relation to community supply and/or hospital supply;
- (c) Schedule 3 describes the process PHARMAC intends to follow in relation to this tender, and provides instructions on how to submit a tender bid in relation to community supply and/or hospital supply;
- (d) Schedule 4 sets out the forms you must use if you wish to submit a tender bid in relation to community supply and/or hospital supply;
- (e) Schedule 5 sets out terms that will apply if your tender bid in relation to community and/or hospital supply is awarded Sole Supply Status and/or Hospital Supply Status;
- (f) Schedule 6 sets out the additional terms that will apply if your tender bid in relation to community supply is awarded Sole Supply Status; and
- (g) Schedule 7 sets out the additional terms that will apply if your tender bid in relation to hospital supply is awarded Hospital Supply Status.

If you wish to submit a tender bid in relation to community supply and/or hospital supply, you must submit it to PHARMAC no later than **5pm** (New Zealand time) on **Monday, 26 February 2007**.

If you have any inquiries about this invitation you should contact Mike Bignall at PHARMAC for questions in relation to community supply, and Andrew Davies for questions in relation to hospital supply.

We look forward to receiving your tender.

Yours sincerely



Matthew Brougham
Acting Chief Executive

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Schedule 1: Definitions and interpretation

1. Definitions

In this Invitation:

Aggregated Tender Bid means a Tender Bid for more than one Tender Item, which:

- (a) PHARMAC is to consider in aggregate; and
- (b) is specified to be an Aggregated Tender Bid,

and can include a Tender Bid for more than one Tender Item of the same Chemical Entity but not aggregation within a single Tender Item;

Agreement means:

- (a) Schedule Five; and
- (b) in relation to a Pharmaceutical with Sole Supply Status, Schedule Six; or
- (c) in relation to a Pharmaceutical with Hospital Supply Status, Schedule Seven,

and includes, to the extent applicable, the other Schedules comprising the Invitation;

Alternative Pharmaceutical means an alternative brand of a Pharmaceutical that PHARMAC, following consultation with HPAC, or PTAC or its sub-committees, considers to be an acceptable substitute for that Pharmaceutical;

Back-up Supply Agreement means an alternative agreement or arrangement negotiated by PHARMAC, at its sole discretion, with a supplier other than the supplier with Sole Supply Status and/or Hospital Supply Status in respect of a particular Tender Item, to cover the contingency that Sole Supply Status and/or Hospital Supply Status is suspended or withdrawn under the terms of this Agreement in respect of that Tender Item, or that the Tender Item is otherwise out of stock or unavailable for supply;

Chemical Entity means any pharmaceutical that contains, and is described generically according to, the relevant active ingredient specified in Schedule Two;

Combined Community/Hospital Tender Bid means a Community Tender Bid and a Hospital Tender Bid that you submit in combination for the same Tender Item;

Community Tender Bid means a Tender Bid in relation to community supply;

Confidential Information means all information exchanged between us under this Invitation or in relation to your Tender Bid, including during all negotiations relating to your Tender Bid;

Consents means all consents, permits, licences and authorisations, whether statutory or otherwise, required for the supply of the Tender Item in New Zealand (including Ministry of Health market approval);

Contract Manufacturer means a manufacturer or a supplier that is a party to a contract with the relevant DHB Hospital to compound Pharmaceuticals, on request from that DHB Hospital;

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Crown Direction means any ministerial direction given to PHARMAC under section 103 of the Crown Entities Act 2004;

Deadline means 5 pm Monday, 26 February 2007 (New Zealand time);

Designated Delivery Point means at a DHB Hospital's discretion:

- (a) a delivery point agreed between you and the relevant DHB Hospital, to which delivery point you must supply the Pharmaceutical directly at the Price; and/or
- (b) any delivery point designated by the relevant DHB Hospital or PHARMAC, such delivery point being within 30km of your national distribution centre;

DHB Hospital means a DHB, including its hospital or associated provider unit for which that DHB purchases pharmaceuticals;

District Health Board (or DHB) has the same meaning as in the New Zealand Public Health and Disability Act 2000;

DV Limit means, for a particular Pharmaceutical, the National DV Limit or the Individual DV Limit;

DV Pharmaceutical means a discretionary variance Pharmaceutical, being an Alternative Pharmaceutical that does not have Hospital Supply Status, and includes a pharmaceutical which (unless PHARMAC specifies otherwise in Schedule Two of this Agreement, or we agree otherwise in writing):

- (a) is listed as a DV Pharmaceutical, in association with the relevant Pharmaceutical having Hospital Supply Status, in the then current Section H of the Pharmaceutical Schedule; or
- (b) is the same Chemical Entity, at the same strength, and in the same or a similar presentation or form, as the relevant Pharmaceutical with Hospital Supply Status, but which is not yet listed as a DV Pharmaceutical.

For the avoidance of doubt, a pharmaceutical which:

- (c) is a different Chemical Entity from the Pharmaceutical with Hospital Supply Status; and
- (d) is not listed as a DV Pharmaceutical in the then current Section H of the Pharmaceutical Schedule,

is not a DV Pharmaceutical;

End Date means the last day of the Hospital Supply Status Period, or Sole Supply Period, as applicable;

Evaluation Committee means a committee established by PHARMAC to evaluate Tender Bids;

Final Transition Period means, in respect of a Pharmaceutical with Sole Supply Status or Hospital Supply Status, as applicable, the period of three calendar months beginning on the day after the relevant End Date;

First Transition Period means, in respect of a Pharmaceutical with Sole Supply Status or Hospital Supply Status, the period beginning on the first day of the month following the Market Notification Date and ending on the last day of the month following the month in

Schedule 1

which the Start Date occurs (or such different or longer period as PHARMAC determines under clause 1.2 of Schedule Three);

Funder means the body or bodies responsible, pursuant to the New Zealand Public Health and Disability Act 2000, for the funding of pharmaceuticals listed on the Pharmaceutical Schedule (which may be, without limitation, one or more District Health Boards and/or the Ministry of Health) and their successors;

Hospital Supply Status means the status of being the brand of the relevant Pharmaceutical listed in Section H of the Pharmaceutical Schedule as having such status, which Pharmaceutical DHB Hospitals must purchase, subject to any DV Limit for that Pharmaceutical, for the Hospital Supply Status Period;

Hospital Supply Status Period means the period beginning on the day after the end of the First Transition Period and ending on 30 June 2010;

Hospital Tender Bid means a Tender Bid in relation to Hospital Supply;

HPAC means the Hospital Pharmaceutical Advisory Committee;

Individual DV Limit means, for:

- (a) a particular Pharmaceutical; and
- (b) a particular DHB Hospital,

the discretionary variance limit, being a percentage of the Individual Total Market Volume, which equals the percentage of the National DV Limit for that Pharmaceutical, up to which that DHB Hospital may purchase DV Pharmaceuticals of that Pharmaceutical. The Individual DV Limit is set:

- (c) for the number of months during which the Hospital Supply Status Period applies during the period ending on 30 June 2008; and
- (d) for the respective 12 month periods ending on 30 June 2009 and 2010;

Individual Total Market Volume means for:

- (a) a particular Pharmaceutical; and
- (b) a particular DHB Hospital,

in any given period, in accordance with data available to PHARMAC, the sum of:

- (c) the total number of Units of the relevant Pharmaceutical with Hospital Supply Status purchased by the relevant DHB Hospital; and
- (d) the total number of Units of all the relevant DV Pharmaceuticals, listed in Section H in association with that Pharmaceutical, purchased by that DHB Hospital;

Invitation means this invitation to tender and includes the cover letter and each of the Schedules;

Lead Time means the length of time indicated on your Tender Bid that, if your Tender Bid is accepted, you would require following the Successful Tenderer Notification Date in order to source sufficient stock of your brand of the Tender Item to meet the market demand for the Tender Item, which must be at least one month;

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Market Notification Date means the date on which PHARMAC notifies the market that your Tender Bid, in respect of a particular Tender Item, has been accepted, being greater than one month prior to the Start Date;

National DV Limit means, for a particular Pharmaceutical, the discretionary variance limit, being the specified percentage of the National Total Market Volume up to which all DHB Hospitals may collectively purchase DV Pharmaceuticals of that Pharmaceutical. The National DV Limit is set for DHB Hospitals nationally:

- (a) for the number of months during which the Hospital Supply Status Period applies during the period ending on 30 June 2008; and
- (b) for the respective 12 month periods ending on 30 June 2009 and 2010;

National Total Market Volume means, for a particular Pharmaceutical in any given period, in accordance with data available to PHARMAC, the sum of:

- (a) the total number of Units of the relevant Pharmaceutical with Hospital Supply Status purchased by all DHB Hospitals; and
- (b) the total number of Units of all the relevant DV Pharmaceuticals, listed in Section H in association with that Pharmaceutical, purchased by all DHB Hospitals;

Offer Letter means the letter of offer to which your Tender Submission Form(s) must be attached, in the form set out in Schedule Four;

OPPs means PHARMAC's then current Operating Policies and Procedures and any relevant supplements, as applicable;

PCT means a Tender Item for which a "PCT" is indicated in the list in clause 2 of Schedule Two;

Pharmaceutical means the relevant Tender Item for which you have submitted, and PHARMAC has accepted on behalf of the Funder, a Tender Bid;

Pharmacode means the unique six or seven digit identifier assigned to a pharmaceutical and notified to you by the Pharmacy Guild;

Potential Out-of-Stock Event means:

- (a) in relation to community or hospital supply, your stock of the Pharmaceutical in New Zealand falls below two-thirds of your most recent three months' total Unit sales of the Tender Item; or
- (b) in relation to community or hospital supply, forecast sales demand in respect of the next two-month period is greater than your stock of the Pharmaceutical; or
- (c) in relation to hospital supply, your stock of the Pharmaceutical in New Zealand falls below the average volume of stock of the Pharmaceutical required to supply the entire New Zealand DHB Hospital market for the Pharmaceutical for any given two-month period; or
- (d) in relation to community supply, your stock of the Pharmaceutical in New Zealand falls below one-sixth of the Unit Volume; or
- (e) in relation to community or hospital supply, your stock of the Pharmaceutical in New Zealand is insufficient to enable you to fully fill all orders as they are received (without restricting quantities that may be ordered).

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For the avoidance of doubt, references to your stock refer to stock physically held by you or on your behalf in New Zealand and do not include stock held in New Zealand by wholesalers or other parties;

Price means the price (in New Zealand dollars and exclusive of GST) at which the Pharmaceutical is to be supplied, or made available for sale and supply, by you to:

- (a) in relation to community supply, wholesalers and other such distributors, and at which the Pharmaceutical is to be subsidised by the Funder, being the price specified in your successful Tender Submission Form, unless there has been a subsequent price change in accordance with the terms of the Invitation, in which case the Price will be the price notified to you by PHARMAC upon acceptance of your Tender Bid; or
- (b) in relation to hospital supply, at a DHB Hospital's discretion, any Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding), being the price specified in your successful Tender Submission Form, unless there has been a subsequent price change in accordance with the terms of the Invitation, in which case the Price will be the price notified to you by PHARMAC upon acceptance of your Tender Bid;

PTAC means the Pharmacology and Therapeutics Advisory Committee;

Second Transition Period means, in relation to community supply, the period of three calendar months beginning on the day after the expiry of the First Transition Period (or such different or longer period as PHARMAC determines under clause 1.2 of Schedule Three);

Section B means the relevant section or sections of the Pharmaceutical Schedule relating to community pharmaceuticals;

Section H means the relevant section or sections of the Pharmaceutical Schedule relating to hospital pharmaceuticals;

Sole Supply Period means the period beginning on the day after the expiry of the Second Transition Period and ending on 30 June 2010;

Sole Supply Status means, in relation to community supply, the status of being the sole subsidised supplier of the particular Tender Item for the Sole Supply Period;

Start Date means:

- (a) in relation to a Tender Item for which your Tender Bid has been accepted unconditionally, the first day of the month following the date that represents:
 - (i) the Successful Tenderer Notification Date; plus
 - (ii) the Lead Time; or
- (b) in relation to a Tender Item for which your Tender Bid has received conditional acceptance, in terms of clause 7.4 of Schedule Three, the first day of the month following the date that represents:
 - (i) the date that such acceptance ceases to be conditional; plus
 - (ii) the Lead Time; or
- (c) such other date that is negotiated between you and PHARMAC under clause 1.6 of Schedule Three;

Schedule 1

Successful Tenderer Notification Date means the date on which PHARMAC notifies you, in relation to a Tender Item for which you have submitted a Tender Bid, that your Tender Bid has been accepted;

Tender Bid means the Offer Letter together with the Tender Submission Form submitted for a particular Tender Item, including the Lead Time, and includes a Community Tender Bid, a Hospital Tender Bid and a Combined Community/Hospital Tender Bid;

Tender Item means the form and strength of a Chemical Entity (or entities, if applicable) for which you may submit a Tender Bid;

Tender Submission Form means the form on which you must submit your bid for each Tender Item and which is attached to the Offer Letter, as set out in Schedule Four;

Transition Periods collectively refers to the First, and Second (if applicable), and Final Transition Periods;

Unit means an individual unit of a Tender Item (e.g. tablet, 1ml of an oral liquid, ampoule, syringe);

Unit Price means the relevant Price specified for a pack of that Tender Item in Section H of the Pharmaceutical Schedule, divided by the number of Units in the pack specified in the Pharmaceutical Schedule as being the listed pack size for that Tender Item (and where that Tender Item is not listed on the Pharmaceutical Schedule, the price and pack size in the most recent issue of the Pharmaceutical Schedule published prior to that Tender Item being delisted);

Unit Subsidy means the subsidy specified for a pack of that Tender Item in sections A to G of the Pharmaceutical Schedule, divided by the number of Units in the pack specified in the Pharmaceutical Schedule as being the subsidised pack size for that Tender Item (and where that Tender Item is not listed on the Pharmaceutical Schedule, the subsidy and pack size specified in the most recent issue of the Pharmaceutical Schedule published prior to that Tender Item being delisted); and

Unit Volume means, in relation to community supply, the approximate number of Units of the Tender Item subsidised by PHARMAC, and claimed for by community pharmacies, in one year, as specified in Schedule Two.

2. Interpretation

In the construction of this Invitation, unless the context otherwise requires:

- (a) a reference to a clause or a Schedule is a reference to a clause of, or a Schedule to, this Invitation;
- (b) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether before or after the date of this Agreement);
- (c) the singular includes the plural and vice versa;
- (d) the word person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, a state and an agency of state, in each case, whether or not having a separate legal personality;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes, (including, but not limited to, persons taking by novation) and permitted assignees;

Schedule 1

- (f) words importing one gender include the other genders;
- (g) headings in this Agreement are for convenience only and have no legal effect; and
- (h) unless the context requires otherwise, references to the **“listing”** of a Pharmaceutical:
 - (i) in relation to hospital supply, are to the listing of that Pharmaceutical in Section H of the Pharmaceutical Schedule and are deemed to include any written notification by PHARMAC of that Pharmaceutical being the subject of a national supply contract negotiated by PHARMAC on behalf of DHBs, where such written notification is in advance of the actual listing of that Pharmaceutical in Section H of the Pharmaceutical Schedule (and references to “list”, “listed”, “delist”, “delisted”, and “delisting” are to be interpreted accordingly);
 - (ii) in relation to community supply, are to the actual listing of that Pharmaceutical in sections A to G of the Pharmaceutical Schedule (and references to “list”, “listed”, “delist”, “delisted”, and “delisting” are to be interpreted accordingly).

Schedule 2: Products to be tendered

1. Information about Tender Items

1.1 List of Tender Items

This Schedule sets out the Tender Items and information about the Tender Items. While PHARMAC has taken all reasonable care in preparing the information contained in this Schedule, it accepts no liability for any errors or omissions in the information.

1.2 Patents

- (a) Where possible, PHARMAC has identified Tender Items that it understands may be the subject of a patent that it believes is due to expire after the Deadline.
- (b) Where PHARMAC has been advised of the existence of a process patent prior to sending out this Invitation, it has shown this in the attached list by the use of a + symbol.
- (c) However, PHARMAC makes no representation as to the patent status of the Tender Items and accepts no liability for any patent infringement that might occur as a result of this tender process or PHARMAC's acceptance of a Tender Bid, including infringement of process patents.

1.3 Unit Volume and market value figures

- (a) Except where indicated otherwise the Unit Volume figures, in relation to community supply, are based on the year ending 30 June 2006.
- (b) Market value figures, in relation to community supply, are expressed as the Unit Volume in the year ending 30 June 2006, multiplied by the Unit Subsidy as at 1 September 2006.
- (c) The figures referred to in paragraphs (a) and (b):
 - (i) are approximate and indicative only. PHARMAC makes no representation as to the accuracy of these figures or as to the level of sales or likely sales of any Tender Item. In particular, if these figures change at any time during the period from PHARMAC's pre-tender consultation until decisions have been made about the acceptance of Tender Bids for all Tender Items, PHARMAC is not obliged to notify you of any such change; and
 - (ii) do not include DHB Hospital volumes. For the avoidance of doubt, PHARMAC makes no representation as to the size of the DHB Hospital market for any Tender Item, in relation to hospital supply.
- (d) You acknowledge and agree that in submitting your Tender Bid you will rely on your own knowledge, skill and independent advice or assessment of the market size for any Tender Item and PHARMAC is to have no liability in that regard.

1.4 Special terms

Where there are any special terms relating to a particular Tender Item, those terms are indicated in the column entitled "Comments" in the list.

Schedule 2

1.5 Subsidies

- (a) The level at which each Tender Item, in relation to community supply, is specified in the attached list as being subsidised per Unit is as at 1 September 2006.
- (b) Subsidies of Tender Items, in relation to community supply, may change before a Tender Bid is accepted.
- (c) Where a * symbol is indicated next to the Unit Subsidy, there is no fully funded product available, in relation to community supply, for that Tender Item as at 1 September 2006.

1.6 DV Limits

Where there is a DV Limit relating to a particular Tender Item, in relation to hospital supply, that limit is indicated as a percentage amount in the column entitled "DV Limit" in the list.

1.7 Tender Items subject to sole supply arrangements

Where a Tender Item is underlined, that item is subject to a sole supply contract as at the date of this Invitation. Accordingly, the subsidy for those items is fixed until 30 June 2007 (unless otherwise indicated) and, for items that are the subject of a sole supply contract, the listing of a new brand, in relation to community supply, could only occur after that date.

1.8 Current restrictions

Where a # symbol is indicated, that Tender Item, in relation to community supply, is subject to restrictions or special criteria as specified in the Pharmaceutical Schedule.

1.9 Hospital only products

Where an H is indicated, you may submit a Tender Bid for Hospital Supply Status for that Tender Item.

1.10 Community only Products

Where a C is indicated, you may submit a Tender Bid for Sole Supply Status for that Tender Item.

1.11 Community and Hospital Products

Where a C and an H is indicated, you may submit a Tender Bid for Sole Supply Status and/or a Tender Bid for Hospital Supply Status for that Tender Item. You may also submit a Combined Community/Hospital Tender Bid in accordance with clause 2.5 of Schedule Three.

1.12 PCTs

Where a "PCT" is indicated, you may submit a Tender Bid for Hospital Supply Status for that Tender Item on the basis that, if PHARMAC accepts your Tender Bid, the Tender Item would be listed in Section H of the Pharmaceutical Schedule subject to clause 11 of Schedule Seven.

1.13 Capsule and tablet form

Where a Tender Item specifies either:

- (a) a capsule; or

Schedule 2

- (b) a tablet,

form of the Chemical Entity, your brand of the relevant Chemical Entity for which you submit a bid may be in either tablet or capsule form, provided that:

- (c) your brand of the relevant Chemical Entity is the same strength as the Tender Item; and
- (d) where the Tender Item specifies both the tablet and capsule form of that Chemical Entity as separate line items, you must submit a bid for the same form and strength as each line item in that Tender Item.

1.14 Pack size for use in DHB Hospitals

Where a Tender Item is specified as being available for a Tender Bid for Hospital Supply Status, it is the preference of DHB Hospitals that the pack size for such a Tender Item is:

- (a) 500 ml or less, where the Tender Item is in liquid form;
- (b) 200 tablets or capsules, where the Tender Item is in tablet or capsule form; and
- (c) 10 injections, where the Tender Item is in injection form.

Notwithstanding the preference of DHB Hospitals for Tender Items to be in pack sizes as specified in paragraphs (a) to (c) above, you may submit, and PHARMAC will consider and may accept, a Tender Bid for any pack size, including larger pack sizes, following its evaluation of Tender Bids under clause 5 of Schedule Three.

1.15 Pack size for oral contraceptives

Where an oral contraceptive is included in Schedule Two, 21 and 28 calendar packs would be considered as different Tender Items (where applicable).

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Acarbose							
Tab 50 mg	442,190	\$108,071	\$0.2444		C		
Tab 100 mg	144,791	\$49,866	\$0.3444		C		
Acetazolamide							
Sodium inj 500 mg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Aciclovir							
Eye oint 3%	19,016	\$158,593	\$8.3400		C		
Alfacalcidol							
Cap 0.25 mcg	145,999	\$38,427	\$0.2632		C		
Cap 1 mcg	40,602	\$35,722	\$0.8798		C		
Oral drops 2 mcg per ml	6,500	\$19,721	\$3.0340		C		
Alginic Acid							
Sodium alginate 225 mg and magnesium alginate 87.5 mg per sachet	1,591,777	\$238,767	\$0.1500		C		
Tab 500 mg	559,070			*	C		Additional additives would be accepted but needs to have sodium bicarbonate. Volume is aggregated with sodium alginate
Alprazolam							
Tab 250 mcg	263,259	\$12,557	\$0.0477	*	C		
Tab 500 mcg	236,270	\$22,540	\$0.0954	*	C		
Tab 1 mg	71,402	\$13,624	\$0.1908	*	C		
Amantadine Hydrochloride							
Cap 100 mg	403,748	\$321,706	\$0.7968		C H	1%	
Amiloride							
Tab 5 mg	90				C		Note this product has been recently discontinued
Amiodarone Hydrochloride							
Inj 50 mg per ml, 3 ml	1,063	\$6,467	\$6.0840		C H	1%	
Amitriptyline							
Oral liq 10 mg per 5 ml			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Amoxicillin							
<u>Cap 250 mg</u>	1,573,229	\$54,591	\$0.0347		C H	1%	
<u>Cap 500 mg</u>	5,336,385	\$295,636	\$0.0554		C H	1%	
Sachets 3 g			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Amphotericin B							
Lozenges 10 mg	216,184	\$63,342	\$0.2930		C		
Oral liq 100 mg per ml			\$0.0000		C		Not currently listed in the Pharmaceutical Schedule
Aprotinin							
Inj 10,000 mcg per ml, 50 ml	513	\$32,627	\$63.6000	*	C H	1%	
Inj 10,000 mcg per ml, 100 ml			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Inj 10,000 mcg per ml, 200 ml			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name								
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments		
Ascorbic Acid								
Tab 50 mg			\$0.0000		C	Not currently listed in the Pharmaceutical Schedule		
Aspirin								
Tab 75 mg - 150 mg	11,137,435	\$378,673	\$0.0340		C	Tender Bids would be accepted for a tablet (enteric coated or non-enteric coated) within this strength range		
Tab EC 300 mg	1,510,447	\$109,507	\$0.0725	*	C			
Tab 300 mg	465,925			*	C	Note this product has been recently discontinued		
<u>Tab dispersible or soluble 300 mg</u>	11,616,126	\$261,363	\$0.0225		C	Tender Bids would be accepted for either a dispersible or soluble tablet		
Tab EC 650 mg	1,045	\$72	\$0.0688		C			
Atorvastatin								
Tab 10 mg	1,874,288	\$251,717	\$0.1343	*	+ C			
Tab 20 mg	3,523,151	\$689,481	\$0.1957	*	+ C			
Tab 40 mg	6,024,159	\$1,634,354	\$0.2713	*	+ C			
Auranofin								
Tab 3 mg	15,691	\$18,042	\$1.1498	*	C			
Azathioprine								
Inj 50 mg			\$46.3300	*	C H	1%		
Tab 50 mg	3,353,860	\$838,465	\$0.2500		C H	1%		
Beclomethasone Dipropionate								
Aerosol inhaler, 50 mcg per dose	2,246,400	\$95,921	\$0.0427		C			
Aerosol inhaler, 100 mcg per dose	13,335,200	\$833,450	\$0.0625		C			
Aerosol inhaler, 250 mcg per dose	7,141,800	\$809,880	\$0.1134	*	C			
Benzotropine Mesylate								
Tab 2 mg	960,283	\$116,002	\$0.1208		C H	1%		
Benzympenicillin Sodium (Penicillin G)								
Inj 600 mg	14,517	\$10,147	\$0.6990		C H	1%		
Betamethasone Valerate with Fusidic Acid								
Crn 0.1% with fusidic acid 2%	395,055	\$91,929	\$0.2327	*	C			
Betaxolol Hydrochloride								
<u>Eye drops 0.25%</u>	95,080	\$224,389	\$2.3600		C			
<u>Eye drops 0.5%</u>	11,300	\$16,950	\$1.5000		C			
Bisacodyl								
Suppos 5 mg	10,907	\$4,272	\$0.3917	*	C H	1%		
<u>Suppos 10 mg</u>	226,857	\$74,863	\$0.3300		C H	1%		
<u>Tab 5 mg</u>	1,283,466	\$35,680	\$0.0278		C H	1%		
Brinzolamide								
Eye Drops 1%	78,120	\$152,646	\$1.9540		C			
Budesonide								
Metered aqueous nasal spray, 50 mcg per dose	4,287,600	\$50,594	\$0.0118		C H	1%		
Metered aqueous nasal spray, 100 mcg per dose	19,343,600	\$251,467	\$0.0130		C H	1%		
Bumetanide								
Inj 500 mcg per ml, 4 ml	13	\$21	\$1.5900		C H	1%		

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Bumetanide							
Tab 1 mg	734,727	\$120,201	\$0.1636	C H	1%		
Bupivacaine Hydrochloride							
Inf 0.125%, 100 ml theatre pack				H	1%		
Inf 0.125%, 200 ml theatre pack				H	1%		
Inf 0.25%, 100 ml theatre pack				H	1%		
Inj 0.375%, 20 ml theatre pack				H	1%		
<u>Inj 0.5%, 4 ml</u>			\$5.9900	C H	1%		
Inj 0.5%, 4 ml theatre pack				H	1%		
<u>Inj 0.5%, 8% glucose, 4 ml</u>			\$5.0000	C H	1%		
Bupivacaine Hydrochloride with Adrenaline							
Inj 0.25% with 1:400,000 of adrenaline, 10 ml				H	1%		
Inj 0.5% with 1:200,000 of adrenaline, 10 ml				H	1%		
Inj 0.5% with 1:200,000 of adrenaline, 20 ml				H	1%		
Calcitonin							
Inj 100 iu per ml, 1 ml	1,196	\$23,920	\$20.0000	C H	1%		
Inj 160 iu per ml, 2 ml				H	1%		
Inj 200 iu per ml, 2 ml				H	1%		
Calcitriol							
Oral liq 1 mcg per ml	4,900	\$19,306	\$3.9400	C H	1%		
Calcium Carbonate with Aminoacetic Acid							
Tab 420 mg with aminoacetic acid 180 mg	1,470,612	\$44,118	\$0.0300 *	C			
Calcium Chloride							
Inj 10%, 10 ml				H	1%		
Calcium Polystyrene Sulphonate							
Powder	304,890	\$143,847	\$0.4718	C H	1%		
Captopril							
Oral liq 5 mg per ml	178,410	\$95,860	\$0.5373	C H	1%		
<u>Tab 12.5 mg</u>	823,607	\$16,225	\$0.0197	C H	1%		
<u>Tab 25 mg</u>	1,249,577	\$31,864	\$0.0255	C H	1%		
<u>Tab 50 mg</u>	870,949	\$31,267	\$0.0359	C H	1%		
Captopril with Hydrochlorothiazide							
Tab 25 mg with hydrochlorothiazide 15 mg			\$0.0000	C H	1%		Not currently listed in the Pharmaceutical Schedule
Tab 50 mg with hydrochlorothiazide 25 mg			\$0.0000	C H	1%		Not currently listed in the Pharmaceutical Schedule
Carbachol							
Eye drops 1.5%	2,100	\$955	\$0.4547	C			
Eye drops 3%	5,745	\$2,677	\$0.4660	C			
Carbimazole							
Tab 5 mg	2,173,613	\$234,750	\$0.1080	C			
Cefaclor Monohydrate							
<u>Cap 250 mg</u>	2,710,022	\$783,196	\$0.2890	C H	1%		
<u>Grans for oral liq 125 mg per 5 ml</u>	9,506,497	\$372,655	\$0.0392	C H	1%		

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Cefamandole Nafate							
Inj 500 mg			\$3.6000	*	C H	1%	
Inj 1 g			\$4.3000		C H	1%	
Cephalexin Monohydrate							
Cap 250 mg	536	\$161	\$0.3000		C H	1%	Note this product has recently been discontinued
Grans for oral liq 125 mg per 5 ml			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Grans for oral liq 250 mg per 5 ml			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Tab 500 mg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Cephalothin Sodium							
Inj 1 g					H	1%	
Cephradine							
Cap 250 mg	8,709	\$5,262	\$0.6042		C H	1%	
Cap 500 mg	31,078	\$25,705	\$0.8271		C H	1%	
Inj 500 mg	2	\$7	\$3.3560		C H	1%	
Inj 1 g	27	\$171	\$6.3180		C H	1%	
Cetomacrogol							
Cream BP	8,633,048	\$48,345	\$0.0056	*	C		
Chloramphenicol Sodium Succinate							
Inj 1.2 g			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Chloroquine							
Oral liq			\$0.0000		C		Not currently listed in the Pharmaceutical Schedule
Tab 200 mg - 250 mg			\$0.0000		C		Not currently listed in the Pharmaceutical Schedule. Bids would be accepted for a tablet within this strength range
Chlorpromazine Hydrochloride							
Oral liq 100 mg per 5 ml	264,015				C H	1%	Note this product has been recently discontinued
Inj 25 mg per ml, 2 ml	2,498	\$6,410	\$2.5660		C H	1%	
Tab 10 mg	139,845	\$17,285	\$0.1236		C H	1%	
Tab 25 mg	1,039,252	\$135,311	\$0.1302		C H	1%	
Tab 100 mg	389,043	\$119,086	\$0.3061		C H	1%	
Cholestyramine with Aspartame							
Sachets 4 g with aspartame	152,721	\$58,798	\$0.3850	*	C		
Choline Salicylate with Cetalkonium Chloride							
Adhesive gel 8.7% with cetalkonium chloride 0.01%	109,305	\$15,008	\$0.1373	*	C		
Ciprofloxacin							
Eye Drops 0.3%	14,305	\$35,562	\$2.4860		C		
Clarithromycin							
Grans for oral liquid 125 mg per 5 ml	18,001	\$5,946	\$0.3303		C H	1%	
<u>Tab 250 mg</u>	64,968	\$45,711	\$0.7036		C H	1%	
Tab 500 mg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Clobetasone Butyrate							
Crm 0.05% (pack size 30 g or less)	800,150	\$143,467	\$0.1793		C H	1%	
Crm 0.05% (pack size greater than 30 g)	649,373	\$104,744	\$0.1613	*	C H	1%	
Clonazepam							
Inj 1 mg per ml, 1 ml	13,680	\$25,609	\$1.8720		C H	1%	
Oral drops 2.5 mg per ml	86,630	\$63,933	\$0.7380		C H	1%	
Clotrimazole							
Pessaries 100 mg with applicator			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Pessaries 500 mg with applicator			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Soln 1%	8,740	\$1,905	\$0.2180	*	C H	1%	
<u>Vaginal crm 1% with applicators</u>	1,298,395	\$57,908	\$0.0446		C H	1%	
<u>Vaginal crm 2% with applicators</u>	587,500	\$93,765	\$0.1596		C H	1%	
Codeine Phosphate							
<u>Tab 15 mg</u>	2,251,147	\$157,580	\$0.0700		C H	1%	
<u>Tab 30 mg</u>	11,650,396	\$1,165,040	\$0.1000		C H	1%	
<u>Tab 60 mg</u>	1,310,289	\$262,058	\$0.2000		C H	1%	
Colchicine							
Tab 500 mcg - 600 mcg	1,088,715	\$104,517	\$0.0960		C H	1%	Bids would be accepted for a tablet within this strength range
Colestipol Hydrochloride							
Sachets 5 g	118,541	\$45,638	\$0.3850		C		
Colistin Sulphomethate							
Inj 150 mg	7,215	\$357,431	\$49.5400		C H	1%	
Compound Electrolytes							
<u>Powder for soln for oral use</u>	499,057	\$142,730	\$0.2860		C		
Cortisone Acetate							
Tab 5 mg	134,882				C H	1%	Note this product has recently been discontinued
Tab 25 mg	8,337				C H	1%	Note this product has recently been discontinued
Crotamiton							
Crm 10%	461,060	\$98,206	\$0.2130	*	C H	1%	
Lotn 10%	7,901	\$1,195	\$0.1512	*	C H	1%	
Cyclophosphamide							
Tab 50 mg	90,939	\$46,761	\$0.5142		C H PC	1%	
Cyproterone Acetate With Ethinyloestradiol							
<u>Tab 2 mg with ethinyloestradiol 35 mcg and 7 inert tabs</u>	8,360,891	\$627,067	\$0.0750		C		
Danthron With Poloxamer							
<u>Oral liq 25 mg with poloxamer 200 mg per 5 ml</u>	2,768,544				C		Note this product has been recently discontinued
<u>Oral liq 75 mg with poloxamer 1 g per 5 ml</u>	2,811,337				C		Note this product has been recently discontinued
Desferrioxamine Mesylate							
<u>Inj 500 mg</u>	29,297	\$290,040	\$9.9000		C H	10%	
Inj 1 g			\$0.0000		C H	10%	Not currently listed in the Pharmaceutical Schedule

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Desmopressin							
Inj 4 mcg per ml, 1 ml	1,540	\$10,346	\$6.7180	C H	1%		
Inj 15 mcg per ml, 1 ml				H	1%		
Nasal drops 100 mcg per ml	6,115	\$95,467	\$15.6120	C H	1%		
Tab 100 mcg			\$0.0000	C			Not currently listed in the Pharmaceutical Schedule
Tab 200 mcg			\$0.0000	C H	1%		Not currently listed in the Pharmaceutical Schedule
Dexamethasone							
Tab 0.5 mg			\$0.0000	C H	1%		Not currently listed in the Pharmaceutical Schedule
Tab 1 mg	312,228	\$50,206	\$0.1608	C H	1%		
Tab 4 mg	533,348	\$330,089	\$0.6189	C H	1%		
Dexamethasone with Framycetin and Gramicidin							
Ear/Eye drops 500 mcg with framycetin sulphate 5 mg and gramicidin 50 mcg per ml	799,920	\$449,955	\$0.5625	*	C		
Dexamethasone with Neomycin and Polymyxin B Sulphate							
Eye drops 0.1% with neomycin sulphate 0.35% and polymyxin B sulphate 6,000 u per ml	96,240	\$86,616	\$0.9000	C			
Eye oint 0.1% with neomycin sulphate 0.35% and polymyxin B sulphate 6,000 u per g	11,500	\$17,710	\$1.5400	C			
Dexamphetamine Sulphate							
Tab 5 mg	547,173	\$103,963	\$0.1900	C H	1%		
Dextrose with Electrolytes							
Soln with electrolytes	63,612,682	\$445,289	\$0.0070	C			Sole supply would only be awarded to a range of flavours
Diazepam							
Rectal tubes 5 mg	16,171	\$85,706	\$5.3000	C H	1%		
Rectal tubes 10 mg	17,218	\$111,504	\$6.4760	C H	1%		
Diclofenac Sodium							
Eye drops 1 mg per ml	23,480	\$64,805	\$2.7600	C H	1%		Single dose presentation would not be a DV Pharmaceutical
Inj 25 mg per ml, 3 ml	20,358	\$48,859	\$2.4000	C H	1%		
Suppos 12.5 mg	5,494	\$1,016	\$0.1850	C H	1%		
Suppos 25 mg	10,758	\$2,388	\$0.2220	C H	1%		
Suppos 50 mg	66,934	\$25,703	\$0.3840	C H	1%		
Suppos 100 mg	172,663	\$109,814	\$0.6360	C H	1%		
Dicyclomine Hydrochloride							
Tab 10 mg	808,027	\$39,997	\$0.0495	C			
Digoxin							
Oral liq 50 mcg per ml	26,054	\$3,523	\$0.1352	C			
Tab 62.5 mcg	10,164,280	\$264,271	\$0.0260	C			
Tab 250 mcg	2,439,411	\$97,089	\$0.0398	C			
Disulfiram							
Tab 200 mg	153,802	\$37,374	\$0.2430	C H	1%		
Docetaxel							
Inj 20 mg				+ H PC	1%		
Inj 40 mg				+ H PC	1%		

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name								
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments		
Docetaxel								
Inj 80 mg					+ H PC 1%			
Inj 120 mg					+ H PC 1%			
Docosate Sodium with Sennosides								
<u>Tab 50 mg with total sennosides 8 mg</u>	16,791,964	\$669,999	\$0.0399		C			
Domperidone								
Tab 10 mg	5,331,453	\$207,927	\$0.0390	*	C			
Dornase Alfa								
Nebuliser soln, 2.5 mg per 2.5 ml ampoule	9,906	\$485,889	\$49.0500		C H 1%			
Doxazosin Mesylate								
Tab 1 mg			\$0.0000		C H 1%			Not currently listed in the Pharmaceutical Schedule
<u>Tab 2 mg</u>	7,046,752	\$372,773	\$0.0529		C H 1%			
<u>Tab 4 mg</u>	6,159,178	\$420,056	\$0.0682		C H 1%			
Doxepin Hydrochloride								
Cap 10 mg	1,781,813	\$88,912	\$0.0499		C H 1%			
Cap 25 mg	2,260,153	\$94,700	\$0.0419	*	C H 1%			
Cap 50 mg	705,299	\$49,300	\$0.0699		C H 1%			
Cap 75 mg	368,426	\$40,490	\$0.1099		C H 1%			
Econazole Nitrate								
Vaginal crm 1% with applicator(s)			\$0.0000		C			Not currently listed in the Pharmaceutical Schedule
Vaginal crm 1.5% with applicator(s)			\$0.0000		C			Not currently listed in the Pharmaceutical Schedule
Enoxaparin Sodium								
Inj 20 mg per 0.2 ml					H 1%			
Inj 40 mg per 0.4 ml					H 1%			
Inj 60 mg per 0.6 ml					H 1%			
Inj 80 mg per 0.8 ml					H 1%			
Inj 100 mg per ml, 1 ml					H 1%			
Inj 120 mg per 0.8 ml					H 1%			
Inj 150 mg per ml, 1 ml					H 1%			
Ergotamine Tartrate with Cyclizine								
Tab 2 mg with caffeine 100 mg and cyclizine hydrochloride 50 mg			\$0.0000		C H 1%			Not currently listed in the Pharmaceutical Schedule
Ergotamine Tartrate with Diphenhydramine								
Cap 1 mg with caffeine citrate 100 mg and diphenhydramine hydrochloride 25 mg			\$0.0000		C H 1%			Not currently listed in the Pharmaceutical Schedule
Erythromycin Ethyl Succinate								
Drops 100 mg per 2.5 ml			\$0.0000		C H 1%			Not currently listed in the Pharmaceutical Schedule
Erythromycin Lactobionate								
Inj 1 g	288	\$1,872	\$6.5000		C H 1%			
Erythromycin Stearate								
Tab 250 mg	261,164	\$39,044	\$0.1495	*	C H 1%			
Tab 500 mg	158,799	\$47,481	\$0.2990	*	C H 1%			

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name	Units	Cost	Unit Subsidy	DV Limit	Comments
Line Item					
Ethambutol					
Tab 100 mg			\$0.0000	C H 1%	Not currently listed in the Pharmaceutical Schedule
Ethinylestradiol with Levonorgestrel					
Tab 20 mcg with levonorgestrel 100 mcg and 7 inert tab	7,619,656	\$600,429	\$0.0788 *	C	
Tab 30 mcg with levonorgestrel 150 mcg	474,356	\$49,855	\$0.1051 *	C	
Tab 30 mcg with levonorgestrel 150 mcg and 7 inert tab	26,805,920	\$2,112,306	\$0.0788	C	
Tab ethinylestradiol 30 mcg with levonorgestrel 50 mcg (6) and ethinylestradiol 40 mcg with levonorgestrel 75 mcg (5), and ethinylestradiol 30 mcg with levonorgestrel 125 mcg (10) and 7 inert tab	3,075,844	\$242,377	\$0.0788	C	
Tab 50 mcg with levonorgestrel 125 mcg and 7 inert tab	477,887	\$53,762	\$0.1125	C	
Ethinylestradiol with Norethisterone					
Tab 35 mcg with norethisterone 500 mcg	61,189	\$6,431	\$0.1051 *	C	
Tab 35 mcg with norethisterone 1 mg	52,662	\$5,535	\$0.1051 *	C	
Tab 35 mcg with norethisterone 1 mg and 7 inert tab	590,461	\$46,528	\$0.0788 *	C	
Tab ethinylestradiol 35 mcg with norethisterone 500 mcg (7) and tab ethinylestradiol 35 mcg with norethisterone 1 mg (9) and tab ethinylestradiol 35 mcg with norethisterone 500 mcg (5) and 7 inert	46,256	\$3,645	\$0.0788 *	C	
Etoposide Phosphate					
Inj 100 mg (of etoposide base)				H PC 1%	
Ferrous Salts					
<u>Oral liquid</u>	3,372,343	\$107,241	\$0.0318	C H 1%	Any iron salt would be considered. Dose range of 30 - 100 mg elemental iron per 5 ml required.
<u>Tab</u>	5,744,010			C H 1%	Any iron salt and additives would be considered. Dose range of 60 - 105 mg elemental iron per tablet required (short-acting or long-acting).
Ferrous Salts with Folic Acid					
Tab long-acting with folic acid	1,055,195	\$63,312	\$0.0600	C H 1%	Any iron salt would be considered. Dose range of 60 - 110 mg elemental iron required.
Fexofenadine Hydrochloride					
Tab 60 mg	79,806	\$17,318	\$0.2170 *	C H 1%	
Tab 120 mg	130,364	\$61,793	\$0.4740 *	C H 1%	
Tab 180 mg				H 1%	
Flecainide Acetate					
Cap long-acting 100 mg	610,082	\$870,770	\$1.4273	C H 1%	
Cap long-acting 200 mg	431,655	\$1,088,202	\$2.5210	C H 1%	
Inj 10 mg per ml, 15 ml	101	\$990	\$9.8040	C H 1%	
Oral liq				C H 1%	Not currently listed on the Pharmaceutical Schedule
Tab 50 mg	244,838	\$174,741	\$0.7137	C H 1%	
Tab 100 mg	283,045	\$356,778	\$1.2605	C H 1%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Fludrocortisone Acetate							
Tab 100 mcg	783,128	\$59,674	\$0.0762		C H	1%	
Flumetasone Pivalate							
Ear drops 0.02% with clioquinol 1%	108,636	\$64,606	\$0.5947	*	C		
Fluocortolone Caproate with Fluocortolone Pivalate and Cinchocaine							
<u>Oint 950 mcg, with fluocortolone pivalate 920 mcg, and cinchocaine hydrochloride 5 mg per g</u>	1,528,080	\$359,099	\$0.2350		C H	1%	All corticosteroids ointments in the antihemorrhoidals group are considered as one Tender Item
<u>Suppos 630 mcg, with fluocortolone pivalate 610 mcg, and cinchocaine hydrochloride 1 mg</u>	482,912	\$118,700	\$0.2458		C H	1%	All corticosteroids suppositories in the antihemorrhoidals group are considered as one Tender Item
Fluorouracil Sodium							
Crn 5%	251,320	\$300,202	\$1.1945	*	C H	1%	
Inj 25 mg per ml, 100 ml					H PC	1%	
Inj 50 mg per ml, 10 ml					H PC	1%	
Inj 50 mg per ml, 20 ml					H PC	1%	
Inj 50 mg per ml, 50 ml					H PC	1%	
Inj 50 mg per ml, 100 ml					H PC	1%	
Fluoxetine Hydrochloride							
<u>Cap 20 mg</u>	16,026,698	\$846,210	\$0.0528		C H	1%	
<u>Tab dispersible 20 mg, scored</u>	712,908	\$140,229	\$0.1967		C H	1%	
Folic Acid							
Inj 15 mg per ml 1 ml			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Frusemide							
Inf 10 mg per ml, 25 ml	19	\$183	\$9.6280		C H	1%	
Fusidic Acid							
<u>Crn 2 %</u>	946,980	\$315,060	\$0.3327		C H	1%	
Eye drops 1%	230,445	\$207,401	\$0.9000	*	C H	1%	
Inj 500 mg sodium fusidate per 10 ml			\$12.8700	*	C H	1%	
<u>Oint 2 %</u>	653,985	\$217,581	\$0.3327		C H	1%	
Tab 250 mg	39,019	\$112,180	\$2.8750		C H	1%	
Gemcitabine Hydrochloride							
Inj 200 mg					H	1%	
Inj 1 g					H	1%	
Gentamicin Sulphate							
Inj 10 mg per ml, 2 ml					H	1%	
Powder					H	1%	
Gestrinone							
Cap 2.5 mg	10,646	\$135,564	\$12.7338		C		
Glycerol							
Suppos 3 g or less	59,108	\$15,368	\$0.2600		C H	1%	
Glyceryl Trinitrate							
Tab 600 mcg	3,393				C H	1%	Note this product has been recently discontinued
<u>TDDS 5 mg</u>	228,843	\$140,349	\$0.6133		C H	1%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name						
Line Item	Units	Cost	Unit Subsidy	DV Limit	Comments	
Glyceryl Trinitrate						
TDDS 10 mg	85,509	\$69,835	\$0.8167	C H	1%	
Haloperidol						
Oral liq 2 mg per ml	61,104	\$11,035	\$0.1806	C		
Tab 500 mcg	1,150,142	\$56,702	\$0.0493	C		
Tab 1.5 mg	291,764	\$21,736	\$0.0745	C		
Tab 5 mg	278,695	\$65,465	\$0.2349	C		
Hydrocortisone						
Crm 0.5% (pack size 30 g or less)			\$0.0000	C		Not currently listed in the Pharmaceutical Schedule
Crm 0.5% (pack size greater than 30 g)			\$0.0000	C		Not currently listed in the Pharmaceutical Schedule
Crm 1% (pack size 30 g or less)	29,257,598	\$713,885	\$0.0244	C		Volume is aggregated for all pack sizes of hydrocortisone cream
Crm 1% (pack size greater than 30 g)	29,257,598	\$713,885	\$0.0244	C		Volume is aggregated for all pack sizes of hydrocortisone cream
Hydrocortisone Butyrate						
Crm 0.1% (pack size 30 g or less)	3,241,720	\$540,395	\$0.1667	C		Volume is aggregated for all pack sizes of hydrocortisone butyrate cream
Crm 0.1% (pack size greater than 30 g)	3,241,720	\$540,395	\$0.1667	C		Volume is aggregated for all pack sizes of hydrocortisone butyrate cream
Lipocream 0.1% (pack size 30 g or less)	13,893,509	\$2,316,048	\$0.1667	C		Volume is aggregated for all pack sizes of hydrocortisone butyrate lipocream
Lipocream 0.1% (pack size greater than 30 g)	13,893,509	\$2,316,048	\$0.1667	C		Volume is aggregated for all pack sizes of hydrocortisone butyrate lipocream
Milky Emulsion 0.1% (pack size 30 g or less)	1,781,780	\$297,023	\$0.1667	C		Volume is aggregated for all pack sizes of hydrocortisone butyrate milky emulsion
Milky Emulsion 0.1% (pack size greater than 30 g)	1,781,780	\$297,023	\$0.1667	C		Volume is aggregated for all pack sizes of hydrocortisone butyrate milky emulsion
Oint 0.1% (pack size 30 g or less)			\$0.0000	C		Not currently listed in the Pharmaceutical Schedule
Oint 0.1% (pack size greater than 30 g)	1,064,200	\$159,630	\$0.1500	C		
Scalp lotn 0.1%	4,835,750	\$346,240	\$0.0716	C		
Hydrocortisone Butyrate with Chlorquinaldol						
Crm 0.1% with chlorquinaldol 3%	141,870	\$33,013	\$0.2327	C		
Hydrocortisone with Cinchocaine						
Oint 5 mg with cinchocaine hydrochloride 5 mg per g			\$0.0000	C H	1%	Not currently listed in the Pharmaceutical Schedule. All corticosteroids ointment in the antihæmmorrhoidals group are considered as one Tender Item
Suppos 5 mg with cinchocaine hydrochloride 5 mg per g			\$0.0000	C H	1%	Not currently listed in the Pharmaceutical Schedule. All corticosteroids suppositories in the antihæmmorrhoidals group are considered as one Tender Item
Hydrocortisone with Lignocaine, Aluminium and Zinc						
Oint 0.25% with lignocaine hydrochloride 5% aluminium subacet 3.5% and zinc oxide 18%			\$0.0000	C H	1%	Not currently listed in the Pharmaceutical Schedule. All corticosteroids ointment in the antihæmmorrhoidals group are considered as one Tender Item

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name						
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments
Hydrocortisone with Lignocaine, Aluminium and Zinc						
Suppos 0.25% with lignocaine hydrochloride 5% aluminium subacet 3.5% and zinc oxide 18%			\$0.0000		C H 1%	Not currently listed in the Pharmaceutical Schedule. All corticosteroids suppositories in the antihemorrhoidals group are considered as one Tender Item
Hydrocortisone with Natamycin and Neomycin						
Crms 1% with natamycin 1% and neomycin sulphate 0.5%	1,387,335	\$322,833	\$0.2327		C	
Oint 1% with natamycin 1% and neomycin sulphate 0.5%	571,740	\$133,044	\$0.2327		C	
Hydroxychloroquine Sulphate						
Tab 200 mg	1,873,416	\$529,427	\$0.2826		C H 1%	
Ibuprofen						
<u>Oral liq 100 mg per 5 ml</u>	17,004,662	\$297,582	\$0.0175		C H 1%	
Indomethacin						
Cap long-acting 75 mg	658,049	\$82,256	\$0.1250		C H 1%	
Suppos 100 mg	51,973	\$20,789	\$0.4000		C H 1%	
Ipratropium Bromide						
Aqueous nasal spray, 0.03%	527,835	\$414,878	\$0.7860		C	
<u>Nebuliser soln, 250 mcg per 1 ml</u>	129,990	\$35,747	\$0.2750		C H 1%	
<u>Nebuliser soln, 500 mcg per 2 ml</u>	621,718	\$202,058	\$0.3250		C H 1%	
Isoniazid						
Tab 100 mg with rifampicin 150 mg	26,488	\$23,850	\$0.9004		C H 1%	
Tab 150 mg with rifampicin 300 mg	102,637	\$184,305	\$1.7957		C H 1%	
Itraconazole						
Cap 100 mg	719,317	\$1,778,655	\$2.4727		C H 1%	
Ketoconazole						
<u>Tab 200 mg</u>	24,564	\$31,213	\$1.2707		C H 1%	
Ketorolac						
Inj 10 mg per ml			\$0.0000		C H 1%	Not currently listed in the Pharmaceutical Schedule
Tab 10 mg			\$0.0000		C H 1%	Not currently listed in the Pharmaceutical Schedule
Ketotifen						
Oral liq 1 mg per 5 ml	5,959,179	\$146,000	\$0.0245	*	C H 1%	
Lactulose						
<u>Oral liq 10 g per 15 ml</u>	149,207,424	\$984,769	\$0.0066		C H 1%	
Levobunolol						
Eye drops 0.25%	35,230	\$49,322	\$1.4000		C H 1%	
Eye drops 0.5 %	31,370	\$43,918	\$1.4000		C H 1%	
Levocabastine						
Eye drops 0.5 mg per ml	107,696	\$234,508	\$2.1775	*	C	
Levonorgestrel						
Tab 30 mcg	1,227,530	\$96,729	\$0.0788	*	C H 1%	
Lignocaine Hydrochloride						
<u>Inj 0.5%, 5 ml</u>	11,607	\$10,446	\$0.9000		C H 1%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Lignocaine Hydrochloride							
<u>Inj 1%, 5 ml</u>	18,078	\$15,186	\$0.8400		C		
<u>Inj 1%, 20 ml</u>	1,314	\$6,176	\$4.7000		C		
Inj twin pack 100 mg per 5 ml			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Pump spray 10%, 50 ml CFC-free					H	1%	
Lignocaine Hydrochloride with Adrenaline							
Inj 1% with 1:100,000 of adrenaline, 5 ml					H	1%	
Inj 1% with 1:200,000 of adrenaline, 20 ml					H	1%	
Inj 2% with 1:200,000 of adrenaline, 20 ml					H	1%	
Lignocaine with Prilocaine Hydrochloride							
<u>Crn 2.5% with prilocaine hydrochloride 2.5%</u>	3,450	\$5,117	\$1.4833		C H	1%	
<u>Crn 2.5% with prilocaine hydrochloride 2.5% (5 g tubes)</u>	1,324	\$11,916	\$9.0000		C H	1%	
Liothyronine							
Tab 20 mcg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Lisuride Hydrogen Maleate							
Tab 200 mcg	205,097	\$188,012	\$0.9167		C		
Lodoxamide trometamol							
Eye drops 0.1%	150,010	\$130,659	\$0.8710		C		
Loperamide Hydrochloride							
<u>Tab 2 mg</u>	825,131	\$24,259	\$0.0294		C		
Loratadine							
<u>Oral liq 1 mg per ml</u>	3,263,182	\$128,896	\$0.0395		C H	1%	
<u>Tab 10 mg</u>	8,227,571	\$551,247	\$0.0670		C H	1%	
Magnesium Hydroxide							
Mixture BP			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Tab 311 mg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule. A 10% variance (plus or minus) for this strength would be considered
Malathion							
<u>Liq 0.5%</u>	6,042,490	\$175,232	\$0.0290		C		
Maldison							
<u>Shampoo 1%</u>	324,720	\$30,946	\$0.0953		C		
Medroxyprogesterone Acetate							
<u>Inj 150 mg per ml, 1 ml</u>	151,520	\$1,219,736	\$8.0500		C		
Tab 2.5 mg	195,061	\$13,459	\$0.0690		C H	1%	
Tab 5 mg	623,385	\$85,715	\$0.1375		C H	1%	
Tab 10 mg	768,502	\$193,893	\$0.2523		C H	1%	
Tab 100 mg	55,981	\$58,366	\$1.0426		C H	1%	
Tab 200 mg	330	\$859	\$2.6018	*	C H	1%	
Mefenamic Acid							
Cap 250 mg	222,078	\$8,328	\$0.0375	*	C H	1%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Megestrol Acetate							
Tab 160 mg	51,274	\$126,903	\$2.4750		C H 1%		
Mercaptopurine							
Tab 10 mg					H PC 1%	Not currently listed in the Pharmaceutical Schedule	
Tab 50 mg					H PC 1%		
Meropenem							
Inj 500 mg					H 1%		
Inj 1 g					H 1%		
Mesalazine							
Suppos 500 mg	143,553	\$200,615	\$1.3975		C H 1%		
Tab 400 mg	1,475,327	\$1,009,124	\$0.6840		C H 1%		
Mesna							
Inj 100 mg per ml, 4 ml					H PC 1%		
Inj 100 mg per ml, 10 ml					H PC 1%		
Tab 400 mg					H PC 1%		
Tab 600 mg					H PC 1%		
Metaraminol Tartrate							
Inj 10 mg per ml, 1 ml					H 1%		
Methadone Hydrochloride							
<u>Tab 5 mg</u>	1,623,990	\$451,469	\$0.2780		C H 1%		
Methotrimeprazine							
Inj 25 mg per ml, 1 ml	21,262	\$156,658	\$7.3680		C H 1%		
Tab 25 mg	483,369	\$81,834	\$0.1693		C H 1%		
Tab 100 mg	86,129	\$37,862	\$0.4396		C H 1%		
Methylcellulose							
Powder BP	11,400	\$2,020	\$0.1772		C		
Metoclopramide Hydrochloride							
Oral liq 5 mg per 5 ml	783,523	\$21,469	\$0.0274	*	C H 1%		
Metoprolol Tartrate							
Inj 1 mg per ml 5 ml	1,777	\$8,558	\$4.8160	*	C H 1%		
Tab 12.5 mg			\$0.0000		C H 1%	Not currently listed in the Pharmaceutical Schedule	
Tab 25 mg			\$0.0000		C H 1%		Not currently listed in the Pharmaceutical Schedule
Tab 50 mg	425,461	\$63,819	\$0.1500	*	C H 1%		
Tab 100 mg	235,954	\$85,722	\$0.3633		C H 1%		
Metronidazole							
Oral liq benzoate 200 mg per 5 ml	190,281	\$33,889	\$0.1781	*	C H 1%		
Suppos 500 mg	2,514	\$5,594	\$2.2250		C H 1%		
Suppos 1 g	2,734	\$8,279	\$3.0280		C H 1%		
Miconazole							
<u>Oral gel 20 mg per g</u>	776,440	\$173,690	\$0.2237		C H 1%		
Miconazole Nitrate							
Lotn 2%	14,040	\$2,040	\$0.1453	*	C H 1%		
Tincture 2%	26,700	\$3,880	\$0.1453	*	C H 1%		

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name								
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments		
Miconazole Nitrate								
Vaginal crm 2% with applicator	440,800	\$30,327	\$0.0688	*	C H	1%		
Mitozantrone								
Inj 2 mg per ml, 5 ml					H PC	1%		
Inj 2 mg per ml, 10 ml					H PC	1%		
Morphine Sulphate								
Suppos 5 mg	113	\$167	\$1.4783		C H	1%		
Suppos 10 mg	37	\$59	\$1.5950		C H	1%		
Suppos 20 mg	1,208	\$2,045	\$1.6925		C H	1%		
Suppos 30 mg	3,256	\$8,517	\$2.6158		C H	1%		
Tab long-acting 10 mg	734,376	\$132,188	\$0.1800		C H	1%		
Tab long-acting 30 mg	343,031	\$123,491	\$0.3600		C H	1%		
Tab long-acting 60 mg	189,141	\$136,182	\$0.7200		C H	1%		
Tab long-acting 100 mg	252,178	\$214,351	\$0.8500		C H	1%		
Tab long-acting 200 mg					C H	1%		Not currently listed on the Pharmaceutical Schedule
Mupirocin								
Nasal oint 2%					H	1%		
Oint 2%	1,489,620	\$655,433	\$0.4400	*	C H	1%		
Nadolol								
<u>Tab 40 mg</u>	1,965,446	\$294,227	\$0.1497		C H	1%		
<u>Tab 80 mg</u>	605,346	\$134,326	\$0.2219		C H	1%		
Naloxone Hydrochloride								
Inj 20 mcg per ml, 2 ml					C H	1%		Not currently listed in the Pharmaceutical Schedule. Min-i-jet would not be considered a DV Pharmaceutical
Naltrexone hydrochloride								
Tab 50 mg	47,321	\$283,926	\$6.0000		C H	1%		
Naproxen Sodium								
Tab 275 mg	1,416,899	\$90,682	\$0.0640		C H	1%		
Tab 550 mg	2,940,828	\$376,426	\$0.1280		C H	1%		
Nedocromil								
Aerosol Inhaler, 2 mg per dose CFC-free	870,128	\$180,204	\$0.2071	*	C H	1%		
Nefopam Hydrochloride								
Tab 30 mg	1,060,151	\$275,639	\$0.2600		C H	1%		
Neostigmine								
<u>Inj 2.5 mg per ml, 1 ml</u>	29,327	\$13,197	\$0.4500		C H	1%		
Norethisterone with Mestranol								
Tab 1 mg with mestranol 50 mcg	8,295	\$872	\$0.1051	*	C			
Tab 1 mg with mestranol 50 mcg and 7 inert tab	73,500	\$5,792	\$0.0788	*	C			
Nystatin								
<u>Cap 500,000 u</u>	80,147	\$18,658	\$0.2328		C H	1%		
<u>Tab 500,000 u</u>	156,349	\$30,019	\$0.1920		C H	1%		
Oestriol								
Crn 1 mg per g with applicator	1,295,250	\$604,493	\$0.4667		C			

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name						
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments
Oestriol						
Pessaries 500 mcg	237,833	\$114,945	\$0.4833		C	
Oil in Water Emulsion						
Crm	28,360,758	\$158,820	\$0.0056		C	
Olsalazine						
Cap 250 mg	219,521	\$69,171	\$0.3151		C	
Tab 500 mg	173,331	\$103,756	\$0.5986		C	
Ondansetron						
Tab 4 mg	8,568	\$27,632	\$3.2250		C H	1%
Tab disp 4 mg	3,323	\$28,578	\$8.6000		C H	1%
Tab 8 mg	96,773	\$449,269	\$4.6425		C H	1%
Tab disp 8 mg	2,428	\$30,059	\$12.3800		C H	1%
Ornidazole						
Tab 500 mg	130,025	\$160,971	\$1.2380		C H	1%
Orphenadrine Citrate						
Inj 30 mg per ml, 2 ml	103	\$330	\$3.2000	*	C H	1%
Tab 100 mg	1,067,676	\$197,947	\$0.1854		C H	1%
Orphenadrine Hydrochloride						
Tab 50 mg	449,371	\$57,385	\$0.1277		C H	1%
Oxybutynin						
<u>Oral liq 5 mg per 5 ml</u>	710,919	\$67,608	\$0.0951		C H	1%
<u>Tab 5 mg</u>	5,362,248	\$480,457	\$0.0896		C H	1%
Oxycodone Hydrochloride						
Cap 5 mg	76,367	\$10,806	\$0.1415		+ C H	1%
Cap 10 mg	79,057	\$22,057	\$0.2790		+ C H	1%
Cap 20 mg	35,124	\$17,158	\$0.4885		+ C H	1%
Inj 10 mg per ml			\$0.0000		+ C H	1% Not currently listed in the Pharmaceutical Schedule
Oral liq 5 mg per ml			\$0.0000		+ C H	1% Not currently listed in the Pharmaceutical Schedule
Tab controlled-release 5 mg	33,952	\$12,749	\$0.3755		+ C H	1%
Tab controlled-release 10 mg	123,340	\$68,700	\$0.5570		+ C H	1%
Tab controlled-release 20 mg	111,676	\$105,701	\$0.9465		+ C H	1%
Tab controlled-release 40 mg	30,875	\$51,391	\$1.6645		+ C H	1%
Tab controlled-release 80 mg	19,912	\$57,775	\$2.9015		+ C H	1%
Oxypentifylline						
Tab 400 mg	48,657	\$35,948	\$0.7388	*	C H	1%
Pantoprazole						
Inj 40 mg					C H	1% Not currently listed on the Pharmaceutical Schedule
Tab 20 mg	4,969,664	\$906,964	\$0.1825	*	C H	1%
Tab 40 mg	8,570,050	\$1,992,537	\$0.2325	*	C H	1%
Paraffin Liquid with Soft White Paraffin						
Eye oint with soft white paraffin	82,071	\$85,116	\$1.0371		C	
Pericyazine						
Tab 2.5 mg	170,623	\$21,311	\$0.1249		C H	1%

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Pericyazine							
Tab 10 mg	88,197	\$39,204	\$0.4445	C H	1%		
Permethrin							
<u>Crm or lotn 5%</u>	661,410	\$83,801	\$0.1267	C H	1%	Cream and lotion would be considered as one Tender Item	
Phenoxymethylpenicillin (Penicillin V)							
Cap 250 mg	462,144	\$39,652	\$0.0858	C H	1%		
Cap 500 mg	1,485,092	\$242,070	\$0.1630	C H	1%		
<u>Grans for oral liq benzathine 125 mg per 5 ml</u>	1,927,184	\$28,522	\$0.0148	C H	1%		
<u>Grans for oral liq benzathine 250 mg per 5 ml</u>	3,710,552	\$62,337	\$0.0168	C H	1%		
Phenylephrine Hydrochloride							
Eye drops 0.12%	31,110	\$6,742	\$0.2167	C			
Phenylephrine Hydrochloride with Zinc Sulphate							
Eye drops 0.12% with zinc sulphate 0.25%	18,855	\$5,670	\$0.3007	C			
Phosphate Supplement							
Tab 315 mg with sodium acid phosphate 1.937 g and sodium bicarbonate 350 mg, effervescent	58,652	\$43,989	\$0.7500	C			
Pipothiazine Palmitate							
Inj 50 mg per ml, 1 ml	3,737	\$66,698	\$17.8480	C H	1%		
Inj 50 mg per ml, 2 ml	1,239	\$43,776	\$35.3320	C H	1%		
Pizotifen							
Tab 500 mcg	1,634,175	\$344,811	\$0.2110	* C H	1%		
Podophyllotoxin							
Soln 0.5%	18,936	\$173,130	\$9.1429	C H	1%		
Polynoxylin							
Gel			\$0.0000	C		Not currently listed in the Pharmaceutical Schedule	
Polysiloxane							
Tab aluminium hydroxide 250 mg with magnesium trisil 120 mg, magnesium hydroxide 120 mg and polysiloxane 10 mg	15,318	\$460	\$0.0300	* C H	1%		
Polyvinyl Alcohol with Povidone							
Eye drops 1.4% with povidone 0.6%	371,385	\$89,615	\$0.2413	C			
Prazosin Hydrochloride							
Tab 0.5 mg	68,966	\$6,552	\$0.0950	C H	1%		
<u>Tab 1 mg</u>	358,484	\$10,719	\$0.0299	C H	1%		
<u>Tab 2 mg</u>	422,495	\$16,900	\$0.0400	C H	1%		
<u>Tab 5 mg</u>	325,076	\$21,130	\$0.0650	C H	1%		
Prednisolone Acetate							
Eye drops 0.12%	35,105	\$31,595	\$0.9000	* C		Preservative free preparations would not be included in this line item	
Eye drops 1%	142,150	\$127,935	\$0.9000	* C		Preservative free preparations would not be included in this line item	
Prednisolone Sodium Phosphate							
<u>Oral liq 5 mg per ml</u>	3,406,320	\$1,129,876	\$0.3317	C H	1%		

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name						
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments
Prilocaine Hydrochloride						
Inj, 0.5%, 50 ml					H 1%	
Inj, 1%, 5 ml					H 1%	
Inj, 2%, 5 ml					H 1%	
Probenecid						
Tab 500 mg	275,414	\$151,478	\$0.5500		C H 1%	
Promethazine Hydrochloride						
Oral liq 5 mg per 5 ml	5,312,504	\$187,531	\$0.0353	*	C H 1%	
Propafenone Hydrochloride						
Tab 150 mg	89,947	\$73,577	\$0.8180		C	
Propranolol						
Tab 160 mg			\$0.0000		C	Not currently listed in the Pharmaceutical Schedule
Propylthiouracil						
Tab 50 mg			\$0.0000		C H 1%	Not currently listed in the Pharmaceutical Schedule
Pyridostigmine Bromide						
Tab 60 mg	323,086	\$110,883	\$0.3432		C H 1%	
Ranitidine Hydrochloride						
Oral liq 150 mg per 10 ml	1,758,046	\$117,437	\$0.0668		C H 1%	
Rifabutin						
Cap 150 mg	9,200	\$65,378	\$7.1063		C H 1%	
Rifampicin						
Cap 150 mg	36,516	\$21,420	\$0.5866		C H 1%	
Cap 300 mg	92,838	\$113,597	\$1.2236		C H 1%	
Oral liq 100 mg per 5 ml	69,423	\$14,648	\$0.2110		C H 1%	
Tab 600 mg	11,239	\$42,858	\$3.8133		C H 1%	
Ritonavir						
Cap 100 mg	61,562	\$88,883	\$1.4438	+	C H 1%	
Ropinirole Hydrochloride						
Tab 0.25 mg	119,646	\$17,947	\$0.1500		C H 1%	
Tab 1 mg	148,658	\$118,926	\$0.8000		C H 1%	
Tab 2 mg	55,886	\$67,337	\$1.2049		C H 1%	
Tab 5 mg	22,594	\$40,346	\$1.7857		C H 1%	
Ropivacaine Hydrochloride						
Inj 2 mg per ml, 10 ml					H 1%	
Inj 2 mg per ml, 20 ml					H 1%	
Inf 2 mg per ml, 100 ml					H 1%	
Inf 2 mg per ml, 200 ml					H 1%	
Inj 7.5 mg per ml, 10 ml					H 1%	
Inj 7.5 mg per ml, 20 ml					H 1%	
Inj 10 mg per ml, 10 ml					H 1%	
Inj 10 mg per ml, 20 ml					H 1%	
Ropivacaine Hydrochloride with Fentanyl						
Inf 2 mg per ml with 2 mcg of fentanyl per ml, 100 ml					H 1%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Ropivacaine Hydrochloride with Fentanyl							
Inf 2 mg per ml with 2 mcg of fentanyl per ml, 200 ml					H	1%	
Salbutamol							
Aerosol inhaler, 100 mcg per dose CFC free	300,713,400	\$6,014,268	\$0.0200		C H	1%	
<u>Oral liq 2 mg per 5 ml</u>	1,623,334	\$26,460	\$0.0163		C H	1%	
Saquinavir							
Cap 200 mg	51,120	\$98,406	\$1.9250		+ C H	1%	
Sertraline							
Tab 50 mg					H	1%	
Tab 100 mg					H	1%	
Silver Sulphadiazine							
<u>Crn 1% with chlorhexidine digluconate 0.2%</u>	587,100	\$88,300	\$0.1504		C H	1%	
Simethicone							
Oral liq aluminium hydroxide 200 mg with magnesium hydroxide 200 mg and activated simethicone 20 mg per 5 ml	6,499,981	\$19,500	\$0.0030	*	C		
Sodium Acid Phosphate							
Enema 16% with sodium phosphate 8%	31,804	\$79,510	\$2.5000		C H	1%	
Sodium Alginate							
Oral liq 500 mg with sodium bicarbonate 267 mg per 10 ml	8,617,684	\$25,853	\$0.0030	*	C H	1%	Additional active agents would be accepted
Sodium Bicarbonate							
Inj 8.4%, 200 ml					H	1%	
Sodium Citro-Tartrate							
<u>Grans effervescent 4 g sachets</u>	1,057,462	\$135,355	\$0.1280		C H	1%	
Sodium Cromoglycate							
Cap 100 mg	79,403	\$70,835	\$0.8921		C H	1%	
Sodium Phosphate							
Oral soln			\$0.0000		C		Not currently listed in the Pharmaceutical Schedule
Sodium Polystyrene Sulphonate							
Powder	196,104	\$38,829	\$0.1980		C		
Stavudine (d4T)							
Cap 20 mg			\$5.2850		+ C H	1%	
Cap 30 mg	7,296	\$45,941	\$6.2967		+ C H	1%	
Cap 40 mg	56,640	\$475,589	\$8.3967		+ C H	1%	
Oral soln 1 mg per ml			\$0.5038		+ C H	1%	
Suxamethonium							
Inj 50 mg per ml, 2 ml					H	1%	
Syrup (pharmaceutical grade)							
Liquid			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Tenoxicam							
Inj 10 mg per ml, 2 ml	56,653	\$113,306	\$2.0000		C H	1%	
Suppos 20 mg	13,056	\$6,920	\$0.5300		C H	1%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Tenoxicam							
Tab 20 mg	2,212,727	\$525,523	\$0.2375		C H	1%	
Terazosin Hydrochloride							
Tab 2 mg	3,565,808	\$188,631	\$0.0529	*	C		
Tab 5 mg	2,741,541	\$186,973	\$0.0682	*	C		
Terbutaline Sulphate							
Aerosol inhaler, 250 mcg per dose	54,000				C H	1%	Note this product has been recently discontinued
Testosterone Enanthate							
Inj long-acting 250 mg - pre-filled syringe	4,610	\$69,150	\$15.0000		C H	1%	
Testosterone Undecanoate							
Cap 40 mg	742,141	\$750,898	\$1.0118		C H	1%	
Tetrabenazine							
Tab 25 mg	107,346	\$232,898	\$2.1696		C H	1%	
Theophylline							
Tab long-acting 250 mg	1,307,280	\$281,196	\$0.2151		C		
Tab long-acting 350 mg	328,777	\$96,266	\$0.2928		C		
Thiothixene							
Tab 2 mg	54,563				C H	1%	Note this product has recently been discontinued
Tab 10 mg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Thyroxine							
Tab 50 mcg	23,163,600	\$787,562	\$0.0340		C H	1%	
Tab 100 mcg	9,703,788	\$368,744	\$0.0380		C H	1%	
Tiaprofenic Acid							
Cap long-acting 300 mg	340,427	\$22,911	\$0.0673	*	C H	1%	
Tab 300 mg	72,737	\$4,888	\$0.0672	*	C H	1%	
Timolol Maleate							
<u>Eye drops 0.25%</u>	114,300	\$54,178	\$0.4740		C		
<u>Eye drops 0.5%</u>	221,040	\$101,236	\$0.4580		C		
Tinidazole							
Tab 500 mg	53,426	\$55,654	\$1.0417		C H	1%	
Tobramycin							
Powder					H	1%	
Tolbutamide							
Tab 500 mg	148,638	\$17,837	\$0.1200		C		
Tolcapone							
Tab 100 mg	196,557	\$253,067	\$1.2875		C		
Trandolapril							
Cap 0.5 mg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Cap 1 mg	41,094	\$4,492	\$0.1093	*	C H	1%	
Cap 2 mg	54,921	\$8,689	\$0.1582	*	C H	1%	
Tab 4 mg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name							
Line Item	Units	Cost	Unit Subsidy		DV Limit	Comments	
Tranexamic Acid							
Tab 500 mg	1,577,468	\$775,168	\$0.4914		C H	1%	
Tranlycypromine Sulphate							
Tab 10 mg	246,648	\$113,162	\$0.4588		C H	1%	
Triamcinolone Acetonide with Gramicidin, Neomycin and Nystatin							
Crn 1 mg with nystatin 100,000 u, neomycin sulphate 2.5 mg and gramicidin 250 mcg per g	510,990	\$118,907	\$0.2327	*	C H	1%	
Trifluoperazine Hydrochloride							
Oral liq 1 mg per ml	10,710	\$801	\$0.0748		C H	1%	
Tab 1 mg	260,080	\$25,566	\$0.0983	*	C H	1%	
Tab 2 mg	275,606	\$37,565	\$0.1363	*	C H	1%	
Tab 5 mg	502,446	\$79,336	\$0.1579	*	C H	1%	
Vancomycin Hydrochloride							
Cap 125 mg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Cap 250 mg			\$0.0000		C H	1%	Not currently listed in the Pharmaceutical Schedule
Venlafaxine							
Cap 37.5 mg			\$0.0000		+ C H	1%	Not currently listed in the Pharmaceutical Schedule
Cap 75 mg	2,897,258	\$3,856,540	\$1.3311		+ C H	1%	
Cap 150 mg	754,873	\$1,231,500	\$1.6314		+ C H	1%	
Viscous polysaccharide (base for oral formulations)							
Liquid			\$0.0000		C		Not currently listed in the Pharmaceutical Schedule. A range of flavours would be accepted
Powder			\$0.0000		C		Not currently listed in the Pharmaceutical Schedule
Vitamin A with Vitamins D and C							
Soln 1000 u with Vitamin D 400 u and ascorbic acid 30 mg per 10 drops	155,030	\$67,903	\$0.4380	*	C		
Voriconazole							
Inj 200 mg					H	1%	
Tab 50 mg					H	1%	
Tab 200 mg					H	1%	
Wool Fat with Mineral Oil							
Lotn hydrous 3% with mineral oil	13,074,330	\$73,216	\$0.0056	*	C		A range of pack sizes are required for this line item
Zidovudine (AZT)							
Cap 100 mg	39,658	\$115,008	\$2.9000		+ C H	1%	
Inj 200 mg per ml, 20 ml					+ H	1%	
Oral liq 10 mg per ml	187,200	\$54,288	\$0.2900		+ C H	1%	

Schedule 3: Tender Process

1. General

1.1 Sole Supply Period and Hospital Supply Status Period

- (a) Hospital Tender Bids are to be submitted on the basis that if your Hospital Tender Bid is accepted, you will have Hospital Supply Status for the particular Tender Item for the Hospital Supply Status Period.
- (b) Community Tender Bids are to be submitted on the basis that if your Community Tender Bid is accepted, you will have Sole Supply Status for the particular Tender Item for the Sole Supply Period.
- (c) Combined Community/Hospital Tender Bids are to be submitted on the basis that if your Combined Community/Hospital Tender Bid is accepted, you will have Hospital Supply Status for the particular Tender Item for the Hospital Supply Status Period and Sole Supply Status for the particular Tender Item for the Sole Supply Period.

1.2 Transition Periods

- (a) In relation to hospital supply:
 - (i) there will be two Transition Periods (the First Transition Period and the Final Transition Period) during which the successful tenderer's brand is to be available for supply and purchased by DHB Hospitals;
 - (ii) the First Transition Period is intended to allow for an orderly transition to the arrangements that will apply during the Hospital Supply Status Period;
 - (iii) the Final Transition Period is intended to allow for an orderly transition to any new arrangements following the end of the Hospital Supply Status Period;
 - (iv) DHB Hospitals may purchase DV Pharmaceuticals at any time within the First Transition Period and Final Transition Period without any requirement to comply with the DV Limit.
- (b) Subject to paragraph (d) below, in relation to community supply:
 - (i) there will be three Transition Periods (the First Transition Period, the Second Transition Period and the Final Transition Period) during which the successful tenderer's brand is to be available for supply and subsidised, but may not be the sole subsidised brand of that Tender Item;
 - (ii) the First Transition Period and Second Transition Period are intended to allow for an orderly transition to the arrangements that will apply during the Sole Supply Period;
 - (iii) the Final Transition Period is intended to allow for an orderly transition to any new arrangements following the end of the Sole Supply Period.
- (c) In relation to community and/or hospital supply, PHARMAC may, in its sole discretion:
 - (i) determine a different commencement date for the First Transition Period and/or Second Transition Period, as applicable, including where it considers that a

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different commencement date is necessary to ensure appropriate stock management or appropriate supply of the Tender Item; and/or

- (ii) extend the period of the First Transition Period and/or Second Transition Period, as applicable, by determining a different end date, and may do so before or after the commencement date of the relevant First Transition Period or Second Transition Period. For the avoidance of doubt, in the event that PHARMAC extends the Second Transition Period under this clause 1.2(c)(ii):
 - (A) the delisting of all other brands of that form and strength of the Chemical Entity is to be deferred until the actual commencement date of the Sole Supply Period, notwithstanding any date previously notified to suppliers by PHARMAC as being the intended date of delisting;
 - (B) all other brands of that form and strength of the Chemical Entity are to remain listed in accordance with the terms of any existing contract between PHARMAC and the particular pharmaceutical supplier in respect of the relevant brand(s) until such time as that supplier's brand of that form and strength of the Chemical Entity is actually delisted.
- (d) In relation to community supply, if the successful tenderer's brand is the only brand of the Tender Item listed on the Pharmaceutical Schedule as at the time PHARMAC notifies the market that a Tender has been accepted for a Tender Item, then the First Transition Period and clause 1.1(a) of Schedule Six will not apply and, subject to paragraph (c) above, the Second Transition Period is to begin on the first day of the second month following the date of such notification.
- (e) For the avoidance of doubt, any notification by PHARMAC of the delisting of all other brands of that form and strength of the Chemical Entity on the first day of the Sole Supply Period operates solely as advance notice of the intended delisting of those pharmaceuticals and does not constitute a notice of termination of any existing contract for the supply of those other brands.

1.3 Contract

If PHARMAC accepts your:

- (a) Community Tender Bid, then a contract on the terms and conditions set out in:
 - (i) your Tender Bid (incorporating any variations as a result of negotiations or discussions under clause 1.6 of this Schedule); and
 - (ii) Schedule Five; and
 - (iii) Schedule Six,will be deemed to have been entered into between you and PHARMAC for Sole Supply Status for the relevant Pharmaceutical and, where applicable, its listing on the Pharmaceutical Schedule;
- (b) Hospital Tender Bid, then a contract on the terms and conditions set out in:
 - (i) your Tender Bid (incorporating any variations as a result of negotiations or discussions under clause 1.6 of this Schedule); and
 - (ii) Schedule Five; and
 - (iii) Schedule Seven,

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will be deemed to have been entered into between you and PHARMAC for Hospital Supply Status for the relevant Pharmaceutical and, where applicable, its listing on the Pharmaceutical Schedule;

(c) Combined Community/Hospital Tender Bid, then:

(i) a contract on the terms and conditions set out in:

(A) your Tender Bid, to the extent applicable (incorporating any variations as a result of negotiations or discussions under clause 1.6 of this Schedule); and

(B) Schedule Five; and

(C) for the Community Tender Bid element of that Combined Community/Hospital Tender Bid, Schedule Six,

will be deemed to have been entered into between you and PHARMAC for Sole Supply Status for the relevant Pharmaceutical and, where applicable, its listing on the Pharmaceutical Schedule; and

(ii) a separate contract on the terms and conditions set out in:

(A) your Tender Bid, to the extent applicable (incorporating any variations as a result of negotiations or discussions under clause 1.6 of this Schedule); and

(B) Schedule Five; and

(C) for the Hospital Tender Bid element of that Combined Community/Hospital Tender Bid, Schedule Seven,

will be deemed to have been entered into between you and PHARMAC for Hospital Supply Status for the relevant Pharmaceutical and, where applicable, its listing on the Pharmaceutical Schedule.

For the avoidance of doubt, the terms and conditions specified in Schedule Five, Schedule Six and Schedule Seven, as applicable, apply from the date when PHARMAC notifies you in accordance with clause 7.2 of this Schedule of its acceptance of your Tender Bid, and do not apply solely for the Sole Supply Period or Hospital Supply Status Period, as applicable.

1.4 Extension of Hospital Supply Status to include Sole Supply Status

(a) You acknowledge and agree that if your Hospital Tender Bid is for a Tender Item that is specified in the product list in clause 2 of Schedule Two as being a Tender Item for which you may submit a Tender Bid for Sole Supply Status, you may agree (such consent not to be unreasonably withheld), if so requested by PHARMAC:

(i) if PHARMAC has not yet accepted a Hospital Tender Bid for the particular Tender Item, to extend your Tender Bid to cover community supply; or

(ii) if PHARMAC has accepted your Hospital Tender Bid for the particular Tender Item, to supply the Tender Item for use in the community under Sole Supply Status as soon as practicable after such requirement is notified to you, and in any case no later than three months after that notification, under a separate contract for Sole Supply Status.

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- (b) The Community Tender Bid referred to in paragraph (a)(i) above and the contract for Sole Supply Status referred to in paragraph (a)(ii) above will be:
 - (i) at a price that is equal to the Price specified for that Pharmaceutical in your Hospital Tender Bid; and
 - (ii) on the other terms and conditions set out in your Hospital Tender Bid (incorporating any variations as a result of negotiations or discussions under clause 1.6 of this Schedule), as applicable; and
 - (iii) for supply in accordance with Schedules Five and Six; and
 - (iv) for such quantities of the Pharmaceutical as are required for use in the community.
- (c) This clause confers a benefit on, and is enforceable by, the Funder in accordance with the Contracts (Privity) Act 1982.

1.5 Extension of Sole Supply Status to include Hospital Supply Status

- (a) You acknowledge and agree that if your Community Tender Bid is for a Tender Item that is specified in the product list in clause 2 of Schedule Two as being a Tender Item for which you may submit a Tender Bid for Hospital Supply Status, you may agree (such consent not to be unreasonably withheld), if so required by PHARMAC:
 - (i) if PHARMAC has not yet accepted a Community Tender Bid for the particular Tender Item, to extend your Tender Bid to cover hospital supply; or
 - (ii) if PHARMAC has accepted your Community Tender Bid for the particular Tender Item, to supply the Tender Item for use in DHB Hospitals under Hospital Supply Status as soon as practicable after such requirement is notified to you, and in any case no later than three months after that notification, under a separate contract for Hospital Supply Status.
- (b) The Hospital Tender Bid referred to in paragraph (a)(i) above and the contract for Hospital Supply Status referred to in paragraph (a)(ii) above will be:
 - (i) at a price that is equal to the Price specified for that Pharmaceutical in your Community Tender Bid; and
 - (ii) on the other terms and conditions set out in your Community Tender Bid (incorporating any variations as a result of negotiations or discussions under clause 1.6 of this Schedule), as applicable; and
 - (iii) for supply in accordance with Schedules Five and Seven; and
 - (iv) for such quantities of the Pharmaceutical as are required for use in DHB Hospitals.
- (c) This clause confers a benefit on, and is enforceable by, DHB Hospitals in accordance with the Contracts (Privity) Act 1982.

1.6 PHARMAC may initiate limited negotiations

- (a) Notwithstanding clause 2.7 of this Schedule, PHARMAC may, in its sole discretion, initiate negotiations or discussions with you in relation to your Tender Bid about:

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- (i) any of the terms and conditions to apply if your Tender Bid is accepted;
 - (ii) the proposed packaging or pack size of the Tender Item;
 - (iii) your ability to ensure continued availability of the Tender Item throughout the Hospital Supply Status Period and/or Sole Supply Period, as applicable;
 - (iv) the price of the Tender Item, but only where PHARMAC determines, in its sole discretion, that an increased price for the Tender Item may be necessary for practicality of supply of the Tender Item (for example, because of particular packaging requirements);
 - (v) DV Limits and/or DV Pharmaceuticals, in relation to hospital supply;
 - (vi) the Lead Time and/or the Start Date; or
 - (vii) any other matter that PHARMAC considers necessary or appropriate.
- (b) If PHARMAC initiates negotiations or discussions with you under paragraph (a), and as a result there is a change to any of the terms and conditions relating to the supply of a Tender Item, PHARMAC is not obliged to inform the other tenderers of that change, nor give those tenderers an opportunity to amend their bid for that Tender Item, unless the change is one which would result in the terms and conditions being materially different in scope from those set out in this Invitation.
- (c) The initiation and pursuit of any negotiations or discussions under this clause shall not constitute a counter-offer and your original Tender Bid will remain open for acceptance in accordance with clause 4.2(b) of this Schedule in the absence of agreement on any variation to that Tender Bid.

1.7 Termination and amendment of Invitation

PHARMAC may:

- (a) amend this Invitation at any time up to five business days before the Deadline; and/or
- (b) terminate this Invitation at any time before the acceptance of any Tender Bid by giving five business days' written notice.

2. Information about submitting a Tender Bid

2.1 Choice of forms and strengths

Where a Tender Item includes different forms and strengths of a Chemical Entity or entities, your Tender Bid may, but does not need to, include all of the forms and strengths of the Chemical Entity or entities contained in that Tender Item.

2.2 Consents not yet held

You may submit a Tender Bid for a Tender Item where your brand of the Tender Item is yet to obtain all necessary Consents. In those circumstances, you may be required to demonstrate your ability to obtain those consents within a time frame acceptable to PHARMAC. For example, you may be required to demonstrate that you have the dossier for that brand of the Tender Item ready to submit to Medsafe within one month of such a request being made by PHARMAC.

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2.3 Individual Tender Bids

You may submit more than one bid for a Tender Item (for example, you may submit separate bids for different pack sizes of a Tender Item) provided that each bid is submitted on a separate Tender Submission Form.

2.4 Aggregated Tender Bids

- (a) You may, in addition to submitting a separate Tender Bid for each Tender Item, submit an Aggregated Tender Bid, provided that:
 - (i) each brand contained in an Aggregated Tender Bid is only a different form and strength of the same Chemical Entity;
 - (ii) you may not aggregate within a single Tender Item;
 - (iii) you must also submit a separate Community Tender Bid and/or Hospital Tender Bid, as applicable, for each particular Tender Item.
- (b) Where a Tender Item includes different forms and strengths of a Chemical Entity or different entities and you bid for the whole Tender Item, that is not an Aggregated Tender Bid.
- (c) You must clearly indicate on your Tender Submission Form if your Tender Bid is an Aggregated Tender Bid.

2.5 Combined Community/Hospital Tender Bids

- (a) You may submit a Combined Community/Hospital Tender Bid, provided that you must also submit a separate Community Tender Bid and a separate Hospital Tender Bid for each Tender Item in respect of which you submit a Combined Community/Hospital Tender Bid.
- (b) You must clearly indicate on your Tender Submission Form if your Tender Bid is a Combined Community/Hospital Tender Bid.

2.6 Aggregated Combined Community/Hospital Tender Bids

You may submit a Tender Bid that is both an Aggregated Tender Bid and a Combined Community/Hospital Tender Bid, provided that you comply with clauses 2.4 and 2.5 above.

2.7 No conditions

You cannot make a conditional Tender Bid nor qualify a Tender Bid in any way.

2.8 Separate offers

PHARMAC will treat each Tender Bid as a separate offer.

2.9 Tender Bid prices

You must submit, for each Tender Bid, a single price in New Zealand dollars (exclusive of GST), which will be the Price at which you will supply the Tender Item.

3. What to include in your Offer Letter and Tender Submission Form

3.1 Compulsory use of Offer Letter and Tender Submission Form

- (a) You must submit your Tender Bid by completing and signing the Offer Letter and completing a separate Tender Submission Form for each Tender Item for which you wish to submit a bid.
- (b) An electronic version of these forms is available on disc from PHARMAC or on PHARMAC's website at <www.pharmac.govt.nz>.

3.2 Information that must be supplied about you

In the Offer Letter, you must supply the following information about you:

- (a) your company structure;
- (b) your management and technical skills;
- (c) your financial resources;
- (d) your (or your supplier's) existing supply commitments;
- (e) your (or your supplier's) previous supply performance;
- (f) your quality assurance processes, where applicable;
- (g) for any Hospital Tender Bids, your drug information and interaction support services; and
- (h) for any Hospital Tender Bids, any other benefits to PHARMAC and DHB Hospitals in selecting you as the supplier of a Tender Item, including details of how you have added value to your customers' business in the past.

3.3 Information that must be supplied about the Tender Item

In your Tender Submission Form, you must supply the following information about the Tender Item:

- (a) the chemical, form, strength, brand name, pack size and type of packaging;
- (b) a single price in New Zealand dollars (exclusive of GST) at which you will supply the Tender Item:
 - (i) to wholesalers and other distributors during the Sole Supply Period in respect of a Community Tender Bid; or
 - (ii) to, at a DHB Hospital's discretion, Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding), in respect of a Hospital Tender Bid;
- (c) whether it has all necessary Consents (and if not, what the status of registration is);
- (d) the Lead Time for supply of the Tender Item;
- (e) the name and location of:

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- (i) the manufacturer(s) of the finished product (and name and location of the packaging site, if different); and
 - (ii) the manufacturer(s) of the active ingredients; and
 - (iii) alternative manufacturers of the finished product and active ingredients (if any);
- (f) for any Hospital Tender Bids, the Pharmacode for your brand of that Tender Item, if available; and
- (g) for any Community Tender Bids, your proposed distribution and supply arrangements for the Tender Item.

3.4 PHARMAC may request further information

- (a) PHARMAC may request such further information as it considers necessary from or about you for the purposes of clarifying or evaluating your Tender Bid, including (but not limited to):
- (i) information about your credit status;
 - (ii) information on the price of a Tender Item, but only where PHARMAC requires clarification to confirm the exact price being offered, or where PHARMAC initiates negotiations with you under clause 1.6 of this Schedule;
 - (iii) where a Tender Item is a controlled drug, information about the form in which the Tender Item will be supplied, in which case you must supply that information within 10 business days of PHARMAC requesting the information; and
 - (iv) a sample pack or container of the Tender Item (and if you intend supplying it in a different form from that sample pack or container, information about the form in which it will be supplied), in which case you must supply that sample pack or container or information within 10 business days of PHARMAC requesting it.
- (b) If PHARMAC requests further information from or about you it is not obliged to request the same or any other information from or about any other party.

4. How to submit a Tender Bid

4.1 Submission of Tender Bids

As this tender is a closed tender, no Tender Bids will be opened until after the Deadline. Therefore, it is important that all Tender Bids must:

- (a) be contained in a sealed envelope marked "TENDER FOR THE SUPPLY OF CERTAIN PHARMACEUTICALS - COMMERCIAL IN CONFIDENCE", and, if you wish to be notified of the receipt of the Tender Bid immediately, the sealed envelope must have your return address stated clearly on the outside of the envelope and be marked "FOR IMMEDIATE NOTIFICATION OF RECEIPT"; and
- (b) be delivered in the specially marked envelope either in person, by courier or by post (**and not by facsimile or email**) to:

The Chief Executive
c/- Legal Counsel
Pharmaceutical Management Agency
Level 14, Cigna House

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40 Mercer Street
PO Box 10-254
WELLINGTON

4.2 Key dates

Your Tender Bid must:

- (a) be received by PHARMAC no later than the Deadline; and
- (b) be irrevocable and remain open for acceptance by PHARMAC until, as applicable:
 - (i) Wednesday, 5 September 2007;
 - (ii) the date specified for a Tender Item in Schedule Two (if any); or
 - (iii) if PHARMAC so requests at any time, such later date as you agree in writing.

5. Evaluation

5.1 Process of evaluation

The Evaluation Committee, taking such regulatory, legal, medical and other advice as it considers appropriate, will evaluate all conforming Tender Bids that have been checked for conformity under clause 6(a) of this Schedule, and any non-conforming Tender Bids that are admitted for consideration under clause 6(b) of this Schedule.

5.2 Matters for evaluation

The matters to be taken into account by the Evaluation Committee, the weight to be attached to them, and the basis on which it will evaluate Tender Bids, are all to be determined by the Evaluation Committee in its sole discretion. The matters taken into account by the Evaluation Committee will, however, include:

- (a) your ability to ensure continued availability of the Tender Item throughout the Sole Supply Period and/or Hospital Supply Status Period and each of the Transition Periods, as applicable, taking into account each of the following separate points:
 - (i) your financial resources;
 - (ii) your management and technical skills;
 - (iii) your, or your supplier's, existing supply commitments;
 - (iv) your, or your supplier's, previous supply performance;
 - (v) your quality assurance processes, where applicable;
 - (vi) the site of manufacture and packaging of the Pharmaceutical, and site of manufacture of the active ingredient;
 - (vii) your proposed distribution and supply arrangements for the Tender Item; and
 - (viii) the Lead Time for supply of the Tender Item;
- (b) the pack size of the Tender Item and the type of packaging;

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- (c) the price of the Tender Item;
- (d) the amount and timing of savings, including non-pharmaceutical savings accruing to the Funder or PHARMAC during the Hospital Supply Status Period and/or the Second Transition Period and the Sole Supply Period, as applicable;
- (e) either:
 - (i) evidence that you have obtained, and still have, market approval for your brand of the Tender Item, and all necessary Consents; or
 - (ii) evidence that will enable the Evaluation Committee to form a view on the likelihood and timing of your brand of the Tender Item gaining all necessary Consents;
- (f) the name and location of the manufacturer of the finished product and active ingredients of the Tender Item; and
- (g) any other benefits to the Funder of selecting you as the supplier of the Tender Item.

6. Conformity

- (a) PHARMAC may, in its sole discretion, check your Tender Bid for conformity with this Invitation. If PHARMAC does elect to check your Tender Bid, it is not obliged to check all or any other Tender Bids for conformity. A Tender Bid will conform if it:
 - (i) is received by the Deadline;
 - (ii) is submitted on the Tender Submission Form and attached to the Offer Letter;
 - (iii) has no conditions or qualifications attached;
 - (iv) includes all information required under clauses 3.2 and 3.3 of this Schedule; and
 - (v) otherwise complies, both as to form and substance, with the requirements of this Invitation.
- (b) PHARMAC may, in its sole discretion:
 - (i) exclude any non-conforming Tender Bid from consideration; or
 - (ii) consider, and accept, any non-conforming Tender Bid.

7. Decision

7.1 Decision on acceptance of Tender Bid

- (a) The Evaluation Committee will make a recommendation as to which Tender Bid should be accepted to PHARMAC's board of directors (or chief executive acting under delegated authority pursuant to section 73 of the Crown Entities Act 2004, where applicable).
- (b) PHARMAC's board of directors (or chief executive, where applicable) will have the sole discretion to decide whether or not to accept a Tender Bid for any Tender Item.
- (c) PHARMAC's board of directors (or chief executive, where applicable):

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- (i) will use the decision criteria in PHARMAC's then current OPPs, including the Hospital Pharmaceuticals Supplement, as applicable, in deciding whether or not to accept a Tender Bid for any Tender Item; and
- (ii) is not obliged to act in accordance with any recommendation of the Evaluation Committee.

7.2 Notification of acceptance

- (a) Once PHARMAC's board of directors (or chief executive, where applicable) has decided under clause 7.1 above which Tender Bid (if any) to accept for a Tender Item, PHARMAC will, within a reasonable period of time, notify the successful tenderer in writing that it has been successful and in addition:
 - (i) subject to paragraph (b) below, if the successful Tender Bid is unconditionally accepted, PHARMAC will, within a reasonable period of time, notify each unsuccessful tenderer in writing of the identity of the successful tenderer; or
 - (ii) subject to paragraph (b) below, if the successful Tender Bid is conditionally accepted, PHARMAC will, within a reasonable period of time of that tender becoming unconditionally accepted, notify each unsuccessful tenderer in writing of the identity of the successful tenderer.
- (b) If for any reason you do not receive written notification from PHARMAC in accordance with paragraph (a) above, you will be deemed to have received the required notification on the date that each Tender Item you bid for is notified in the Pharmaceutical Schedule.

7.3 PHARMAC's rights reserved

- (a) PHARMAC reserves the right to accept or reject any Tender Bid, and is not obliged to give reasons for its decision.
- (b) While it is PHARMAC's current intention, unless specified otherwise in Schedule Two, to enter into an agreement to award Hospital Supply Status and/or Sole Supply Status for each Tender Item, PHARMAC will not in any circumstances be bound to accept any or all Tender Bids and, in particular, PHARMAC will not be bound to accept the lowest or any other Tender Bid for a Tender Item.
- (c) Acceptance only occurs if, and when, PHARMAC's board of directors (or chief executive, where applicable) resolves to accept a Tender Bid and this acceptance is notified to the successful tenderer.
- (d) PHARMAC may take any action, including making any adjustments to the tender process that it considers appropriate (provided that it notifies tenderers materially affected by such adjustments), or do anything, that is incidental to the process described in this Invitation, at any time during the process, except to the extent that such action is explicitly precluded by this Invitation.

7.4 Conditional acceptance

- (a) Where the successful tenderer's brand of a Tender Item is yet to receive all necessary Consents:
 - (i) the contract referred to in clause 1.3 of this Schedule will be conditional upon such Consents being received within a time period specified by PHARMAC; and

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- (ii) PHARMAC may terminate the contract if such Consents have not been obtained, or in PHARMAC's view are unlikely to be obtained, within the period specified by PHARMAC.
- (b) Acceptance of a Tender Bid by PHARMAC's board of directors (or chief executive, where applicable), and the contract referred to in clause 1.3 of this Schedule may be conditional upon you satisfying PHARMAC that you will have sufficient stock of the Tender Item available to commence supply as at a date reasonably determined by PHARMAC.

8. Back-up supply

Back-up Supply Agreements

- (a) PHARMAC may at any time negotiate a Back-up Supply Agreement with another supplier for any Tender Item.
- (b) PHARMAC may, at its sole discretion, seek proposals for Back-up Supply Agreements under a separate process to this Invitation to Tender. PHARMAC does not seek submissions for Back-up Supply Agreements in response to this Invitation to Tender and is not obliged to consider proposals or bids for back-up supply submitted as part of the tender process.

9. Dealing with information

9.1 Confidentiality

Subject to clause 9.2 below, all Confidential Information is confidential to us and our employees, legal advisers and other consultants (including HPAC, PTAC and its sub-committees), the Ministry of Health, DHBs and the Funder. You acknowledge that it may be necessary or appropriate for PHARMAC to disclose Confidential Information:

- (a) pursuant to the Official Information Act 1982; or
- (b) in publicly notifying any acceptance of your Tender Bid; or
- (c) otherwise pursuant to PHARMAC's public law or any other legal obligations.

PHARMAC may consult with you before deciding whether to disclose Confidential Information for the purposes described in paragraphs (a) and (c) above, in order to ascertain any objections you may have to the disclosure of any of the Confidential Information. You acknowledge, however, that it is for PHARMAC to decide, in its absolute discretion, whether it is necessary or appropriate to disclose information for any of the above purposes, provided that PHARMAC shall act in good faith in disclosing any Confidential Information. Outside the circumstances described in paragraphs (a) and (c) above, Confidential Information must not be disclosed by either of us (or by our employees, legal advisers and other consultants) unless:

- (d) the information is publicly available without any cause attributable to the disclosing party; or
- (e) the other party has been reasonably informed prior to disclosure, and the disclosure is:
 - (i) for the purposes of this Agreement; or
 - (ii) required by law; or
 - (iii) in a form, and of content, agreed to by us.

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For the avoidance of doubt, information released by PHARMAC in accordance with paragraphs (a) to (c) above ceases to be Confidential Information and you agree that PHARMAC may release that information again at any time in future without consulting with you or obtaining your prior agreement.

9.2 Use of information

Generalised aggregated information regarding your Tender Bid that does not identify you or that can not reasonably be expected to identify you or lead to the connection of you with your Tender Bid is not Confidential Information and PHARMAC may use and publish such information as it sees fit.

10. Miscellaneous

10.1 Process contract

In submitting a Tender Bid, you agree that you and PHARMAC are contractually bound to follow the process and comply with the obligations expressly contained in this Invitation.

10.2 Costs

PHARMAC is not liable in any way whatsoever for any direct or indirect costs incurred, or loss (including loss of profit) or damage sustained, by you in respect, or arising out, of this tendering process or the obtaining or granting of Hospital Supply Status and/or Sole Supply Status, as applicable, for your supply of the Tender Item including, without limitation, costs of obtaining all necessary Consents for any Tender Item.

10.3 No reliance

Your Tender Bid is submitted in reliance on your own knowledge, skill and independent advice, and not in reliance on any representations made by PHARMAC (including for these purposes the sales and market information (if any) provided in Schedule Two).

10.4 No further liability

PHARMAC is not, in any event, liable in contract, tort or any other way whatsoever for any direct or indirect loss (including loss of profit), damage or cost of any kind incurred by you or any other person in relation to this tendering process.

10.5 No lobbying

- (a) You are not to initiate any communication with PHARMAC, the Minister of Health (or any Associate Ministers), the Ministry of Health, or a District Health Board or any of their officers or directors, at any time with a view to influencing the outcome of the tendering process.
- (b) Failure to comply with this clause will entitle PHARMAC, in its sole discretion, to disqualify you from this tendering process.

10.6 Enquiries

If you have any enquiries about this Invitation you should contact Mike Bignall or Andrew Davies at PHARMAC. Any additional information that PHARMAC gives to you as a result of your enquiry will also be given by PHARMAC to other potential tenderers, if PHARMAC determines that such information is material.

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10.7 **Jurisdiction and governing law**

We each submit to the exclusive jurisdiction of the New Zealand courts and agree that this Invitation is governed by New Zealand law.

Schedule 4: Offer Letter, Tender Submission Form

1. Guidance for completing the Tender Submission Form

1.1 Markets

In the box labelled "Market(s) bidding for" please tick:

- (a) **Community Tender Bid** if you are bidding for a Tender Item or Tender Items listed in Schedule Two that are being tendered for community supply. If you tick this box then you need to supply a price in the bottom table on that page in the column labelled "Pack Price (\$NZ) for community bid"; or
- (b) **Hospital Tender Bid** if you are bidding for a Tender Items or Tender Items listed in Schedule Two that are being tendered for hospital supply. If you tick this box then you need to supply a price in the bottom table on that page in the column labelled "Pack Price (\$NZ) for hospital bid"; or
- (c) **Combined Community/Hospital Tender Bid** if you are bidding for a Tender Item or Tender Items listed in Schedule Two that are being tendered both for community and hospital supply. If you tick this box then you need to supply a price in the bottom table on that page in the columns labelled "Pack Price (\$NZ) for community bid", "Pack Price (\$NZ) for hospital bid" and "Pack Price (\$NZ) for combined bid". A Combined Community/Hospital Tender Bid must be accompanied by individual Tender Bids for each of community and hospital supply. Please note that these three prices do not need to be the same.

1.2 Aggregated Tender Bid

In the box labelled Aggregated Tender Bid please tick **This is an Aggregated Bid** if you are submitting a Tender Bid for more than one Tender Item of the same Chemical Entity. If you tick this box then you need to supply an individual price in the bottom table on that page for each Chemical Entity (for either a Community Tender Bid and/or Hospital Tender Bid and/or Combined Community/Hospital Tender Bid) and an aggregated price. Please refer to clause 2.4 of Schedule Three for more information on how to submit an Aggregated Tender Bid.

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2. Offer Letter, Tender Submission Form

<Insert today's date>

Chief Executive
c/- Legal Counsel
PHARMAC
PO Box 10-254

or for courier delivery:

Level 14, Cigna House
40 Mercer Street
Wellington
New Zealand

Dear Sir/Madam

Tender for the supply of certain pharmaceuticals - commercial in confidence

In response to your invitation to tender dated 15 December 2006, we offer to provide the tender items specified in the attached form(s), in the presentations and strengths set out in the attached form(s), on the terms and conditions contained in the invitation.

Set out below (or, where applicable, attached to this offer letter) is further information in support of our tender bid.

(a) information about our company structure:

(b) information about our management and technical skills:

(c) information about our financial resources:

(d) information about our, or our supplier's, existing supply commitments:

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(e) information about our, or our supplier's, previous supply performance:

--

(f) information about our quality assurance processes (where applicable):

--

(g) our contact details (i.e., who communications relating to the attached bid(s) should be made to):

Name	
Title	
Address	
Phone	
Facsimile	
Email address	

Signed for and on behalf of **<insert name of tenderer>** by

<Insert name>
<Insert designation>

Please find attached **<insert number>** Tender Submission Forms.

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3. Tender Submission Form

Note: Please attach all Tender Submission Forms to one completed Offer Letter.

Supplier's name

Market(s) bidding for <i>(tick as applicable)</i>
Community Tender Bid <input type="checkbox"/> Hospital Tender Bid <input type="checkbox"/> Combined Community/Hospital Tender Bid <input type="checkbox"/>

Aggregated Tender Bid
This is an Aggregated Bid <input type="checkbox"/> (If an Aggregated Tender Bid, please complete the below rows as often as necessary in the same Tender Submission Form)

Tender Item(s)

Chemical Name	
----------------------	--

Market Approval (yes/no)	
---------------------------------	--

Tender Item Strength <small>(as per Schedule Two)</small>	Pack size	Unit type/ form and packaging type	Product name (brand name)	Pharmacode	Pack Price (\$NZ) for community bid <small>(if applicable)</small>	Pack Price (\$NZ) for hospital bid <small>(if applicable)</small>	Pack Price (\$NZ) for combined bid <small>(if applicable)</small>	Pack Price (\$NZ) for aggregate bid <small>(if applicable)</small>

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Product approval status (please complete only one of the following four options)

Date of market approval (please attach copy of Medsafe Gazette notice or Therapeutic Database Report)	OR Date of submission of dossier (please attach confirmation from Medsafe that dossier has been submitted)	OR Expected date of dossier submission to Medsafe

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Lead Time for supply (on the basis of your assessment of the size of the market for the Tender Item) – for Hospital Tender Bids only	Lead Time for supply (on the basis of your assessment of the size of the market for the Tender Item) – for Community Tender Bids only

Name and location of manufacture

Name and location of manufacturer(s) of finished product	Name and location of packaging site (if different)	Name and location of manufacturer(s) of active ingredients	Alternative name and location of manufacturer(s) of finished product (if any)	Alternative name and location of manufacturer(s) of active ingredients (if any)

Proposed supply and distribution arrangements for the Tender Item

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Schedule 5: Contract terms for both Sole Supply Status and Hospital Supply Status

1. General

1.1 Operating Policies and Procedures

- (a) You acknowledge that:
- (i) PHARMAC is required to pursue the objectives, carry out the functions, and otherwise comply with the statutory obligations, prescribed for PHARMAC in the New Zealand Public Health and Disability Act 2000;
 - (ii) PHARMAC is subject to other statutory and public law obligations, which govern PHARMAC's decision-making processes;
 - (iii) PHARMAC has OPPs, as supplemented by the Hospital Pharmaceuticals Supplement, which provide guidance on the way in which PHARMAC carries out its statutory responsibilities in relation to the management of the Pharmaceutical Schedule;
 - (iv) PHARMAC's OPPs may be amended or updated from time to time, following consultation with relevant groups;
 - (v) the actions which PHARMAC may take under its OPPs include (without limitation):
 - (A) listing new pharmaceuticals;
 - (B) changing guidelines or restrictions on the purchasing, prescribing and dispensing of listed pharmaceuticals;
 - (C) changing the subsidy levels and/or market dynamics for pharmaceuticals as a result of PHARMAC adopting one of the strategies set out in the OPPs or by any other means;
 - (D) amending the basis on which pharmaceuticals are classified into therapeutic groups and sub-groups;
 - (E) delisting pharmaceuticals, or delisting all or part of a therapeutic group or sub-group;
 - (vi) any action taken by PHARMAC pursuant to its OPPs may impact on the listing of the Pharmaceutical.
- (b) PHARMAC agrees not to apply, amend or update its OPPs in order to avoid any of PHARMAC's obligations under this Agreement.

1.2 Amendments to Pharmaceutical Schedule

PHARMAC will consult with you before amending the Pharmaceutical Schedule if a proposed amendment would have a material adverse effect on the listing of the Pharmaceutical.

2. Crown Direction

- (a) You acknowledge that PHARMAC must comply with any Crown Direction.

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- (b) PHARMAC may terminate or amend the Agreement, or impose restrictions on the prescribing or dispensing of a Pharmaceutical, at any time during the Sole Supply Period or the Hospital Supply Status Period (as applicable) or the Transition Periods, if the termination, amendment or imposition of restrictions is required to give effect to a Crown Direction.
- (c) In the event that a Crown Direction is issued to PHARMAC that requires an amendment to be made to this Agreement to give effect to that direction:
 - (i) PHARMAC will give you as much notice as practicable of the Crown Direction and of any amendments to this Agreement that are required to give effect to that direction;
 - (ii) the Agreement will be deemed to be amended so as to give effect to the Crown Direction from the date when such direction is due to take effect; and
 - (iii) you may terminate this Agreement on not less than six months' written notice to PHARMAC where the effect of the amendment required under sub-paragraph (ii) above is such that it is no longer viable, financially or otherwise, for you to continue supplying the Pharmaceutical or to perform your obligations under this Agreement.

3. Audit

- (a) PHARMAC may, from time to time, review your records and any other information you hold that relates to this Agreement with regard to stock levels, registration information and supply issues, for the purposes of auditing your compliance with this Agreement. In these circumstances, PHARMAC, in consultation with you, will determine the terms and manner of any such audit, which as a minimum, must include the following:
 - (i) the audit will be conducted by an auditor authorised by PHARMAC;
 - (ii) you agree to co-operate fully with PHARMAC and provide PHARMAC and the auditor with all reasonable assistance to ensure that any audit conducted under this clause is fully and properly completed to PHARMAC's satisfaction, including:
 - (A) allowing the auditor access to your premises, records and other information you hold that relates to this Agreement with regard to stock levels, registration information and supply issues for the purposes of, and during the course of, conducting the audit;
 - (B) answering promptly any questions from PHARMAC or the auditor concerning any aspect of your compliance with this Agreement;
 - (iii) PHARMAC will give you 10 business days' notice of its intention to conduct an audit under this clause and will ensure that the conduct of any such audit, and access in terms of sub-paragraph (A) above, does not unreasonably disrupt your business operations.
- (b) PHARMAC will notify you in writing if an audit under this clause reveals any non-compliance with this Agreement. You agree to remedy any non-compliance within 10 business days of receiving such notice from PHARMAC or such other period as agreed with PHARMAC.
- (c) In relation to Hospital Supply Status, PHARMAC will use its best endeavours to audit compliance by DHB Hospitals with the DV Limits and related requirements set out under this Agreement.

4. Miscellaneous

4.1 Litigation support

If this Agreement or its terms (including the basis on which the Pharmaceutical is listed):

- (a) give rise to proceedings being issued against PHARMAC; or
- (b) result in PHARMAC being made a party to any proceedings issued by a third party,

you will give PHARMAC all assistance it reasonably requires to gather evidence (including expert medical and clinical evidence) for the purpose of those proceedings.

4.2 Dispute resolution

If there is a dispute between us arising out of, or in connection with, this Agreement, neither of us is to commence any proceedings relating to that dispute until the following procedure has been complied with:

- (a) the party claiming a dispute has arisen must give written notice to the other party specifying the nature of the dispute;
- (b) we will endeavour, in good faith, to resolve the dispute referred to in the notice by using informal dispute resolution techniques;
- (c) if we do not agree on a dispute resolution technique within 14 days after the date notice of a dispute was given, the dispute is to be mediated according to the standard mediation agreement of LEADR New Zealand Incorporated (Lawyers Engaged in Alternative Dispute Resolution), and the Chair of LEADR (or the Chair's nominee) will select the mediator and determine the mediator's remuneration;
- (d) a party seeking urgent interlocutory relief may, by notice to the other party, elect not to comply with the provisions of this clause, but only to the extent of the relief sought, and only for the period required to dispose of the application for interlocutory relief; and
- (e) pending resolution of the dispute, this Agreement will remain in full effect without prejudicing our respective rights and remedies.

For the avoidance of doubt you acknowledge and agree that where a dispute arises in respect of hospital supply, PHARMAC may elect to involve any relevant DHB in any part, or all, of the above procedure.

4.3 Advertising

You must ensure that any Advertisement aimed at consumers of pharmaceuticals which you procure to be published, or in any way participate or assist in publishing, does not breach any applicable:

- (a) statute or regulation, including the Fair Trading Act 1986, Medicines Act 1981 and Medicines Regulations 1984; or
- (b) industry standard, including the Advertising Standards Authority Codes of Practice and the Researched Medicines Industry Code of Practice.

For the purposes of this clause:

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- (c) "**Advertisement**" means any words, whether written, printed or spoken, any pictorial representation or design, any sounds or visual images, or combination of sounds and visual images, or any other form of communication used or appearing to be used to promote:
- (i) the sale of a Pharmaceutical; or
 - (ii) the use of a method of treatment involving a Pharmaceutical; and
- (d) references to a statute, regulation or industry standard include that statute, regulation or industry standard as amended or replaced from time to time.

4.4 No derogation

For the avoidance of doubt, the express provision of a remedy for, or consequence of, breach of any term of this Agreement does not derogate from any other legal right or remedy available to PHARMAC under this Agreement or otherwise in respect of such breach.

4.5 No waiver

A failure or delay by either of us to exercise any right arising under this Agreement is not a waiver of that right, and a waiver of a breach of this Agreement is not a waiver of any other breach.

4.5 Agreement prevails

Where any of your terms of supply, whether recorded on your invoices or in credit arrangements entered into or elsewhere, conflict with or detract from any of the terms of this Agreement, the terms of this Agreement will prevail and will apply to the exclusion of any of your terms or documentation.

4.6 Entire agreement

This Agreement:

- (a) is the entire agreement between us regarding the terms on which the Pharmaceutical is, as applicable:
 - (i) listed in Section B of the Pharmaceutical Schedule and subsidised by the Funder; and/or
 - (ii) listed in Section H of the Pharmaceutical Schedule and purchased by DHB Hospitals; and
- (b) supersedes and extinguishes, from the Start Date, all prior agreements and understandings between us, and between you and any District Health Board regarding supply of the Pharmaceutical to DHB Hospitals.

4.7 Amendments

Amendments to this Agreement are only effective if in writing and signed by both of us.

4.8 Assignment

You will not permit any part of this Agreement to be transferred, assigned or sub-contracted (either directly or due to a change of ownership or control) without PHARMAC's prior written consent (such consent not to be unreasonably withheld). Any such consent may be given subject to such reasonable conditions as PHARMAC sees fit but no such consent will relieve

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you from any liability or obligation under the terms of the Agreement, and you will continue to be responsible for the acts, defaults and neglects of your transferee, assignee or sub-contractor.

4.9 Further assurances

We both agree to execute any further documents and do any further acts within our power as may be reasonably necessary from time to time to give effect to the terms and intentions of this Agreement.

4.10 Contracts Privity

- (a) For the purposes of the Contracts (Privity) Act 1982, we both acknowledge that your obligations in this Agreement constitute promises which confer or are intended to confer a benefit on the Funder and related persons and/or DHB Hospitals and related persons (as applicable), and are enforceable at the suit of the Funder, any such DHB Hospitals or any related persons.
- (b) Except as expressly provided in paragraph (a) above, the parties do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, and all the provisions of this Agreement shall be for the sole and exclusive benefit of the parties.
- (c) For the avoidance of doubt, you acknowledge that PHARMAC may pursue damages or any other claim (including injunctive or other such relief) under this Agreement on its own account and/or on behalf of the Funder and/or DHB Hospitals (as applicable), in respect of any form of loss or damage incurred by PHARMAC and/or the Funder and/or DHB Hospitals.

4.11 Jurisdiction and governing law

We each submit to the exclusive jurisdiction of the New Zealand courts and agree that this Agreement is governed by New Zealand law.

Schedule 6: Additional contract terms for Sole Supply Status

1. Effect of Sole Supply Status

1.1 Subsidy arrangements

- (a) Subject to clause 3.1 of this Schedule, the Pharmaceutical will be subsidised, and you must supply it, during the First Transition Period at the Price. If another brand of the Chemical Entity is listed on the Pharmaceutical Schedule, that brand will continue to be subsidised for the First Transition Period at the subsidy applicable to it immediately before the commencement of the First Transition Period.
- (b) The subsidy payable for all other brands of that form and strength of the Chemical Entity that are listed will be changed to the Price on the first day of the Second Transition Period.
- (c) All other brands of that form and strength of the Chemical Entity will be delisted on the first day of the Sole Supply Period, with the result that you will have Sole Supply Status for that form and strength of the Chemical Entity during the Sole Supply Period.
- (d) The Pharmaceutical will continue to be fully subsidised, and you must continue to supply it, at the Price throughout the Second Transition Period and, subject to PHARMAC's other rights under this Agreement in relation to the Pharmaceutical, throughout the Sole Supply Period.
- (e) Subject to PHARMAC's other rights under this Agreement in relation to the Pharmaceutical, the Pharmaceutical will not be delisted during the Final Transition Period.

1.2 Exclusivity for the Sole Supply Period

- (a) Subject to PHARMAC's other rights under this Agreement in relation to the Pharmaceutical, PHARMAC will not subsidise another supplier's brand of the Pharmaceutical on the Pharmaceutical Schedule at any time during the Sole Supply Period.
- (b) This clause does not prohibit PHARMAC from entering into negotiations or arrangements with, or inviting tenders from, other suppliers to be the sole subsidised supplier of any forms and strengths of the Chemical Entity, if such supply commences after the end of the Sole Supply Period.
- (c) For the avoidance of doubt, PHARMAC may lower the subsidy applicable to a Pharmaceutical during the Final Transition Period as it sees fit, including lowering the subsidy of a Pharmaceutical as a result of the implementation of new tender arrangements.

1.3 Withdrawal of Sole Supply Status

- (a) PHARMAC may withdraw Sole Supply Status in relation to your supply of the Pharmaceutical (in which case clauses 1.1 and 1.2 of this Schedule will no longer apply), by written notice to you at any time during the Sole Supply Period or (in anticipation) during the First Transition Period or the Second Transition Period if:
 - (i) you have failed to notify PHARMAC as required under clause 5.1 of this Schedule;

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- (ii) you are unable to supply the Pharmaceutical in accordance with this Agreement for a period of 30 days;
 - (iii) any Consent for the Pharmaceutical is withdrawn; or
 - (iv) you otherwise fail to supply the Pharmaceutical in accordance with this Agreement.
- (b) Any withdrawal of Sole Supply Status is without prejudice to PHARMAC's rights under clauses 5.2 and 5.3 of this Schedule.

1.4 Suspension of Sole Supply Status

- (a) If, at any time during the Sole Supply Period or (in anticipation) during the First Transition Period or the Second Transition Period, you are unable to meet demand for the Pharmaceutical, or you notify PHARMAC under clause 5.1 of this Schedule of a Potential Out-of-Stock Event, or you otherwise fail to supply the Pharmaceutical in accordance with this Agreement, PHARMAC may suspend Sole Supply Status in relation to your supply of the Pharmaceutical for the period of such inability.
- (b) Any suspension of Sole Supply Status is without prejudice to PHARMAC's rights under clauses 5.2 and 5.3 of this Schedule.
- (c) PHARMAC may, at any time, in its sole discretion, notify you of the date on which the suspension of Sole Supply Status under this clause 1.4 ceases and on which date:
- (i) Sole Supply Status is to be re-implemented in respect of the Pharmaceutical; or
 - (ii) Sole Supply Status is to be withdrawn in accordance with clause 1.3 of this Schedule.

1.5 Subsidy arrangements after the End Date

- (a) Subject to paragraphs (b) and (c) below, the Pharmaceutical is to continue to be the subject of a listing agreement between you and PHARMAC with effect from the End Date, and accordingly:
- (i) you will cease to have Sole Supply Status for that form and strength of the Chemical Entity; and
 - (ii) the Pharmaceutical will remain listed in Section B of the Pharmaceutical Schedule subject to PHARMAC's standard terms of supply for pharmaceuticals used in the community (as recorded in the then current general listing terms Annex of PHARMAC's standard community contract template).
 - (iii) you may increase the price ex-manufacturer (exclusive of GST) at which you supply the Pharmaceutical to wholesalers and other such distributors on giving PHARMAC six months' written notice of that price increase. You may provide PHARMAC with this written notice at any time after, but not before, the End Date;
 - (iv) if PHARMAC does not increase the subsidy for the Pharmaceutical to the new price notified under paragraph (a)(iii) above, you may withdraw the Pharmaceutical from supply on not less than six months' prior written notice;
 - (v) if PHARMAC does increase the subsidy for the Pharmaceutical to the new price notified under paragraph (a)(iii) above, you may withdraw the Pharmaceutical from supply on not less than two years' prior written notice (except where the withdrawal is for reasons that PHARMAC considers to be wholly outside of your

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control, in which case you must first provide to PHARMAC such information as it may require from you in order to satisfy it, in its sole discretion, that you are required to withdraw supply); and

- (vi) if at the time of providing notice under paragraph (a)(iii) above, you advise PHARMAC that you are required to purchase a significant quantity of extra stock of the Pharmaceutical to enable you to continue to supply for the two-year period, and you advise PHARMAC of the total cost of that stock, PHARMAC will either:
 - (A) use reasonable endeavours to enter into an agreement to reimburse you for stock that remains unsold at the end of that two-year period; or
 - (B) release you from your obligations to supply under this paragraph (a).
- (b) PHARMAC may at its sole discretion, with effect from the End Date:
 - (i) require that the Pharmaceutical does not continue to be the subject of a listing agreement, in which case PHARMAC will give you written notice not less than three months prior to the End Date; and/or
 - (ii) apply any of the strategies under PHARMAC's then current OPPs to the Pharmaceutical (including delisting the Pharmaceutical after the Final Transition Period).
- (c) In the event PHARMAC applies any of the strategies described in paragraph (b)(ii) above, you may withdraw the Pharmaceutical from supply on not less than six months' prior written notice. You may provide PHARMAC with this written notice at any time after, but not before, the date that the particular strategy takes effect in the Pharmaceutical Schedule.

2. Consents

2.1 Warranty and indemnity that Consents are held

You warrant that you have, and will maintain, all necessary Consents. If a Consent is not held by you or is withdrawn or the Pharmaceutical is no longer approved for the treatment of any indication for which it is subsidised, then:

- (a) PHARMAC is entitled to terminate this Agreement by 14 days' written notice to you; and
- (b) whether or not PHARMAC terminates this Agreement under paragraph (a) above, you are to indemnify the Funder for any additional costs incurred by it (or by PHARMAC on its behalf) as a result of that failure to hold all necessary Consents. This clause confers a benefit on (and is enforceable by) the Funder in accordance with the Contracts (Privity) Act 1982.

2.2 Changed medicine notification

If the Ministry of Health issues a changed medicine notification in relation to a Pharmaceutical, and as a result a variant of the Pharmaceutical (the "**CMN Pharmaceutical**") is approved:

- (a) you must immediately notify PHARMAC; and
- (b) PHARMAC may take such action as it considers appropriate in relation to that Pharmaceutical or the CMN Pharmaceutical including (but not limited to):
 - (i) withdrawing Sole Supply Status for the Pharmaceutical;

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- (ii) reviewing the terms of listing of that Pharmaceutical; and
- (iii) determining whether, and the extent to which, the Funder may subsidise the CMN Pharmaceutical.

3. Price

3.1 Price change

You must change the price at which you supply the Pharmaceutical to the Price on the 12th day of the month prior to the Start Date. If your brand of the Pharmaceutical is not listed on the Pharmaceutical Schedule at the beginning of the First Transition Period, it must be available at the Price from the 12th day of the month prior to the Start Date, and will be subsidised at the Price from the Start Date.

3.2 Supply price

During each of the Second Transition Period, the Sole Supply Period and the Final Transition Period, the price at which the Pharmaceutical is supplied by you must not exceed the Price.

3.3 Warranty that Pharmaceutical is supplied at not less than cost price

You warrant that the price at which you are required to supply the Pharmaceutical under this Agreement is greater than the cost price of the Pharmaceutical (including, without limitation, the costs of manufacturing the Pharmaceutical and of supplying it to you for supply in New Zealand).

3.4 No reference pricing during Sole Supply Period

The subsidy payable for the Pharmaceutical will not be reduced as a result of a reduction in the reference price for the therapeutic sub-group of which it is a member during the Sole Supply Period. For the avoidance of doubt, PHARMAC will not be prevented from applying its reference pricing mechanisms to the Pharmaceutical to reduce the subsidy payable for it from the End Date.

4. Shelf-life of Pharmaceutical

- (a) You will not supply the Pharmaceutical to wholesalers, or other such distributors, or pharmacies if:
 - (i) the remaining shelf-life of the Pharmaceutical is less than six months; or
 - (ii) where the total shelf-life of the Pharmaceutical is less than six months, the remaining shelf-life is less than 75% of the Pharmaceutical's total shelf-life,without prior written agreement from PHARMAC.
- (b) If you have an agreement with PHARMAC to supply the Pharmaceutical, where the total shelf-life of the Pharmaceutical is less than six months and the remaining shelf-life is less than 75% of the Pharmaceutical's total shelf-life, and a particular wholesaler, or other such distributor, or pharmacy does not distribute or dispense that Pharmaceutical before its expiry or use-by date, you agree to allow that wholesaler, or other such distributor, or pharmacy to return the Pharmaceutical to you and to provide that wholesaler, or other such distributor, or pharmacy with a credit for the Pharmaceutical.

5. Out-of-stock arrangements

5.1 Notification of Potential Out-of-Stock Event and supply of Alternative Pharmaceutical

- (a) You must notify PHARMAC in writing as soon as you have reasonable cause to believe at any time that you will fail to supply the Pharmaceutical in accordance with this Agreement and, in any event, you must notify PHARMAC if at any time a Potential Out-of-Stock Event occurs, including during the Sole Supply Period or the First Transition Period or the Second Transition Period, in which case PHARMAC may suspend Sole Supply Status in relation to your supply of the Pharmaceutical.
- (b) If a Potential Out-of-Stock Event occurs, or your failure to supply the Pharmaceutical in accordance with this Agreement will result in insufficient stock of the Pharmaceutical being available, then at PHARMAC's option:
 - (i) PHARMAC may implement an arrangement with another supplier to supply an Alternative Pharmaceutical (including an arrangement for back-up supply); or
 - (ii) you must use your best endeavours to procure wholesalers and other such distributors to supply, as soon as practicable, an Alternative Pharmaceutical to pharmacies at the Price, and PHARMAC will subsidise the Alternative Pharmaceutical at the Price.

5.2 General indemnity

You agree to indemnify the Funder if you fail to supply the Pharmaceutical in accordance with this Agreement (other than for reasons that PHARMAC reasonably considers, following discussion with you, to be wholly outside your control) whether as a result of:

- (a) your inability to meet demand for supply of the Pharmaceutical;
- (b) your withdrawal of the Pharmaceutical from supply;
- (c) any failure to have and maintain a Consent as specified in clause 2 of this Schedule;
- (d) any failure to notify PHARMAC in accordance with clause 5.1 above; or
- (e) for any other reason.

This indemnity:

- (f) covers all additional costs, including without limitation all costs (if any) incurred in securing and subsidising an Alternative Pharmaceutical, incurred by the Funder (or by PHARMAC on its behalf) as a result of your failure that are additional to any costs specified in clause 5.3; and
- (g) confers a benefit on (and is enforceable by) the Funder in accordance with the Contracts (Privity) Act 1982.

5.3 Liquidated damages

- (a) If you fail to supply the Pharmaceutical in accordance with this Agreement (other than for reasons that PHARMAC reasonably considers, following discussion with you, to be wholly outside your control) and:

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- (i) you have not notified PHARMAC under clause 5.1 of this Schedule, then without prejudice to PHARMAC's rights under clause 5.2:
 - (A) subject to paragraph (e) below, you must pay to PHARMAC (for the benefit of PHARMAC and the Funder) liquidated damages for the administrative and/or operational costs incurred by PHARMAC as a result of your failure to supply in the amount of \$50,000 per Pharmaceutical in respect of which you failed to notify PHARMAC; and
 - (B) PHARMAC may withdraw Sole Supply Status in relation to your supply of the Pharmaceutical under clause 1.3 of this Schedule; or
 - (ii) you have notified PHARMAC under clause 5.1 of this Schedule, then without prejudice to PHARMAC's rights under clause 5.2:
 - (A) you are not liable to pay any liquidated damages under this clause 5.3; and
 - (B) if you fail to supply the Pharmaceutical in accordance with this Agreement for more than 30 days, PHARMAC may withdraw Sole Supply Status in relation to your supply of the Pharmaceutical under clause 1.3 of this Schedule.
- (b) If, having notified PHARMAC under clause 5.1 of this Schedule, you remain able to, and you continue to, supply the Pharmaceutical, or an Alternative Pharmaceutical in accordance with clause 5.1(b)(ii) of this Schedule, such that there is no interruption to supply of the Pharmaceutical or of the Alternative Pharmaceutical in accordance with this Agreement, you will not be liable for any costs unless PHARMAC, in its sole discretion, has considered it necessary to enter into an arrangement with an alternative supplier under which PHARMAC has agreed to make a payment to that supplier to ensure continuity of supply, in which case you must indemnify the Funder or PHARMAC for that payment. Such indemnity will be limited to an amount of \$10,000.
- (c) You acknowledge and agree that:
- (i) the amounts of liquidated damages in this clause represent a reasonable estimate of the administrative and operational costs incurred by PHARMAC (including the use of staff and loss of opportunity as a result of use of staff time, and communication costs), the estimate being based on PHARMAC's previous experience; and
 - (ii) the amounts referred to as liquidated damages are not intended to include any penalty element nor any amount for costs relating to the securing of an Alternative Pharmaceutical, or the subsidisation of an Alternative Pharmaceutical,
- provided that PHARMAC may, in its sole discretion, require you to pay less than the amount specified as liquidated damages if it is satisfied that the actual costs in the particular circumstances are less than the relevant amount so specified.
- (d) All amounts referred to in this clause are plus GST.
- (e) Where a Pharmaceutical in respect of which you are liable to pay liquidated damages pursuant to clause 5.3(a)(i)(A) above also has Hospital Supply Status and where you would otherwise be liable to pay the same amount of liquidated damages in respect of any corresponding failure under the terms of such Hospital Supply Status, you will only be required to pay liquidated damages of \$50,000 in total in respect of both supply failures.

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5.4 Failure to supply

References in this clause 5 and elsewhere in this Schedule to your failure or inability to supply the Pharmaceutical in accordance with this Agreement, or your inability to meet demand for the Pharmaceutical, or insufficient stock of the Pharmaceutical being available, include, but are not limited to, circumstances where:

- (a) no stock of the Pharmaceutical is physically held by you or on your behalf in New Zealand;
- (b) the only stock of the Pharmaceutical physically held by you or on your behalf in New Zealand is stock to which clause 4(a)(i) or (ii) of this Schedule applies and no agreement has been reached with PHARMAC in terms of clause 4(a) of this Schedule;
- (c) you fail, directly or indirectly, to ensure that all orders for the Pharmaceutical are filled (without restricting quantities that may be ordered), including in particular where, for reasons attributable (wholly or partly) to you, not all patients for whom the Pharmaceutical is prescribed receive the full amount of the Pharmaceutical they require, or to which they are entitled, under their prescriptions, within the required time frames for dispensing under the then current contract, or notice under section 88 of the New Zealand Public Health and Disability Act 2000, in respect of pharmacy services;
- (d) you fail to supply the Pharmaceutical on and from the Start Date.

5.5 Default interest and recovery costs

If payment of any amount required to be paid by you under this clause 5 is not made by you, in full, by the due date for payment of that amount as notified to you in writing by PHARMAC, then:

- (a) interest will accrue in such sum as remains unpaid at a rate per annum equal to the business base rate of ASB Bank Limited plus five percentage points, calculated and compounded on a daily basis, from the due date until such time as the sum due (including interest) is paid in full. This obligation to pay default interest is to arise without the need for a notice or demand from PHARMAC for such default interest; and
- (b) PHARMAC may take any action, including legal action, without first needing to implement the dispute resolution procedure contained in clause 4.2 of Schedule Five, to recover that amount and you agree to pay to PHARMAC actual enforcement costs incurred in relation to that action.

6. Termination and restrictions

6.1 Termination and restrictions for clinical reasons

PHARMAC reserves the right, but only after consultation with you and a relevant medical adviser (being either the Ministry of Health, PTAC or its sub-committees), to:

- (a) terminate this Agreement at any time during the Sole Supply Period or the First Transition Period or the Second Transition Period if the medical adviser determines for clinical reasons that it is no longer appropriate to have either:
 - (i) a sole subsidised supplier of that form and strength of the Chemical Entity; or
 - (ii) the Pharmaceutical as the sole subsidised brand; and/or

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- (b) impose at any time during the Sole Supply Period or the Transition Periods restrictions on the prescribing or dispensing of a Pharmaceutical if those restrictions are necessary for clinical reasons.

6.2 Termination following an audit

PHARMAC may terminate the Agreement, or withdraw Sole Supply Status in relation to a Pharmaceutical, at any time during the Sole Supply Period or the Transition Periods, if you fail to remedy any area of non-compliance in accordance with clause 3(b) of Schedule Five.

7. Guarantee

- (a) PHARMAC may require an entity acceptable to it to provide a guarantee (in a form satisfactory to PHARMAC) of your performance obligations under clauses 5.2 and 5.3 of this Schedule including, without limitation, the payment of any sum payable under the indemnity or as liquidated damages pursuant to those clauses for any failure to supply the Pharmaceutical in accordance with this Agreement during the Sole Supply Period.
- (b) The guarantor's liability under such a guarantee will be limited to a total of \$100,000 per Chemical Entity for all claims made by PHARMAC under the guarantee.

Schedule 7: Additional contract terms for Hospital Supply Status

1. Effect of Hospital Supply Status

1.1 Pricing arrangements

- (a) Subject to PHARMAC's other rights under this Agreement and clause 3.1 of this Schedule, on and from the Start Date, during the remainder of the First Transition Period and during the Hospital Supply Status Period, the Pharmaceutical is to be:
 - (i) listed at the Price set out in Section H of the Pharmaceutical Schedule;
 - (ii) sold by you to, at a DHB Hospital's discretion, any Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding), at the Price.
- (b) Where the Pharmaceutical is included in an order by a DHB Hospital for pharmaceuticals where the total value (excluding GST) of the order is less than \$1,000, you may invoice the DHB Hospital, in accordance with clause 4.1 below, for the cost of freight for that particular order. For the avoidance of doubt, this clause 1.1(b) does not entitle you to invoice a DHB Hospital for any other costs in relation to the particular order.
- (c) Subject to PHARMAC's other rights under this Agreement in relation to the Pharmaceutical (including under clause 1.6 of this Schedule), and provided that there are no Alternative Pharmaceuticals listed in Section H of the Pharmaceutical Schedule at the start of the Final Transition Period, the Pharmaceutical:
 - (i) is to continue to be listed, sold and purchased at the Price referred to in clauses 1.1(a)(i) and (ii) above during the Final Transition Period and beyond; and
 - (ii) is not to be delisted during the Final Transition Period.

1.2 Supplier for Hospital Supply Status Period

- (a) Subject to:
 - (i) PHARMAC's other rights under this Agreement in relation to the Pharmaceutical; and
 - (ii) clauses 1.4 and 1.5 of this Schedule relating to the DV Limit for the Pharmaceutical,

your brand of the Pharmaceutical will be the brand listed in Section H of the Pharmaceutical Schedule, and purchased by DHB Hospitals at any time during the Hospital Supply Status Period, as the brand having Hospital Supply Status.
- (b) This clause does not prohibit PHARMAC (on behalf of DHB Hospitals) from entering into negotiations or arrangements with, or inviting tenders from, other suppliers to be the supplier of any forms and strengths of the particular Pharmaceutical with Hospital Supply Status, or a relevant Alternative Pharmaceutical having a status equivalent to Hospital Supply Status, if notification of such an arrangement (once finalised) occurs, and such supply commences, after the end of the Hospital Supply Status Period.

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1.3 DV Pharmaceuticals

- (a) PHARMAC may amend the relevant list of DV Pharmaceuticals specified in Section H of the Pharmaceutical Schedule, from time to time, in accordance with this clause 1.3, whereby:
 - (i) PHARMAC is only to remove a pharmaceutical listed as a DV Pharmaceutical if PHARMAC:
 - (A) has first obtained your agreement; or
 - (B) has a direction from Medsafe or its successor, or a recommendation from HPAC, PTAC or its sub-committees, based on a significant clinical issue;
 - (ii) PHARMAC may add a pharmaceutical to the relevant list of DV Pharmaceuticals specified in Section H of the Pharmaceutical Schedule if such pharmaceutical is identified as a DV Pharmaceutical during the Hospital Supply Status Period or the First Transition Period by PHARMAC following a recommendation from HPAC, PTAC or its sub-committees.
- (b) PHARMAC must consult with you prior to the addition or removal of any pharmaceutical from the relevant list of DV Pharmaceuticals specified in Section H of the Pharmaceutical Schedule.

1.4 DV Limit

- (a) PHARMAC may, from time to time during the Hospital Supply Status Period or the First Transition Period, amend the DV Limit of the Pharmaceutical following what PHARMAC considers to be appropriate consultation with HPAC, PTAC or its sub-committees, provided that PHARMAC may only increase the DV Limit without your prior agreement if it has a direction from Medsafe or its successor, or a recommendation from HPAC, PTAC or its sub-committees, based on a significant clinical issue.
- (b) Subject to clause 1.5 of this Schedule you acknowledge and agree that while you have Hospital Supply Status:
 - (i) DHB Hospitals may purchase DV Pharmaceuticals at any time within the First Transition Period and Final Transition Period without any requirement to comply with the DV Limit;
 - (ii) provided that DHB Hospitals collectively do not exceed the National DV Limit for the relevant Pharmaceutical, a DHB Hospital may purchase DV Pharmaceuticals at any time within the Hospital Supply Status Period;
 - (iii) without derogating from any other rights available to PHARMAC or DHB Hospitals under this Agreement or otherwise, if you fail to supply the Pharmaceutical in accordance with this Agreement (other than for a reason that PHARMAC reasonably considers, following discussion with you, to be wholly outside your control) within the Hospital Supply Status Period, then the relevant DHB Hospital is not required to comply with the DV Limit for the Pharmaceutical during that period of non-supply and the calendar month during which that non-supply occurred will be excluded in any review of the DV Limit in accordance with clause 1.5 below;
 - (iv) if a DHB Hospital's usage of any DV Pharmaceuticals, in percentage terms, reaches or exceeds the percentage at which the Individual DV Limit is set for the relevant Pharmaceutical, that DHB Hospital may negotiate with you to agree to vary the application of the Individual DV Limit to the DHB Hospital in respect of particular patients with exceptional needs.

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1.5 DV Limit Compliance

- (a) For the purposes of this clause 1.5:
- (i) **“Relevant Period”** means:
- (A) the initial period starting on the day that the Hospital Supply Status Period begins up to and including 30 June 2008; or
- (B) the period commencing on 1 July 2008 and ending on 30 June 2009; or
- (C) the period commencing on 1 July 2009 and ending on 30 June 2010,
- provided that for the purposes of carrying out the calculations in this clause 1.5 any calendar months that fall within those periods when there is any failure to supply the Pharmaceutical in accordance with this Agreement will be excluded.
- (ii) **“Actual National DV Limit Indicator”** means, for a particular Pharmaceutical in any Relevant Period, such sum, expressed as a percentage, as is equal to:
- $$\frac{\text{Total DV Pharmaceuticals Volume}}{\text{Total DV Pharmaceuticals Volume} + \text{Total Pharmaceutical Volume}} \times 100;$$
- (iii) **“Total DV Pharmaceuticals Volume”** means, for a particular Pharmaceutical in any Relevant Period, the total number of Units of all DV Pharmaceuticals of the relevant Pharmaceutical with Hospital Supply Status purchased by DHB Hospitals, as calculated by PHARMAC, following your request in accordance with clause 1.5(b) below, on the basis of the data extracted by PHARMAC from the electronic records used by it; and
- (iv) **“Total Pharmaceutical Volume”** means, for a particular Pharmaceutical with Hospital Supply Status in any Relevant Period, the total number of Units of that Pharmaceutical purchased by DHB Hospitals, as calculated by PHARMAC following your request in accordance with clause 1.5(b) below, on the basis of the data extracted by PHARMAC from the electronic records used by it.
- (b) If you reasonably believe that DHB Hospitals' percentage usage of DV Pharmaceuticals collectively exceeds the National DV Limit for a particular Pharmaceutical, you may at any time, but not more often than three-monthly, request that PHARMAC carry out calculations in accordance with the procedure set out in this clause 1.5 for the proportion of the Relevant Period that has passed to the date of your request, and PHARMAC may, in its discretion, agree to carry out the calculations for the Total DV Pharmaceuticals Volume, the Total Pharmaceutical Volume and the Actual National DV Limit Indicator, provided that if PHARMAC refuses to carry out such calculations, it will provide you with the reasons for refusing to do so.
- (c) It is acknowledged, for the avoidance of doubt, that if the Actual National DV Limit Indicator is less than the National DV Limit specified for the relevant Chemical Entity in Schedule Two then, regardless of whether an individual DHB Hospital's percentage usage of DV Pharmaceuticals has exceeded the Individual DV Limit percentage for that Pharmaceutical, PHARMAC may decide, in its sole discretion, not to take any further action.
- (d) If the Actual National DV Limit Indicator is greater than the National DV Limit, PHARMAC will use its best endeavours to identify which individual DHB Hospitals' percentage usage of DV Pharmaceuticals have exceeded the Individual DV Limit percentage for that Pharmaceutical. You acknowledge that if PHARMAC cannot do this on the basis of information held by it, it may be necessary to obtain any further

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information you can provide. If neither of us can establish or quantify non-compliance by an individual DHB Hospital with the Individual DV Limit, then you acknowledge that PHARMAC may not be able to calculate for you, and you may not be able to obtain, financial compensation under clause 1.5(f)(ii) below. In that event you acknowledge, for the avoidance of doubt, that PHARMAC is not liable to pay any financial compensation on behalf of the relevant DHB.

- (e) If an individual DHB Hospital's percentage usage of DV Pharmaceuticals has exceeded the Individual DV Limit percentage for that Pharmaceutical as a result of DV Pharmaceutical usage that has been agreed to by you in accordance with clause 1.4(b)(iv) above then PHARMAC will not take any further action.
- (f) Subject to paragraph (e) above, PHARMAC will address the issue of non-compliance with any individual DHB Hospital or DHB Hospitals identified in accordance with paragraph (d) above by:
 - (i) using its best endeavours to ensure that the relevant DHB Hospital complies with the DV Limit for that Pharmaceutical in the remainder of that Relevant Period (if applicable) and in any subsequent Relevant Period or Relevant Periods; and/or
 - (ii) following the end of a Relevant Period, and only once in respect of any Relevant Period, determining what financial compensation is payable by that DHB for its contribution towards exceeding the National DV Limit (where PHARMAC is able to quantify this based on the information available to it), being the greater amount of \$5,000 or such sum as is equal to:

DHB Deviation x Adjusted Price

where:

- (A) "**Adjusted Price**" means the Unit Price, for a particular Pharmaceutical in any Relevant Period, divided by two;
- (B) "**DHB Deviation**" is equal to:

$(\text{Total Contribution for DHB}_x \div \text{Total Contribution for Exceeding DHBs}) \times \text{Total DV Pharmaceuticals Volume in Excess of DV Limit}$

where:

"**Total Contribution for DHB_x**" means, for:

- (a) a particular Pharmaceutical; and
- (b) a particular DHB Hospital,

in any Relevant Period, the total number of Units of all DV Pharmaceuticals of the relevant Pharmaceutical with Hospital Supply Status purchased by that DHB Hospital minus the number of Units of DV Pharmaceuticals that corresponds to the percentage of the Individual Total Market Volume represented by the Individual DV Limit percentage for that Pharmaceutical, as calculated by PHARMAC for such Relevant Period on the basis of the data extracted by PHARMAC from the electronic records used by it;

"**Total Contribution for Exceeding DHBs**" means, for a particular Pharmaceutical in any Relevant Period, the sum of the Total Contribution for DHB_x for each DHB Hospital identified by PHARMAC in accordance with paragraph (d) above as exceeding the Individual DV Limit for that

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Relevant Period, as calculated by PHARMAC for such Relevant Period on the basis of the data extracted by PHARMAC from the electronic records used by it;

“Total DV Pharmaceuticals Volume in Excess of DV Limit” means, for a particular Pharmaceutical in any Relevant Period, the total number of Units of all DV Pharmaceuticals of the relevant Pharmaceutical with Hospital Supply Status purchased by DHB Hospitals in excess of the National DV Limit for that Relevant Period, as calculated by PHARMAC on the basis of the data extracted by PHARMAC from the electronic records used by it;

- (iii) PHARMAC will notify you and the relevant DHB in writing of any DV Limit compensation payable in accordance with clause 1.5(f)(ii) above. You may then invoice the relevant DHB for the amount of DV Limit compensation payable, as calculated and notified to you by PHARMAC. You must provide to PHARMAC a copy of any such invoice, and evidence of any payment received from the DHB in respect of that invoice, within 10 business days of sending such invoice or receiving such payment, respectively.
- (iv) If you have not received the amount of any DV Limit compensation payable in accordance with clause 1.5(f)(ii) above from the DHB within 60 business days of invoicing the DHB for the amount owing, then you may take such further actions (other than ceasing to supply) directly with the DHB as you consider appropriate to recover the amount owing to you. In that event you acknowledge, for the avoidance of doubt, that PHARMAC is not liable to pay any financial compensation on behalf of the relevant DHB.
- (v) For the avoidance of doubt, for the purposes of calculating the Total DV Pharmaceuticals Volume, the Total Contribution for DHB_x and the Total DV Pharmaceuticals Volume in Excess of DV Limit in this clause 1.5, if a pharmaceutical is added to, or removed from, the list of DV Pharmaceuticals during the Relevant Period in accordance with clause 1.3 of this Schedule, then only the number of Units of that pharmaceutical purchased by DHB Hospitals during the portion of the Relevant Period in which that pharmaceutical was a DV Pharmaceutical are to be included in those calculations.

1.6 Supply arrangements after the End Date

- (a) Subject to paragraphs (b) and (c) below, the Pharmaceutical is to continue to be the subject of a listing agreement between you and PHARMAC with effect from the End Date, and accordingly:
 - (i) you will cease to have Hospital Supply Status for that form and strength of the Pharmaceutical; and
 - (ii) the Pharmaceutical will remain listed in Section H of the Pharmaceutical Schedule subject to PHARMAC's standard terms of supply for pharmaceuticals used in DHB Hospitals (as recorded in the then current general listing terms Annex of PHARMAC's standard hospital contract template);
 - (iii) you may increase the price (exclusive of GST) at which you supply the Pharmaceutical to, at a DHB Hospital's discretion, any Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding), on giving PHARMAC six months' written notice of that price increase. You may provide PHARMAC with this written notice at any time after, but not before, the End Date;

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- (iv) you may withdraw the Pharmaceutical from supply on not less than two years' prior written notice (except where the withdrawal is for reasons that PHARMAC considers to be wholly outside of your control, in which case you must first provide to PHARMAC such information as it may require from you in order to satisfy it, in its sole discretion, that you are required to withdraw supply); and
- (v) if at the time of providing notice under paragraph (a)(iii) above, you advise PHARMAC that you are required to purchase a significant quantity of extra stock of the Pharmaceutical to enable you to continue to supply for the two-year period, and you advise PHARMAC of the total cost of that stock, PHARMAC will either:
 - (A) use reasonable endeavours to enter into an agreement to reimburse you for stock that remains unsold at the end of that two-year period; or
 - (B) release you from your obligations to supply under this paragraph (a).
- (b) PHARMAC may, at its sole discretion, with effect from the End Date:
 - (i) require that the Pharmaceutical does not continue to be the subject of a listing agreement, in which case PHARMAC will give you written notice not less than three months prior to the End Date; and/or
 - (ii) apply any of the strategies under PHARMAC's then current OPPs to the Pharmaceutical (including delisting the Pharmaceutical after the Final Transition Period).
- (c) In the event PHARMAC applies any of the strategies described in paragraph (b)(ii) above, you may withdraw the Pharmaceutical from supply on not less than six months' prior written notice. You may provide PHARMAC with this written notice at any time after, but not before, the date that the particular strategy takes effect in the Pharmaceutical Schedule.

1.7 Withdrawal of Hospital Supply Status

- (a) PHARMAC may withdraw Hospital Supply Status in relation to your supply of the Pharmaceutical (in which case clauses 1.1, 1.2 and 1.3 of this Schedule will no longer apply), by written notice to you at any time during the Hospital Supply Status Period or (in anticipation) during the First Transition Period if:
 - (i) you have failed to notify PHARMAC as required under clause 7.1 of this Schedule;
 - (ii) you fail, for a period of 30 days, to supply the Pharmaceutical in accordance with this Agreement to any of the DHB Hospitals including to, at a DHB Hospital's discretion, any Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding);
 - (iii) any Consent for the Pharmaceutical required under clause 2 of this Schedule is withdrawn;
 - (iv) you have failed to comply with clause 6 of this Schedule on more than one occasion; or
 - (v) you otherwise fail to supply the Pharmaceutical in accordance with this Agreement.
- (b) Any withdrawal of Hospital Supply Status is without prejudice to PHARMAC's rights under clauses 7.2 and 7.3 of this Schedule.

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1.8 Suspension of Hospital Supply Status

- (a) If, at any time during the Hospital Supply Status Period or (in anticipation) during the First Transition Period, you are unable to meet demand for the Pharmaceutical, or you notify PHARMAC under clause 7.1 of this Schedule of a Potential Out-of-Stock Event, or you otherwise fail to supply the Pharmaceutical in accordance with this Agreement, then:
 - (i) PHARMAC may suspend Hospital Supply Status in relation to your supply of the Pharmaceutical for the period of such inability; and
 - (ii) DHB Hospitals may purchase DV Pharmaceuticals during the period when Hospital Supply Status is suspended without the requirement to comply with the DV Limit for the relevant Pharmaceutical.
- (b) Any suspension of Hospital Supply Status is without prejudice to PHARMAC's rights under clauses 7.2 and 7.3 of this Schedule.
- (c) PHARMAC may, at any time, in its sole discretion, notify you of the date on which the suspension of Hospital Supply Status under this clause 1.8 ceases and on which date:
 - (i) Hospital Supply Status is to be re-implemented in respect of the Pharmaceutical; or
 - (ii) Hospital Supply Status is to be withdrawn in accordance with clause 1.7 of this Schedule.

2. Consents

2.1 Warranty and indemnity that Consents are held

You warrant that you have, and will maintain, all necessary Consents. If a Consent is not held by you or is withdrawn or the Pharmaceutical is no longer approved for the treatment of any indication for which it is listed in Section H of the Pharmaceutical Schedule, then:

- (a) PHARMAC is entitled to terminate this Agreement by 14 days' written notice to you; and
- (b) whether or not PHARMAC terminates this Agreement under paragraph (a) above, you are to indemnify the Funder for any additional costs incurred by it (or by PHARMAC on its behalf) as a result of that failure to hold all necessary Consents. This clause confers a benefit on (and is enforceable by) the Funder in accordance with the Contracts (Privity) Act 1982.

2.2 Changed medicine notification

If the Ministry of Health issues a changed medicine notification in relation to a Pharmaceutical, and as a result a variant of the Pharmaceutical (the "**CMN Pharmaceutical**") is approved:

- (a) you must immediately notify PHARMAC; and
- (b) PHARMAC may take such action as it considers appropriate in relation to that Pharmaceutical or the CMN Pharmaceutical including (but not limited to):
 - (i) withdrawing Hospital Supply Status for the Pharmaceutical;
 - (ii) reviewing the terms of listing of that Pharmaceutical; and

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- (iii) determining whether, and the extent to which, DHB Hospitals may purchase the CMN Pharmaceutical.

2.3 Pharmacode

You agree to obtain and notify PHARMAC of the Pharmacode for the Pharmaceutical as soon as the Pharmacode is notified to you, and in any event before the date on which the Pharmaceutical is listed in Section H of the Pharmaceutical Schedule.

3. Price

3.1 Price change

You must change the price at which you supply the Pharmaceutical to, at a DHB Hospital's discretion, any Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding), to the Price with effect from the 12th day of the month prior to the Start Date. If your brand of the Pharmaceutical is not listed on the Pharmaceutical Schedule at the beginning of the First Transition Period, you must supply it at the Price on and from the 12th day of the month prior to the Start Date.

3.2 Supply price

Subject to clause 3.1 of this Schedule, during each of the First Transition Period, the Hospital Supply Status Period and the Final Transition Period, if applicable in accordance with clause 1.1(b) of this Schedule, the price at which the Pharmaceutical is supplied by you to, at a DHB Hospital's discretion, any Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding), must not exceed the Price.

3.3 Supply at lower price

Notwithstanding clauses 3.1 and 3.2 above but subject to clause 3.4 below, you may supply the Pharmaceutical to, at a DHB Hospital's discretion, any Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding) at a price lower than the Price, provided that where you decide to supply the Pharmaceutical in respect of any one or more DHB Hospital(s) at a price lower than the Price, you must supply the Pharmaceutical at the same lower price to all DHB Hospitals in respect of which you supply the Pharmaceutical, in which case that lower price will be deemed to be the Price of that Pharmaceutical for the purposes of this Agreement.

3.4 Warranty that Pharmaceutical is supplied at not less than cost price

You warrant that the Price at which you are required to supply the Pharmaceutical under this Agreement is greater than the cost price of the Pharmaceutical (including, without limitation, the costs of manufacturing the Pharmaceutical and of supplying it to you for supply in New Zealand).

4. Invoicing and Payment

4.1 Invoice

You are to invoice DHB Hospitals at the end of each month, but no later than the tenth day following the month to which the invoice in respect of the Pharmaceutical relates, specifying for the Pharmaceutical supplied during that month:

- (a) your delivery note reference number;

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- (b) the particular DHB's purchase order reference number (if applicable);
- (c) the net amount payable in respect of the Pharmaceutical supplied to that DHB in accordance with this Agreement;
- (d) full details in respect of the Pharmaceutical supplied to that DHB in accordance with this Agreement, including the:
 - (i) DHB's item codes;
 - (ii) quantity of the Pharmaceutical supplied;
 - (iii) price of the Pharmaceutical;
 - (iv) cost of freight for orders that included the Pharmaceutical (only where applicable under clause 1.1(b) above);
 - (v) total cost for the total amount of the Pharmaceutical supplied; and
- (e) any other information that DHB Hospital requires you to supply.

4.2 Payment

- (a) Provided that the Pharmaceutical has been supplied in accordance with this Agreement, and the particular DHB receives an invoice in accordance with clause 4.1 above, payment by the DHB Hospital to you of the amount required to be paid by it is expected to occur:
 - (i) by electronic funds transfer or such other method of payment as is designated by that DHB Hospital;
 - (ii) on the 20th day of the month following the month to which the invoice for the Pharmaceutical relates, or, if the 20th day of the month is not a business day, then on the next business day following the 20th of the month.
- (b) Where you invoice a DHB Hospital later than the tenth day following the month to which the invoice in respect of the Pharmaceutical relates then, provided that the Pharmaceutical has been supplied in accordance with this Agreement, and the invoice otherwise accords with clause 4.1 above, payment by the DHB Hospital to you of the amount required to be paid by it is expected to occur:
 - (iii) by electronic funds transfer or such other method of payment as is designated by that DHB Hospital;
 - (iv) on the 20th day of the month following the month in which you invoice the DHB for the Pharmaceutical, or, if the 20th day of the month is not a business day, then on the next business day following the 20th of the month.

4.3 Future payment

- (a) A particular DHB Hospital's failure to dispute any invoice prior to payment does not prejudice that DHB Hospital's right subsequently to dispute the correctness of such an invoice, nor its ability to recover any amount of overpayment from you.
- (b) A DHB Hospital may withhold, deduct or set off the amount of any overpayment or any amount recoverable by that DHB Hospital from you under this Agreement from any future amount owing to you.

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4.4 Contracts Privity

This clause 4 confers a benefit on (and is enforceable by) DHB Hospitals in accordance with the Contracts (Privity) Act 1982.

5. Emergency and disaster supply

In the event of an emergency or disaster affecting any DHB Hospital, or an emergency or disaster on a national level, you will use your best endeavours to provide such quantities of the Pharmaceutical as are required by the relevant DHB Hospital(s). Your obligations under this clause include, but are not limited to, using your best endeavours to:

- (a) source the Pharmaceutical from other suppliers and distributors within New Zealand; and
- (b) source the Pharmaceutical or a pharmaceutical that is the same brand as the Pharmaceutical from any overseas manufacturer, supplier or distributor, and air-freighting that stock to New Zealand (for which the relevant DHB Hospital will meet all reasonable costs) for supply, either under Medsafe's explicit consent to import, sell or distribute the Pharmaceutical or under section 29 of the Medicines Act 1981, to DHB Hospitals.

6. Defective and short-dated Pharmaceuticals

6.1 Pharmaceutical recall

- (a) In the event that you are required by the Ministry of Health or any other authorities to recall the Pharmaceutical or a particular batch of the Pharmaceutical, you will notify PHARMAC and the relevant DHB Hospitals immediately you become aware of the need to recall the Pharmaceutical or that batch of the Pharmaceutical.
- (b) You will use your best endeavours to provide replacement Pharmaceuticals to DHB Hospitals as soon as possible.
- (c) If you fail to provide replacement Pharmaceuticals or an Alternative Pharmaceutical within what DHBs consider to be a reasonable time frame, then DHB Hospital(s) may purchase an Alternative Pharmaceutical elsewhere. Any reasonable additional costs incurred by DHB Hospital(s) in purchasing such an Alternative Pharmaceutical will be met by you on demand by PHARMAC or the DHB Hospital(s) and will be recoverable from you as a debt due to PHARMAC and to the DHB Hospital(s), as applicable.
- (d) In the event that the Pharmaceutical or a particular batch of the Pharmaceutical is recalled as contemplated by paragraph (a) above, you shall immediately refund to the relevant DHB Hospitals all money paid by them to you for or on account of the Pharmaceutical or that batch of the Pharmaceutical and such money will be recoverable from you as a debt due to the relevant DHB Hospitals, unless you have provided a replacement Pharmaceutical to the relevant DHB Hospitals' satisfaction.
- (e) This clause confers a benefit on (and is enforceable by) DHB Hospitals in accordance with the Contracts (Privity) Act 1982.

6.2 Shelf-life of Pharmaceutical

- (a) You will not supply the Pharmaceutical if:
 - (i) the remaining shelf-life of the Pharmaceutical is less than six months; or

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- (ii) where the total shelf-life of the Pharmaceutical is less than six months, the remaining shelf-life is less than 75% of the Pharmaceutical's total shelf-life,

without prior agreement from the relevant DHB Hospital.

- (b) If you have an agreement with the relevant DHB Hospital to supply the Pharmaceutical, where the total shelf-life of the Pharmaceutical is less than six months and the remaining shelf-life is less than 75% of the Pharmaceutical's total shelf-life, and that DHB Hospital does not use the Pharmaceutical before its expiry or use-by date, you agree to allow that DHB Hospital to return the Pharmaceutical to you and to provide that DHB Hospital with a credit for the Pharmaceutical.
- (c) This clause confers a benefit on (and is enforceable by) DHB Hospitals in accordance with the Contracts (Privity) Act 1982.

7. Out-of-stock arrangements

7.1 Notification of Potential Out-of-Stock Event and supply of Alternative Pharmaceutical

- (a) You must notify PHARMAC in writing as soon as you have reasonable cause to believe at any time that you will fail to supply the Pharmaceutical in accordance with this Agreement and, in any event, you must notify PHARMAC and the relevant DHB Hospitals if at any time a Potential Out-of-Stock Event occurs, including during the Hospital Supply Period or the First Transition Period.
- (b) If a Potential Out-of-Stock Event occurs, or your failure to supply the Pharmaceutical in accordance with this Agreement will result in insufficient stock of the Pharmaceutical being available, then at PHARMAC's option:
 - (i) PHARMAC may implement an arrangement with another supplier to supply an Alternative Pharmaceutical (including an arrangement for back-up supply); and/or
 - (ii) you must use your best endeavours to procure, as soon as practicable, an Alternative Pharmaceutical for supply to, at a DHB Hospital's discretion, any Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding), at the Price, and if you are unable to do so you will pay to DHB Hospitals any additional costs incurred by DHB Hospitals as a result of the purchase price for the Alternative Pharmaceutical being higher than the Price.

7.2 General indemnity

You agree to indemnify DHB Hospitals and PHARMAC if you fail to supply the Pharmaceutical in accordance with this Agreement (other than for reasons that PHARMAC reasonably considers, following discussion with you, to be wholly outside your control) whether as a result of:

- (a) your inability to meet demand for supply of the Pharmaceutical;
- (b) your withdrawal of the Pharmaceutical from supply;
- (c) any failure to have and maintain a Consent as specified in clause 2 of this Schedule;
- (d) any failure to notify PHARMAC in accordance with clause 7.1 above; or
- (e) for any other reason.

This indemnity:

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- (f) covers all additional costs, including without limitation all costs (if any) incurred in securing and purchasing an Alternative Pharmaceutical, incurred by DHB Hospitals (or by PHARMAC on their behalf) as a result of your failure that are additional to any costs specified in clause 7.3; and
- (g) confers a benefit on (and is enforceable by) DHB Hospitals in accordance with the Contracts (Privity) Act 1982.

7.3 Liquidated damages

- (a) If you fail to supply the Pharmaceutical in accordance with this Agreement (other than for reasons that PHARMAC reasonably considers, following discussion with you, to be wholly outside your control) and:
 - (i) you have not notified PHARMAC and the relevant DHB Hospitals under clause 7.1 of this Schedule, then without prejudice to PHARMAC's and the relevant DHB Hospitals' rights under clause 7.2 above, but subject to paragraph (e) below, you must pay to PHARMAC (for the benefit of PHARMAC and DHB Hospitals) liquidated damages for the administrative and/or operational costs incurred by PHARMAC and DHB Hospitals as a result of your failure to supply in the amount of \$50,000 per Pharmaceutical in respect of which you failed to notify PHARMAC; or
 - (ii) you have notified PHARMAC and the relevant DHB Hospitals under clause 7.1 of this Schedule, then without prejudice to PHARMAC's and the relevant DHB Hospitals' rights under clause 7.2 above you are not liable to pay any liquidated damages under this clause 7.3.
- (b) If, having notified PHARMAC and the relevant DHB Hospitals under clause 7.1 of this Schedule, you remain able to, and you continue to, supply the Pharmaceutical, or an Alternative Pharmaceutical in accordance with clause 7.1(b)(ii) of this Schedule, such that there is no interruption to supply of the Pharmaceutical or of the Alternative Pharmaceutical in accordance with this Agreement, you will not be liable for any costs unless PHARMAC, in its sole discretion, has considered it necessary to enter into an arrangement with an alternative supplier under which PHARMAC or the relevant DHB Hospitals have agreed to make a payment to that supplier to ensure continuity of supply, in which case you must indemnify the relevant DHB Hospitals and PHARMAC for that payment. Such indemnity will be limited to an amount of \$10,000 per Pharmaceutical.
- (c) You acknowledge and agree that:
 - (i) the amounts of liquidated damages in this clause represent a reasonable estimate of the administrative and operational costs incurred by PHARMAC and DHB Hospitals (including the use of staff and loss of opportunity as a result of use of staff time, and communication costs), the estimate being based on PHARMAC's and DHB Hospitals' previous experience; and
 - (ii) the amounts referred to as liquidated damages are not intended to include any penalty element nor any amount for costs relating to the securing of an Alternative Pharmaceutical, or the purchasing of an Alternative Pharmaceutical,provided that PHARMAC may, in its sole discretion, require you to pay less than the amount specified as liquidated damages if it is satisfied that the actual costs in the particular circumstances are less than the relevant amount so specified.
- (d) All amounts referred to in this clause are plus GST.

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- (e) Where a Pharmaceutical in respect of which you are liable to pay liquidated damages pursuant to clause 7.3(a)(i) above also has Sole Supply Status and where you would otherwise be liable to pay the same amount of liquidated damages in respect of any corresponding failure under the terms of such Sole Supply Status, you will only be required to pay liquidated damages of \$50,000 in total in respect of both supply failures.

7.4 Failure to supply

References in this clause 7 and elsewhere in this Schedule to your failure or inability to supply the Pharmaceutical in accordance with this Agreement, or your inability to meet demand for supply of the Pharmaceutical, or insufficient stock of the Pharmaceutical being available, include, but are not limited to, circumstances where:

- (a) no stock of the Pharmaceutical is physically held by you or on your behalf in New Zealand;
- (b) the only stock of the Pharmaceutical physically held by you or on your behalf in New Zealand is stock to which clause 6.2(a)(i) or (ii) of this Schedule applies and no agreement has been reached with the relevant DHB Hospital in terms of clause 6.2(a) of this Schedule;
- (c) you fail, directly or indirectly, to ensure that all orders for the Pharmaceutical are filled (without restricting quantities that may be ordered), including in particular where not all patients for whom the Pharmaceutical is prescribed receive the full amount of the Pharmaceutical they require, or to which they are entitled, under their prescriptions, without delay;
- (d) you fail to supply the Pharmaceutical on and from the Start Date.

7.5 Default interest and recovery costs

If payment of any amount required to be paid by you under this clause 7 is not made by you, in full, by the due date for payment of that amount as notified to you in writing by PHARMAC, then:

- (a) interest will accrue in such sum as remains unpaid at a rate per annum equal to the business base rate of ASB Bank Limited plus five percentage points, calculated and compounded on a daily basis, from the due date until such time as the sum due (including interest) is paid in full. This obligation to pay default interest is to arise without the need for a notice or demand from PHARMAC for such default interest; and
- (b) PHARMAC may take any action, including legal action, without first needing to implement the dispute resolution procedure contained in clause 4.2 of Schedule Five, to recover that amount and you agree to pay to PHARMAC actual enforcement costs incurred in relation to that action.

8. Termination and restrictions

8.1 Termination and restrictions for clinical reasons

PHARMAC reserves the right, but only after consultation with you and a relevant medical adviser (being either the Ministry of Health, HPAC, PTAC, or a sub-committee of HPAC or PTAC), to:

- (a) terminate this Agreement at any time during the Hospital Supply Status Period or the First Transition Period if the medical adviser determines for clinical reasons that it is no longer appropriate to have either:

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- (i) any Pharmaceutical, including the Pharmaceutical or any relevant Alternative Pharmaceutical, having Hospital Supply Status of that form and strength of the Pharmaceutical with Hospital Supply Status; or
 - (ii) the Pharmaceutical as the brand having Hospital Supply Status; and/or
- (b) impose at any time during the Hospital Supply Status Period or the Transition Periods restrictions on the prescribing or dispensing of a Pharmaceutical if those restrictions are necessary for clinical reasons.

8.2 Termination following an audit

PHARMAC may terminate the Agreement, or withdraw Hospital Supply Status in relation to, or revise DV Limits for, a Pharmaceutical, at any time during the Hospital Supply Status Period or the Transition Periods, if you fail to remedy any area of non-compliance in accordance with clause 3(b) of Schedule Five.

9. Guarantee

- (a) PHARMAC may require an entity acceptable to it to provide a guarantee (in a form satisfactory to PHARMAC) of your performance obligations under clauses 7.2 and 7.3 of this Schedule including, without limitation, the payment of any sum payable under the indemnity or as liquidated damages pursuant to those clauses for any failure to supply the Pharmaceutical in accordance with this Agreement during the Hospital Supply Status Period.
- (b) The guarantor's liability under such a guarantee will be limited to a total of \$100,000 per Pharmaceutical for all claims made by PHARMAC under the guarantee.

10. Access by PHARMAC to price and volume data

- (a) You acknowledge that PHARMAC and its agents will require access to price and volume data held by you and DHB Hospitals in respect of the Pharmaceutical covered by this Agreement to assist PHARMAC to carry out its statutory function in relation to managing the purchasing of hospital pharmaceuticals on behalf of DHBs.
- (b) Notwithstanding any other provisions in this Agreement, including clauses 9.1 and 9.2 of Schedule Three regarding confidential information, you agree that where the circumstances in this clause apply, a DHB Hospital may provide PHARMAC and its agents with any price and volume data held by that DHB Hospital in respect of a Pharmaceutical covered by this Agreement and PHARMAC and its agents may provide such data on DHBs.
- (c) You agree that within 10 business days following any request from PHARMAC, you will provide PHARMAC with volume data in respect of the Pharmaceutical covered by this Agreement for each month of the period specified in that request.

11. PCTs

11.1 Listing in Section B of the Pharmaceutical Schedule

- (a) Where the Pharmaceutical is a PCT, you acknowledge and agree that PHARMAC may list the Pharmaceutical in Section B of the Pharmaceutical Schedule:
 - (i) at a price that is equal to (or subject to your agreement, less than) the Price;

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- (ii) subject to the rules and restrictions applying to PCTs in Sections A to G of the Pharmaceutical Schedule.
- (b) If PHARMAC lists the Pharmaceutical in Section B of the Pharmaceutical Schedule pursuant to paragraph (a) above, you acknowledge and agree that:
 - (i) such listing will be for reasons relating to claiming and will not, unless otherwise advised in writing by PHARMAC, enable you to supply the Pharmaceutical for use in the community;
 - (ii) listing of the Pharmaceutical in Section B will, at PHARMAC's option, be additional to or instead of listing in Part II of Section H;
 - (iii) references to the "listing" of the Pharmaceutical will, where applicable, be to the listing of the Pharmaceutical in Section B of the Pharmaceutical Schedule (and references to "list", "listed", "delist", "delisted", and "delisting" are to be interpreted accordingly); and
 - (iv) the standard terms of listing of the Pharmaceutical in Section B of the Pharmaceutical Schedule will, except to the extent otherwise advised in writing by PHARMAC, be the terms set out in Schedule Five and this Schedule Seven, and for that purpose all references in Schedule Five and Schedule Seven to "Section H" will be deemed to be references to "Section B".
- (c) This clause confers a benefit on (and is enforceable by) DHB Hospitals in accordance with the Contracts (Privity) Act 1982.

11.2 Transitional Budget Arrangements

- (a) You acknowledge that DHBs and PHARMAC are in the process of transferring responsibility for a notional PCT budget to PHARMAC and that this is expected to take place in two phases with the following approximate dates:
 - (i) the "Data Collection Phase" is expected to run until 30 June 2007, unless notified otherwise by PHARMAC, during which time DHB Hospitals will still have responsibility for the PCTs' budget; and
 - (ii) the "Budget Transfer" is expected to occur on 1 July 2007, unless notified otherwise by PHARMAC, at which point PHARMAC will have responsibility for the PCTs budget.
- (b) You agree that, from the date of the Budget Transfer, which will occur on 1 July 2007 unless notified otherwise to you by PHARMAC, and, for the avoidance of doubt, may occur before a Tender Bid for any Pharmaceutical is accepted, clause 7.1 of this Schedule will be deleted and replaced by the following:

8.1 Notification of Potential Out-of-Stock Event and supply of Alternative Pharmaceutical.

- (a) You must notify PHARMAC in writing as soon as you have reasonable cause to believe that you will fail to supply a Pharmaceutical in accordance with this Agreement and, in any event, you must notify PHARMAC and the relevant DHB Hospitals if at any time a Potential Out-of-Stock Event occurs, including during the Hospital Supply Period or the First Transaction Period.
- (b) If you fail to supply a Pharmaceutical in accordance with this Agreement for more than 1 business day to any DHB Hospital, then:

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- (i) you must use your best endeavours to procure, within what the relevant DHB Hospitals consider to be a reasonable period of time, an Alternative Pharmaceutical for supply to, at a DHB Hospital's discretion, any Designated Delivery Points, and/or Contract Manufacturers (expressly for the purpose of compounding) at the Price; and
- (ii) if you fail to procure an Alternative Pharmaceutical at the Price in accordance with sub-clause (i) above (other than for reasons that PHARMAC reasonably considers, following discussion with you, to be wholly outside your control) then, at PHARMAC's option:
 - (A) you must pay to PHARMAC (for the benefit of PHARMAC and DHB Hospitals) any additional costs that PHARMAC incurs or that the relevant DHB Hospitals incur as a result of the purchase of the Alternative Pharmaceutical; or
 - (B) PHARMAC may implement an arrangement with another supplier to supply an Alternative Pharmaceutical (including an arrangement for back-up supply), and you must pay to PHARMAC (for the benefit of PHARMAC and DHB Hospitals) any additional costs that PHARMAC incurs or that the relevant DHB Hospitals incur as a result of the purchase of the Alternative Pharmaceutical.
- (c) This clause confers a benefit on (and is enforceable by) DHB Hospitals in accordance with the Contracts (Privity) Act 1982.