[Enter Name] Agreement

Pharmaceutical Management Agency

and

[enter supplier name]

Contents

This **[Name of] Agreement** is made on

between (1) **Pharmaceutical Management Agency** (**PHARMAC**)

and (2) **[supplier registered name]**

Background

A In [date] PHARMAC conducted a Request for Proposals tender process(the **RFP Process**) in order to procure a partner which was able to provide [enter services] with PHARMAC's specifications. [supplier] was the preferred bidder.

B Accordingly, [supplier] has agreed to provide and PHARMAC has agreed to purchase [supplier]'s services on the terms and conditions set out in this Agreement

C This Agreement sets out the relationship between, and the rights and obligations of, PHARMAC and [supplier] regarding the implementation and the provision of the Services.

It is agreed

1. Appointment

[supplier] is appointed as the provider of the Services to PHARMAC, and PHARMAC accepts that appointment, in accordance with and subject to the terms of this Agreement.

2. Term

This Agreement will:

(a) start on its Commencement Date and will, subject to clause 2(b) and clause 14, continue for a period of 36 months (the **Initial Term**); and

(b) automatically extend upon the expiry of the Initial Term for further terms of 24 months each to run consecutively (the **Renewal Term(s)**) that will continue until PHARMAC gives not less than three months' written notice to terminate this Agreement prior to the end of any Renewal Term in which case the Renewal Term will end at the expiry of such notice period.

3. Services

3.1 General

(a) [supplier] is to deliver the Services:

(i) in accordance with the terms of this Agreement;

(ii) with due care, skill and diligence; and

(iii) using techniques, methodologies, processes and materials that accord with Industry Best Practice.

(b) [supplier] is to provide and maintain sufficient resources (including human resources, equipment, software, infrastructure, premises and other facilities) to enable it to perform the Services on time and otherwise in accordance with this Agreement.

3.2 Provision of SaaS Services

[supplier] will ensure that the SaaS Services are Available from their corresponding Availability Date(s) in accordance with and as set out in Schedule 2 (Services Description) and, for so long as a SaaS Service is not available, in no circumstances will any Charges be payable by PHARMAC in respect of such service.

3.3 Service Levels

(a) [supplier] is to:

(i) implement appropriate measurement, monitoring and management tools and procedures to enable it to:

(A) detect and prevent any potential failure to meet the Service Levels; and

(B) minimise and promptly rectify any failure to meet the Service Levels; and

(ii) provide the applicable Services so as to meet or exceed the Service Levels at all times.

(b) If a Service Level Default occurs then [supplier] will:

(i) promptly give PHARMAC notice to that effect;

(ii) take such steps and do all things reasonably necessary to remedy and to report on the Service Level Default as soon as possible; and

(iii) credit any applicable Service Level Credit against Charges that are due to be invoiced.

(c) The parties acknowledge that Service Level Credits are intended to operate as an adjustment of the Charges to reflect the reduced value of the applicable Services affected by the Service Level Default(s) during the relevant reporting period.

3.4 Subcontracting

(a) If [supplier] wishes to subcontract the performance of any material part of its obligations under this Agreement it will first provide to PHARMAC:

(i) the name, qualifications and experience of the proposed Subcontractor;

(ii) a description of the obligations to be subcontracted and the Services affected; and

(iii) a description of the material terms of the subcontract (other than the price).

(b) PHARMAC will promptly review the information provided by [supplier] and will, in reliance on the information provided by [supplier] , notify [supplier] whether or not it consents to the appointment of the Subcontractor.

(c) [supplier] :

(i) is solely responsible for the selection and engagement of each Subcontractor and must ensure that each Subcontractor is creditworthy, qualified and has the relevant experience to perform the work it is engaged to carry out;

(ii) is fully responsible as primary obligor for all work carried out by any Subcontractor, all materials used by a Subcontractor and any act or omission on the part of any Subcontractor; and

(iii) agrees that entry into any subcontract will not relieve [supplier] from any liability arising from, or in connection with, this Agreement.

3.5 Inherent Services

If any services, functions, responsibilities, activities or tasks are not specifically described or included within the definition and description of the Services but now or in the future are required to perform the Services because they are an inherent or incidental part of the Services they will, to the extent that it is reasonable to do so, be deemed implied by, and included in, the scope of the Services, as if described in this Agreement.

4. Personnel

[supplier] is to ensure that all of its Personnel who are engaged in providing the Services:

(a) have the requisite skills, expertise, qualifications and experience;

(b) will carry out their respective duties with due care, skill and diligence; and

(c) do not represent in any way that they are employees, representatives or agents of PHARMAC except where expressly authorised to do so.

5. Governance

5.1 Structure

The governance structure for the Services and the relationships contemplated by this Agreement are set out in Schedule 6 (Governance).

5.2 Appointment of Relationship Managers

Each party will:

(a) appoint, and maintain during the Term, a suitably qualified and experienced person to lead the overall relationship between the parties (each a **Relationship Manager**); and

(b) consult with the other party about any proposed replacement or redeployment of its Relationship Manager.

5.3 Scope of role

Each Relationship Manager will:

(a) serve as the primary point of contact with the other party; and

(b) have overall responsibility for managing and co-ordinating the performance of his or her appointing party's obligations under this Agreement, as further set out in Schedule 6 (Governance).

5.4 Reporting and records

(a) **Reporting**

[supplier] must issue written reports as to its performance of the Services:

(i) when those reports are required to be provided to PHARMAC; and

(ii) incorporating such information that is to be contained in those reports,

pursuant to the terms of Schedule 6 (Governance).

(b) **Records**

[supplier] must, at all times during the Term, maintain, store and archive, in electronic form, true, up to date, accurate and complete records of all invoices, reports, operating processes and procedures and other records relating to the Services, in accordance with Industry Best Practice and in a manner which ensures their continued safety from destruction or loss of their confidentiality, and must ensure that each of its Subcontractors does the same.

(c) **Security of records**

All records must be stored and archived in accordance with Industry Best Practice and in a manner which reasonably ensures their continued safety from destruction or loss and their confidentiality. Where records are kept in electronic form, they must be backed-up on a regular basis.

5.5 Review and audit

(a) **Right to audit**

PHARMAC may, not more than twice in any 12 month period, carry out an audit for the purpose of:

(i) reviewing [supplier] 's compliance with, and/or ability to perform, any of its obligations under, or in connection with, this Agreement; or

(ii) confirming the accuracy of any invoice rendered by [supplier] to PHARMAC.

(b) **Audit requirements**

If PHARMAC conducts an audit (the **auditing party**) under this clause 5.5:

(i) it will be conducted during Business Days, during normal business hours, and following not less than 10 Business Days' written notice to the other party;

(ii) it may, at the auditing party's option, be undertaken by its Personnel, or an independent expert approved by the other party (such approval not to be unreasonably withheld or delayed) (**Auditor**), with the Auditor to be under a duty of confidentiality;

(iii) the auditing party will comply (and will take reasonable steps to ensure any Auditor complies) with the other party's reasonable requirements for the purpose of protecting the security and safety of personnel, information and premises;

(iv) the auditing party will use its reasonable endeavours to minimise (including taking reasonable steps to ensure any Auditor minimises) any disruption to the other party's business during the course of the audit;

(v) the other party must co-operate in a timely manner in respect of any audit (such co-operation to include complying with any of the auditing party's audit provisions);

(vi) the other party must promptly provide:

(A) reasonable access and assistance to the auditing party in respect of any audit (including access to the party, its Personnel, facilities, systems, records and resources associated with the provision of the Services); and

(B) any reasonable explanations, information and documentation that PHARMAC may require in relation to the audit.

(c) **Cost of audit**

The parties will each be responsible for their own costs in relation to any audit undertaken in accordance with this clause 5.5, unless the audit reveals a Material Breach by [supplier] of this Agreement, in which case [supplier] in breach will reimburse PHARMAC for its actual and reasonable costs in carrying out any audit.

6. Responsibilities

6.1 Mutual requirements

Each party will proactively and fully co-operate with the other party in good faith with respect to all matters that relate to this Agreement.

6.2 General responsibilities of PHARMAC

In addition to its other obligations under this Agreement, PHARMAC will:

(a) provide [supplier] in a timely manner with all information reasonably requested by it to enable it to provide the Services (and will take all reasonable steps to ensure that such information is accurate);

(b) give [supplier] reasonable access to PHARMAC's Personnel to liaise with [supplier] 's Personnel in relation to PHARMAC's on-going technical and operational requirements in relation to the Services;

(c) co-operate with [supplier] and any Subcontractor in relation to the provision of the Services; and

(d) only use the Services for lawful purposes and not for fraudulent or destructive purposes.

6.3 General responsibilities of [supplier]

In addition to its other obligations under this Agreement, [supplier] will:

(a) ensure that all information provided to PHARMAC (including the Documentation) contains sufficient content and detail to enable PHARMAC to make use of the information for the purpose for which it was requested;

(b) as soon as is practicable, notify PHARMAC of any problems or issues that arise in relation to the performance of its obligations under this Agreement, including any problems or issues that will or are likely to affect the provision or quality of the Services, or the ability of [supplier] to perform its obligations under this Agreement;

(c) without limiting any other provision of this Agreement, use its best endeavours to avoid damaging or adversely affecting PHARMAC's reputation, systems or infrastructure; and

(d) not knowingly or negligently insert or permit to be inserted into any of the Services or PHARMAC's technology infrastructure or environment any Virus which could or has the effect of adversely affecting PHARMAC.

6.4 Business continuity

(a) [supplier] will implement and maintain at all times adequate business continuity (including disaster recovery) arrangements in respect of its own business in accordance with Industry Best Practice.

(b) [supplier] will provide details of its business continuity arrangements to PHARMAC within 15 Business Days of a written request by PHARMAC.

7. Changes

(a) Each party will comply with the Change Management Procedure in relation to all Changes to the Agreement.

(b) Any additional Services may be provided by the parties agreeing and signing a Statement of Work.

8. Pricing and Payment

8.1 Obligation to pay

PHARMAC will pay to [supplier] the Charges (plus GST as applicable) in consideration of [supplier] 's performance of the Services, in accordance with this clause 8 and Schedule 4 (Charges).

8.2 Taxes

Except for any GST payable by PHARMAC, all taxes, levies and duties payable in connection with this Agreement under any Law are to be paid by [supplier] and not passed on to PHARMAC. PHARMAC may deduct from any payments to be made to [supplier] any withholding taxes or other deductions that it is required by Law to make.

8.3 Invoicing and payment

[supplier] will, unless otherwise set out in Schedule 4 or a Statement of Work, invoice PHARMAC for the Charges in accordance with the following terms:

(a) [supplier] will render one itemised invoice at the completion of each Milestone for all Services provided in relation to that Milestone in accordance with any invoicing requirements notified to [supplier] by PHARMAC; and

(b) each correctly rendered invoice will be payable on or before the 20th day of the month following the month in which the relevant invoice was issued.

8.4 Invoice disputes

If PHARMAC reasonably disputes an invoice, PHARMAC may withhold any reasonably disputed sum until the dispute is resolved, but will pay the undisputed portion in accordance with this clause 8. [supplier] will not be excused from performing its obligations under this Agreement while an invoice is disputed by PHARMAC.

9. Warranties

9.1 General warranties

Each party represents, warrants and undertakes that:

(a) it has full power, capacity and authority to execute, deliver and perform its obligations under this Agreement;

(b) it has, and will continue to have, all the necessary consents, permissions, licences and rights to enter into and perform its obligations under this Agreement; and

(c) once executed this Agreement constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms.

9.2 [supplier] 's warranties

[supplier] represents, warrants and undertakes that:

(a) there are no existing agreements, undertakings or arrangements, the terms of which prevent it from entering into this Agreement, or which would impede the performance of its obligations under this Agreement, or that it would breach by entering into this Agreement; and

(b) it and/or its licensors own all existing Intellectual Property rights in or relating to the Services and the Documentation.

9.3 Continuous application

The warranties, representations and undertakings set out in this clause 9 will be deemed to be given continuously throughout the Term by the party giving such warranty, representation or undertaking.

9.4 Other warranties excluded

All representations or warranties (statutory, express or implied) which are not expressly referred to in this Agreement are excluded to the fullest extent permitted by Law.

10. Intellectual Property

10.1 [supplier] Intellectual Property

(a) [supplier] and/or its licensors own all existing Intellectual Property rights in the Services (and any works or materials part of the Services) and the Documentation, subject to clause 10.2(a).

(b) PHARMAC own all developed Intellectual Property rights in the Services (and any works or materials part of the Services) and the Documentation.

(c) [supplier] grants to PHARMAC a non-exclusive, non-transferable, irrevocable and royalty-free licence during the Term to use the Intellectual Property rights in the Services and the Documentation existing as at the date of this Agreement as required to enable PHARMAC to obtain the full benefit of the Services.

(d) [supplier] grants to PHARMAC a non-exclusive, transferable (including the right to sub-license), irrevocable, perpetual and royalty-free licence to use, copy, modify and develop the Intellectual Property rights in the Services and the Documentation developed under this Agreement.

10.2 Data

(a) PHARMAC or its licensor is and remains owner of, and retains all Intellectual Property rights in, the Data.

(b) [supplier] will ensure that all Data (and any backup archives of Data) in the possession or control of [supplier] is kept secure and managed and protected in accordance with this Agreement.

(c) As soon as practicable after the Commencement Date, [supplier] will inform PHARMAC of any countries outside New Zealand in which the Data (and any backup archives of Data) is to be stored and no such storage or data transfer will take place at any time until PHARMAC has provided its written consent (such consent to be based on PHARMAC's satisfaction that appropriate security and privacy protection measures have been implemented and will be maintained).

10.3 Indemnity

(a) [supplier] will fully indemnify PHARMAC against all Losses suffered or incurred by PHARMAC to the extent arising as a result of any claim that the use of any materials which are used by [supplier] to provide the Services infringes any third party's rights.

(b) In the event of any claim under clause 10.3(a) (an **IP Claim**):

(i) PHARMAC will notify [supplier] of the IP Claim as soon as is practicable and, to the extent permissible by Law, permit [supplier] (at [supplier] 's cost) to handle all negotiations for settlement and to control and direct any litigation that may follow (**Control of the IP Claim**); and

(ii) if [supplier] has Control of the IP Claim:

(A) [supplier] shall handle all negotiations of the IP Claim and diligently conduct any litigation or negotiations using competent counsel and in a manner that does not adversely affect the name or reputation of PHARMAC;

(B) PHARMAC will provide all reasonable assistance to [supplier] (at [supplier] 's cost) in the handling of any negotiations and litigation; and

(C) [supplier] will keep PHARMAC informed of the defence of the IP Claim and will not enter into any settlement or compromise in relation to the IP Claim without consulting with PHARMAC.

(c) [supplier] will have no liability for any IP Claim to the extent that the IP Claim arises directly from:

(i) breach by PHARMAC of any licence or use of any [supplier] Intellectual Property in breach of the terms of this Agreement; or

(i) modification by PHARMAC of any item of Intellectual Property without the written approval of [supplier] .

11. Confidentiality

11.1 Non-disclosure

Each party will treat as confidential and not disclose to any third party nor use for its own benefit (other than for the purposes of this Agreement), any Confidential Information that is the Confidential Information of any other party.

11.2 General exceptions

Clause 11.1 does not preclude a party disclosing Confidential Information:

(a) if that information was known, or becomes known, to the public through no act or default of the party;

(b) that the party is required by Law, any New Zealand minister of the Crown or any New Zealand Parliamentary office to disclose so long as the party provides written notice to the other party of the required disclosure promptly upon receipt of notice of the required disclosure (if it is permitted to do so by Law);

(c) that was lawfully known to the recipient prior to the date it was disclosed;

(d) that becomes available to the recipient from a source other than a party to this Agreement provided that the recipient has no reason to believe such source is itself bound by an obligation of confidence to the person that disclosed that information or is otherwise prohibited under Law from disclosing such information;

(e) that has been or is independently developed by the recipient;

(f) to any Professional Adviser for the purposes of rendering professional services to a party and in relation to this Agreement;

(g) to the extent that such disclosure is authorised by this Agreement; or

(h) if such disclosure is approved for release with the prior written consent of the party from whom the Confidential Information is first received.

12. Liability

12.1 Maximum liability

Subject to clause 12.2:

(a) The maximum aggregate liability of PHARMAC to [supplier] for all Losses under or in connection with this Agreement or its formation, in addition to PHARMAC's obligation to pay the Charges or any other amounts expressly payable under this Agreement, in respect of all claims in any 12 month period will not exceed an amount equal to all Charges paid by PHARMAC to [supplier] under this Agreement during such 12 month period.

(b) PHARMAC will not, under any circumstances, be liable in relation to this Agreement for any indirect or consequential loss or damage, or any loss of profits or revenue, arising out of or in connection with the performance or non-performance of this Agreement.

12.2 Exclusions

The limitations and exclusions of liability described in clause 12.1 will not apply to or limit the liability of PHARMAC for:

(a) any fraudulent act or omission or any wilful default; or

(b) breach of clause 11 (Confidentiality).

12.3 Source of liability

The limitations and exclusions of liability in this clause 12 will apply irrespective of how liability arises, whether in contract, equity, tort (including negligence), breach of statutory duty or otherwise.

12.4 Adequate insurance

During the Term [supplier] will, at its own expense, ensure that it maintains appropriate insurance in respect of its potential liability for loss or damage under this Agreement.

13. Dispute Resolution

13.1 Dispute

In the event of any dispute, difference or question arising out of, or in connection with, this Agreement or its formation (a **dispute**) each party must:

(a) use its best efforts to resolve the dispute through good faith negotiations and informal dispute resolution techniques;

(b) not commence any proceedings relating to the dispute unless it has complied with clauses 13.2 to 13.4 (inclusive), as applicable; and

(c) continue to perform its obligations under this Agreement as far as possible as if the dispute had not arisen, pending final settlement of the dispute.

13.2 Escalation

Each party will advise its Relationship Manager of a dispute on the day that the dispute arises. The Relationship Managers will use their best efforts to resolve the dispute in accordance with clause 13.1(a). If the dispute is not resolved within 10 Business Days the dispute will be escalated within the respective organisations to be resolved within a further 10 Business Days.

13.3 Expert determination

If the dispute is not resolved under clause 13.2 then:

(a) if this Agreement requires that the dispute will be subject to expert determination, either party may refer the dispute to expert determination by written notice to the other party; or

(b) the parties may otherwise agree in writing to refer the dispute to expert determination.

The dispute will be conducted in accordance with the following process:

(c) the expert (**Expert**) will be appointed by agreement between the parties or, failing agreement within 10 Business Days following the date of referral to expert, by the President (or his or her nominee) of the Arbitrators and Mediators Institute of New Zealand who will be requested to appoint an expert who is suitably qualified and experienced in relation to the subject matter of the dispute;

(d) the Expert will act as an expert and agree to act on a confidential basis, and not as an arbitrator, and referral of the dispute to the Expert will not be a submission to arbitration for the purposes of the Arbitration Act and the provisions of the Arbitration Act will not govern that referral;

(e) within 10 Business Days of the Expert accepting the appointment, the parties will send written submissions on the dispute to the Expert and to each other and, within five Business Days of receiving the other party's submission, will submit any written replies they wish to make to the Expert and to each other;

(f) the parties will give the Expert all necessary assistance that the Expert reasonably requires to determine the dispute;

(g) the Expert will, unless the parties otherwise agree, be directed to deliver a written determination to the parties within 10 Business Days of having received the parties' written submissions under clause 13.3(e);

(h) the Expert will have the power to compel either party to produce any information material to the dispute which that party has in its possession and which that party could be required to produce on discovery in a court proceeding to the Expert and to the other party;

(i) the Expert's decision will be final and binding and, to the extent it is lawful to do so, the parties waive any right of appeal or review; and

(j) the Expert's fees will be at the parties' cost, and the Expert will determine the proportion of those fees that each party will be required to pay, having regard to (amongst other things) the conduct of the parties.

13.4 Urgent relief

Nothing in this clause 13 will preclude either party from taking immediate steps to seek urgent relief before a New Zealand Court.

14. Termination

14.1 Termination for Material Breach

If either party commits a Material Breach, the other party may provide written notice specifying the Material Breach and requiring that it be remedied within 20 Business Days of such notice. The other party may terminate the Agreement by providing five Business Days' written notice to the party if such Material Breach has not been remedied within the 20 Business Days' period.

14.2 Termination for Force Majeure

Either party may terminate this Agreement by notice in writing to the other party, with immediate effect on the date specified in that notice, if [supplier] has been unable to provide all, or a substantial part, of the Services in accordance with this Agreement as a result of a Force Majeure Event for a continuous period of 30 Business Days.

14.3 Effect of termination or expiry

Except as is otherwise provided in this Agreement, termination or expiry of this Agreement will not affect:

(a) any rights and remedies available to a party under this Agreement which have accrued up to and including the date of termination or expiry; and

(b) the provisions of this Agreement which, by their nature, survive termination or expiry.

14.4 Return of property

(a) After expiry or termination of this Agreement for any reason, each party will, within five Business Days of written notice from the other party, return to the other party all of the other party's:

(i) property (including Documentation); and

(i) Confidential Information (or destroy such Confidential Information, if requested),

except to the extent that such property or Confidential Information is required to be retained in accordance with the Public Records Act 2005 or any other Law.

(b) For the avoidance of doubt, as part of [supplier] 's obligations under clause 14.4(a), [supplier] will, within five Business Days of written notice from PHARMAC, provide, transfer and release (including providing all necessary access rights) all Data to PHARMAC in the format reasonably required by PHARMAC.

15. Force Majeure

Neither party will be liable to the other for any failure to perform its obligations under this Agreement during the time and to the extent that such performance is prevented, wholly or substantially, by reason of any Force Majeure Event. The party affected must:

(a) notify the other party as soon as practicable after the Force Majeure Event occurs and provide full information concerning the Force Majeure Event, including the extent of its inability to perform, an estimate of the time likely to be required to overcome it and the steps the affected party will take to comply with (b) and (c) below;

(b) use its best endeavours to remedy or mitigate the effect of the Force Majeure Event and minimise the impact on its obligations and the other party; and

(c) use its best endeavours to complete its obligations under this Agreement as far as practicable.

16. Scope and Construction of this Agreement

16.1 Documents comprising this Agreement

At the Commencement Date this Agreement comprises the Base Agreement, the Schedules and the Appendices, each of which are deemed to form, and to be read and construed as, part of this Agreement.

16.2 Precedence

If there is any conflict or inconsistency between the documents which comprise this Agreement the order of precedence is:

(a) any change or variation to this Agreement agreed between PHARMAC and [supplier] pursuant to a Change Authorisation Agreement;

(b) any Statement of Work;

(c) the Base Agreement;

(d) the Schedules, other than Schedule 1 (Definitions); and

(e) the Appendices.

16.3 Construction

(a) In this Agreement unless the context otherwise requires:

(i) the terms used in this Agreement and set out in Schedule 1 (Definitions) have the meanings set out in that Schedule;

(ii) a gender includes each other gender;

(iii) the singular includes the plural and vice versa;

(iv) a reference to materials means a reference to materials of any kind whether in the form of documentation, software, hardware, network, componentry or otherwise;

(v) a reference to [supplier] in this Agreement includes reference to its respective successors in title and permitted assigns and, where the context so permits, its respective employees, contractors, Subcontractors, agents and representatives;

(vi) any agreement not to do a thing also constitutes an agreement not to suffer or permit or cause that thing to be done;

(vii) any reference to a consent, requires the prior written consent of the party required to give that consent;

(viii) whenever the words "includes" or "including" are used in this Agreement, they are deemed to be followed by the words "without limitation";

(ix) a reference to any legislation, policy or standard includes a modification of that legislation, policy or standard or, in the case of legislation, legislation enacted in substitution for that legislation and a regulation, Order in Council and other instrument from time to time issued or made under that legislation;

(x) headings to clauses in this Agreement and the table of contents are included for the purpose of ease of reference only and are not to have any effect on construction and interpretation;

(xi) a reference to a person includes a partnership and also a body of persons, whether corporate or unincorporated;

(xii) a reference to Business Days is a reference to any day of the year other than a Saturday, a Sunday, a New Zealand public holiday, Auckland anniversary day or Wellington anniversary day;

(xiii) a reference to days, other than Business Days, is a reference to any calendar day of the year;

(xiv) a reference to any time is a reference to New Zealand time;

(xv) a reference to currency is a reference to New Zealand currency, unless expressly provided otherwise.

(b) None of the terms of this Agreement are to be construed against a party by reason of the fact that that term was first proposed or was drafted by that party.

16.4 Employees, agents, contractors and Subcontractors

Any act or omission or the misconduct of any employee, contractor, Subcontractor or agent of any party to this Agreement, is deemed to be the act, omission or misconduct of that party.

17. General Provisions

17.1 Relationship of the parties

Nothing expressed or implied in this Agreement will be deemed to constitute either party as the partner, agent, or joint venturer of the other party.

17.2 Assignment

Neither party may assign, novate, transfer or otherwise dispose of the whole or any part of its rights and obligations under this Agreement without first obtaining the other party's written consent (which will not be unreasonably withheld or delayed).

17.3 Public disclosures

Subject to clause 11, all public disclosures by either party relating to this Agreement, including the fact of its existence, and promotional or marketing material (but not including

any announcement intended solely for internal distribution or any disclosure required by legal, accounting or regulatory requirements) will be co-ordinated with and must first be approved in writing by the other party prior to release.

17.4 Notices

(a) **Notice**

Every notice or other formal communication expressly contemplated in this Agreement (**Notice**) shall be in writing and delivered in accordance with clause 17.4(b).

(b) **Method of Service**

A Notice may be given by:

(i) delivery to the physical address of the relevant party;

(ii) email to the email address of the relevant party; and

(iii) posting it by pre-paid post to the postal address of the relevant party.

(c) **Time of receipt**

A Notice given in the manner specified in:

(i) clause 17.4(b)(i) is deemed received at the time of delivery;

(ii) clause 17.4(b)(ii) is deemed received upon actual receipt and confirmation (electronic or otherwise) by the recipient; and

(iii) clause 17.4(b)(iii) is deemed received three Business Days after (but exclusive of) the date of posting.

(d) **Addresses**

For the purposes of this clause 17.4, each party's initial physical address, email address and postal address are set out below:

(i) for notices required to be addressed to [supplier] :

[supplier]

Person: [***insert details***]
Postal address: [***insert details***]
Physical address: [***insert details***]
email address: [***insert details***]

(ii) for notices required to be addressed to PHARMAC:

Pharmaceutical Management Agency

Person: [***insert details***]
Postal address: [***insert details***]
Physical address: [***insert details***]
email address: [***insert details***]

(e) **Amendment**

This contact information may be amended by written notice to the other party.

17.5 Severability

If any term or provision of this Agreement is held to be illegal, invalid or unenforceable it will be severed from this Agreement without affecting the legality, validity or enforceability of the remaining provisions.

17.6 Waiver

Neither party will be deemed to have waived any right under this Agreement unless the waiver is in writing and signed by the parties. Any failure or delay by a party to exercise any right or power under this Agreement will not operate as a waiver of that right or power. Any waiver by a party of any breach, or failure to exercise any right, under this Agreement will not constitute a waiver of any subsequent breach or continuing right.

17.7 Remedies cumulative

Except as is expressly stated otherwise in this Agreement:

(a) the rights, powers and remedies provided in this Agreement are cumulative and are not exclusive of any rights, powers or remedies provided by Law or under this Agreement; and

(b) the exercise of any of the rights, powers and remedies provided in this Agreement will not prejudice the exercise of any other right, power or remedy under this Agreement or existing at Law.

17.8 Entire agreement

(a) This Agreement constitutes the entire agreement of the parties with respect to its subject matter and supersedes all previous agreements, arrangements, understandings or representations relating to that subject matter.

(b) The terms of this Agreement prevail over the terms contained in the standard conditions of sale, invoices, standard terms of use, standard form licences or any other communication from either party or its contractors, even if at some later date the other party signs or otherwise purports to accept the terms of that communication.

17.9 Amendment

This Agreement may only be amended by agreement in writing signed by the authorised representatives of both parties in accordance with the Change Management Procedure.

17.10 Counterparts

This Agreement may be executed in any number of counterparts, each of which is to be deemed an original, but all of which together are to constitute a single instrument.

17.11 Governing law and jurisdiction

This Agreement is governed by, and will be construed in accordance with, the laws of New Zealand. Each party irrevocably submits to the exclusive jurisdiction of the New Zealand

courts for the purpose of hearing and determining all disputes under or in connection with this Agreement.

Execution

Signed as an Agreement

SIGNED by **[supplier]**

Authorised Signatory

Name

Position

Date signed:

SIGNED by **Pharmaceutical Management Agency**

Authorised Signatory

Name

Position

Date signed:

Schedule 1: Definitions

In this Agreement, unless the context otherwise requires:

Acceptance Certificate has the meaning set out in Schedule 3 (Testing);

Additional Services means those new services in addition to the Implementation Services and the SaaS Services to be provided by [supplier] under a finalised and signed Statement of Work;

Agreement means this [Name of services] Agreement between PHARMAC and [supplier] , including the Schedules and, for the avoidance of doubt, includes any and all Changes made pursuant to a Change Authorisation Agreement and any Statements of Work;

Appendix means:

(a) any document physically attached, or annexed, to a Schedule and identified as such; and

(b) any document referenced in any Schedule;

Arbitration Act means the Arbitration Act 1996;

Available means that the SaaS Services to be provided by [supplier] are ready for use by PHARMAC;

Base Agreement means clauses 1 to 17 (inclusive) of, and Schedule 1 to, this Agreement;

Business Day has the meaning given in clause 16 of the Base Agreement;

Change has the meaning given in paragraph 1.1 of Schedule 7 (Change Management);

Change Authorisation Agreement means an agreement between PHARMAC and [supplier] recording the terms on which a Change has been agreed, in the form attached at Annexure 1 to Schedule 7 (Change Management);

Change Management Procedure means the change procedure set out in Schedule 7 (Change Management);

Change Request means the written request relating to a proposed Change by which PHARMAC or [supplier] may initiate the Change Management Procedure;

Charges means the charges for the Services as set out in Schedule 4 (Charges);

Commencement Date means the date on which the Agreement is signed by [supplier] and PHARMAC;

Confidential Information means:

(a) all trade secrets and information which might reasonably be expected to be confidential in nature already communicated or subsequently communicated under or in connection with this Agreement, including information obtained during the negotiation of this Agreement or in the performance of this Agreement;

(b) any information about the business or property of either party which is marked confidential or by its nature is reasonably intended to be confidential including any such information:

(i) relating to the financial position of that party;

(ii) concerning that party's suppliers and customers, or its agents;

(iii) relating to that party's internal management, structure, personnel or strategies; or

(c) personal information as defined in the Privacy Act 1993;

(d) all Data;

Data means the data, information, records, lists and configurations (including compilations of the foregoing) inputted into, or otherwise in any way relating to or as a result of using, any of the Services by PHARMAC, any PHARMAC Personnel or [supplier] on behalf of PHARMAC;

Documentation means the documentation made available to PHARMAC by [supplier] , which sets out a description of the Services and any user instructions;

Expert has the meaning given in clause 13.3 of the Base Agreement;

Force Majeure Event means an event or circumstance beyond the reasonable control of either party which makes it impossible or illegal to perform, or prevents compliance with, or the performance of, a party's obligations under this Agreement, including:

(a) fire, floods, storms, tempest, earthquake or other act of God;

(b) any act of a public enemy, war, riot, act of civil or military authority;

(c) nuclear, chemical or biological contamination; and

(d) any act of a third party (not being an employee, agent or subcontractor of the party seeking to rely on clause 15 of the Base Agreement) engaged in subversive or terrorist activity or sabotage,

but does not include an event to the extent that:

(e) the effect of that event could have been substantially prevented, avoided or overcome or mitigated by:

(i) implementation of any contracted business continuity or disaster recovery service, or any contingency plans agreed between the parties or which a party has represented it has in place;

(ii) exercising a reasonable standard of care; or

(iii) using information provided by the other party or which is readily available in the public domain;

(f) it is an event for which the party affected is or was directly responsible;

(g) that event is constituted or caused by any failure of a Subcontractor or contractor of the party seeking to rely on clause 15 of the Base Agreement unless and to the extent that the Subcontractor or contractor was itself affected by an event, which if it occurred in relation to either party would have been a Force Majeure Event;

(h) that event is constituted or caused by the insolvency of either party or a Subcontractor or contractor of the party seeking to rely on clause 15 of the Base Agreement or lack of funds for any reason;

Implementation Services means those design, creation, customisation, piloting and deployment services to be provided by [supplier] , described in and finalised under Schedule 2 (Services Description);

Industry Best Practice means, in relation to any undertaking and any services, the exercise of the skill, diligence, prudence, foresight and judgement which would be expected from a highly skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances, applying the best standards and practices currently applied in, as the circumstances require, the New Zealand technology services industry or other relevant industry;

Initial Term has the meaning given in clause 2(a) of the Base Agreement;

Insolvency Event means, in relation to [supplier] :

(a) the presentation of an application for its liquidation that is not discharged within 30 days of its filing or which is not demonstrated to PHARMAC prior to the expiry of that 30 day period as being an application that is frivolous or vexatious;

(b) any step taken in or toward the making of any compromise, proposal or deed of arrangement with its creditors;

(c) the appointment of a liquidator, receiver, statutory manager, or similar official, to that party;

(d) the suspension or threatened suspension by that party of the payment of its debts;

(e) cessation by that party of a whole or any relevant part of its business in New Zealand;

(f) the enforcement of any security against the whole or a substantial part of its assets; or

(g) any other insolvency event or proceedings analogous to any of the foregoing occurring in any relevant jurisdiction;

Intellectual Property means copyright, all rights in relation to inventions (including patents), registered and unregistered trade marks, registered and unregistered designs, semiconductor or circuit layout rights, trade or other proprietary rights or rights derivative of those rights (including licence rights) anywhere in the world as well as any other rights in intellectual property which are recognised or protected under law;

Law means:

(a) any statute, regulation, bylaw, ordinance or subordinate legislation in force from time to time to which a party is subject;

(b) the common law and the law of equity as applicable to the parties from time to time;

(c) any binding court order, judgment or decree,

in any jurisdiction that is applicable to this Agreement;

Losses means liabilities, expenses, losses and damages;

Material Breach means any material breach by a party of the terms of this Agreement or the occurrence of any event having a material effect on the ability of a party to perform its obligations under this Agreement, including (in the case of [supplier]) an Insolvency Event;

Milestone means the events as identified in the table at paragraph 1.1 of Schedule 4 (Charges) for the purposes of payment for the Implementation Services;

Office Hours are the hours between 8:00am and 6:pm on Business Days;

Personnel includes employees, agents, officers and subcontractors;

Professional Adviser means any accounting, legal or technical services professional;

Project Phases means the five phases of the Implementation Services (including, Discovery and definition, Design, Content upload, Testing and Implementation) as set out in paragraphs 1.2 to 1.6 (inclusive) of Schedule 2 (Services Description);

Relationship Manager has the meaning given in clause 5.2 of the Base Agreement;

Renewal Term has the meaning given in clause 2(b) of the Base Agreement;

Requirements means the requirements for the Services as set out in, or to be developed under, Schedule 2 (Services Description), as amended from time to time using the Change Management Procedure;

RFP Process has the meaning given in paragraph A of the introduction to the Base Agreement;

SaaS Services (or **Software as a Service Services**) means those services to be provided by [supplier] , described in Schedule 2 (Services Description).

Schedules means the Schedules to the Base Agreement for the time being and includes the Appendices (where the context so allows);

Service Level means a required performance standard for the SaaS Services, as described in Schedule 5 (Service Levels);

Service Level Credit means the credit to be applied against the Charges in the event of a Service Level Default, in accordance with Schedule 5 (Service Levels);

Service Level Default means a failure by [supplier] to meet one or more Service Levels;

Services means any and all of the applicable services to be provided to PHARMAC, and obligations to be performed, by [supplier] under this Agreement, including:

(a) the Implementation Services;

(b) SaaS Services; and

(c) any Additional Services;

Statement of Work means a statement of work between PHARMAC and [supplier] recording the terms on which Additional Services will be provided by [supplier] to PHARMAC, using the form attached at Schedule 8 (Statement of Work);

Subcontractor means any person to whom [supplier] has subcontracted any part of its obligations under this Agreement and includes the employees, representatives, agents and subcontractors of that person and **Subcontracts** and **Subcontracting** and like terms will be construed accordingly;

Support Service has the meaning given in paragraph 2.3 of Schedule 2 (Services Description);

Term means the Initial Term and, if applicable, the Renewal Term; and

Virus means any program code or programming instructions, or any thing or device, which may damage, interfere with, impair or otherwise adversely affect the operation of the Services, prevent or

hinder access to any program or data, or enable unauthorised access to any program or data, impair or disrupt the operation of any program or the reliability of any data (whether by re-arranging, altering or erasing the program or data in whole or part or otherwise), including malicious code, trojan horses, worms, spyware, malware, computer viruses, logic bombs, backdoors, disabling code and other similar things.

Schedule 2: Services Description

1. Implementation Services

1.1 Description

[To be completed]

1.2 Discovery and definition

[To be completed]

1.3 Design

[To be completed]

1.4 Content upload

[To be completed]

1.5 Testing

[To be completed]

1.6 Implementation

[To be completed]

2. Saas Services

2.1 Commencement

[supplier] will provide PHARMAC with the SaaS Services from the completion of the Implementation phase (once the PHARMAC [product or service] is live) for the duration of the Term.

2.2 On-going services

[To be completed]

2.3 Support Service

[To be completed]

Annexure 1: Timeline

(a) The Project Phases will be performed in accordance with the following timeline:

Milestone	Project schedule
[To be completed]	

(b) In the above table, Day is used to refer to a Business Day.

(c) The parties acknowledge that the above timeline may be altered in certain circumstances due to, for example the availability of Personnel to review and provide internal sign-off or required Notices.

but in such circumstances, each party agrees to:

(i) notify the other as soon as practicable of the details of any change to the timeline; and

(ii) use its best endeavours to mitigate the effect of any change to the timeline.

Schedule 3: Testing

1. Testing performance

1.1 [supplier] testing

[To be completed]

1.2 Acceptance Certificate

[To be completed]

Schedule 4: Charges

1. Implementation Services

(a) The Implementation Services will be charged in accordance with the table below:

Milestone	Payment
[To be completed]	
Total	**$ ***

(b) *The parties acknowledge that these payment amounts may vary following a change in the overall costing of the Implementation Services, as effected in accordance with paragraph 1.2 of Schedule 2 (Services Description).

2. SaaS Services

2.1 Charges

(a) The SaaS Services will be charged from the commencement of the SaaS Services as provided for in paragraph 2.1 of Schedule 2 (Services Description), and not before.

(b) The SaaS Services will be charged in accordance with the table below, subject to any applicable Service Level Credits (as set out in Schedule 5 (Service Levels)):

SaaS Service	Fee
[To be completed]	

Schedule 5: Service Levels

1. PHARMAC [name of service] availability

Overview	Measures the availability of the PHARMAC [name of service].
Applicable Hours	[To be completed]
Service Level target	[To be completed]
Measurement Calculation	[To be completed]
Measurement Frequency	[To be completed]

2. Support Service

Overview	Measures the response time of the [supplier] Support Service following a request from PHARMAC.
Applicable Hours	[To be completed]
Service Level Target	[To be completed]
Measurement Calculation	[To be completed]
Measurement Frequency	[To be completed]

3. Service Level Credits

(a) In the event of a Service Level Default by [supplier] the following Service Level Credits will be owed to PHARMAC:

Service Level Default	Service Level Credit
[To be completed]	[To be completed]

[To be completed]	[To be completed]

(b) Service Level Credits will be charged and paid in accordance with clause 3.3 of the Base Agreement.

Schedule 6: Governance

1. Purpose

1.1 PHARMAC will manage this Agreement in a manner that will enable it to facilitate compliance by [supplier] with the terms of this Agreement (the **Governance Goal**).

1.2 This Schedule:

(a) sets out the governance model to be used for this Agreement;

(b) describes [supplier] 's role in relation to PHARMAC;

(c) requires [supplier] to drive uptake (in association with PHARMAC);

(d) describes the quality assurance processes required of [supplier] ; and

(e) summarises the reports to be prepared by [supplier] .

1.3 The overriding purpose of this Schedule is to maximise the value of the relationship between the parties by supporting and encouraging communication and collaboration at all levels.

2. Relationship principles

The parties will:

(a) engage effectively across strategic, tactical and operational levels in a manner consistent with achievement of the intentions of this Agreement;

(b) adopt a working approach that is collaborative, open, transparent, ethical and honest;

(c) acknowledge and promptly address any issues as they arise;

(d) provide reliable, timely and proactive feedback at all levels;

(e) display high levels of commitment, proactivity, flexibility, and timeliness.

3. Personnel

The functions and duties of [supplier] 's Relationship Manager include:

(a) acting as a first point of contact for communications relating to the provision of the Services;

(b) ensuring that the Services are provided in accordance with the terms of this Agreement;

(c) management of reports and other information flows required under this Agreement;

(d) effectively liaising with PHARMAC's Relationship Manager, both formally and informally;

(e) working with PHARMAC's Relationship Manager to identify opportunities for improvements to the Services;

(f) initiating Change Requests on behalf of [supplier] and overseeing the preparation of submissions in response to Change Requests from PHARMAC;

(g) liaising with senior [supplier] management, and in particular managing any dispute or potential dispute in accordance with agreed escalation procedures as set out in part 13 of the Base Agreement; and

(h) liaising with PHARMAC's Relationship Manager as required to facilitate the performance of the Services, including liaison with third parties and other matters as required under this Agreement from time to time.

4. Reporting

4.1 [supplier] will provide the reports described in Appendix 1 (Reports).

4.2 Each report will:

(a) clearly present the current status of [supplier] 's performance under this Agreement and any issues arising in relation to the Services or in respect of the relationship between the parties;

(b) form the basis of discussions as to contract compliance, financial performance and issues relating to the Services (as applicable);

(c) where relevant, identify Changes that may be required.

Appendix 1: Reports

Report	Description	Receiver	Frequency
[ ]	[ ]	[ ]	[ ]

Schedule 7: Change Management

1. Changes

1.1 Changes

The parties will comply with the Change Management Procedure set out in this Schedule for any change to this Agreement (each a **Change**), including:

(a) any change in the scope, nature or manner of performance of the Services where such change cannot clearly be accommodated by another process in this Agreement;

(b) any other change to this Agreement,

provided that any Additional Services will be accommodated under a Statement of Work completed and signed by the parties.

1.2 Cost of Change Management

Subject to paragraph 2.2(c)(i) of this Schedule and unless expressly agreed otherwise in writing by the parties, each party will be responsible for its own costs and expenses incurred in complying with this Change Management Procedure (including, in the case of [supplier] , the preparation of the Impact Statements as may be required in accordance with paragraph 2 of this Schedule).

2. Submission of Change Requests and Impact Statements

2.1 Change Request

Either party may, at any time, request a Change to this Agreement by submitting a Change Request to the other that describes the proposed Change and the reasons for it.

2.2 Impact Statement

(a) For each Change Request submitted by PHARMAC or [supplier] in respect of this Agreement, [supplier] will prepare a written statement describing such Change and its impact (the **Impact Statement**) and attach a draft Change Authorisation Agreement to the Impact Statement. [supplier] is to ensure that the Impact Statement does not:

(i) demand unreasonable fees;

(ii) impose unreasonable conditions;

(iii) specify an unreasonable impact or consequence of undertaking the Change; or

(iv) impose an unreasonably long timeframe for implementation of the Change.

(b) If [supplier] is submitting the Change Request, [supplier] will submit the Impact Statement to PHARMAC with its Change Request.

(c) If PHARMAC is submitting the Change Request, [supplier] :

(i) will not be entitled to charge for the preparation of the Impact Statement unless [supplier] reasonably considers that such preparation will require more than three Business Days effort by [supplier] , in which case [supplier] will:

(A) provide PHARMAC with a quote for the preparation of the Impact Statement, such quote to reflect the time required to prepare the Impact Statement beyond the initial three Business Days' effort; and

(B) shall not commence work on preparing the Impact Statement until the quote has been approved in writing by PHARMAC (such approval not to be unreasonably withheld);

(ii) will not unreasonably refuse or reject that Change Request unless it is technically impossible or illegal to perform; and

(iii) will submit the Impact Statement to PHARMAC within 10 Business Days of receiving the Change Request (or such other period as the parties agree).

2.3 Assistance with Impact Statement

PHARMAC will provide [supplier] with:

(a) information reasonably requested by [supplier] in preparing an Impact Statement that:

(i) is, or is likely to be, material to the Impact Statement;

(ii) is held or controlled by PHARMAC; and

(iii) PHARMAC is permitted to provide to [supplier] ; and

(b) such reasonable assistance as is necessary in the circumstances to enable [supplier] to prepare the relevant Impact Statement in accordance with this Schedule.

2.4 Response to Impact Statement

Within 10 Business Days (or such other period as the parties agree) of receiving an Impact Statement from [supplier] (including an updated Impact Statement) PHARMAC will notify [supplier] whether it:

(a) approves the Impact Statement, in which case PHARMAC and [supplier] will, subject to the terms of the Impact Statement, sign the Change Authorisation Agreement attached to the Impact Statement, following which the Change will be deemed to be an amendment to, and will form part of, this Agreement;

(b) requires changes to the Impact Statement (including the addition of further relevant information), in which case [supplier] will promptly (and in any event within 10 Business Days or such other period as the parties agree) provide to PHARMAC an updated Impact Statement that incorporates PHARMAC's requested changes;

(c) wishes to negotiate the Impact Statement, in which case the parties will use their best endeavours to negotiate and agree the Impact Statement as soon as is practicable (and in any event within five Business Days), and [supplier] will provide to PHARMAC an updated Impact Statement that incorporates the agreed Changes promptly upon the parties reaching such agreement; or

(d) at its sole discretion:

(i) in relation to a Change Request initiated by PHRAMAC, withdraws that Change Request; or

(ii) in relation to a Change Request initiated by [supplier] , rejects the Impact Statement,

in which case [supplier] will not implement the Change and the Change Request and Impact Statement will be of no effect.

2.5 Truncated process

Where the parties have agreed that a Change is relatively minor (in terms of cost and impact) or urgent, and does not require a material deviation from this Agreement, they may agree in writing to a truncated change control process to deal with that Change, provided that the Relationship Managers of PHARMAC and [supplier] sign a Change Authorisation Agreement in relation to the Change which will be deemed to be an amendment to, and form part of, this Agreement.

2.6 All Changes must be formally authorised

Subject to paragraph 2.2(i), PHARMAC will have no liability for any costs or expenses in relation to any Change, and [supplier] will not undertake any Change to the Agreement, until both PHARMAC and [supplier] have agreed to the details of such Change in a Change Authorisation Agreement signed by both parties.

3. Change Register

3.1 PHARMAC must prepare and maintain an electronic register (**Change Register**) that is available to [supplier] and that details all the current and past Changes that are or have been subject to the Change Management Procedure.

3.2 PHARMAC will assign a unique number to each Change Request and log the Change Request in the Change Register.

3.3 The Change Register must include the following details for each Change:

(a) a unique number for the Change;

(b) the date of registration of the Change;

(c) the name of the originating party;

(d) a description of the Change;

(e) the current status of the Change; and

(f) the date by which the Change is required to be completed.

Appendix 1: Form of Change Authorisation Agreement

Attached.

Name of Services Agreement Change Authorisation Agreement

for the purchase of Software as a Service

[supplier]

and

Pharmaceutical Management Agency

This **Change Authorisation Agreement** is made

between (1) **[supplier]** (**supplier**)

and (2) **Pharmaceutical Management Agency** (**PHARMAC**)

Background

A. On [**date**], PHARMAC and [supplier] entered into a [To be completed] agreement (the Name of Services **Agreement**).

B. This Change Authorisation Agreement is intended to be read in conjunction with the Name of Services Agreement.

C. For the purposes Schedule 7 of the Name of Services Agreement, PHARMAC and [supplier] wish to vary the Name of Services Agreement to:

- [***insert brief description of the changes to the*** Name of Services ***Agreement***]
- [ ]

on the terms of this Change Authorisation Agreement.

It is agreed

1. Definitions and interpretation

1.1 Definitions

In this Change Authorisation Agreement, unless the context otherwise requires:

Change Authorisation Agreement means this agreement including any Schedules or Appendices to it; and

Effective Date means [insert date that variations are to take effect].

1.2 Interpretation

(a) the terms used in this Change Authorisation Agreement and set out in clause 1.1 have the meanings set out in clause 1.1; and

(b) other terms used in this Change Authorisation Agreement that are used in the Name of Services Agreement and set out in Schedule 1 of the Name of Services Agreement have the meanings set out in that Schedule.

2. Effective Date

This Change Authorisation Agreement, including all variations to the Name of Services Agreement set out in this Change Authorisation Agreement, takes effect on the Effective Date.

3. Changes to the [To be completed] Agreement

3.1 Amendments

The Name of Services Services Agreement is amended as follows:

(a) Clause [x] of the Name of Services Agreement is deleted and replaced with the following clause:

[new clause [x]]

(b) The following new clause [y] is added:

[new clause [y]]

(c) Schedule [z] of the Name of Services Agreement is deleted and replaced by Schedule [A] to this Change Authorisation Agreement.]

3.2 Other provisions unaffected

The parties agree and acknowledge that except to the extent that the terms of the Name of Services Agreement are expressly varied and modified by this Change Authorisation Agreement, the terms contained in the Name of Services Agreement shall continue in full force and effect.

Execution

Signed as an Agreement

SIGNED by **[supplier]**

Signature

Name

Position

Date signed:

SIGNED by **Pharmaceutical Management Agency**

Signature

Name

Position

Date signed:

Schedule 8: Form of Statement of Work

Attached.

Statement of Work No. [insert]

under Name of Services Agreement

[supplier]

and

Pharmaceutical Management Agency

Statement of Work

This Statement of Work records the terms on which certain Additional Services will be provided by [supplier] (**supplier**) to Pharmaceutical Management Agency (**PHARMAC**).

2. Name of Services Agreement

2.1 Subject to xxx Services Agreement

This Statement of Work is entered into between PHARMAC and [supplier] under, and is part of, the [name of] Agreement between PHARMAC and [supplier] dated [insert date] (**Name of Agreement**).

2.2 Interpretation

Unless the context otherwise requires, terms defined or referred to in the [name of] Agreement have the same meaning in this Statement of Work and the rules of construction recorded in clause 17 of the [name of] Agreement apply to this Statement of Work (except that references to paragraphs and appendices in this Statement of Work are references to the paragraphs and appendices of this Statement of Work).

3. Term

3.1 Term

This Statement of Work will commence on the date of execution and will expire on [insert date] (**Statement of Work Term**). The Statement of Work Term may be extended upon written agreement between the parties.

3.2 Consistent with Term of xxx Services Agreement

For the avoidance of doubt and notwithstanding any other provision of the [name of] Agreement, this Statement of Work will terminate immediately upon the termination of the [name of] Agreement, because this Statement of Work is part of the [name of] Agreement.

4. Services

4.1 Additional Services

[supplier] will provide the following Additional Services to PHARMAC [and in accordance with the following timeframes]:

[Use subparagraphs or a table to set out each task and timeframe if necessary.]

4.2 Service Levels:

[supplier] will use its best endeavours to meet or exceed the following Service Levels:

[Use subparagraphs to set out each task if necessary.]

4.3 Service Level Rebates [delete this paragraph if not applicable]

In addition to any other rights or remedies PHARMAC may have under the [To be completed] Agreement or at law, [supplier] agrees to pay the following rebates in relation to its failure to meet or exceed the Service Levels:

[Insert description of the rebates and how they are payable, if any. For example, up to a maximum of 10% of monthly Fees may be subject to a rebate and the level of the rebate may vary depending on how badly the Service Levels were missed that month. Performance at 98% may mean a rebate of $X but performance at 95% might mean a rebate of 2 x $X.]

5. Deliverables and Milestones [delete this paragraph if not applicable]

5.1 Deliverables

[supplier] will provide to PHARMAC the deliverables listed below in accordance with the milestones and to meet the milestone dates specified below:

Deliverables

[Use subparagraphs or a table to set out each deliverable, milestone and milestone dates. For example:

Summary of deliverable	Milestone	Milestone date
[Insert name]	[Insert details]	[Insert details]
[Insert name]	[Insert details]	[Insert details]

6. Documentation [delete this paragraph if not applicable]

[supplier] will supply the following documentation to PHARMAC [and in accordance with the following timeframes]:

[Insert a detailed description of the documentation to be supplied by [supplier] and any related requirements.]

7. Data

[supplier] will comply with clause 11 of the [enter name of] Agreement.

8. Personnel

8.1 Project managers

Party	Project manager
PHARMAC	[insert name] [insert postal address] [insert physical address] [insert direct dial phone number] [insert email address]
[supplier]	[insert name] [insert postal address] [insert physical address] [insert direct dial phone number] [insert email address]

8.2 Specified Personnel

The Personnel responsible for providing the Services under this Statement of Work and their respective functions are:

Personnel	Component of deliverables/Services for which Personnel is responsible
[Insert name]	[Insert details]
[Insert name]	[Insert details]

9. Acceptance Criteria [delete this paragraph if not applicable]

The acceptance criteria for the deliverables are as follows:

[Insert a detailed description of the acceptance criteria for the deliverables.]

10. Reporting Requirements [delete this paragraph if not applicable]

10.1 Meeting requirements

[supplier] 's designated representatives will attend the following meetings at the following times:

Meeting Details	Designated representatives of [supplier] required to attend	Frequency/Date
[Insert meeting details]	[Insert designated representatives]	[Insert date/frequency]
[Insert meeting details]	[Insert designated representatives]	[Insert date/frequency]

10.2 Reporting Requirements

[supplier] will provide to PHARMAC the following reports at the following times:

Report Details	Frequency/Date
[Status reports]	[Weekly]
[Insert details of any other reports]	[Insert date/frequency]

11. Fees

11.1 Invoicing

[Choose one option for invoicing, insert relevant wording and delete remainder. Make sure all Fees are captured including both implementation and on-going fees. Also, make sure you are clear on when invoicing commences.]

[supplier] is to invoice the Fees at the end of each month for the Services and deliverables provided during that month in accordance with the [enter name of] Agreement.

OR

[supplier] is to invoice the Fees on completion of the Services and supply of the deliverables in accordance with the [To be completed] Agreement.

OR [for fixed Fees]

[supplier] is to invoice the Fees in instalments on the dates set out below, subject to completion of the relevant milestones in accordance with this Statement of Work:

Instalment (excluding GST)	Date	Milestone
[Insert amount of instalment] $	[Insert date of invoice]	[Describe Services or deliverables to be provided before invoice is issued.]

In addition to the matters set out in clause 9 of the [enter name of] Agreement, each invoice issued by [supplier] must contain [insert any specific requirements, such as responsibility codes or purchase order numbers] and be sent either by email to [insert email address] or by mail to:

[***Insert address***]

[supplier] must select either email or mail delivery of invoices and not send in the same invoice by both email and mail.

11.2 Fees

[Choose one option, insert $ amount and delete remainder.]

Fixed Fee of $X excluding GST.

OR

Hourly rate of $X excluding GST, up to a maximum Fee of $X excluding GST.

OR

Daily rate of $X excluding GST, for each full day's attendances of 8 or more hours, reduced pro rata for attendance of less than 8 hours, up to a total maximum Fee of $X excluding GST.

OR

[Hourly/Daily rates] for each of [supplier] 's Personnel in accordance with the following table of rates up to a maximum of $X excluding GST:

Personnel	**[Hourly/Daily rate] (excluding GST)**
[Insert name of Personnel]	[Insert either hourly or daily rate as applicable]

12. Other Terms [delete this paragraph if not applicable]

[Insert any additional terms that are to apply to the Statement of Work.]

Execution

Signed as an Agreement

SIGNED by **[supplier]**

Signature

Name

Position

Date signed:

SIGNED by **Pharmaceutical Management Agency**

Signature

Name

Position

Date signed: