1 November 2021

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 terms that will apply if your Tender Bid in relation to community and/or hospital supply is awarded Principal Supply Status;

(e) Schedule 5 sets out the additional terms that will apply if your Tender Bid in relation to community supply is awarded Principal Supply Status;

(f) Schedule 6 sets out the additional terms that will apply if your Tender Bid in relation to hospital supply is awarded Principal Supply Status; and

(g) Schedule 7 sets out the additional special terms that will apply if your Tender Bid in relation to a particular pharmaceutical is awarded Principal Supply Status.

This invitation to tender also incorporates the information on the Electronic Portal referred to in this invitation.

If you wish to submit a Tender Bid in relation to community supply and/or hospital supply, you must submit it via the Electronic Portal to PHARMAC no later than **4 pm** (New Zealand time) on **Thursday 16 December 2021**.

If you have any enquiries about this invitation you should contact the **Tender Analysts** at tender@pharmac.govt.nz.

We look forward to receiving your tender.

Yours sincerely,

Lisa Williams

Director of Operations

Contents

Schedule 1: Definitions and interpretation

1. Definitions

In this Invitation:

Additional Stock Pharmaceutical (or ASP) means a Pharmaceutical, marked with a "@", for which the supplier of the successful Tender Bid would be required:

(a) to hold additional stock; and

(b) to report to PHARMAC on the level of that additional stock each Quarter;

Aggregated Tender Bid means a Tender Bid for more than one Tender Item, which PHARMAC is to consider in aggregate, 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 Four; and

(b) in relation to a Pharmaceutical with Principal Supply Status for community supply, Schedule Five; or

(c) in relation to a Pharmaceutical with Principal Supply Status for hospital supply, Schedule Six,

and includes, to the extent applicable, the other Schedules (including but not limited to Schedule Seven) and the information on the Electronic Portal comprising the Invitation;

Alternative Brand Allowance means the alternative brand allowance relating to a particular Tender Item, in relation to hospital and/or community supply, as indicated as a percentage amount of the Total Pharmaceutical Volume, in the column entitled "ABA Limit" in the list of products included in Schedule Two;

Alternative Pharmaceutical means an alternative brand of a Pharmaceutical that PHARMAC, following consultation with PTAC or its Specialist Advisory 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 Principal Supply Status in respect of a particular Tender Item, to cover the contingency that Principal 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;

Brand Allowance Indicator means the actual percentage of Brand Allowance Pharmaceuticals subsidised in the community and/or purchased by DHB Hospitals relative to the Total Pharmaceutical Volume in a Relevant Period;

Brand Allowance Pharmaceuticals means an alternative supplier's brand of the Pharmaceutical. For the avoidance of doubt, a Brand Allowance Pharmaceutical shall not be interpreted to be an Alternative Pharmaceutical for the purposes of the Agreement;

Brand Compensation means the compensation payable to you in accordance with Schedule 4, clause 1.8 (d);

Brand Differential means the difference between the Brand Allowance Indicator and the Alternative Brand Allowance;

Chemical Entity means any pharmaceutical that contains, and is described generically according to, the relevant active ingredient specified in Schedule Two and the Electronic Portal. For the avoidance of doubt, the term Chemical Entity does not include any Medical Device;

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;

Cost Brand Source (or CBS) Product means a pharmaceutical where there is no price agreed upon by PHARMAC, but the pharmaceutical is subsidised by the Funder at the price obtained by pharmacies;

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

CTPP means Containered Trade Product Pack SNOMED CT code, which is the unique identifier that describes the packaged, branded product and the container it is dispensed in, as used within the New Zealand Medicines Terminology;

Deadline means 4 pm, Thursday 16 December 2021 (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;

Electronic Portal means the electronic tender system available via the internet address provided to you by PHARMAC through which you are required to submit your Tender Bid(s);

Eligible Volume means the Volume Multiplier multiplied by the Brand Differential, being a volume of Pharmaceuticals eligible for Brand Compensation in Units of that Tender Item;

End Date means the last day of the Principal Supply Period;

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

Final Transition Period means, in respect of a Pharmaceutical with Principal Supply Status, 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 Principal Supply Status, the period beginning on the first day of the month following the Market Notification Date and ending on the day prior to five months from the Start Date (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;

GTIN means the Global Trade Item Number for a Pharmaceutical;

Hospital Tender Bid means a Tender Bid in relation to hospital supply;

In-Use Shelf-Life means the length of time that the Pharmaceutical has been demonstrated to stay effective and safe to use after the packaging of the original container is opened and stored under defined conditions;

Invitation means this invitation to tender and includes the cover letter, each of the Schedules and the information on the Electronic Portal referred to in this invitation;

Lead Time means the number of months (being whole months only) 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 entire market demand for the Tender Item as at the Start Date. For the avoidance of doubt, the Lead Time does not affect, and should incorporate the extra time needed to allow for, your obligations in clause 3.1 of Schedule Five and clause 3.1 of Schedule Six;

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;

Medical Device means a medical device as that term is defined in the Medicines Act 1981;

Offer Letter means the letter of offer which must be submitted with the Tender Submission Form, in the form set out in the Electronic Portal;

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

PCT means a Pharmaceutical for which DHB Hospitals are eligible to claim a subsidy through the Pharmaceutical Schedule. Tender Items that are PCTs are indicated with "PCT" in the list in clause 2 of Schedule Two and the Electronic Portal;

Pharmaceutical means the relevant Tender Item (which may be a Medical Device) 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. Suppliers must apply to the Pharmacy Guild of New Zealand to receive a Pharmacode for each presentation of their pharmaceutical before it is listed;

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, where the Pharmaceutical is designated an ASP, your stock of the Pharmaceutical in New Zealand falls below your most recent four 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, where the Pharmaceutical is designated an ASP, forecast sales demand in respect of the next four-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, where the Pharmaceutical is designated an ASP, 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 four-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, where the Pharmaceutical is designated an ASP, your stock of the Pharmaceutical in New Zealand falls below one-third 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); or

(f) in relation to New Zealand manufactured products if either:

    (i) forecast sales demand in respect of the next two-month period is greater than your stock of the Pharmaceutical; or

    (ii) you have insufficient stock to enable you to fully fill all orders as they are received; or

    (iii) your stock of the active pharmaceutical ingredient taking into account manufacturing and stock on hand falls below two months stock for the Pharmaceutical in New Zealand;

For the avoidance of doubt, references to 'your stock' in (a) to (f) above 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;

Principal Supplier means a supplier which has had a Tender Bid accepted for a Tender Item in relation to community and/or hospital supply, being the principal supplier of the relevant Tender Item (subject to the Alternative Brand Allowance provisions);

Principal Supply Period means the period beginning on the day after the expiry of the First Transition Period and ending on 30 June 2025;

Principal Supply Status means the status of being the Principal Supplier for community and/or hospital supply of a Pharmaceutical for the Principal Supply Period;

PTAC means the Pharmacology and Therapeutics Advisory Committee;

Quarter means the periods:

(a) 1 January until 31 March;

(b) 1 April until 30 June;

(c) 1 July until 30 September; and

(d) 1 October until 31 December;

Relevant Period means the periods:

(a) beginning on the day after the expiry of the First Transition Period and ending on 30 June 2023;

(b) 1 July 2023 until 30 June 2024; and

(c) 1 July 2024 until 30 June 2025.

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 identified as such, which relate to pharmaceuticals for use in hospitals;

Shelf-Life means the length of time that the Pharmaceutical has been demonstrated to stay effective and safe to use when packaged in the original container and stored under defined conditions;

Special Authority (or SA) means a designation in relation to a Pharmaceutical which means that the Pharmaceutical is only eligible for subsidy or additional subsidy on approval of an

application for a named person which meets the criteria specified in the Pharmaceutical Schedule;

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;

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 through the Electronic Portal 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:

(a) in the case of a pharmaceutical that is not a Medical Device, the form and strength of a Chemical Entity (or entities, if applicable) for which you may submit a Tender Bid; or

(b) in respect of a Medical Device, an item conforming to the individual specifications described for such item in the product list in clause 2 of Schedule Two for which you may submit a Tender Bid;

Tender Submission Form means the electronic form in which you must enter and submit your bid(s) for each Tender Item, as set out in the Electronic Portal;

Total Brand Allowance Pharmaceutical Volume means the total volume of Brand Allowance Pharmaceuticals subsidised in the community and/or purchased by DHB Hospitals in a Relevant Period, specified in Units of that Tender Item;

Total Pharmaceutical Volume means the total volume of the Pharmaceutical (inclusive of Brand Allowance Pharmaceuticals) subsidised in the community and/or purchased by DHB Hospitals in a Relevant Period, specified in Units of that Tender Item;

Transition Periods collectively refers to the First Transition Period and the Final Transition Period;

Unit means an individual unit of a Tender Item (e.g. tablet, 1 ml of an oral liquid, ampoule, syringe, bag, suture or needle, roll or a dressing);

Unit Price means the relevant Price specified for a pack (or equivalent grouping for any Medical Device) 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);

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 and the Electronic Portal; and

Volume Multiplier means the Total Pharmaceutical Volume divided by one hundred (100) (which shall equate to 1% of the Total Pharmaceutical Volume), specified in Units of that Tender Item.

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, code of conduct or other law includes any 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;

(f) words importing one gender include the other genders;

(g) headings in this Agreement or in the Electronic Portal 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 references to "list", "listed", "delist", "delisted", and "delisting" are to be interpreted accordingly);

(ii) in relation to community supply, are to the 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 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 actual volumes for the year ending 30 June 2021.

(b) Market value figures, in relation to community supply, are expressed as the Unit Volume in the year ending 30 June 2021, multiplied by the Unit Subsidy as at 1 July 2021.

(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) unless specified by PHARMAC 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 and/or Schedule Seven. Special Authority restrictions have been noted for Tender Items where applicable in the list. Further restrictions

on the supply of Tender Items within the Pharmaceutical Schedule may apply. You acknowledge and agree that in submitting your Tender Bid you will rely on your own knowledge and assessment of any restrictions applicable to a Tender Item within the Pharmaceutical Schedule.

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 as at 1 July 2021.

(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 in the attached list, there is no fully funded product available, in relation to community supply, for that Tender Item as at 1 July 2021.

1.6 Alternative Brand Allowance

The Alternative Brand Allowance relating to a particular Tender Item, in relation to hospital and/or community supply, is indicated as a percentage amount in the column entitled "ABA Limit" in the attached list and is also shown in the Electronic Portal.

1.7 Tender Items subject to sole supply arrangements

Where a Tender Item is underlined in the list of products below, that item is subject to a sole supply or principal supply contract as at the date of this Invitation. Accordingly, the subsidy for those items is fixed until 30 June 2022 (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. This information is not available in the Electronic Portal.

1.8 Hospital only products

Where an "H" is indicated, you may submit a Tender Bid for Principal Supply Status for hospital supply for that Tender Item.

1.9 Community only Products

Where a "C" is indicated, you may submit a Tender Bid for Principal Supply Status for community supply for that Tender Item.

1.10 Community and Hospital Products

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

1.11 PCTs

Where a "PCT" is indicated, you may submit a Tender Bid for Principal Supply Status for hospital supply for that Tender Item on the basis that, if PHARMAC accepts your Tender Bid, the Tender Item would be listed in Section B and/or Part II of Section H of the Pharmaceutical Schedule subject to clause 11 of Schedule Six. This information is also shown in the Electronic Portal.

Where a Tender Item is indicated as being a "PCT" product, and is in a form intended to be compounded, it is the preference of PHARMAC that products have post-compounding stability data greater than 48 hours.

1.12 Capsule and tablet form

Unless otherwise stated, where a Tender Item specifies either:

(a) a capsule; or

(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 for each line item.

1.13 Pack size preference

Where a Tender Item is specified as being available for a Tender Bid for Principal Supply Status for community supply, it is the preference of PHARMAC that the pack size for such a Tender Item is a 30 or 90 day pack where the Tender Item is in a tablet or capsule form.

Notwithstanding the preference of PHARMAC for Tender Items to be in pack sizes as specified above, pack sizes may be specified in the comments column in the attached list or 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.

1.14 Pack size for use in DHB Hospitals

Where a Tender Item is specified as being available for a Tender Bid for Principal Supply Status for hospital supply, it is the preference of PHARMAC that the pack size for such a Tender Item is:

(a) 500 ml or less, where the Tender Item is in liquid form;

(b) 30 or 90 day pack where the Tender Item is in a tablet or capsule form; and

(c) 10 or less 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, pack sizes may be specified in the comments column in the attached list or 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. For the avoidance of doubt, DHB Hospitals do not have a pack (or other equivalent grouping) size preference for Medical Devices and you may submit, and PHARMAC will consider and may accept, a Tender Bid for any pack size (or other equivalent grouping) following its evaluation of Tender Bids under clause 5 of Schedule Three.

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy		ABA Limit		Comments
Abacavir Sulphate with Lamivudine							
Tab 600 mg with lamivudine 300 mg	165,757	$348,090	$2.1000		C H	5%	
Acetazolamide							
Inj 500 mg					H	5%	
Tab 250 mg	755,718	$128,699	$0.1703		C H	5%	
Aciclovir							
Tab dispersible 200 mg	695,900	$44,538	$0.0640		C H	5%	
Tab dispersible 400 mg	4,829,854	$464,004	$0.0961		C H	5%	
Tab dispersible 800 mg	503,935	$86,122	$0.1709		C H	5%	
Adapalene							
Crm 0.1%	294,570	$224,757	$0.7630#		C H	5%	Preference for a maximum pack size of 30 g.
Gel 0.1%	524,310	$400,049	$0.7630#		C H	5%	Preference for a maximum pack size of 30 g
Adenosine							
Inj 3 mg per ml, 2 ml vial					H	5%	
Adrenaline autoinjector							
Inj 0.15 mg per 0.3 ml					C H	5%	Not currently listed in the Pharmaceutical Schedule. Special Authority restrictions may apply.
Inj 0.3 mg per 0.3 ml					C H	5%	Not currently listed in the Pharmaceutical Schedule. Special Authority restrictions may apply.
Inj 0.5 mg per 0.3 ml					C H	5%	Not currently listed in the Pharmaceutical Schedule. Special Authority restrictions may apply.
Alendronate sodium							
Tab 70 mg	251,298	$153,292	$0.6100		C H	5%	
Alendronate sodium with colecalciferol							
Tab 70 mg with colecalciferol 5,600 iu	799,867	$301,950	$0.3775		C H	5%	
Amiodarone hydrochloride							
Inj 50 mg per ml, 3 ml	15,929	$26,076	$1.6370		C H	5%	
Tab 100 mg	525,427	$66,556	$0.1267		C H	5%	
Tab 200 mg	1,004,264	$175,746	$0.1750		C H	5%	
Amisulpride							
Tab 100 mg	339,695	$58,315	$0.1717		C H	5%	
Tab 200 mg	577,895	$144,087	$0.2493		C H	5%	
Tab 400 mg	50,811	$25,219	$0.4963		C H	5%	
Amoxicillin							
Cap 250 mg	647,329	$29,130	$0.0450	@	C H	5%	
Cap 500 mg	13,913,082	$1,029,012	$0.0740	@	C H	5%	
Amoxicillin clavulanate							
Grans for oral liq amoxicillin 125 mg with potassium clavulanate 31.25 mg per 5 ml	2,474,375	$123,719	$0.0500	@	C H	5%	Pharmac reserves the right to award one or more strengths of amoxicillin with clavulanic acid oral liquids. Peference for a 100 ml packsize.
Grans for oral liq amoxicillin 250 mg with potassium clavulanate 62.5 mg per 5 ml	6,644,700	$146,183	$0.0220	@	C H	5%	Pharmac reserves the right to award one or more strengths of amoxicillin with clavulanic acid oral liquids.
Ascorbic acid							
Tab 100 mg	5,513,811	$109,173	$0.0198		C H	5%	
Aspirin							
Tab 100 mg EC	94,671,942	$1,032,776	$0.0109		C H	5%	
Tab dispersible or soluble 300 mg	806,249	$36,281	$0.0450		C H	5%	
Atazanavir Sulphate							
Cap 150 mg	78,085	$184,382	$2.3613		C H	5%	
Cap 200 mg	20,722	$65,243	$3.1485		C H	5%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy			ABA Limit	Comments
Atomoxetine							
Cap 10 mg	129,823	$85,359	$0.6575		C H	5%	
Cap 100 mg	19,303	$40,316	$2.0886		C H	5%	
Cap 18 mg	47,377	$45,786	$0.9664		C H	5%	
Cap 25 mg	123,417	$128,794	$1.0436		C H	5%	
Cap 40 mg	137,128	$143,103	$1.0436		C H	5%	
Cap 60 mg	40,301	$66,940	$1.6610		C H	5%	
Cap 80 mg	30,892	$62,280	$2.0161		C H	5%	
Azathioprine							
Inj 50 mg					H	5%	
Tab 50 mg	4,402,352	$334,579	$0.0760		C H	5%	Preference for blister packaging.
Tab 25 mg	401,065	$49,130	$0.1225		C H	5%	Preference for blister packaging.
Benzoyl Peroxide							
Gel/crm/soln/lotion 2.5% - 5%					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Bisacodyl							
Tab 5 mg	1,869,145	$55,981	$0.0300		C H	5%	
Bortezomib							
Inj 3.5 mg				PCT	H	5%	
Budesonide							
Cap 3 mg controlled release	366,723	$678,438	$1.8500		C H	5%	
Bupivacaine hydrochloride with adrenaline							
Inj 0.25% with 1:400,000 of adrenaline, 20 ml non-sterile pack					H	5%	
Inj 0.5% with 1:200,000 of adrenaline, 20 ml non-sterile pack					H	5%	
Bupivacaine hydrochloride with fentanyl							
Inj 0.625 mg with fentanyl 2 mcg per ml, 200 ml bag					H	5%	Preference for a product with sterile packaging
Inj 1.25mg with 2 mcg fentanyl per ml, 100 ml bag					H	5%	Preference for a product with sterile packaging
Inj 1.25mg with 2 mcg fentanyl per ml, 200 ml bag					H	5%	Preference for a product with sterile packaging
Bupivacaine hydrochloride with glucose							
Inj 0.5% with glucose 8%, 4 ml ampoule					H	5%	Sterile pack preferred
Buprenorphine with Naloxone							
Tab sublingual 2 mg with naloxone 0.5 mg	564,972	$370,661	$0.6561		C H	5%	
Tab sublingual 8 mg with naloxone 2 mg	540,993	$1,026,339	$1.8971		C H	5%	
Busulfan							
Inj 6 mg per ml				PCT	H	5%	
Calcitriol							
Cap 0.25 mcg	1,359,087	$108,047	$0.0795		C H	5%	
Cap 0.5 mcg	594,866	$81,794	$0.1375		C H	5%	
Capecitabine							
Tab 150 mg	156,897	$26,150	$0.1667		C H	5%	
Tab 500 mg	716,952	$292,753	$0.4083		C H	5%	
Carbimazole							
Tab 5 mg	4,869,820	$525,941	$0.1080		C H	5%	
Carmustine							
Inj 100 mg vial				PCT	H	5%	
Caspofungin							
Inj 50 mg					H	5%	Pharmac reserves the right to award a tender to one strength of caspofungin injections for the whole caspofungin injection market.

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy		ABA Limit		Comments
Caspofungin							
Inj 70 mg					H	5%	Pharmac reserves the right to award a tender to one strength of caspofungin injections for the whole caspofungin injection market
Cefaclor monohydrate							
Cap 250 mg	1,769,795	$437,139	$0.2470	@	C H	5%	
Grans for oral liq 125 mg per 5 ml	2,450,032	$86,486	$0.0353	@	C H	5%	
Cefalexin monohydrate							
Cap 250 mg	352,357	$58,667	$0.1665	@	C H	5%	
Cap 500 mg	3,561,715	$703,439	$0.1975	@	C H	5%	
Ceftriaxone sodium							
Inj 500 mg	9,189	$8,178	$0.8900	@	C H	5%	
Inj 1 g	6,737	$5,376	$0.7980	@	C H	5%	
Inj 2 g				@	H	5%	
Cetirizine hydrochloride							
Tab 10 mg	49,887,344	$558,738	$0.0112		C H	5%	Preference for a pack size of 90 tablets.
Cetomacrogol with glycerol							
Crm 90% with glycerol 10%, 1,000 ml	314,799,779	$975,879	$0.0031		C H	5%	Preference for SLS-free presentation. Preference for a pump bottle. Units and cost shown are for the combined 500 ml and 1,000 ml market. Unit subsidy and cost shown are weighted based on pack size and usage.
Crm 90% with glycerol 10%, 100 g					H	5%	Preference for a sodium lauryl sulphate (SLS)-free presentation. Preference for a tube.
Crm 90% with glycerol 10%, 500 ml	314,799,779	$1,479,559	$0.0047		C H	5%	Preference for SLS-free presentation. Preference for a pump bottle. Units and cost shown are for the combined 500 ml and 1,000 ml market. Unit subsidy and cost shown are weighted based on pack size and usage.
Chloramphenicol							
Eye drops 0.5%	1,258,125	$193,751	$0.1540		C H	5%	Unit subsidy expressed as "per ml".
Eye oint 1%	677,565	$210,045	$0.3100		C H	5%	
Chlorhexidine with cetrimide							
Irrigation soln 0.015% with cetrimide 0.15%, 500 ml					H	5%	
Chlorpromazine Hydrochloride							
Inj 25 mg per ml, 2 ml ampoule	3,589	$11,051	$3.0790		C H	5%	
Tab 10 mg	108,947	$16,157	$0.1483		C H	5%	
Tab 100 mg	164,145	$60,290	$0.3673		C H	5%	
Tab 25 mg	440,494	$68,805	$0.1562		C H	5%	
Chlortalidone [Chlorthalidone]							
Tab 25 mg	4,978,381	$647,189	$0.1300		C H	5%	
Citalopram hydrobromide							
Tab 20 mg	32,193,918	$582,388	$0.0181		C H	5%	Tablets require a score line.
Clindamycin							
Cap hydrochloride 150 mg	1,067,043	$204,958	$0.1921		C H	5%	
Inj 150 mg per ml, 4 ml ampoule	1,481	$5,776	$3.9000		C H	5%	
Clobazam							
Liq					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Clobetasol propionate							
Crm 0.05% (pack size 30 g or less)	3,739,290	$271,734	$0.0727		C H	5%	
Oint 0.05% (pack size 30 g or less)	3,599,730	$254,393	$0.0707		C H	5%	
Scalp app 0.05%	832,470	$157,895	$0.1897		C H	5%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy			ABA Limit	Comments
Clonidine							
Tab 25 mcg	4,275,143	$333,996	$0.0781		C H	5%	
Clopidogrel							
Tab 75 mg	13,611,119	$745,345	$0.0548	@	C H	5%	Preference for a pack size of 30 or 90 tablets in a bottle pack.
Clotrimazole							
Crm 1%	2,983,735	$114,874	$0.0385		C H	5%	
Vaginal crm 1% with applicators	1,898,215	$135,589	$0.0714		C H	5%	
Vaginal crm 2% with applicators	1,670,775	$250,616	$0.1500		C H	5%	
Coal tar							
Soln BP	145,429	$26,359	$0.1813		C H	5%	Preference for a pack size of 100 ml or less. Only in combination.
Codeine phosphate							
Tab 15 mg	13,480,551	$842,534	$0.0625		C H	5%	Preference for a scored tablet.
Tab 30 mg	24,127,202	$1,797,477	$0.0745		C H	5%	Preference for a scored tablet.
Tab 60 mg	1,641,362	$233,894	$0.1425		C H	5%	Preference for a scored tablet.
Colchicine							
Tab 500 mcg	4,978,323	$476,923	$0.0958		C H	5%	
Compound electrolytes							
Powder for soln for oral use	1,394,152	$272,417	$0.1954		C H	5%	Units and unit subsidy expressed as 'per sachet'. There may be a preference for products to include a measuring device or to come in unit dose sachets. Preference for pack sizes of 10 - 20 sachet packs.
Compound electrolytes with glucose [dextrose]							
Soln with electrolytes	81,295,000	$532,482	$0.0066		C H	5%	
Compound Hydroxybenzoate							
Soln	43,561	$13,068	$0.3000		C H	5%	Units expressed as per 'ml'.
Cyclizine lactate							
Inj 50 mg per ml, 1 ml ampoule	80,088	$172,429	$2.1530		C H	5%	
Daptomycin							
Inj 350 mg - 500 mg				+	H	5%	
Daunorubicin							
Inj 2 mg per ml, 10 ml				PCT	H	5%	
Dexamethasone phosphate							
Inj 4 mg per ml, 1 ml	90,993	$84,169	$0.9250		C H	5%	
Inj 4 mg per ml, 2 ml	91,520	$149,818	$1.6370		C H	5%	
Dexamfetamine sulfate							
Tab 5 mg	2,157,374	$453,048	$0.2100		C H	5%	Preference for pack size of 100 tablets or less.
Diazepam							
Rectal tubes 5 mg	25,276	$219,901	$8.7000		C H	5%	
Rectal tubes 10 mg	427	$3,490	$8.1740		C H	5%	Not currently listed in Section B of the Pharmaceutical Schedule. Units are for a product delisted 1 December 2020.
Digoxin							
Tab 250 mcg	852,007	$53,958	$0.0633		C H	5%	
Tab 62.5 mcg	7,798,692	$227,488	$0.0292		C H	5%	
Dihydrocodeine tartrate							
Tab long-acting 60 mg	4,697,813	$673,338	$0.1433		C H	5%	
Diltiazem hydrochloride							
Tab 60 mg	363,277	$30,879	$0.0850		C H	5%	Pharmac's intention is to award a single tender for the entire low dose diltiazem market (60mg or long-acting 120 mg).

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy			ABA Limit	Comments
Diltiazem hydrochloride							
Cap long-acting 120 mg	8,091,642	$540,845	$0.0668		C H	5%	Pharmac's intention is to award a single tender for the entire low dose diltiazem market (60mg or long-acting 120 mg).
Dimethicone							
Crm 5% (pack size 100 g or less)					H	5%	Preference for a tube pack.
Lotn - head lice suffocant	3,873,800	$96,458	$0.0249		C H	5%	Preference for a pump bottle
Crm 5% (pack size greater than 100 g)	4,089,200	$36,639	$0.0090		C H	5%	Preference for a pump bottle
Crm 10%	2,114,500	$19,115	$0.0090		C H	5%	Preference for a pump bottle.
Docusate Sodium with Sennosides							
Tab 50 mg with sennosides 8 mg	68,263,811	$1,058,089	$0.0155		C H	5%	
Domperidone							
Tab 10 mg	10,361,884	$233,142	$0.0225		C H	5%	
Droperidol							
Inj 2.5 mg per ml, 1 ml ampoule					H	5%	
Emtricitabine with tenofovir disoproxil							
Tab 200 mg with tenofovir disoproxil 300 mg	1,188,820	$2,423,172	$2.0383		C H	5%	
Enalapril							
Tab 5 mg	2,783,102	$50,652	$0.0182		C H	5%	Preference for a scored tablet, and for a pack size of 30 or 90 tablets in a bottle pack.
Tab 10 mg	2,931,776	$59,222	$0.0202		C H	5%	Preference for a pack size of 30 or 90 tablets in a bottle pack.
Tab 20 mg	3,657,057	$88,501	$0.0242		C H	5%	Preference for a pack size of 30 or 90 tablets in a bottle pack.
Eptifibatide							
Inj 0.75 mg per ml, 100 ml					H	5%	
Inj 2 mg per ml, 10 ml					H	5%	
Ertapenem							
Inj 1 g vial					H	5%	
Erythromycin Lactobionate							
Inj 1 g	670	$6,700	$10.0000	@	C H	5%	
Ethinyloestradiol with levonorgestrel							
Tab 20 mcg with levonorgestrel 100 mcg and 7 inert tabs	7,241,948	$188,291	$0.0260		C H	5%	
Tab 30 mcg with levonorgestrel 150 mcg and 7 inert tabs	28,638,876	$604,280	$0.0211		C H	5%	
Ethinyloestradiol with Norethisterone							
Tab 35 mcg with norethisterone 1 mg	2,569,894	$212,628	$0.0827		C H	5%	
Fentanyl							
inj 10 mcg per ml, 100 ml premixed bag				@	H	5%	
Ferrous Sulphate							
Tab long-acting 325 mg	10,585,153	$726,777	$0.0687		C H	5%	
Oral liq 30 mg (6 mg elemental) per ml	7,644,634	$184,694	$0.0242		C H	5%	There may be a preference for a child-resistant cap and a preference for a pack size of 500 ml or less.
Fludarabine phosphate							
Inj 50 mg				PCT	H	5%	
Fludrocortisone Acetate							
Tab 100 mcg	1,481,964	$212,217	$0.1432		C H	5%	
Fluoxetine hydrochloride							
Cap 20 mg	23,527,817	$814,062	$0.0346		C H	5%	
Tab dispersible 20 mg, scored	1,692,490	$111,704	$0.0660		C H	5%	
Furosemide [Frusemide]							
Inj 10 mg per ml, 25 ml	324	$3,275	$10.1083		C H	5%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy		ABA Limit		Comments
Furosemide [Frusemide]							
Oral liq 10 mg per ml	133,440	$49,813	$0.3733		C H	5%	
Inj 10 mg per ml, 2 ml	10,713	$2,464	$0.2300		C H	5%	
Gentamicin Sulphate							
Inj 40 mg per ml, 2 ml	17,403	$30,455	$1.7500		C H	5%	
Glatiramer acetate							
Inj 40 mg prefilled syringe	9,084	$1,722,175	$189.5833		C H	5%	
Glycerin with sodium saccharin							
Suspension	105,264	$6,887	$0.0654		C H	5%	
Glycerin with sucrose							
Suspension	343,137	$22,451	$0.0654		C H	5%	
Glycerol							
Suppos	368,722	$170,534	$0.4625		C H	5%	Units and subsidy shown are for the 3.6 g strength.
Glyceryl trinitrate							
Inj 5 mg per ml, 10 ml ampoule					H	5%	
Glycopyrronium bromide							
Inj 0.2 mg per ml, 1 ml	36,336	$237,819	$6.5450		C H	5%	
Haloperidol							
Inj 5 mg per ml, 1 ml	110,126	$237,322	$2.1550	@	C H	5%	
Heparin Sodium							
Inj 1,000 iu per ml, 1 ml				@	H	5%	
Inj 1,000 iu per ml, 5 ml	211,791	$248,092	$1.1714	@	C H	5%	
Inj 25,000 iu per ml, 0.2 ml	5,900	$22,420	$3.8000	@	C H	5%	
Inj 5,000 iu per ml, 1 ml	1,300	$18,286	$14.0660	@	C H	5%	
Inj 5,000 iu per ml, 5 ml	13,392	$54,554	$4.0736	@	C H	5%	
Inj 100 iu per ml, 250 ml bag				@	H	5%	
Hydrocortisone							
Crm 1% (pack size greater than or equal to 15 g and less than or equal to 100 g)					C H	5%	Preference for SLS-free presentation.
Oint 1% (pack size 100 g or less)					C H	5%	Not currently listed in the Pharmaceutical Schedule. Preference for a tube pack.
Crm 1% (pack size greater than 100 g)	22,753,972	$848,723	$0.0373		C H	5%	Preference for SLS-free presentation. Units shown are for the whole crm 1% market. Unit subsidy and cost shown are weighted based on pack size and usage. Units and cost for whole crm 1% market are shown.
Oint 1% (pack size greater than 100 g)					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Hydrocortisone with natamycin and neomycin							
Crm 1% with natamycin 1% and neomycin sulphate 0.5%	2,212,140	$494,037	$0.2233		C H	5%	
Iloprost							
Inj 50 mcg per ml, 0.5 ml					H	5%	
Nebuliser soln 10 mcg per ml, 2 ml	23,460	$578,758	$24.6700	@	C H	5%	
Intra-Uterine Copper Device							
IUD long	4,255	$65,953	$15.5000		C H	5%	Pharmac reserves the right to award one, some or all presentations of intra-uterine copper device. Refer to Schedule 7 for additional Special Terms.
IUD medium	4,832	$89,150	$18.4500		C H	5%	Pharmac reserves the right to award one, some or all presentations of intra-uterine copper device. Refer to Schedule 7 for additional Special Terms.
IUD short	3,120	$57,564	$18.4500		C H	5%	Pharmac reserves the right to award one, some or all presentations of intra-uterine copper device. Refer to Schedule 7 for additional Special Terms.

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy		ABA Limit		Comments
Isoniazid							
Tab 100 mg	100,880	$23,202	$0.2300		C H	5%	
Tab 300 mg					C H	5%	Not currently listed on the Pharmaceutical Schedule.
Lactulose							
Oral liq 10 g per 15 ml	201,796,122	$1,343,962	$0.0067		C H	5%	Preference for a pack size of 500 ml or similar.
Levodopa with Benserazide							
Cap 50 mg with benserazide 12.5 mg	1,800,655	$247,590	$0.1375		C H	5%	
Cap 100 mg with benserazide 25 mg	2,166,685	$342,336	$0.1580		C H	5%	
Cap 200 mg with benserazide 50 mg	263,958	$69,289	$0.2625		C H	5%	
Cap long-acting 100 mg with benserazide 25 mg	486,967	$111,272	$0.2285		C H	5%	
Tab dispersible 50 mg with benserazide 12.5 mg	714,693	$94,697	$0.1325		C H	5%	
Levomepromazine							
Inj 25 mg per ml, 1 ml	75,764	$253,809	$3.3500	@	C H	5%	
Tab 100 mg	7,110	$2,968	$0.4175		C H	5%	Preference for a scored tablet.
Tab 25 mg	27,843	$4,483	$0.1610		C H	5%	Preference for a scored tablet.
Tab 5 mg - 10 mg					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Levonorgestrel							
0.75 mg - 1.5 mg	134,735	$666,938	$4.9500	+	C H	5%	
Levosimendan							
Inj 2.5 mg per ml, 5 ml					H	5%	
Levothyroxine							
Oral liq					C H	5%	Not currently listed in the Pharmaceutical Schedule. Restrictions may apply.
Lidocaine [Lignocaine]							
Gel 2 %, 10 ml - 11 ml urethral syringe	82,287	$345,605	$4.2000		C H	5%	Refer to Schedule 7 for additional Special Terms.
Lidocaine [Lignocaine] hydrochloride							
Inj 10%					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Inj 10%, prefilled syringe					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Spray - 10 mg dose per spray					H	5%	
Inj 1%, 5 ml	144,858	$50,700	$0.3500		C H	5%	Preference for plastic ampoules.
Inj 1%, 20 ml	824	$1,978	$2.4000		C H	5%	Preference for plastic ampoules.
Inj 2%, 5 ml	37,983	$12,534	$0.3300		C H	5%	Preference for plastic ampoules.
Inj 2%, 20 ml	5,045	$6,508	$1.2900		C H	5%	Preference for plastic ampoules.
Lidocaine [lignocaine] hydrochloride with adrenaline							
Inj 1% with adrenaline 1:100,000, 5 ml					H	5%	
Lidocaine [Lignocaine] hydrochloride with chlorhexidine							
Gel 2% with 0.05% chlorhexidine, 10 ml urethral syringe	13,711	$141,662	$10.3320		C H	5%	Refer to Schedule 7 for additional Special Terms.
Liquid paraffin with white soft paraffin							
Liquid paraffin 50% with white soft paraffin 50% ointment (pack size 100 g or less)					H	5%	
Liquid paraffin 50% with white soft paraffin 50% ointment (pack size greater than 100 g)	7,641,813	$81,767	$0.0107		C	5%	
Lisinopril							
Tab 5 mg	2,211,629	$50,867	$0.0230		C H	5%	
Tab 10 mg	2,699,962	$70,739	$0.0262		C H	5%	
Tab 20 mg	3,413,985	$120,241	$0.0352		C H	5%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy			ABA Limit	Comments
Lomustine							
Cap 10 mg	452	$2,997	$6.6295	PCT	C H	5%	
Cap 40 mg	690	$13,771	$19.9575	PCT	C H	5%	
Long-acting filgrastim (amended access)							
Inj 6 mg per 0.6 ml			#		C H	5%	Pharmac reserves the right to award a tender to one long-acting filgrastim product for the whole market. Refer to tender release notification document for more details.
Long-acting filgrastim (current access)							
Inj 6 mg per 0.6 ml	12,491	$13,490,280	$1,080.0000#		C H	5%	Pharmac reserves the right to award a tender to one long-acting filgrastim product for the whole market. Figures are for pegfilgrastim under current access criteria and may decrease pending clinical advice. Refer to tender release document for details.
Loperamide hydrochloride							
Cap 2 mg	10,437,645	$163,088	$0.0156		C H	5%	Pharmac reserves the right to award two separate tenders for capsules and tablets.
Tab 2 mg	2,421,728	$65,084	$0.0269		C H	5%	Pharmac reserves the right to award two separate tenders for capsules and tablets.
Loratadine							
Tab 10 mg	36,706,616	$620,342	$0.0169		C H	5%	Preference for a pack size of 90 tablets.
Losartan with hydrochlorothiazide							
Tab 50 mg with hydrochlorothiazide 12.5 mg	8,044,167	$504,128	$0.0627		C H	5%	
Macrogol 3350 with potassium chloride, sodium bicarbonate, sodium chloride and sodium sulphate							
Powder for oral soln 59 g with potassium chloride 0.7425 g, sodium bicarbonate 1.685 g, sodium chloride 1.465 g and sodium sulphate 5.685 g per sachet					H	5%	Preference for an aspartame-free product
Macrogol 3350 with potassium chloride, sodium chloride, sodium sulfate and ascorbic acid [x1 sachet]; and citric acid with magnesium oxide and picosulfate [x2 sachets]							
Powder for oral soln					H	5%	
Medroxyprogesterone acetate							
Inj long-acting 150 mg per ml, 1 ml syringe	142,726	$1,138,953	$7.9800		C H	5%	
Mercaptopurine							
Oral liq 20 mg per ml	800	$3,424	$4.2800		C H	5%	
Tab 50 mg	472,405	$699,159	$1.4800	PCT	C H	5%	
Methadone hydrochloride							
Tab 10 mg					C H	5%	Not currently listed in the Pharmaceutical Schedule. Preference for a scored tablet.
Tab 5 mg	2,036,486	$285,108	$0.1400		C H	5%	
Methenamine (hexamine) hippurate							
Tab 1 g	2,632,488	$1,053,258	$0.4001		C H	5%	
Methyl Hydroxybenzoate							
Powder	1,639	$589	$0.3592		C H	5%	Preference for pack size 50 g or less.
Methylcellulose							
Powder	3,484	$1,287	$0.3695		C H	5%	Preference for a pack size of 25 g or less.
Suspension	401,842	$26,293	$0.0654		C H	5%	Preference for 100 ml pack size.
Methylcellulose with glycerin and sodium saccharin							
Suspension	1,442,989	$94,415	$0.0654		C H	5%	
Methylcellulose with glycerin and sucrose							
Suspension	1,876,817	$122,800	$0.0654		C H	5%	
Metoclopramide hydrochloride							
Inj 5 mg per ml, 2 ml ampoule	186,046	$176,744	$0.9500		C H	5%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy		ABA Limit		Comments
Metoprolol Tartrate							
Inj 1 mg per ml 5 ml	1,936	$10,261	$5.3000		C H	5%	
Mifepristone							
Tab 200 mg	2,011	$120,660	$60.0000		C H	5%	
Mifepristone with misoprostol							
Mifepristone 200 mg tablet x 1 and misoprostol 200 mcg tablet x4 [combination pack]					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Misoprostol							
Tab 200 mcg	65,026	$22,486	$0.3458		C H	5%	
Montelukast							
Tab 10 mg	1,573,789	$222,014	$0.1411		C H	5%	
Tab 4 mg	213,582	$32,420	$0.1518		C H	5%	
Tab 5 mg	576,634	$87,527	$0.1518		C H	5%	
Morphine							
Inj 10 mg per ml, 1 ml	216,651	$243,082	$1.1220	@	C H	5%	Units and subsidy shown are for morphine sulphate inj 10 mg per ml, 1 ml.
Inj 15 mg per ml, 1 ml	5,323	$7,537	$1.4160	@	C H	5%	Units and subsidy shown are for morphine sulphate inj 15 mg per ml, 1 ml.
Inj 30 mg per ml, 1 ml	78,770	$114,689	$1.4560	@	C H	5%	Units and subsidy shown are for morphine sulphate inj 30 mg per ml, 1 ml ampoule.
Inj 5 mg per ml, 1 ml	76,627	$107,125	$1.3980	@	C H	5%	
Morphine Hydrochloride							
Oral liq 1 mg per ml	9,781,227	$453,849	$0.0464		C H	5%	Preference for a product with child-resistant packaging. Preference for excipient free product.
Oral liq 2 mg per ml	321,795	$26,130	$0.0812		C H	5%	Preference for a product with child-resistant packaging. Preference for excipient free product.
Oral liq 5 mg per ml	504,166	$49,005	$0.0972		C H	5%	Preference for a product with child-resistant packaging. Preference for excipient free product.
Oral liq 10 mg per ml	343,175	$47,598	$0.1387		C H	5%	Preference for a product with child-resistant packaging. Preference for excipient free product.
Morphine sulphate							
Cap long-acting 10 mg	4,133,059	$847,277	$0.2050		C H	5%	Preference for one supplier to supply all capsule presentations.
Cap long-acting 30 mg	1,043,716	$313,115	$0.3000		C H	5%	Preference for one supplier to supply all capsule presentations.
Cap long-acting 60 mg	366,676	$224,406	$0.6120		C H	5%	Preference for one supplier to supply all capsule presentations.
Cap long-acting 100 mg	218,108	$155,511	$0.7130		C H	5%	Preference for one supplier to supply all capsule presentations.
Multivitamins							
Tab (BPC cap strength)	17,035,063	$195,051	$0.0115		C H	5%	
Nicorandil							
Tab 10 mg	852,393	$363,264	$0.4262		C H	5%	
Tab 20 mg	119,063	$64,056	$0.5380		C H	5%	
Nimodipine							
Inj 0.2 mg per ml, 50 ml					H	5%	
Tab 30 mg					H	5%	
Noradrenaline							
Inj 1 mg per ml, 4 ml ampoule				@	H	5%	
Nortriptyline hydrochloride							
Tab 10 mg	15,043,631	$367,065	$0.0244		C H	5%	
Tab 25 mg	10,273,622	$341,290	$0.0332		C H	5%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name Line Item	Units	Cost	Unit Subsidy		ABA Limit		Comments
Olanzapine							
Inj 210 mg vial	2,391	$602,532	$252.0000	+	C H	5%	
Inj 300 mg vial	12,297	$5,090,958	$414.0000	+	C H	5%	
Inj 405 mg vial	8,955	$4,513,320	$504.0000	+	C H	5%	
Olopatadine							
Eye drops 0.1%	1,159,245	$510,068	$0.4400		C H	5%	For products containing Benzalkonium chloride (BAK), Pharmac reserves its right to list a BAK or preservative free product for a restricted market. Units and unit subsidy expressed as "per ml".
Omeprazole							
Inf 40 mg				@	H	5%	
Inj 40 mg	4,166	$28,311	$6.7960	@	C H	5%	
Ondansetron							
Tab 4 mg	2,223,921	$119,202	$0.0536		C H	5%	
Tab 8 mg	708,523	$64,759	$0.0914		C H	5%	
Ondansetron hydrochloride							
Inj 2 mg per ml, 2 ml					H	5%	
Inj 2 mg per ml, 4 ml					H	5%	
Oxybutynin							
Oral liq 1 mg per ml	391,039	$49,936	$0.1277		C H	5%	Preference for pack size 500 ml or less
Tab 5 mg	5,934,208	$138,860	$0.0234		C H	5%	
Oxytocin							
Inj 5 iu per ml, 1 ml	1,219	$970	$0.7960		C H	5%	
Inj 10 iu per ml, 1 ml	7,908	$7,876	$0.9960		C H	5%	
Oxytocin with ergometrine							
Inj 5 iu with ergometrine maleate 500 mcg per ml, 1 ml	3,604	$21,624	$6.0000		C H	5%	
Pantoprazole							
Tab EC 20 mg	13,043,769	$263,484	$0.0202		C H	5%	Preference for a pack size of 30 or 90 tablets in a bottle pack.
Tab EC 40 mg	12,131,348	$345,743	$0.0285		C H	5%	Preference for a pack size of 30 or 90 tablets in a bottle pack.
Paracetamol							
Suppos 25 mg					H	5%	
Suppos 50 mg					H	5%	
Oral liq 120 mg per 5 ml	43,786,373	$238,636	$0.0055		C H	20%	Pharmac is interested in considering a range of pack sizes and products with and without measuring devices. Bottles should be syringe bottle adaptor compatible.
Oral liq 250 mg per 5 ml	230,026,797	$1,437,667	$0.0063		C H	20%	Pharmac is interested in considering a range of pack sizes and products with and without measuring devices. Bottles should be syringe bottle adaptor compatible.
Paracetamol with codeine							
Tab paracetamol 500 mg with codeine phosphate 15 mg					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Tab paracetamol 500 mg with codeine phosphate 8 mg	44,704,564	$1,185,118	$0.0265		C H	5%	Restrictions may apply
Paraffin							
White soft (pack size 2000 g or more)	2,071,299	$16,562	$0.0080		C	5%	Only funded in combination. Units shown are for the whole white soft paraffin market. Unit subsidy and cost shown are weighted based on pack size and usage.
White soft (pack size 500 g or less)					H	5%	
Paroxetine							
Tab 20 mg	10,521,975	$422,036	$0.0401		C H	5%	Tablet must be scored.

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy				ABA Limit	Comments
Pemetrexed								
Inj 100 mg					PCT	H	5%	
Inj 500 mg					PCT	H	5%	
Permethrin								
Crm 5%	625,470	$119,884	$0.1917		C	H	5%	
Pethidine hydrochloride								
Tab 50 mg	184,706	$86,812	$0.4700		C	H	5%	Preference for a product with child-resistant packaging.
Phenobarbitone								
Tab 15 mg	60,779	$4,862	$0.0800		C	H	5%	Longer transition period may apply.
Tab 30 mg	467,806	$37,424	$0.0800		C	H	5%	Longer transition period may apply.
Phenoxymethylpenicillin (Penicillin V)								
Grans for oral liq 125 mg per 5 ml	205,607	$6,148	$0.0299	@	C	H	5%	
Grans for oral liq 250 mg per 5 ml	1,807,577	$72,122	$0.0399	@	C	H	5%	
Pholcodine								
Oral liq 1 mg per ml						H	5%	Preference for a smaller pack size (100 ml to 200 ml).
Piperacillin with tazobactam								
Inj 4 g with tazobactam 500 mg						H	5%	Pharmac will consider other 8:1 (piperacillin:tazobactam) presentations if cost effective.
Posaconazole								
Oral liq 40 mg per ml	6,300	$45,668	$7.2489		C	H	5%	
Tab modified-release 100 mg	35,723	$1,294,750	$36.2442		C	H	5%	
Pramipexole hydrochloride								
Tab 0.25 mg	1,629,449	$99,722	$0.0612		C	H	5%	
Tab 1 mg	154,508	$32,029	$0.2073		C	H	5%	
Prasugrel								
Tab 10 mg	5,622	$24,094	$4.2857		C	H	5%	Not currently listed in the Pharmaceutical Schedule. Special Authority restrictions may apply. Preference for a tablet containing a scoreline. Units shown are for a product delisted 1 February 2021.
Tab 5 mg	1,304	$5,030	$3.8571		C	H	5%	Not currently listed in the Pharmaceutical Schedule. Special Authority restrictions may apply. Units shown are for a product delisted 1 February 2021.
Prazosin Hydrochloride								
Tab 1 mg	840,956	$46,505	$0.0553		C	H	5%	
Tab 2 mg	554,882	$38,842	$0.0700		C	H	5%	
Tab 5 mg	185,445	$21,697	$0.1170		C	H	5%	
Prochlorperazine								
Tab 3 mg buccal	227,701	$27,187	$0.1194	*	C	H	5%	
Progesterone (current access)								
Cap 100 mg	67,575	$37,166	$0.5500		C	H	5%	Pharmac would only award a tender for current or widened access. Widened access would a listing on the Schedule without restrictions. Must be suitable for intra-vaginal use.
Progesterone (widened access)								
Cap 100 mg					C	H	5%	Pharmac would only award a tender for current or widened access. Widened access would be a listing on the Schedule without restrictions. Must be suitable for intra-vaginal use.
Promethazine Hydrochloride								
Tab 10 mg	2,492,202	$83,738	$0.0336		C	H	5%	
Tab 25 mg	4,058,767	$153,421	$0.0378		C	H	5%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy			ABA Limit	Comments
Propofol							
Inj 10 mg per ml, 100 ml				@	H	10%	Preference may be for an EDTA containing product.
Inj 10 mg per ml, 20 ml				@	H	10%	Preference may be for an EDTA containing product.
Inj 10 mg per ml, 50 ml				@	H	10%	Preference may be for an EDTA containing product.
Pyridostigmine bromide							
Tab 60 mg	605,809	$277,400	$0.4579		C H	5%	
Risedronate sodium							
Tab 35 mg	403,152	$312,442	$0.7750		C H	5%	
Risperidone							
Inj 25 mg	3,077	$418,410	$135.9800	+	C H	5%	
Inj 37.5 mg	4,002	$715,197	$178.7100	+	C H	5%	
Inj 50 mg	5,495	$1,195,492	$217.5600	+	C H	5%	
Rocuronium bromide							
Inj 10 mg per ml, 5 ml				@	H	5%	
Ropinirole hydrochloride							
Tab 1 mg	1,000,224	$47,034	$0.0470		C H	5%	
Tab 2 mg	384,172	$25,063	$0.0652		C H	5%	
Tab 250 mcg	1,538,875	$52,199	$0.0339		C H	5%	
Tab 5 mg	33,097	$4,925	$0.1488		C H	5%	
Sertraline							
Tab 50 mg	17,106,843	$524,598	$0.0307		C H	5%	
Tab 100 mg	7,722,045	$414,411	$0.0537		C H	5%	
Sodium Bicarbonate							
Powder BP	389,472	$7,828	$0.0201		C H	5%	Preference for pack size less than 100 g.
Sodium chloride							
inj 0.9%, 10 ml, prefilled syringe					H	5%	
inj 0.9%, 3 ml, prefilled syringe					H	5%	
inj 0.9%, 5 ml, prefilled syringe					H	5%	
Inj 0.9%, 5 ml	111,567	$15,619	$0.1400		C H	5%	There may be a preference for plastic ampoules.
Inj 0.9%, 10 ml	600,519	$64,856	$0.1080		C H	5%	There may be a preference for plastic ampoules.
Inj 0.9%, 20 ml	165,274	$41,319	$0.2500		C H	5%	There may be a preference for plastic ampoules.
Sodium citrate with sodium lauryl sulphoacetate							
Enema 90 mg with sodium lauryl sulphoacetate 9 mg per ml, 5 ml	501,199	$300,519	$0.5996		C H	5%	Preference for a pack size of 50 enemas or less.
Sodium cromoglicate							
Eye drops 2%	262,625	$94,020	$0.3580		C H	5%	For products containing BAK, Pharmac reserves its right to list a BAK or preservative free product for a restricted market. Units and unit subsidy expressed as "per ml".
Sodium Fluoride							
Tab 1.1 mg	16,906	$972	$0.0575		C H	5%	
Sodium hyaluronate [hyaluronic acid]							
Inj 10 mg per ml, 0.85 ml syringe					H	5%	Please note in Tender Bid if product is dispersive or cohesive viscoelastic.
Inj 14 mg per ml, 0.85 ml syringe					H	5%	Please note in Tender Bid if product is dispersive or cohesive viscoelastic.
Inj 18 mg per ml, 0.85 ml syringe					H	5%	Please note in Tender Bid if product is dispersive or cohesive viscoelastic.
Inj 30 mg per ml					H	5%	Please note in Tender Bid if product is dispersive or cohesive viscoelastic.

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name / Line Item	Units	Cost	Unit Subsidy		ABA Limit	Comments
Sodium hyaluronate [hyaluronic acid]						
Inj 23 mg per ml, 0.6 ml syringe				H	5%	Please note in Tender Bid if product is dispersive or cohesive viscoelastic.
Solifenacin succinate						
Oral liq				C H	5%	Not currently listed in the Pharmaceutical Schedule
Sotalol						
Tab 80 mg	3,822,767	$249,091	$0.0652	C H	5%	
Tab 160 mg	132,058	$14,500	$0.1098	C H	5%	
Spironolactone						
Oral liq 5 mg per ml	47,875	$58,599	$1.2240	C H	5%	
Tab 25 mg	8,797,135	$385,315	$0.0438	C H	5%	Tender is for tablets only, bids for capsules will not be accepted
Tab 100 mg	1,626,120	$191,882	$0.1180	C H	5%	Tender is for tablets only, bids for capsules will not be accepted
Sucrose						
Oral liq 25%				H	5%	Preference for a smaller pack size (25 - 50 ml)
Sulfasalazine						
Tab EC 500 mg	6,428,773	$998,388	$0.1553	C H	5%	
Sumatriptan						
Inj 12 mg per ml, 0.5 ml	49,522	$841,874	$17.0000	C H	5%	Price should include autoinjector
Sunscreens, proprietary						
SPF 50+ or greater	1,343,600	$34,262	$0.0255	C H	5%	Subsidy by endorsement only. Preference for a lotion, UVB SPF > 50, UVA SPF >30. Preference for a product that meets AS/NZS 2604:2021. Evidence of meeting SPF requirements should be submitted with Tender Bid.
Syrup (pharmaceutical grade)						
Liq	87,358	$2,612	$0.0299	C H	5%	
Tamsulosin						
Tab 400 mcg	4,469,450	$792,433	$0.1773	C H	5%	
Telmisartan						
Tab 40 mg				C H	5%	Not currently listed in the Pharmaceutical Schedule.
Tab 80 mg				C H	5%	Not currently listed in the Pharmaceutical Schedule.
Telmisartan with hydrochlorothiazide						
Tab 40 mg with hydrochlorothiazide 12.5 mg				C H	5%	Not currently listed in the Pharmaceutical Schedule.
Tab 80 mg with hydrochlorothiazide 12.5 mg				C H	5%	Not currently listed in the Pharmaceutical Schedule.
Temozolomide						
Cap 100 mg	20,257	$145,769	$7.1960	C H	5%	
Cap 140 mg	739	$7,408	$10.0240	C H	5%	
Cap 20 mg	12,009	$39,341	$3.2760	C H	5%	
Cap 250 mg	575	$9,929	$17.2680	C H	5%	
Cap 5 mg	4,869	$8,891	$1.8260	C H	5%	
Tenecteplase						
Inj 50 mg				H	5%	
Tenofovir disoproxil						
Tab 300 mg	423,837	$538,273	$1.2700	C H	5%	
Tenoxicam						
Tab 20 mg	483,016	$44,196	$0.0915	C H	5%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name Line Item	Units	Cost	Unit Subsidy			ABA Limit	Comments
Teriparatide (current access)							
Inj 250 mcg per ml	4,094	$2,006,060	$490.0000		C H	5%	Pharmac would only award a tender for current or widened access. Widened access would be for as a first line treatment for clinical vertebral fractures.
Teriparatide (widened access)							
Inj 250 mcg per ml					C H	5%	Pharmac would only award a tender for current or widened access. Widened access would be for as a first line treatment for clinical vertebral fractures.
Tetrabenazine							
Tab 25 mg	135,073	$109,867	$0.8134		C H	5%	
Thiamine Hydrochloride							
Tab 50 mg	9,509,896	$674,252	$0.0709		C H	5%	
Thiotepa							
Inj 100 mg				PCT	H	5%	
Inj 15 mg				PCT	H	5%	
Tolterodine tartrate							
Tab 1 mg					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Tab 2 mg					C H	5%	Not currently listed in the Pharmaceutical Schedule.
Tranexamic acid							
Tab 500 mg	3,442,406	$542,179	$0.1575		C H	5%	
Tranylcypromine Sulphate							
Tab 10 mg	297,281	$136,392	$0.4588		C H	5%	
Trientine							
Cap 250 - 300 mg					C H	5%	Not currently listed in the Pharmaceutical Schedule. Restrictions may apply. Pharmac reserves the right to award a single tender for a capsule or tablet for the entire trientine market.
Tab 150 mg					C H	5%	Not currently listed in the Pharmaceutical Schedule. Restrictions may apply. Pharmac reserves the right to award a single tender for a capsule or tablet for the entire trientine market.
Vinorelbine							
Cap 20 mg					C H	5%	Not currently listed on the Pharmaceutical Schedule
Cap 30 mg					C H	5%	Not currently listed on the Pharmaceutical Schedule
Cap 80 mg					C H	5%	Not currently listed on the Pharmaceutical Schedule
Voriconazole							
Inj 200 mg vial					H	5%	
Water for Injection							
Purified for inj, 5 ml	14,038				C H	5%	There may be a preference for plastic ampoules. Not currently listed on the Pharmaceutical Schedule.
Purified for inj, 10 ml	310,449	$44,643	$0.1438		C H	5%	There may be a preference for plastic ampoules
Purified for inj, 20 ml	49,200	$12,300	$0.2500		C H	5%	There may be a preference for plastic ampoules
Zinc and castor oil							
Crm (pack size 50 g or less)					H	5%	
Oint (pack size 50 g or less)					H	5%	
Oint (pack size greater than or equal to 500 g)	19,953,633	$169,606	$0.0085		C H	5%	

SCHEDULE TWO: PRODUCTS TO BE TENDERED

Chemical Name Line Item	Units	Cost	Unit Subsidy		ABA Limit	Comments
Zinc sulphate						
Cap 50 mg elemental	1,450,200	$159,522	$0.1100	C H	5%	
Zoledronic acid (current access)						
Inj 5 mg	1,615,000	$969,000	$0.6000	C H	5%	Pharmac would only award either current or widened access. Widened access would be a Schedule listing without restriction. Units shown are in ml.
Zoledronic acid (widened access)						
Inj 5 mg				C H	5%	Pharmac would only award either current or widened access. Widened access would be a Schedule listing without restriction
Zonisamide						
Cap 100 mg				C H	5%	Not currently listed in the Pharmaceutical Schedule, restrictions may apply. Restrictions may be similar to lacosamide.
Cap 25 mg				C H	5%	Not currently listed in the Pharmaceutical Schedule, restrictions may apply. Restrictions may be similar to lacosamide.
Cap 50 mg				C H	5%	Not currently listed in the Pharmaceutical Schedule, restrictions may apply. Restrictions may be similar to lacosamide.

Schedule 3: Tender Process

1. General

1.1 Principal Supply Period

(a) Hospital Tender Bids are to be submitted on the basis that if your Hospital Tender Bid is accepted, you will have Principal Supply Status for hospital supply for the particular Tender Item for the Principal Supply Period.

(b) Community Tender Bids are to be submitted on the basis that if your Community Tender Bid is accepted, you will have Principal Supply Status for community supply for the particular Tender Item for the Principal 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 Principal Supply Status for the particular Tender Item for community and hospital supply for the Principal 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 purchase by DHB Hospitals. Additionally, where the successful tenderer's brand of the Pharmaceutical is not listed immediately prior to the First Transition Period, the successful tenderer's brand must be available for supply and purchase by DHB Hospitals from the applicable dates specified in clause 3 of Schedule Six;

(ii) the First Transition Period is intended to allow for an orderly transition to the arrangements that will apply during the Principal Supply Period;

(iii) the Final Transition Period is intended to allow for an orderly transition to any new arrangements following the end of the Principal Supply Period.

(b) Subject to paragraph (d) below, in relation to community 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 subsidised. Additionally, where the successful tenderer's brand of the Pharmaceutical is not listed immediately prior to the First Transition Period, the successful tenderer's brand must be available for supply from the applicable dates specified in clause 3 of Schedule Five;

(ii) the First Transition Period is intended to allow for an orderly transition to the arrangements that will apply during the Principal Supply Period;

(iii) the Final Transition Period is intended to allow for an orderly transition to any new arrangements following the end of the Principal 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, including where it considers that a 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, by determining a different end date, and may do so before or after the commencement date of the First Transition Period. For the avoidance of doubt, in the event that PHARMAC extends the First Transition Period under this clause 1.2(c)(ii):

(A) the delisting (subject to Alternative Brand Allowance arrangements) of other brands of that form and strength of the Chemical Entity is to be deferred until the actual commencement date of the Principal Supply Period, notwithstanding any date previously notified to suppliers by PHARMAC as being the intended date of delisting;

(B) 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 Market Notification Date, then the First Transition Period and clause 1.1(a) of Schedule Five will not apply.

(e) For the avoidance of doubt, any notification by PHARMAC of the delisting (subject to Alternative Brand Allowance arrangements) of all other brands of that form and strength of the Chemical Entity on the first day of the Principal 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 Four; and

(iii) Schedule Five; and

(iv) Schedule Seven (as applicable),

will be deemed to have been entered into between you and PHARMAC for Principal Supply Status for community supply 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 Four; and

(iii) Schedule Six; and

(iv) Schedule Seven (as applicable),

will be deemed to have been entered into between you and PHARMAC for Principal Supply Status for hospital supply 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 Four; and

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

(D) Schedule Seven (as applicable),

will be deemed to have been entered into between you and PHARMAC for Principal Supply Status for community supply 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 Four; and

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

(D) Schedule Seven (as applicable),

will be deemed to have been entered into between you and PHARMAC for Principal Supply Status for hospital supply 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 Four, 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 Principal Supply Period.

1.4 Extension of Principal Supply Status for hospital supply

(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 and the Electronic Portal as being a Tender Item for which you may submit a Tender Bid for Principal Supply Status for

community supply, 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:

(A) Principal Supply Status for community supply; or

(B) a listing in Section B of the Pharmaceutical Schedule, which does not have Principal Supply Status; 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 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:

(A) Principal Supply Status for community supply; or

(B) a listing in Section B of the Pharmaceutical Schedule, which does not have Principal Supply Status.

(b) The Community Tender Bid referred to in paragraph (a)(i) above and the contract for community supply 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:

(A) Schedules Four, Five and Seven in the context of Principal Supply Status; or

(B) 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) in the context of a listing, which does not have Principal Supply Status; 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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

1.5 Extension of Principal Supply Status for community supply

(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 Principal Supply Status for hospital supply, 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:

(A) Principal Supply Status for hospital supply; or

(B) a listing in Section H of the Pharmaceutical Schedule, which does not have Principal Supply Status; 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 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:

(A) Principal Supply Status for hospital supply; or

(B) a listing in Section H of the Pharmaceutical Schedule, which does not have Principal Supply Status.

(b) The Hospital Tender Bid referred to in paragraph (a)(i) above and the contract for hospital supply 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:

(A) Schedules Four, Six and Seven in the context of Principal Supply Status; or

(B) 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) in the context of a listing, which does not have Principal Supply Status; 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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

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:

(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 Principal Supply Period;

(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) the Lead Time and/or the Start Date; or

(vi) 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.

For the avoidance of doubt, where your brand of the Tender Item:

(a) is yet to obtain all necessary Consents, any time period to obtain those Consents shall be exclusive of the Lead Time indicated on your Tender Bid;

(b) is supplied under an exemption under the Medicines Act 1981, the Tender Item shall not be classified as holding a Consent for the purposes of this Invitation.

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 (or other equivalent grouping for a Medical Device) of a Tender Item).

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) in the case of a pharmaceutical that is not a Medical Device, 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 across different chemical entities when submitting a Tender Bid;

(iii) you may not aggregate within a single Tender Item (for example, two different brands or pack sizes);

(iv) 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 (for example, a two-part injection), and you bid for the whole Tender Item, that is not an Aggregated Tender Bid.

2.5 Combined Community/Hospital Tender Bids

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.

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 using the Electronic Portal and attach the Offer Letter and a completed Tender Submission Form for each Tender Item for which you wish to submit a bid.

(b) An electronic version of the Offer Letter is available on the Electronic Portal.

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; and

(f) your quality assurance processes, where applicable.

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) in the case of a pharmaceutical that is not a Medical Device, the chemical, form, strength, brand name, pack size and type of packaging;

(b) for any Pharmaceutical that does not require Consent from Medsafe;

(i) evidence and justification as to why Consent from Medsafe is not required for the Tender Item(s);

(ii) confirmation that the Tender Item(s) that you are submitting a Tender Bid in respect of meet the relevant standards and/or regulatory requirements for its intended use and what those standards and/or regulatory requirements are; and

(iii) details of the Tender Item(s), including excipients, Shelf-Life and In-Use Shelf-Life;

(c) for any Medical Device:

(i) the brand name, pack size (or other equivalent grouping) and type of packaging;

(ii) details of the Tender Item(s) and any associated services available in relation to the Tender item(s), including training, education and product support;

(iii) confirmation that the Tender Item(s) that you are submitting a Tender Bid in respect of meet the relevant standards and regulatory requirements for its intended use;

(iv) information on current usage of and expenditure on the Tender Item(s) by DHBs;

(v) confirmation that you have a business continuity plan with a brief summary of the plan;

(vi) demonstration of experience and knowledge within the healthcare sector, and specifically DHB Hospitals;

(vii) the WAND registration number of the Tender Item(s); and

(viii) the name of the sponsor of the Tender Item for the purpose of the Medicines (Database of Medical Devices) Regulations 2003;

(d) a single price in New Zealand dollars (exclusive of GST) at which you will supply the Tender Item:

(i) to wholesalers and other distributors, 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;

(e) whether it has all necessary Consents (and if not, what the status of registration is);

(f) the Lead Time for supply of the Tender Item;

(g) the name and location of:

(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 (not required in respect of Medical Devices); and

(iii) alternative manufacturers of the finished product and active ingredients (if any) (not required in respect of Medical Devices);

(h) your proposed distribution and supply arrangements for the Tender Item.

3.4 Information that may be supplied about the Tender Item

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

(a) For any Pharmaceutical or Medical Device:

(i) other markets you currently provide the Pharmaceutical or Medical Device in.

3.5 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;

(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; and

(v) digital artwork associated with the Tender Item.

(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

All Tender Bids must be submitted via the Electronic Portal. Tender Bids or any copies of Tender Bids should not be delivered in person, by courier, by post, by facsimile or by email to PHARMAC.

4.2 Key dates

Your Tender Bid must:

(a) be submitted via the Electronic Portal by no later than the Deadline; and

(b) be irrevocable and remain open for acceptance by PHARMAC until, as applicable:

(i) Friday, 5 August 2022;

(ii) the date specified for a Tender Item in Schedule Two or on the Electronic Portal (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 Evaluation Committee will evaluate Tender Bids in light of PHARMAC's statutory objective which is "to secure for eligible people in need of pharmaceuticals, the best health outcomes that are reasonably achievable from pharmaceutical treatment and from within the amount of funding provided". In doing so the Evaluation Committee will be guided by the Factors for Consideration (Factors) that form part of PHARMAC's then current Operating Policies and Procedures (OPPs),

as published on PHARMAC's website (www.pharmac.govt.nz), to the extent applicable. More information on the Factors can be found at www.pharmac.health.nz/factors-for-consideration.

The requirement for PHARMAC to pursue its statutory objective means that particular emphasis will be given to those aspects of proposals which demonstrate "health outcomes", and those aspects of proposals which demonstrate the impact on the "funding provided" for pharmaceuticals. Those Factors which relate directly to these aspects will be given the greatest weight by the Evaluation Committee but all Factors are important.

The information to be taken into account in applying the Factors by the Evaluation Committee will include, in particular:

(a) your ability to ensure continued availability of the Tender Item throughout the Principal Supply 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) alternative manufacturers of the finished product and active ingredients (if any);

  (viii) other markets in which you currently supply the Pharmaceutical;

  (ix) your proposed distribution and supply arrangements for the Tender Item; and

  (x) the Lead Time for supply of the Tender Item;

(b) the pack size (or other relevant grouping for a Medical Device) of the Tender Item and the type of packaging;

(c) the Shelf-Life and In-Use Shelf-Life of the Tender Item.

(d) the price of the Tender Item;

(e) the amount and timing of savings, including non-pharmaceutical savings accruing to the Funder or PHARMAC during the Principal Supply Period;

(f) 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;

(g) the name and location of the manufacturer of the finished product and active ingredients of the Tender Item; and

(h) 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, provided that in PHARMAC's judgment this would not be unfair to you in comparison to any other party. A Tender Bid will conform if it:

(i) is submitted via the Electronic Portal by the Deadline;

(ii) is submitted via the electronic Tender Submission Form and an Offer Letter is also submitted;

(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, provided that in PHARMAC's judgment this would not be unfair to you in comparison to any other party:

(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 its delegate under Delegated Authority pursuant to Section 73 of the Crown Entities Act 2004, where applicable).

(b) PHARMAC's Board of Directors (or its delegate, 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 its delegate, where applicable):

(i) will use the Factors in PHARMAC's then current OPPs 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 its delegate, 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.

(b) While it is PHARMAC's current intention, unless specified otherwise in Schedule Two or the Electronic Portal, to enter into an agreement to award Principal Supply Status for community and/or hospital supply 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 its delegate, 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, acting reasonably (provided that it notifies tenderers materially affected by such adjustments).

(e) PHARMAC may, at any time, suspend or cancel in whole or in part, this tender process in order to fulfil its public law obligations through consultation, or otherwise. In this situation PHARMAC may (without limitation) ask you to adapt and resubmit your Tender Bid in light of consultation, or alternatively we may request that new Tender Bids be submitted (or in the case of a suspension PHARMAC may also resume the tender process without further change following the end of the period of suspension).

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

(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 its delegate, 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 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, electronic procurement providers and other consultants (including PTAC and its Specialist Advisory 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.

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 cannot 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 Principal Supply Status for community and/or hospital supply, 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 or on the Electronic Portal).

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 or its advisors, the Minister of Health (or any Associate Ministers), the Ministry of Health (including its operating unit Medsafe), 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 the Tender Analysts (tender@pharmac.govt.nz) 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.

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: Contract terms for Principal Supply Status for both community and hospital supply

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 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.

1.3 Product identification

(a) You agree to obtain and notify PHARMAC by submitting a "notification of product changes form" of the Pharmacode, the GTIN and the CTPP for the Pharmaceutical as soon as these are notified to you, and in any event:

(i) for brand changes, no later than the earlier of:

(A) the 12th of the month following the Market Notification Date; or

(B) the 5th of the month immediately prior to the Start Date.

(ii) for price changes, on the 12th of the month prior to the Start Date.

For the avoidance of doubt, this requirement does not apply in relation to any Pharmaceutical that is a Medical Device.

(b) You agree to provide PHARMAC with digital photos of the Pharmaceutical (e.g. tablet, vial or patch) and its associated packaging, which will be supplied to the New Zealand market, when the Pharmaceutical is available for distribution in New Zealand. If any changes are made to the Pharmaceutical or its associated packaging whilst the Pharmaceutical is listed on the Pharmaceutical Schedule, you shall provide PHARMAC with updated digital photos as soon as practicable following those changes being implemented.

1.4 Stock Reporting

You shall provide PHARMAC with reports on stock levels for the Pharmaceuticals upon PHARMAC's request during the Principal Supply Period.

1.5 Supplier Code of Conduct

You shall comply with the New Zealand Government's Supplier Code of Conduct (see https://www.procurement.govt.nz/assets/procurement-property/documents/supplier-code-of-conduct.pdf) and shall provide evidence of compliance to PHARMAC on request.

1.6 Principal Supplier

(a) You shall have Principal Supply Status during the Principal Supply Period, which shall be subject to the Alternative Brand Allowance, where other supplier brands of the Pharmaceutical may be subsidised in the community and/or purchased by DHB Hospitals.

(b) The Alternative Brand Allowance referred to in paragraph (a) above is specified as a percentage of the Total Pharmaceutical Volume for the Pharmaceutical, that percentage being as set out in Schedule Two.

(c) You acknowledge and agree that any other supplier brands of the Pharmaceutical may be concurrently listed on the Pharmaceutical Schedule at any time during the First Transition Period, the Principal Supply Period and the Final Transition Period and your rights under this Agreement do not extend to an exclusive listing of the Pharmaceutical on the Pharmaceutical Schedule.

1.7 Exceptions to Principal Supply Status

(a) PHARMAC may, from time to time during the Principal Supply Period or the First Transition Period, amend the Alternative Brand Allowance for the Pharmaceutical after consultation with a relevant medical adviser (being either the Ministry of Health, PTAC or its Specialist Advisory Committees), provided that PHARMAC may only increase the Alternative Brand Allowance without your prior agreement if it has a direction to that effect from Medsafe or its successor, or a recommendation that it do so from PTAC or its Specialist Advisory Committees, based on a significant clinical issue.

(b) Subject to clause 1.8 of this Schedule, you acknowledge and agree that while you have Principal Supply Status:

(i) other supplier brands of the Pharmaceutical may be subsidised in the community and/or purchased by DHB Hospitals, subject to the Alternative Brand Allowance; and

(ii) without derogating from any other rights available to PHARMAC, the Funder 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) at any time during the Principal Supply Period, then the Alternative Brand Allowance shall not apply and other supplier brands of the Pharmaceutical may be subsidised in the community and/or purchased by DHB Hospitals without limitation during that period of non-supply and any calculation performed in accordance with clause 1.8 below shall exclude that period of non-supply.

1.8 Principal Supply Status Monitoring

(a) If you reasonably believe that the percentage usage of other supplier brands of the Pharmaceutical subsidised in the community and/or purchased by DHB Hospitals exceeds the Alternative Brand Allowance for a particular Pharmaceutical during the Principal Supply Period, you may at any date after a three (3) month period following the end of any Relevant Period, request that PHARMAC carry out calculations for that Relevant Period in accordance with the procedure set out in this clause 1.8, and PHARMAC may, acting reasonably, agree to carry out such calculations, provided that if PHARMAC refuses to carry out such calculations, it will provide you with the reasons for refusing to do so. For the avoidance of doubt, where you have Principal Supply Status for both community and hospital supply of a Pharmaceutical, PHARMAC will carry out any calculations for those markets in combination, with a single, combined figure to be used for each of Total Pharmaceutical Volume and Total Brand Allowance Pharmaceutical Volume when carrying out the calculations below.

(b) Within 30 business days of PHARMAC accepting your request to carry out calculations in accordance with paragraph (a) above, PHARMAC shall carry out the following calculations for the Relevant Period in question:

(i) (Total Brand Allowance Pharmaceutical Volume / Total Pharmaceutical Volume) x 100 = Brand Allowance Indicator;

(ii) Brand Allowance Indicator – Alternative Brand Allowance = Brand Differential

(c) In the event the Brand Differential is a number greater than zero i.e. a positive amount, PHARMAC shall carry out the following calculations for the Relevant Period in question:

(i) Total Pharmaceutical Volume / 100 = Volume Multiplier;

(ii) Volume Multiplier x Brand Differential = Eligible Volume;

(iii) (Eligible Volume x Unit Price and/or Unit Subsidy) / 2 = Brand Compensation

(d) PHARMAC will notify you in writing of any Brand Compensation payable or not in accordance with paragraphs (b) and (c) above and will provide you with the details of the relevant party or parties to be invoiced for any Brand Compensation payable, for example the relevant DHB(s). Following such notification to you from PHARMAC, you may invoice the relevant party or parties for the Brand Compensation.

(e) You acknowledge and agree that the data extracted from the records used by PHARMAC are the best data and those records are the best records, for the purposes of carrying out the calculations.

(f) You may, within 10 business days following notification of the outcome of the calculations in accordance with paragraph (d) above (the "**Calculation**"), notify PHARMAC in writing that you dispute the particular Calculation and that you require an audit of that Calculation to be carried out. If you do give a notice to PHARMAC under this clause within that 10-business day period, then the following provisions are to apply:

(i) The audit is to be carried out by an independent person jointly approved by us or, if there is no agreement on a mutually acceptable person within 5 business days of the date of your notice under this clause, then by an independent person nominated for that purpose by the President for the time being of the Institute of Chartered Accountants of New Zealand.

(ii) The independent person is to audit the particular Calculation, which is disputed by you, based on all relevant electronic data which is extracted by PHARMAC from the records maintained by it. For the avoidance of doubt, the independent person will have no right to inspect, review or have access to the written prescriptions on which the data extracted by PHARMAC from those electronic records are based, nor any right to request copies of those written prescriptions.

(iii) In carrying out the audit, the independent person is to be considered as acting as an expert and not as an arbitrator.

(iv) The independent person will be required to complete the audit, and to provide us with a written determination in that regard, within 5 business days of receiving all the information required by the independent person to make a determination and, in any case, no later than 10 business days from the date of his or her acceptance of appointment or nomination under this clause, unless we agree otherwise. The independent person's determination of the particular Calculation is to be final and binding on both of us.

(v) The costs incurred by the independent person in completing the audit are to be met by you, irrespective of the outcome of the audit.

2. Crown Direction

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

(b) PHARMAC may terminate or amend the Agreement, or impose restrictions on the prescribing or dispensing of a Pharmaceutical, at any time during the Principal Supply Period 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. PHARMAC 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.

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 the Resolution Institute (a body corporate incorporated in Australia and registered as an overseas company in New Zealand in accordance with Part 18 of the Companies Act 1993), and the Chair of the Resolution Institute (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 Medicines New Zealand Code of Practice.

For the purposes of this clause:

(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.

4.7 Amendments

Amendments to this Agreement must be in writing between you and PHARMAC.

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 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 Contract and Commercial Law Act 2017, Part 2, Subpart 1, 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 5: Additional contract terms for Principal Supply Status for community supply

1. Effect of Principal Supply Status for community supply

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 any other brands of the Chemical Entity are listed on the Pharmaceutical Schedule, those brands will continue to be subsidised for the First Transition Period at the subsidy applicable to those brands immediately before the commencement of the First Transition Period.

(b) All other brands of that form and strength of the Chemical Entity will be delisted (except to the extent any brands remain listed under Alternative Brand Allowance arrangements) on the first day of the Principal Supply Period, with the result that you will have Principal Supply Status in the community for that form and strength of the Chemical Entity during the Principal Supply Period.

(c) Subject to PHARMAC's other rights under this Agreement in relation to the Pharmaceutical, the Pharmaceutical will continue to be fully subsidised, and you must continue to supply it, at the Price throughout the Principal Supply Period.

(d) 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 Principal Supplier for the Principal Supply Period

(a) Subject to:

(i) PHARMAC's other rights under this Agreement in relation to the Pharmaceutical; and

(ii) clauses 1.6, 1.7 and 1.8 of Schedule Four relating to the Alternative Brand Allowance,

PHARMAC will not subsidise another supplier's brand of the Pharmaceutical on the Pharmaceutical Schedule at any time during the Principal 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 principal supplier of any forms and strengths of the Chemical Entity, if such supply commences after the end of the Principal 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 Principal Supply Status

(a) PHARMAC may withdraw Principal Supply Status in relation to your community 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 Principal Supply Period or (in anticipation) during the First Transition Period if:

(i) you have failed to notify PHARMAC as required under clause 5.1 of this Schedule;

(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) In the event that PHARMAC exercises its rights under clause 1.3(a) above in relation to a Pharmaceutical, it may also withdraw Principal Supply Status in relation to your community supply of all forms and strengths of that Pharmaceutical (in which case clauses 1.1 and 1.2 of this Schedule will no longer apply), following a recommendation from its clinical advisors, either by the written notice provided under clause 1.3(a) above or by further written notice to you at any time during the Principal Supply Period or (in anticipation) during the First Transition Period.

(c) Any withdrawal of Principal Supply Status for community supply is without prejudice to PHARMAC's rights under clauses 5.2 and 5.3 of this Schedule.

1.4 Suspension of Principal Supply Status for community supply

(a) If, at any time during the Principal Supply Period or (in anticipation) during the First 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 Principal Supply Status in relation to your community supply of the Pharmaceutical for the period of such inability.

(b) In the event that PHARMAC exercises its rights under clause 1.4(a) above in relation to a Pharmaceutical, it may also suspend Principal Supply Status in relation to your community supply of all forms and strengths of that Pharmaceutical, following a recommendation from its clinical advisors, either by the written notice provided under clause 1.4(a) above or by further written notice to you at any time during the Principal Supply Period or (in anticipation) during the First Transition Period.

(c) Any suspension of Principal Supply Status for community supply is without prejudice to PHARMAC's rights under clauses 5.2 and 5.3 of this Schedule.

(d) PHARMAC may, at any time, in its sole discretion, notify you of the date on which the suspension of Principal Supply Status under this clause 1.4 ceases and on which date:

(i) Principal Supply Status for community supply is to be re-implemented in respect of the Pharmaceutical; or

(ii) Principal Supply Status for community supply 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 Principal Supply Status for community supply for that form and strength of the Chemical Entity;

(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, subject to sub-paragraphs (A) to (C) as follows:

(A) PHARMAC reserves the right to consult on any price increases prior to determining whether to increase the subsidy for the Pharmaceutical to the new price notified under this paragraph (a)(iii);

(B) Where you increase the price at which you supply the Pharmaceutical under this paragraph (a)(iii), you will not subsequently increase the price at which you supply the Pharmaceutical for at least 12 months from the effective date of the price increase;

(C) Where you did not obtain all necessary Consents for the Pharmaceutical within 12 months following the Deadline, you may not provide six months' written notice of any price increase until a date on or after 12 months following 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 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)(v) 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.

(d) Where a Pharmaceutical is designated an ASP, PHARMAC will provide at least two months' written notice of another supplier's brand of the Pharmaceutical being listed on the Pharmaceutical Schedule and a seven-month initial transition period.

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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

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 Principal Supply Status for community supply of the Pharmaceutical;

(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

(a) Subject to clause 3.1(b)(ii), clause 3.1(b)(iii) and clause 3.1(b)(iv) of this Schedule your brand of the Pharmaceutical must be available for supply, and you must supply the Pharmaceutical, at the Price from the 12th day of the month prior to the Start Date, and the Pharmaceutical will be subsidised at the Price from the Start Date.

(b) In the event your brand of the Pharmaceutical is currently listed on the Pharmaceutical Schedule at the beginning of the First Transition Period:

(i) you must ensure that wholesalers and other such distributors change the price at which they supply the Pharmaceutical to the Price on the 12th day of the month prior to the Start Date, and you shall provide price support to wholesalers and other such distributors for a maximum 4 weeks stock on hand (or such other level of stock as agreed between you and PHARMAC) of the Pharmaceutical held at wholesalers and other such distributors, provided that such wholesalers and other such distributors can provide you with stock on hand reports upon request; or

(ii) your brand of the Pharmaceutical must be available for supply, and you must supply the Pharmaceutical, at the Price from the 1st day of the month prior to the Start Date, and the Pharmaceutical will be subsidised at the Price from the Start Date (which is conditional upon you having at least 2 months Lead Time for the Pharmaceutical); and

(iii) notwithstanding clauses 3.1(b)(i) or (b)(ii) above, if the Price would result in a price increase for your brand of the Pharmaceutical you must supply the Pharmaceutical at the Price from the 22nd day of the month prior to the Start Date, and the Pharmaceutical will be subsidised at the Price from the Start Date; and

(iv) notwithstanding clauses 3.1(b)(i), (b)(ii) or (b)(iii) above, PHARMAC may agree a process with you, that results in your brand of the Pharmaceutical, which includes a rebate, being available for supply, and you must supply the Pharmaceutical, at the Price from the 22nd day of the month prior to the Start Date, and you shall provide price support to wholesalers and other such distributors for a maximum 4 weeks stock on hand (or such other level of stock as agreed between you and PHARMAC) of the Pharmaceutical held at wholesalers and other such distributors, provided that such wholesalers and other such distributors can provide you with stock on hand reports upon request.

For the avoidance of doubt if you do not notify PHARMAC in your Tender Bid in the electronic portal which of the options stated in clauses 3.1(b)(i) or (b)(ii) above apply to the Pharmaceutical, clause (b)(i) above shall apply.

(c) You shall upon request by PHARMAC, provide information on how you intend to manage the price changes stated in clauses 3.1(b)(i) to (b)(iv) above. PHARMAC may, at its sole discretion, publish this information at the time the Tender Item is notified in the Pharmaceutical Schedule in accordance with clause 7.2 of Schedule Three.

3.2 Supply Price

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

3.3 Pharmaceutical Price

You warrant that the Price is inclusive of all costs, for example but not limited to any costs relating to manufacturing, supply chain and price fluctuations, which may occur during the First Transition Period, the Principal Supply Period and the Final Transition Period.

3.4 No reference pricing during Principal 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 Principal 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.

3.5 Unsold stock following delisting

You acknowledge and agree that the price at which you are required to supply any Pharmaceutical under this Agreement incorporates, if applicable, any costs incurred by you associated with unsold stock of the Pharmaceutical held by you or any wholesaler or other distributor, after the Pharmaceutical has been delisted or after notification that it will be delisted.

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 Principal Supply Period or the First Transition Period, in which case PHARMAC may suspend Principal Supply Status in relation to your community 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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

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:

(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 Principal Supply Status in relation to your community 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 Principal Supply Status in relation to your community 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) 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 Principal Supply Status for hospital supply 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 Principal Supply Status , you will only be required to pay liquidated damages of $50,000 in total in respect of both supply failures.

(e) All amounts referred to in this clause are plus GST.

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 relevant SME overdraft rate (weighted average rate) of the Reserve Bank of New Zealand 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 Four, 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 Specialist Advisory Committees), to:

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

(i) a principal supplier of that form and strength of the Chemical Entity; or

(ii) the Pharmaceutical as the principal brand; and/or

(b) impose at any time during the Principal 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 Principal Supply Status for community supply in relation to a Pharmaceutical, at any time during the Principal Supply Period or the Transition Periods, if you fail to remedy any area of non-compliance in accordance with clause 3(b) of Schedule Four.

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 Principal 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 6: Additional contract terms for Principal Supply Status for hospital supply

1. Effect of Principal Supply Status for hospital supply

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 Principal Supply 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 1.3 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 Principal supplier for Principal Supply Period

(a) Subject to:

(i) PHARMAC's other rights under this Agreement in relation to the Pharmaceutical, and

(ii) clauses 1.6, 1.7 and 1.8 of Schedule Four relating to the Alternative Brand Allowance,

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 Principal Supply Period, as the brand having Principal Supply Status for hospital supply.

(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 Principal Supply Status for hospital supply, or a relevant Alternative Pharmaceutical having a status equivalent to Principal Supply Status for hospital supply, if notification of such an

arrangement (once finalised) occurs, and such supply commences, after the end of the Principal Supply Period.

1.3 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 Principal Supply Status for hospital supply for that form and strength of the Pharmaceutical (in the case of any Pharmaceutical that is not a Medical Device); or

(ii) you will cease to have Principal Supply Status for hospital supply in respect of an item conforming to the individual specifications described for the item in the product list in clause 2 of Schedule Two which the Pharmaceutical was listed as conforming with (in the case of any Pharmaceutical that is a Medical Device); and

(iii) 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);

(iv) 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, subject to sub-paragraphs (A) and (B) as follows:

(A) Where you increase the price at which you supply the Pharmaceutical under this paragraph (a)(iv), you will not subsequently increase the price at which you supply the Pharmaceutical for at least 12 months from the effective date of the price increase;

(B) Where you did not obtain all necessary Consents for the Pharmaceutical within 12 months following the Deadline, you may not provide six months' written notice of any price increase until a date on or after 12 months following the End Date.

(v) 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

(vi) if at the time of providing notice under paragraph (a)(v) 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.

1.4 Withdrawal of Principal Supply Status

(a) PHARMAC may withdraw Principal Supply Status in relation to your hospital 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 Principal Supply Period or (in anticipation) during the Principal Supply 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) In the event that PHARMAC exercises its rights under clause 1.4(a) above in relation to a Pharmaceutical, it may also withdraw Principal Supply Status in relation to your hospital supply of all forms and strengths of that Pharmaceutical (or your supply of all other Medical Devices under this Agreement, where PHARMAC has exercised its rights under clause 1.4(a) above in respect of a Medical Device) (in which case clauses 1.1 and 1.2 of this Schedule will no longer apply), following a recommendation to that effect from its clinical advisors, either by the written notice provided under clause 1.4(a) above or by further written notice to you at any time during the Principal Supply Period or (in anticipation) during the First Transition Period.

(c) Any withdrawal of Principal Supply Status for hospital supply is without prejudice to PHARMAC's rights under clauses 7.2 and 7.3 of this Schedule.

1.5 Suspension of Principal Supply Status

(a) If, at any time during the Principal Supply 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 PHARMAC may suspend Principal Supply Status in relation to your hospital supply of the Pharmaceutical for the period of such inability.

(b) In the event that PHARMAC exercises its rights under clause 1.5(a) above in relation to a Pharmaceutical, it may also suspend Principal Supply Status in relation to your hospital supply of all forms and strengths of that Pharmaceutical (or your supply of all other Medical Devices under this Agreement, where PHARMAC has exercised its rights under clause 1.5(a) above in respect of a Medical Device), following a recommendation from its clinical advisors, either by the written notice provided under clause 1.5(a) above or by further written notice to you at any time during the Principal Supply Period or (in anticipation) during the First Transition Period.

(c) Any suspension of Principal Supply Status for hospital supply is without prejudice to PHARMAC's rights under clauses 7.2 and 7.3 of this Schedule.

(d) PHARMAC may, at any time, in its sole discretion, notify you of the date on which the suspension of Principal Supply Status under this clause 1.5 ceases and on which date:

(i) Principal Supply Status for hospital supply is to be re-implemented in respect of the Pharmaceutical; or

(ii) Principal Supply Status for hospital supply is to be withdrawn in accordance with clause 1.4 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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

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 Principal Supply Status for hospital supply of the Pharmaceutical;

(ii) reviewing the terms of listing of that Pharmaceutical; and

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

3. Price

3.1 Price change

(a) Subject to clause 3.1(b)(ii), clause 3.1(b)(iii) and clause 3.1(b)(iv) of this Schedule, 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, it must be available for supply or sale, and you must supply or sell it, at the Price on and from the 12th day of the month prior to the Start Date.

(b) In the event your brand of the Pharmaceutical is currently listed on the Pharmaceutical Schedule at the beginning of the First Transition Period:

(i) you must ensure that wholesalers and other such distributors change the price at which they supply the Pharmaceutical to the Price on the 12th day of the month prior to the Start Date, and you shall provide price support to wholesalers and other such distributors for a maximum 4 weeks stock on hand (or such other level of stock as agreed between you and PHARMAC) of the Pharmaceutical held at wholesalers and other such distributors, provided that such wholesalers and other such distributors can provide you with stock on hand reports upon request; or

(ii) your brand of the Pharmaceutical must be available for supply, and you must supply the Pharmaceutical, at the Price from the 1st day of the month prior to the Start Date, and the Pharmaceutical will be subsidised at the Price from the Start Date (which is conditional upon you having at least 2 months Lead Time for the Pharmaceutical); and

(iii) notwithstanding clauses 3.1(b)(i) or (b)(ii) above, if the Price would result in a price increase for your brand of the Pharmaceutical you must supply the Pharmaceutical at the Price from the 22nd day of the month prior to the Start Date, and the Pharmaceutical will be subsidised at the Price from the Start Date; and

(iv) notwithstanding clauses 3.1(b)(i), (b)(ii) or (b)(iii) above, PHARMAC may agree a process with you, that results in your brand of the Pharmaceutical, which includes a rebate, being available for supply, and you must supply the Pharmaceutical, at the Price from the 22nd day of the month prior to the Start Date, and you shall provide price support to wholesalers and other such distributors for a maximum 4 weeks stock on hand (or such other level of stock as agreed between you and PHARMAC) of the Pharmaceutical held at wholesalers and other such distributors, provided that such wholesalers and other such distributors can provide you with stock on hand reports upon request.

For the avoidance of doubt if you do not notify PHARMAC in your Tender Bid in the electronic portal which of the options stated in clauses 3.1(b)(i) or (b)(ii) above apply to the Pharmaceutical, clause (b)(i) above shall apply.

(c) You shall upon request by PHARMAC, provide information on how you intend to manage the price changes stated in clauses 3.1(b)(i) to (b)(iv) above. PHARMAC may, at its sole discretion, publish this information at the time the Tender Item is notified in the Pharmaceutical Schedule in accordance with clause 7.2 of Schedule Three.

3.2 Supply price

Subject to clause 3.1 of this Schedule, during each of the First Transition Period, the Principal Supply 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 and 3.5 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 Pharmaceutical Price

You warrant that the Price is inclusive of all costs, for example but not limited to any costs relating to manufacturing, supply chain and price fluctuations, which may occur during the First Transition Period, the Principal Supply Period and the Final Transition Period.

3.5 Unsold stock following delisting

You acknowledge and agree that the price at which you are required to supply any Pharmaceutical under this Agreement incorporates, if applicable, any costs incurred by you associated with unsold stock of the Pharmaceutical held by you or any wholesaler or other distributor, after the Pharmaceutical has been delisted or after notification that it will be delisted.

4. Invoicing and Payment

4.1 Invoice

You are to invoice DHB Hospitals at the end of each month, but no later than the 10th 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;

(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.

(f) The provisions of clause 4.1 do not apply to the extent that both parties have agreed to alternative or varied invoicing arrangements in respect of a particular Pharmaceutical.

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 10th 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:

(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 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.

4.4 Contracts Privity

This clause 4 confers a benefit on (and is enforceable by) DHB Hospitals in accordance with the Contract and Commercial Law Act 2017, Part 2, Subpart 1.

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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

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

(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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

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 Principal 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:

(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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

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) Where a Pharmaceutical in respect of which you are liable to pay liquidated damages pursuant to clause 7.3(a)(i) above also has Principal Supply Status for community supply 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 Principal Supply Status, you will only be required to pay liquidated damages of $50,000 in total in respect of both supply failures.

(e) All amounts referred to in this clause are plus GST.

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 relevant SME overdraft rate (weighted average rate) of the Reserve Bank of New Zealand 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 Four, 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, PTAC or its Specialist Advisory Committees), to:

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

(i) in the case of any Pharmaceutical that is not a Medical Device, any Pharmaceutical, including the Pharmaceutical or any relevant Alternative Pharmaceutical, having Principal Supply Status for hospital supply of that form and strength of the Pharmaceutical with Principal Supply Status;

(ii) in the case of any Pharmaceutical that is a Medical Device, any Pharmaceutical, including the Pharmaceutical or any relevant Alternative Pharmaceutical, having Principal Supply Status for hospital supply; or

(iii) the Pharmaceutical as the brand having Principal Supply Status for hospital supply; and/or

(b) impose at any time during the Principal Supply 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 Principal Supply Status for hospital supply in relation to a Pharmaceutical, at any time during the Principal Supply Period or the Transition Periods, if you fail to remedy any area of non-compliance in accordance with clause 3(b) of Schedule Four.

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 Principal Supply 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. The provision of volume data under this paragraph (c) shall include but not be limited to a breakdown of the sales of the Pharmaceutical to each DHB Hospital, which includes a DHB Hospital's distributor and third-party compounder.

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;

(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 Four and this Schedule, and for that purpose all references in Schedule Four and this Schedule 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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

(d) Where the Pharmaceutical is a PCT, clause 7.1 of this Schedule will be deleted and replaced by the following:

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 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 Principal Supply Period or the First Transition 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:

(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 Contract and Commercial Law Act 2017, Part 2, Subpart 1.

Schedule 7: Additional Special Terms

1. Intra-Uterine Copper Device

You shall provide the following information when submitting a Tender Bid for the Pharmaceutical intra-uterine copper device ("IUCD Tender Item"):

- the size of the IUCD Tender Item, including length and width measurements as well as the diameter of the inserter;
- a description of the material the inserter is made of;
- the duration of the therapeutic effect of the IUCD Tender Item; and
- the metals which are contained in the IUCD Tender Item.

You shall provide the following Resources at no cost for the IUCD Tender Item:

- the provision of education, training and support to healthcare professionals in respect of the use of the IUCD Tender Item.

For the purposes of this clause "Resources" shall include but not be limited to the:

- provision of training materials (DVDs, pamphlets, leaflets, brochures) to healthcare professionals;
- provision of an information sheet explaining the differences between the current brand of intra-uterine device and your IUCD Tender Item; and
- provision of presentations and/or demonstrations on the use of your IUCD Tender Item to patients and/or healthcare professionals.

2. Lidocaine urethral syringes

Included in this Invitation is for the following Tender Item:

- Lidocaine [Lignocaine] - Gel 2 %, 10 ml - 11 ml urethral syringe;
- Lidocaine [Lignocaine] hydrochloride with chlorhexidine - Gel 2% with 0.05% chlorhexidine, 10 ml urethral syringe

You shall provide the following information when submitting Tender Bids for any of the above Tender Items ("Lidocaine Urethral Syringes"):

- Product specifications such as syringe type;
- If applicable, details of support and resources (including any supplementary products) currently supplied to end users of your brand of Lidocaine Urethral Syringes, and the availability of this if there are regional differences;
- Details on support and resources (including any supplementary products) you would supply with your brand of Lidocaine Urethral Syringes should your Tender Bid be accepted, and the availability of these if there are regional differences; and
- Any additional information that Pharmac should consider when evaluating your Tender Bid.

You shall provide the following Resources at no cost for the Lidocaine Urethral Syringes Tender Item:

- the provision of education, training and support to end users in respect of the use of your brand of Lidocaine Urethral Syringes.

For the purposes of this clause “Resources” shall include but not be limited to the:

- provision of training materials (such as DVDs, pamphlets, leaflets, brochures) to end users; and
- provision of an information sheet explaining the differences between the current brand of Lidocaine Urethral Syringes and your brand of Lidocaine Urethral Syringes (if applicable).