Invitation to Supply
Request for Tender

ITS Number:	HPVITS2020-010
ITS Name:	Sterilisation Consumables and Related Services
Closing Date and time:	26 Nov 2019 14:00 AEDT

HEALTH PURCHASING VICTORIA

Table of Contents

Part 1 Invitation and General Information

1 Health Purchasing Victoria

a. Health Purchasing Victoria ('HPV') was established by section 129(1) of the *Health Services Act 1988* and is a public authority, which represents the Crown. HPV's functions include 'to supply or facilitate access to the supply of goods and services to public hospitals and other health or related services on best value terms'.

2 Purpose of the Invitation to Supply

a. HPV is seeking responses for Sterilisation Consumables for use in Participating Health Services. The envisaged Term of the Agreement is three (3) years plus one optional two year extension periods (eg 3+2). Indicative volumes are included in the Tender Response Worksheet.

b. The scope of this ITS includes the supply of Sterilisation Consumables (standard purchases and on consignment) and related testing services. It does not include equipment such as Washers, Sterilisers etc.

c. Pursuant to HPV's Purchasing Policy, the objectives of this Invitation to Supply (ITS) include establishing on behalf of Participating Health Services the best base rate price per product and/or pricing benchmarking, in respect of Sterilisation Consumables as per the specifications detailed, and on the conditions variously described herein. Respondent(s) are required to assist HPV, and Participating Health Services achieve these objectives.

3 HPV Procurement Portal

a. Respondents are required to download this ITS from the HPV Procurement Portal. Prior to downloading the ITS, Respondents are required to formally register their contact details on the above-mentioned website (unless prior arrangements have been made with HPV).

b. The purpose of registration is to assist gain access to the ITS documentation, response schedules, and assist HPV to advise all Respondents of any addenda or other matters relevant to this ITS prior to the Closing Date and Time or thereafter as may be necessary.

c. Any communication by HPV will be to the relevant Authorised Contact Person registered in the ITS download details.

d. Respondents must advise the Authorised Contact Person immediately if they believe that HPV has not obtained their current contact details, or if their contact details change at any time prior to the ITS Closing Date.

e. If a Respondent has not provided correct and complete contact details, HPV will not be obliged to provide any further information about this ITS and HPV will not be liable for errors or omissions by the Respondent in any Response.

4 Authorised Contact Person

a. The only person authorised to communicate with Respondents is the Authorised Contact Person or other nominated HPV Representative. Respondents may not rely on communications with any other person.

b. The Authorised Contact Person is:

Vishal Mago

Category Manager.

NOTE: This is not where Responses are lodged.

Refer to Part 2 .12, Delivery method for Response lodgement.

All contact is to be through the HPV Procurement Portal messaging system

c. Unless authorised in writing by the Authorised Contact Person, Respondents are not permitted to make contact with other HPV personnel or consultants in preparing a Response, nor to discuss any part of the evaluation process prior to the completion of that process. Unauthorised communication (whether or not in writing), may constitute action sufficient to warrant consideration pursuant to Part 2.8.c, No agreement or undertaking.

5 Closing Date and Time for Lodgement of Responses

a. The Closing Date and Time for lodgement of Responses is 26 Nov 2019 at 14:00 AEDT.

b. HPV may extend the Closing Date and Time at its discretion and will apply such an extension to all Respondents.

6 Indicative timetable

a. An indicative timetable in relation to the ITS process appears hereunder. HPV will attempt to maintain this schedule, but reserves the right to vary key dates where necessary:

ITEM	DATE
Issue date	28 Oct 2019
Information/briefing session	6 Nov 2019
Last Date/Time for Inquiries	20 Nov 2019
Closing Date and time	26 Nov 2019 14:00 AEDT
Responses will be assessed[1] until	February 2020
HPV approval	March 2020
Date Respondents will be advised of the outcome of this ITS	Mid- April 2020
Agreement commencement date	01 June 2020
Debriefing Available	From 01 July 2020 for the period of 4 weeks

b. In the event that dates in the timetable change materially, Respondents will be notified.

7 Structure of Invitation

a. Persons accessing this ITS and any other documents issued by HPV in relation to the ITS may use those documents only for the purpose of informing themselves with regard to Response preparation.

b. This ITS consists of seven parts which establish conditions (both general and otherwise), detailed requirements for response, and/or supplementary advice to Respondents. Jointly and severally these Parts combine to establish all elements in relation to this ITS and are considered for both evaluation and compliance purposes as mutually dependent.

c. Accordingly they will bind Respondents throughout the ITS process and beyond as successful Respondents.

PART	TITLE	DESCRIPTION
Part 1	**Invitation and General Information**	This Part provides a brief overview and general information about this ITS.

[1] Response assessment or evaluation may include referee checks.

PART	TITLE	DESCRIPTION
Part 2	**Conditions of Participation**	This Part describes the process governing this ITS. The Definitions governing this ITS are also included in this section.
Part 3	**Respondent's Offer**	This Part describes the requirements for the Respondents Offer.
Part 4	**Statement of Requirements**	This Part describes the Deliverables required under this ITS.
Part 5	**Draft Deed of Standing Offer Agreement**	This Part sets out the terms of the Agreement HPV proposes to enter into with the successful Respondent(s).
Part 6	**Forms**	This Part contains forms that the Respondent will be required to submit in this ITS process.

8 Evaluation criteria

a. The Procurement Portal is set up with three sections for Respondents to complete.

(i) Qualification: These questions are not weighted but are a combination of both Conformance and Compliance criteria.

(ii) Technical: These questions are weighted and some require supporting evidence to be provided.

(iii) Commercial: This is where Respondents attach their pricing response.

Qualification

SECTION	HPV PROCUREMENT PORTAL SECTION
Read me first – Supplier tips for completing your response	1.1
Corporate Details	1.2
Trust Details (if applicable)	1.3

SECTION	HPV PROCUREMENT PORTAL SECTION
ITS Contact Details	1.4
Conflicts of Interest	1.5
Fraud and Corruption Control	1.6
Business Overview – Additional Details	1.7
Insurances	1.8
Other Factors	1.9
Compliance with Parts 1-4 ITS Documentation	1.10
National Product Catalogue and Recall Status	1.11
Supply Chain	1.12
Subcontracting	1.13
Additional Information	1.14

Technical

The Technical section is weighted. The Procurement Portal identifies some questions as Mandatory, which Respondents must provide an answer to or else the submission will not be able to be lodged. Response question types includes: Yes/No, Text, Numeric, Options List, Multiple Choice, Date or Attachment.

HPV in consultation with the Product Reference Group has assigned the following weightings to this Invitation to Supply for the purpose of evaluation.

SECTION	HPV PROCUREMENT PORTAL SECTION	WEIGHTING %
Business Overview	2.1	6%
Quality Management	2.2	8%
Risk Management	2.3	8%
Occupational Health and Safety	2.4	6%
Deliveries and Stock Management	2.5	13%

SECTION	HPV PROCUREMENT PORTAL SECTION	WEIGHTING %
Supply Chain	2.6	9%
Sustainability and Social Responsibility	2.7	10%
Support for Local Industry – Local Jobs First Policy	2.8	9%
Training and Support	2.9	9%
Transition Plans	2.10	6%
Compliance with Draft Deed of Standing Offer Agreement	2.11	5%
Financial Viability	2.12	5%
Value Add Services	2.13	6%
Additional Information	2.14	0%
Total		100%

Commercial

SECTION TYPE	SECTION
Conformance	Tender Response Worksheet – contributes towards the value for money evaluation
Value for money	The Value for Money Assessment is calculated as: Technical Section Score / Price = Value for Money HPV also reserves the right to discuss with high product range suppliers the option to go on panel.

9 Information

a. HPV will deem all Respondents participating in this ITS to have acknowledged and accepted hospitals and health services are required to supply data and information to HPV about their current pricing and usage volume, pursuant to legislation.

Pricing information enables HPV to form valid judgements concerning pricing viability of Responses and financial evaluation of ITS outcomes, while usage data is required to

develop appropriate specifications and to enable accurate financial evaluations based on actual demand.

b. Respondents who are under present commercial contracts with hospitals and health services are required to allow those hospitals and health services to disclose pricing and usage data for this purpose.

c. In the event current contracts prevent disclosure, and notwithstanding any conditions to the contrary, Respondents unconditionally waive any contract conditions that give effect to this outcome and will desist from any action to enforce such conditions.

d. HPV will consider the Response from any Respondent that seeks to restrict the flow of pricing information to HPV to be a Non-Conforming Response.

e. This ITS (or amendments) contains information to assist the preparation of a Conforming Response.

The information contained this ITS is provided in good faith. The information is not certified for complete accuracy.

It is the Respondents' responsibility to interpret and assess the relevance of the information provided.

f. Where any information provided in this ITS comprises a list, schedule, report or interpretation derived from other information ('Source Information'), Respondents should not assume the accuracy of the information, but to the extent possible, verify the Source Information independently.

If a Respondent does not have access to the Source Information, the Respondent may contact HPV's Authorised Contact Person in order for consideration to providing reasonable access to that information.

g. HPV is not liable for any loss, damage, or expense incurred or suffered by a Respondent from any information supplied by HPV.

Part 2 Conditions of Participation

1 Conditions

a. The provisions set out in this Part 2 govern the ITS process for the supply of HPVITS2020-010 Sterilisation Consumables and Related Services. By submitting a Response, the Respondent becomes bound by these conditions.

2 Response validity period

a. Respondents' responses shall remain valid for

(i) 12 months from the Closing Date and Time or

(ii) until HPV advises that continuing validity is no longer required,

whichever is the lesser.

b. A Response cannot be withdrawn after it has been lodged except upon written submission to and with consent of HPV.

3 Respondent's expectations

a. This ITS does not itself give rise to expectations. However, Respondents may expect that HPV will:

(i) preserve the confidentiality of Respondents' confidential information, subject to the provisions of this ITS;

(ii) afford every Respondent the opportunity to compete fairly; and

(iii) consider a Response that is submitted in accordance with this ITS and that has complied with HPV requirements as to probity and other matters contained in this ITS.

4 HPV's expectations

a. HPV expects that Respondents will:

(i) possess the necessary skills, knowledge and experience to supply the Deliverables;

(ii) rigorously examine the ITS and any other information made available in writing by HPV for the purpose of responding;

(iii) inform themselves of all facts, risks, matters and things relating to supply of the Deliverables;

(iv) not contact or discuss any aspect of the ITS with any HPV staff until the Agreement is entered, unless otherwise authorised by the Authorised Contact Person;

(v) take into account all costs, expenses, freight, insurance charges, imposts, taxes and appropriate charges that may be applicable;

(vi) advise HPV through the Authorised Contact Person if it considers that inappropriate actions have occurred in the ITS process;

(vii) submit firm prices (unless the ITS clearly provides that the prices are variable or alternative offers are acceptable); and

(viii) recognise relevant Freedom of Information requirements with which HPV must comply http://www.health.vic.gov.au/foi.htm

5 Confidentiality

a. The Respondent and HPV may jointly, or HPV may on its own behalf in its absolute discretion, disclose information to any consultant engaged for the purpose of this ITS under terms requiring the consultant to preserve the confidentiality of that information.

b. Any information supplied by or on behalf of HPV is confidential to HPV, and Respondents are obliged to maintain its confidentiality.

c. Although HPV acknowledges the need to keep commercial matters confidential in appropriate circumstances, HPV reserves the right to disclose some or all of the contents of a Response as a consequence of the process of government which requires that disclosure, and use or disclose some or all of the contents of a Response to third parties for its benchmarking, comparison or evaluation processes. A condition in a Respondent's Response that purports to restrict any lawful requirement to make such disclosures will be construed subject to this clause.

6 Complaints Process

a. Respondents with a complaint about this ITS or the ITS process should raise such complaints through the HPV Procurement Portal messaging system. The messaging system is active throughout the ITS process, both during the release to market phase as well as during evaluation in order to seek further clarification of responses.

b. The messaging system is monitored by the Authorised Contact Person.

c. Any complaints during the release to market stage and evaluation stage which are not resolved by the Authorised Contact Person can be escalated to HPV's Legal Counsel by including this title in the subject header of the message.

d. HPV's Head of Legal will acknowledge receipt of the complaint within 10 days and advise the approximate timeline to address the matter.

e. Complaints about the outcome of the ITS will not be considered prior to the Respondent attending a debrief.

f. Any complaints that are not related to this ITS or ITS process should be raised in accordance with the complaints procedure available on the HPV website.

Pre-submission

7 Respondents to inform themselves

a. Respondents shall be deemed to have:

(i) examined this ITS and any other documents referenced or referred to in this ITS, and any other information made available in writing by HPV to Respondents for the purpose of submitting a Response;

(ii) examined all other information which is obtainable by making reasonable and timely inquiries relevant to the risks, contingencies and other circumstances having an effect on their Response; and

(iii) satisfied themselves as to the correctness and sufficiency of their Response, including quoted prices which shall be deemed to cover the cost of complying with all Conditions, the Agreement, and of all matters necessary for the due and proper supply of the Deliverables.

b. It is each Respondent's responsibility to obtain all information necessary for their Response.

8 No agreement or undertaking

a. The ITS is an invitation to treat and not an offer. Submission of a Response does not create a contract for the supply of the Deliverables which are the subject of this ITS in any way unless and until a Response is determined by HPV to be a Conforming Response, the Respondent is notified to be a successful Respondent, and the parties formalise and execute an Agreement.

b. The release of this ITS must not be construed as making any representation, undertaking or commitment by HPV or any Participating Health Service (whether express or implied) that HPV or a Participating Health Service will:

(i) seek supply of any Deliverable from any one or more Respondents;

(ii) order any particular volume of any Deliverable; or

(iii) enter into a binding legal relationship with any one or more Respondents.

c. The conditions set out in this ITS are ongoing. Each Respondent is required to observe the conditions until relevant Agreement(s) are entered with HPV. If any Respondent fails to meet this obligation, HPV may, at its discretion:

(i) reject a Response;

(ii) regard that Response as a Non-Conforming Response;

(iii) terminate negotiations commenced with that Respondent;

(iv) terminate any Agreement that HPV and the Respondent have executed in connection with this ITS, without incurring any liability to that Respondent; or

(v) pursue any other legal or equitable remedy available in respect of the Respondent's breach.

d. Any post-evaluation invitation to negotiate any term or terms or make a further offer does not constitute an intention by HPV to create any Agreement or any legitimate expectation on the part of a Respondent that an Agreement will be reached unless:

(i) it is unconditional, in writing, and signed by HPV; and/or

(ii) a formal written Agreement is subsequently executed by the parties.

e. The inclusion of the Respondent in any short-listing of preferred Respondents or notification to a Respondent that the Respondent is a preferred Respondent, indicates HPV's intention to negotiate with the Respondent, not an acceptance of the Respondent's bid.

f. For the avoidance of doubt, until such time as HPV and a Respondent have executed an Agreement pursuant to this ITS and delivered the same to the other party, no Agreement between the two shall come into existence.

9 Clarification (including bias)

a. Respondents may seek clarification or information in relation to this ITS up to Last Date for Inquiries as referred to in Part 1 .6, Indicative timetable by directing the same to the Authorised Contact Person. Contact is via the Online Forum at the HPV Procurement Portal where Respondents have registered.

10 Statutory and regulatory requirements regarding probity

a. Respondents will observe all relevant statutory and other regulatory standards and requirements applicable in the preparation of Responses and will not:

(i) accept or provide secret commissions;

(ii) collude with other Respondents;

(iii) enter into any improper commercial arrangements with any other Respondent;

(iv) seek to influence decisions by improper means;

(v) accept incentives to provide services to their agents, which could financially disadvantage HPV; or

(vi) leave undeclared any conflicts of interest which may compromise commercial independence or have any bearing whatsoever on this ITS.

b. By submitting a Response, a Respondent declares that it has not given, offered to give, nor intends to give or receive at any time thereafter any inducement or reward including any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favour or service of personal gain to any other party, in connection with the ITS.

c. If a Respondent is found to have:

(i) colluded with another party, whether or not that other party is a Respondent.

(ii) offered any inducement or reward in accordance with this clause; or

(iii) engaged in conduct deemed by HPV to have compromised the integrity of a Response or the ITS process,

the Respondent shall be disqualified and any resulting Agreement entered will be void.

d. Respondents should note that any offer of an inducement or reward to any employee or agent of HPV or a Participating Health Service in connection with this ITS, may constitute a criminal act and/or conduct otherwise prohibited pursuant to law.

e. Respondents will comply with any guidelines issued by HPV from time to time that describe the relationship between employees or subcontractors of HPV and those of the Respondent. A Respondent will contact the Chief Executive Officer of HPV as soon as possible if it becomes aware of any alleged breach of probity guidelines.

f. If a Respondent delays in notifying HPV about an alleged breach of probity, whether before or after the announcement of the successful Respondent, the Respondent will be precluded from relying upon or taking action based upon the breach.

Response

11 Contents of Response

a. Each Response will comply with the following requirements:

(i) it will be in the format required by this ITS;

(ii) all information requested will be supplied;

(iii) it will be signed by the Respondent or by an authorised representative of the Respondent. The Respondent will provide evidence of any authorisation on request by HPV;

(iv) all information provided by the Respondent in the Response will be in the English language; and

(v) unless otherwise directed, all dimensions provided should be in the Australian Standard e.g. millimetres not inches.

b. Respondents should only provide information required by this ITS or otherwise as may be specifically requested by HPV.

c. Respondents should not submit the same goods in more than one subcategory. Where more than one subcategory may reasonably apply to the Respondent's goods, the most relevant goods category should be selected and those goods submitted once only under that reference.

d. Any contravention of these requirements may result in a Response being deemed non-conforming by HPV.

12 Delivery method

a. In Responses are to be completed and submitted electronically through the HPV Procurement Portal.

Delivery otherwise or in any other form may render the Respondent's Response a Non-Conforming Response.

b. Facsimile, email and mailed Responses may not be accepted. Correct delivery through HPV's Procurement Portal remains the responsibility of the Respondent.

13 Disclaimer

a. Except where indicated to the contrary, whilst HPV may be prepared to accept hard copy (i.e. printed paper) Responses, it does so at all times on the condition that the Respondent:

(i) accepts all risks associated with HPV accepting such a Response;

(ii) releases HPV from any liability; and

(iii) accepts HPV's right to consider that data as a Non-Conforming Response.

b. Where a Respondent has supplied a Response other than on the required electronic spreadsheet, document or other electronic means of communication being prescribed as HPV's evaluation software in the ITS, and HPV has provided the Respondent the prior

opportunity to do so themselves, HPV accepts no responsibility in that transfer or in relation to integrity of any data submitted.

14 Late Responses

a. Except in exceptional circumstances as described in this clause, HPV will not accept any Response submitted after the Closing Date and Time ('a late Response'). Any late Response will be marked as to the date and time received.

b. A late Response may only be considered for acceptance by HPV (in the exercise of HPV's absolute discretion) if it can be clearly demonstrated with supporting evidence that:

(i) HPV's receiving arrangements were at fault; or

(ii) the delivery of the Response was hindered by a major incident beyond the control of the Respondent and that the integrity of the ITS process will not be compromised by accepting the late Response.

c. For the avoidance of doubt, a failure of the Respondent's delivery does not constitute grounds for the acceptance of a late Response.

15 Cost of preparing and submitting the Response

a. HPV will not be responsible for any costs incurred by the Respondent in preparing a Response or associated expense even if this ITS is withdrawn and the process ended.

16 Ownership of response documents

a. All response documents become the property of HPV on submission. HPV may make copies of the response documents for any purpose related to this ITS.

17 Alterations, deletions and illegibility

a. Responses containing amendments (including alterations or deletions), or where prices or other information are not clearly and legibly stated, may be rejected. All such alterations will be clearly initialled on behalf of the Respondent to establish veracity to the satisfaction of HPV. Failure to do so may result in the Response being deemed non-conforming.

Post-submission

18 Interviews and additional information

a. The Authorised Contact Person may require a Respondent to make a presentation on its Response at an agreed location and time.

b. HPV may seek written clarification from the Respondent in relation to the terms of its Response. Any clarification provided by the Respondent is not to contain any new material additional to that included in the Response. Failure to supply clarification to the satisfaction of HPV may render the Response the subject of consideration pursuant to Part 2 .8 .c, No agreement or undertaking.

c. The Response shall be submitted utilising the *HPV Procurement Portal*. and shall be completed in full, or the Response may be regarded as a Non-Conforming Response. Additional information may be provided in clearly identifiable Appendix form.

d. If a Respondent submits and has

(i) inadvertently omitted; or

(ii) failed to complete some formal component; or

(iii) made a calculation error in the Response (which error is clearly visible from the material submitted to HPV as part of the response)

the Respondent may, after the Closing Date and Time, and with consent of HPV, provide that omitted or incomplete component, or correct the calculation error. HPV however reserves the right to not accept such information.

Agreement to the provision of the omitted component or correction of the calculation error shall not result in the Response classified as late. The omitted component or correction must not be of a nature central to the bid, or provide the Respondent with an advantage, perceived or otherwise.

Any decision to allow submission of the omitted component or correction of the calculation error will have due regard to the probity of the process and procedural integrity and the individual merits of the omission and the circumstances surrounding the omission or error.

19 Samples

a. HPV reserves the right to call for a reasonable quantity of samples as part of the ITS process or after an initial evaluation of Responses.

b. The samples provided will be delivered free of charge to a place nominated by HPV within an agreed time-frame.

c. All samples will be clearly labelled with:

(i) name of Respondent;

(ii) ITS name and number;

(iii) reference number of item requested (as contained in this ITS); and

(iv) company product code or number/brand name.

d. Respondents will provide a list of samples supplied along with instruction for return of the samples at the cost of the Respondent or disposal at the absolute discretion of HPV. Respondents should note that the samples may be compromised and rendered unsaleable as a consequence of evaluation.

e. Where called for, a failure to provide samples for evaluation within the specified time or in the manner described may render the Response the subject of consideration pursuant to Part 2 .8 .c, No agreement or undertaking.

f. Unsolicited samples are not to be offered and will not be accepted.

20 Audit of Performance and Respondents' Operations

a. Notwithstanding the provisions of Part 3 .1, Company information, HPV may request performance of an independent external audit of those aspects of the Respondent's operations relevant to the ITS. This is to establish financial details not otherwise available from the public record and to assist determination of corporate risk.

b. Inspection of a Respondent's operations as it relates to the Deliverables pursuant to this ITS may be requested.

The Respondent will be given appropriate notice.

The inspection may involve any relevant aspect of the Respondent's operations, including records of those operations.

c. Requests made pursuant to this clause shall not be unreasonably denied and withholding consent may be considered a breach of obligation pursuant to Part 2 .8 .c, No agreement or undertaking. Such records, and results of any inspection, are regarded as *commercial in confidence* and are not disclosed to any other party. They shall be used by HPV for the sole purpose of Response evaluation.

21 Evaluation process

a. Responses will be assessed in the first instance for conformance to the ITS terms and conditions and satisfaction of any mandatory criteria.

b. Failure to meet mandatory criteria will result in automatic elimination from this ITS process, and not be evaluated any further.

c. Failure to comply with any or all of the Conditions in the ITS will mean the Response is prima facie 'non-conforming'. Non-Conforming Responses may be rejected without further consideration at HPV's discretion.

d. Where no conforming Responses are received or where Respondents are assessed as not having the capacity or infrastructure or required expertise to supply the Deliverables, HPV may release itself from further consideration of the Responses and either reject all Responses or negotiate with any one or more Respondents.

HPV reserves the right to accept alternative Responses clearly marked as such and accompanied by documentation which supports that alternative in achieving the requirements of this ITS.

e. Responses will be evaluated to identify the option that represents best value for money. The merit of each Response will be determined based upon the assessed performance of the option against Part 1 .8, Evaluation criteria. HPV will not necessarily accept the lowest price Response.

f. In determining best value for money, HPV is obliged to satisfy itself that prices offered are reasonable. The Respondent agrees to provide access to such information as determined by HPV as necessary in order to evaluate the reasonableness of their submitted prices.

g. The final decision as to whether or not to enter an Agreement for supply of the Deliverables (and, if so, to whom) lies solely with HPV.

22 Post-submission negotiations

a. HPV reserves the right to conduct negotiations with any or all of the Respondents after the Closing Date and Time. In these post-submission negotiations, HPV may seek variations to an offer including betterment of the original submitted price. HPV reserves the right to enter into such discussions and negotiations in its absolute discretion (which includes negotiating with any Respondent as it deems fit without the need to correspond with other Respondents during this process).

b. HPV may invite some or all respondents to participate in a best and final offer (BAFO) process in respect to any part of their response

c. The BAFO process seeks to obtain the best result in relation to the procurement requirements. The BAFO process:

(i) May be conducted at any stage of the evaluation or negotiation phase including after the conduct of post-tender negotiations as referred to in this Part 2 .22.

(ii) May consist of more than one (1) round

(iii) Will result in a final offer which will not be subject to subsequent negotiation

d. Prior to accepting any negotiation position HPV will endeavour to ensure that the final negotiated outcome does not materially differ from the original specification released to the market. HPV reserves the right, in consultation with legal and probity advisors, to determine what constitutes a material change. Any such determination will be absolute.

23 Negotiation of the Draft Agreement

a. HPV reserves the right to include amendments to the draft Agreement in the course of the ITS process or in negotiation of the Agreement. HPV will bring to the Respondents' attention any such amendments.

b. Respondents must indicate whether they accept the terms and conditions contained in Part 5 Draft Deed of Standing Offer Agreement.

c. Respondents proposing amendments to the Draft Agreement must use the Excel spreadsheet template provided with the ITS. Failure to do so could mean exclusion of any proposed departures from consideration by HPV. Respondents must:

(i) avoid making changes to the layout or format of the template; and

(ii) apply 'separators' to each clause level. (For example, use 3.5.1(a) NOT 3.5.1a)

d. HPV may review and consider proposed amendments of the Draft Agreement from all Respondents altogether as a group.

e. HPV may negotiate the terms and conditions of the Draft Agreement with Respondents by correspondence, teleconference and/or face to face meetings.

f. For the sake of transparency and fairness, HPV aims to negotiate one set of terms and conditions, to the extent possible, and offer them to all successful Respondents. HPV reserves the right to negotiate specific terms and conditions with individual Respondents, as required.

Award and Agreement Execution

24 Appointment of one or more preferred Respondents

a. HPV may select one or more Respondents by notice in writing as preferred Respondents. The status of a preferred Respondent provides an ability to enter negotiations with HPV for the purpose of establishing whether final agreement is possible.

HPV may require further information from a preferred Respondent and may subsequently determine a preferred Respondent to be a successful Respondent, however, it is not obliged to do so.

25 Reservation of rights and caveats

a. HPV reserves the right to:

(i) award subcategories of Deliverables on a Panel Supply or a Sole Supply basis at its absolute discretion, depending on which option provides best value to Participating Health Services;

(ii) change from a Sole Supply situation to a Panel Supply situation, and add additional products and/or Suppliers to the panel at any time throughout the term of any Agreement to meet operational requirements;

(iii) grant access to other health or related services (in addition to those named as Participating Health Services) during the ITS or Agreement period, by notification to Respondents/Contractors accordingly; and

(iv) remove categories from the Agreement at any time throughout the term of any Agreement for any reason, including if the category becomes non-viable due to changes in practice, a product is withdrawn from the market, or changes in market dynamics.

b. HPV may, at its sole discretion:

(i) accept a portion or the whole of any Response at the price or prices offered;

(ii) with due notice to all prospective Respondents, amend the requirements of this ITS at any time prior to the Closing Date and Time for Responses;

(iii) withdraw, supplement or supersede this ITS whether before or after the Closing Date and Time;

(iv) at any time prior to the commencement of the Agreement, and where HPV deems that unforeseen circumstances have affected the validity of the Responses, annul any intended Agreement, notwithstanding its prior execution and subject to such terms as HPV may (in its absolute discretion) determine; and

(v) provide an opportunity for debriefing, to assist Respondents in greater understanding of HPV procedures and requirements.

Debriefing is not a forum for debating the evaluation process or any decision;

c. HPV does not warrant the accuracy of any statement as to law contained in this ITS. Respondents shall rely upon their own legal advice as to all matters in connection therewith.

26 Completion of ITS process

a. Completion of the ITS process will be subject to the requirement that HPV and the successful Respondent execute an Agreement on terms and conditions substantially the same as those set out in Part 5 Draft Deed of Standing Offer Agreement of this ITS.

The Agreement sets out the terms and conditions upon which the Deliverables will be supplied and purchased.

b. HPV is not under any obligation to:

(i) enter into discussions with Respondents in relation to the rejection of any Response (or part thereof); or

(ii) give reasons for not accepting any such Response.

27 No right of recourse

a. A Respondent is not entitled, in any jurisdiction, to challenge any decision by HPV, including the decision:

(i) to appoint one or more preferred Respondents or successful Respondents;

(ii) to enter into an Agreement with one or more preferred Respondents or successful Respondents;

(iii) to accept a Response from, or otherwise deal with, a Respondent submitting an alternative offer or non-conforming Response; or

(iv) to otherwise regard a Response as non-conforming.

28 Publicity

a. Respondents will not make any public comment, media release or respond to media inquiries pertaining in any way to this ITS, HPV's ITS process, or any subsequent Agreement without prior written approval from HPV. A breach of this provision may lead to consideration pursuant to Part 2 .8, No agreement or undertaking.

b. Respondents who participate in this ITS shall be deemed to accept and acknowledge that the Department of Health and Human Services and/or HPV may publish (on the Internet or otherwise) the name of the successful or recommended Respondent(s), the value of the successful Response(s) and the successful Respondent's name together with the provisions of the executed Agreement.

29 Freedom of Information

a. Respondents should note the provisions of the *Freedom of Information Act 1982* (Vic) (http://www.foi.vic.gov.au/find/legislation/) giving a right of access to a range of documents in the possession of the Victorian Government and its agencies, which includes HPV.

b. HPV is committed to the disclosure of executed Agreements, subject to considerations of commercial confidentiality. When determining whether to disclose any executed Agreement, HPV will apply the provisions of relevant legislation.

c. HPV cannot negate legislation which may prescribe certain powers of persons or officers to secure and publish documents pursuant to the authorities they hold thereunder.

30 Government procurement policies – Therapeutic Goods

a. Unless exempted, and if so then subject to the details of any such exemption, all therapeutic goods offered must be included on the Australian Register of Therapeutic Goods at the Closing Date and Time. Respondents must list for each therapeutic good, the AUSTR number (for registered goods), or the AUSTL number (for listed goods), or an inclusion number for medical devices entered on the ARTG. HPV recommends the use of therapeutic goods in accordance to TGA registered indications. Respondents are required to provide copies of all relevant certification issued by the Therapeutic Goods Administration to enable verification. TGA certificates are to be provided in a PDF format with the following naming convention 'ARTG number' 'Company Name' 'ITS Number' e.g. 123456 ABC Pty Ltd 010.

b. Submission of a Response will be taken as an undertaking that the Respondent will comply in all respects with **Uniform Recall Procedure for Therapeutic Goods** (**URPTG**) (V2.1, February 2019) as may be applied by the Therapeutic Goods Administration. Providers will be required to notify HPV within 7 Business Days of any deliverable being subject to a recall.

c. If additional information is required concerning this clause Respondents should contact:

The Manager
Therapeutic Goods Administration
Australian Department of Health
PO Box 100, WODEN ACT 2606

Telephone: (02) 6232 8444
Facsimile: (02) 6232 8241

31 Execution of Agreement

a. Following completion of the ITS process, HPV will:

(i) forward the Agreement for execution; or

(ii) arrange a time for execution,

with the successful Respondent(s).

32 Agreement to be final

a. The Agreement executed by HPV and the successful Respondent(s) will exclusively govern the relationship between the parties and Participating Health Services for the period of the Agreement.

33 Failure to execute Agreement

a. Without prejudice to any of its other rights, if a successful Respondent fails to execute the finalised Agreement within the time reasonably required by HPV, and in any event no longer than ten (10) days after receipt from HPV, HPV may, at its sole discretion and after notice to the Respondent, revoke award of the ITS and recover any losses sustained as a consequence of the Respondent's failure.

34 Reporting

a. The successful Respondent will provide to HPV, sales reports in the format reasonably required by HPV. The Sales Reports need to detail at a minimum:

(i) Direct Sales per product on a transactional level per Participating Health Service; and

(ii) Indirect Sales (through distributors) per product on a transactional level per Participating Health Service.

b. The format requirements and timing for submission of the reports is detailed in Schedule 4 Reporting guidelines .

c. HPV will issue one breach notice after which, any further breach will require the successful Respondent to justify why they should remain on contract. Compliance to reporting

timeframes and accuracy of data provided will be monitored by HPV and may be considered as part of the evaluation criteria when an ITS is re-called.

d. The successful Respondent will provide to HPV other reports that may reasonably be required from time to time.

35 Interpretation

Definitions

a. The following definitions apply in this ITS, unless otherwise stated:

TERM	DEFINITION AND INTERPRETATION
Act	Health Services Act 1988 (Vic).
Agreement	Means the Deed of Standing Offer Agreement entered into by HPV and a Respondent for the provision of HPVITS2020-010 Sterilisation Consumables Comprises all Schedules, Annexures of any kind and any attachments.
ARTG	Australian Register of Therapeutic Goods under the control of TGA
Authorised Contact Person	The person referred to in Part 1 .4, Authorised Contact Person
Business Day	Any weekday that is not gazetted as a public holiday in Melbourne, Victoria.
Closing Date and Time	The date and time stated in this ITS after which a Response may not be accepted and which is recorded in Part 1 .5.
Conforming Response	A Response which is determined to have satisfied the requirements of this ITS.
Deliverables	The goods and/or services to be supplied by a successful Respondent pursuant to an Agreement.

TERM	DEFINITION AND INTERPRETATION
HPV	Health Purchasing Victoria.
HPV Purchasing Policy	A Policy by that name issued by HPV from time to time.
ITS	This Invitation to Supply.
ITS Conditions	The conditions of ITS set out in Part 2 of this ITS.
may	Indicates an optional element; it is at the Respondent's discretion to either meet or not meet this element, and failure to meet this element will not have an impact during evaluation.
must	Indicates a mandatory requirement; failure to meet this requirement will result in the submission being eliminated from further consideration.
Non-Conforming Response	A Response which fails to satisfy the requirements of this ITS. HPV reserves the right to not progress such a Response to evaluation, or to contact the Respondent to request the required information. Note: Any decision to request additional information will be assessed on a case by case basis, giving due regard to the probity of the process and procedural integrity.
Panel Supply	Supply of a subcategory of Deliverables which HPV has awarded to multiple suppliers. In this situation, health services may choose to purchase from any or all contracted suppliers.
Part	Sections of this ITS as identified in Part 1 .7, Structure of Invitation.
Participating Health Service	Public Hospitals and other Health or Related Services, as those terms are defined in Section 3 of the Health Services Act 1988 (Vic), that are described in Schedule 4 Reporting guidelines
Respondent	Any person, company or organisation responding to this ITS and, unless the context otherwise requires, includes those who may access the ITS for the purpose of creating and submitting a Response.

TERM	DEFINITION AND INTERPRETATION
Response	A Respondent's submission to this ITS.
will	Indicates an anticipated future condition or requirement to be met.
should	Indicates a highly desirable element; unless justifiable reason exists, not meeting this element may impact evaluation.
SLA	Service Level Agreement
Sole Supply	Supply of a subcategory of Deliverables HPV has awarded to a single supplier.
Source Information	Has the meaning given in Part 1 .9, Information.
Supplier	A successful Respondent pursuant to an Agreement entered for supply, also known therein as a Contractor.

Rules of Construction

b. Subject to any contextual inconsistency, the following rules of construction will be used to interpret this ITS:

(i) any word importing the plural includes the singular and vice versa;

(ii) any word importing a gender shall include all genders;

(iii) a reference to a party entity or person referred to in this ITS includes a body corporate, a natural person or other forms of legal association;

(iv) a reference to a recital, party, clause, schedule or annexure or other document provided as a document pursuant to this ITS is a reference to a recital, party, clause, schedule or annexure or other document in this ITS as amended, supplemented, replaced or novated;

(v) a reference to a statute and regulations includes all statutes and regulations amending, consolidating or replacing the statute or regulation;

(vi) all dollar amounts refer to Australian currency;

(vii) a party includes its executors, administrators, liquidators, successors and permitted assigns;

(viii) 'consent' means prior written consent;

(ix) 'in writing' means either by letter or email;

(x) if any expression is defined, other grammatical forms of that expression will have corresponding meanings, unless the context otherwise requires;

(xi) a reference to a clause is a reference to all its sub-clauses; and

(xii) a reference to this ITS includes the Schedules and Appendices of this ITS.

Part 3 Respondent's Offer

1 Company information

a. Respondents are required to complete all information as detailed in the HPV Procurement Portal. The provision of this information will form part of the evaluation process and includes information on:

(i) Conflict of Interest

(ii) Fraud and corruption control

(iii) Supplier code of conduct

(iv) Quality management

(v) Sustainability

(vi) Risk management

(vii) Occupational health and safety

(viii) Financial viability

(ix) Delivery processes

(x) Education, training and product support

(xi) Company resourcing to implement and manage the agreement

(xii) National Product Catalogue (NPC)

(xiii) Statement of compliance to this ITS and the Draft Deed of Standing Offer Agreement.

(xiv) Compliance with or commitment to, Social Procurement Outcomes under the Social Procurement Framework.

2 Insurance

a. The successful Respondent(s) will ensure that the following insurances are in place before the Agreement commences and throughout the Agreement period:

(i) Public Liability $AU 20 million for any one event and in the aggregate in any one policy period; and

(ii) Product Liability $AU 10 million for any one event and in the aggregate in any one policy period.

(iii) Where the Respondent is providing Services, Professional Indemnity Insurance of $AU 10 million for any one event and in the aggregate in any one policy period will be required.

b. Not used

c. The Response will include as an attachment, details of the insurances currently held by the Respondent.

d. Respondents will ensure that where insurance policies are issued by an overseas company, details of any local insurance broker will be provided. In the absence of local representation the Respondent shall outline the process including contact details (contact number and position) by which claims may be lodged.

e. If an insurance policy is due to expire during the term of the Agreement, the Respondent will renew it in similar terms prior to expiry and will forward the renewal details thereof to HPV.

f. HPV complies with the Victorian Government Purchasing Board's Guidelines for insurance requirements. Respondents should ensure they have read and understood these requirements. Details can be found at Victorian Governments Purchasing Boards website, http://www.procurement.vic.gov.au.

3 Subcontracting

a. HPV may, without being bound to do so, consider Responses submitted by Respondents who intend to subcontract all or part of the supply of the Deliverables. However, all Responses will be evaluated on their merits, according to the pre-determined evaluation criteria listed in this ITS.

b. In order to facilitate evaluation, Respondents are required to state any intention to subcontract, and provide comprehensive details about the provision of those arrangements and all relevant subcontractor company information in the HPV Procurement Portal. The provisions of Part 2 .20, Audit of Performance and Respondents' Operations may be invoked as necessary.

c. Notwithstanding the terms of any agreement between a subcontractor and a Respondent with whom HPV has entered an Agreement for supply of the Deliverables, a Respondent will remain responsible for the supply in all respects and for the proper performance of all obligations pursuant to the Agreement not only in respect of itself but any of its subcontractors.

d. For purposes of this clause, nominated Distributors are not considered subcontractors. Response requirements for nominated Distributors are detailed in Part 3 .4, Distributors.

4 Distributors

a. Respondents are required to provide the required details of all Distributors nominated to act as third-party Suppliers. Distributors nominated pursuant to this clause may be rejected by HPV in its absolute discretion, or may be subject to qualifications before acceptance for the purposes of the Agreement.

b. A letter from each such nominated Distributor acknowledging their nomination as a 3rd party Supplier and an understanding of their several responsibilities for required supply of the Deliverables in respect of this ITS and for the purposes of the Agreement, is to accompany that nomination.

c. Respondents nominating Distributors under this clause remain accountable and responsible for supply compliance including:

(i) the continued availability of the Deliverables via each Distributor nominated and within the nominated timeframes;

(ii) the provision of sales reports as required pursuant to the Agreement

5 Submitted prices

a. Respondents will ensure that the 'Submitted Cost Price' and any applicable discounts with respect to the Deliverables will be no less favourable than the prices, fees and/or charges and discounts available to any other purchase (including by the government) of similar products from the Respondent throughout Australia under similar conditions.

b. Prices shall be expressed in Australian currency.

c. The submitted prices shall be the total delivered costs for supply of the Deliverables. If there is a range of prices/costs to be applied to different Deliverables then these shall be detailed.

d. Price(s) offered will be in accordance with the ITS requirements applying to the Agreement period or pursuant to the review periods therein.

e. The submitted prices shall be exclusive of the Goods and Services Tax (GST) but shall include all royalties, exchange rates, levies, duties, other taxes and charges required for supplying the Deliverables.

f. Any charge not included in prices offered, or otherwise stated in the Response as being additional, will not be considered.

g. Except where Responses are invited on the basis of trade lists less trade discounts, rates submitted should be net after the deduction of all discounts except settlement discount.

h. All freight or delivery charges across Victoria shall be included in the offered prices. Respondents are to ensure that the offered price is the total delivered cost/F.I.S. and is not subject to any further additional freight handling cost.

6 Submitted price variations

a. All prices shall be and remain firm for the Agreement Period and no application for adjustment of prices will be considered for the period of the Agreement otherwise than in accordance with the Agreement.

7 Patents, copyright and other intellectual property rights

a. Respondents are required to declare whether a patent exists in relation to the Deliverables, the ownership thereof, relevant licensee arrangements and the anticipated expiry date.

b. Respondents are also required to indicate whether copyright exists in respect to any Deliverable. If so, Respondents are required to indicate the cost, if any, of an assignment of licence of such copyright for its use pursuant to any Agreement.

c. Should an election be made to acquire a licence of such copyright, the successful Respondent will be required to enter into a separate agreement relating to that copyright.

d. Respondents agree that HPV has the unlimited right to duplicate documentation that a Respondent has provided (without payment of compensation) for any purpose related to this ITS.

8 General innovation and alternative offers

a. Respondents are encouraged to offer and describe, any current or proposed supply chain solutions that can provide a demonstrated improvement to the efficiency and effectiveness of delivery pursuant to the Agreement. The anticipated benefits to all Victorian public hospitals and other health and related services arising from the implementation of such solutions should be addressed, including how the success of each solution shall be measured.

b. Where the innovative solution is an alternative offer, this will be in accordance with Part 2 clause 21. An alternative offer may be made by a Respondent or may be sought by HPV following the Closing Time.

c. HPV reserves the right to not consider any alternative offers.

9 Assistance with achieving Accreditation

a. Successful Respondents will agree to abide by and support the Quality, Service and Accreditation programs of each Participating Health Service. This may include assistance to facilitate the achievement and compliance with appropriate external accreditation processes such as the Aged Care Standards Accreditation and National Safety and Quality Health Service (NSQHS) Standards.

10 Local Jobs First Policy

Note : The Respondent may be required to comply with the following requirements outlined in this section 10, when an Order Contract is placed with the Participating Health Service as described in Part 5 Draft Deed of Standing Offer Agreement**.**

Overview

a. The Local Jobs First Policy (LJF Policy) issued under the Local Jobs First Act 2003 supports businesses and workers by ensuring that small and medium size enterprises are given a full and fair opportunity to compete for both large and small government contracts, helping to create job opportunities, including for apprentices, trainees and cadets. The LJF Policy is implemented by Victorian Government departments and agencies to help drive local industry development.

b. The LJF Policy comprises the Victorian Industry Participation Policy (VIPP) and the Major Projects Skills Guarantee (MPSG).

(i) VIPP seeks to ensure that small and medium-sized business are given full and fair opportunity to compete for government contracts.

(ii) MPSG is a policy that provides job opportunities for apprentices, trainees and cadets on high value construction projects.

c. Local Jobs First applicable projects include but are not limited to:

(i) purchase of goods and/or services, regardless of the method of procurement (including individual project tenders, State Purchase Contracts, supplier panels);

(ii) construction projects (incorporating design and construction phases and all related elements), including individual projects, Public Private Partnerships, Alliance Contracts, Market Led Proposals, supplier panels and auctions; and

(iii) grant and loan projects, including grant agreements or loan arrangements to private, non-government and local

d. The LJF Policy applies to standard projects above the threshold values of:

(i) $3 million or more in metropolitan Melbourne, and

(ii) $1 million or more in regional Victoria, or

(iii) any project valued at less than $3 million that the Minister has declared to be a standard project.

e. This Invitation to Supply is for a standard projects.

f. For further information, Respondents should refer to the LJF Policy and Guidelines which can be found at www.localjobsfirst.vic.gov.au.

Definitions

Agency means Participating Health Service.

Apprentice means a person whom an employer has undertaken to train under a Training Contract.

Cadets means those persons enrolled in a recognised tertiary level organisation and who receive structured learning opportunities as part of their engagement to a Local Jobs First project (e.g. cadets in architecture, quantity surveying, or engineering) but which is not under a Training Contract.

Contestable Items means goods or services in a procurement process where there are competitive international and local suppliers. 'Competitive' means the suppliers are able to offer comparable goods or services that meet the specifications provided in this Invitation to Supply. Contestable items can be goods or services at any stage of a project, including maintenance.

Department means has the meaning given in s 3(1) the Local Jobs First Act 2003.

Guidelines means the Local Jobs First Supplier Guidelines, available at www.localjobsfirst.vic.gov.au.

Industry Capability Network (Victoria) means Industry Capability Network (Victoria) Limited ACN 007 058 120 of Level 11, 10 Queens Road, Melbourne VIC 3004.

Local Content has the meaning given in s 3(1) of the *Local Jobs First Act 2003*.

LJF Policy means the policy made under s 4 of the *Local Jobs First Act 2003*.

Project means the work as described in this Invitation to Supply.

Project Total Estimated Labour Hours means the total estimated labour hours for the Project under the total value of the contract as determined by the Deemed Hours Formula. (See below).

Trainee means a person (other than an Apprentice) employed under a Training Contract.

Training Contract has the meaning given in the *Education and Training Reform Act 2006*.

Contestable Items

a. The LJF Policy requires that government agencies consider Local Content and job commitments, particularly in respect of Contestable Items, as a key criterion in tender evaluation and other relevant procurement processes.

b. Consideration should be given to contestable and non-contestable items in establishing local content commitments.

Local Industry Development Plan

a. All Respondents must prepare a Local Industry Development Plan (**LIDP**) in accordance with the LJF Policy and Guidelines.

b. The assessment of the tender or proposal will consider whether and how Respondents comply with the LJF Policy. This is done through assessment of Respondents LIDPs.

c. A LIDP must be submitted to the Industry Capability Network (Victoria) and will be made available to the Agency and the Department.

d. A LIDP must:

(i) specify how the requirements of the LJF Policy will be met;

(ii) identify total content and Local Content for the Project; identify total and local jobs for the Project;

(iii) identify how any other specific requirements determined by the Minister as applying to the project will be met; and

(iv) include any other matter required to be included in the Plan by the LJF Policy

e. In developing the LIDP, Respondents must consult in good faith with Industry Capability Network (Victoria).

f. The LIDP template attached to this Invitation to Supply must be completed and submitted through Industry Capability Network (Victoria) Victorian Local Jobs First Management Centre at icnvic.org.au/VMC.

g. To demonstrate that the LIDP submitted is completed correctly and includes all required information, Respondents must obtain an acknowledgement letter of their LIDP from Industry Capability Network (Victoria). Contact details for ICN are provided below. A tender or proposal cannot be evaluated if an acknowledgement is not supplied. An Agency cannot accept a tender, proposal or other submission that does not include a compliant LIDP.

Use of the Local Industry Development Plan

a. Any post-bid changes in a Respondents LIDP commitments will require further Industry Capability Network (Victoria) assessment and an acknowledgement letter. Respondents should refer to the Guidelines for further details.

b. The contents of a successful bidder's final LIDP will be included in the agreement to be entered into between that bidder and the Agency. Further, the bidder's LIDP information will be recorded centrally for Industry Capability Network (Victoria) certification of the LIDP outcomes reported.

Weighting of Commitments to LJF Policy

a. In evaluating a tender or proposal for an agreement for a project, the Agency will give weighting to the following parts in the specified amounts:

(i) 10 per cent for industry development, including commitments made in relation to the VIPP; and

(ii) 10 per cent for job outcomes, including, if applicable, job outcomes provided by the MPSG.

b. The commitments of a bidder's LIDP will be allocated a minimum 10 per cent weighting for industry development (including commitments made in relation to the VIPP), and 10 per cent weighting for job outcomes (including, if applicable, job outcomes provided by the MPSG), as part of the tender evaluation process.

Further information and assistance

a. The Department has prepared the Guidelines for Suppliers on the application of the LJF Policy to projects.

b. Industry Capability Network (Victoria) provides free services to assist Respondents in identifying and developing the above information. Respondents are advised that Industry Capability Network (Victoria) will be available to assist them in implementing the LJF Policy. For further information or assistance, Respondents can contact Industry Capability Network (Victoria):

Level 11
10 Queens Road
Melbourne VIC 3004
(03) 9864 6700
https://icn.org.au/vic_home

c. Respondents must attend any briefing provided by the Agency on the LJF Policy.

11 Social Procurement Framework

Overview

a. Victorian Government procurement is one of the largest drivers in the Victorian economy and makes a significant contribution to building a fair, inclusive and sustainable Victoria.

b. Value for money underpins Victorian Government procurement. It is the achievement of a desired procurement outcome at the best possible price – not necessarily the lowest price – based on a balanced judgement of financial and non-financial factors relevant to the procurement. The Victorian Government recognises environmental, social and economic factors as a core component of value for money.

c. The Victorian Government is committed to using its purchasing power to generate social value above and beyond the value of the goods, services and Construction it procures. In the Victorian Government context, social value means the benefits that accrue to all Victorians when the social and sustainable outcomes in Victoria's Social Procurement Framework are achieved.

d. The Social Procurement Framework applies to the procurement of all goods, services and Construction undertaken by Departments/Agencies that are subject to the Standing Directions of the Minister for Finance 2016.

e. The social and sustainable outcomes in the Social Procurement Framework advance a number of important Victorian Government policy objectives. These outcomes include purchasing from Social Benefit Suppliers and working with all suppliers to adopt social and sustainable business practices and/or achieve social and sustainable outputs in the course of delivering the required goods, services or Construction. The Victorian Government considers that all suppliers are capable of delivering one or more of these outcomes when doing business with Government.

f. Further information can be found at the Buying for Victoria website, https://buyingfor.vic.gov.au/social-procurement-framework-suppliers

11.1 Definitions

The following definitions apply in this clause:

Social or Sustainable Outcome means an outcome listed in Tables 1 and 2 of the Social Procurement Framework

Social Procurement Commitment means a commitment to deliver a Social or Sustainable Outcome through an individual procurement activity.

Social Procurement Compliance Plan means a plan provided by a Respondent as part of a the ITS where requested by HPV, the obligations of which will form part of a subsequent Contract, which provides as much detail as practicable as to how a Contractor will comply with, report on and verify compliance with Social Procurement Commitments.

Social Procurement Framework means Victoria's Social Procurement Framework published 26 April 2018 by the Victorian Government, as amended from time to time.

Social Procurement Performance Report means a report submitted by a Contractor to the Contract Manager of HPV, which details the Contractor's performance against the Social Procurement Commitments made within the Contractor's Social Procurement Compliance Plan or any other form as determined by HPV.

Social Procurement Response Schedule means a template, checklist, declaration (or equivalent) or other document provided by HPV via the HPV Procurement Portal to the Respondent requesting written information from the Respondent as part of a tender that evidences the Respondent's status in relation to Social or Sustainable Outcomes (as at the time the tender is submitted).

11.2 Social Procurement Compliance Plan

Where specifically requested by HPV, All Respondents must prepare a Social Procurement Compliance Plan or Social Procurement Response Schedule as attached to this Invitation to Supply.

The Social Procurement Compliance Plan or Social Procurement Response Schedule must contain sufficient information to demonstrate to the reasonable satisfaction of the Organisation that the Respondent will achieve or undertake all reasonable measures to achieve the following Social or Sustainable Outcomes:

The Respondent must complete the Social Procurement Response Schedule(s) outlined in the HPV Procurement Portal included as part of this ITS for the Respondent's response to be compliant.

The Respondent's Social Procurement Commitments made within the Social Procurement Compliance Plan or Social Procurement Response Schedule must be consistent with the information provided in the Respondent's response to the Social Procurement Response Schedule(s) where a Social Procurement Compliance Plan is required. .

Notwithstanding the requirement to submit a Social Procurement Compliance Plan where requested by HPV, submissions made by the Respondent under the Social Procurement Response Schedule in connection with the requirement of Social Procurement Outcomes for this ITS will form part of any resulting agreement between HPV and the Respondent, where appropriate.

11.3 Use of the Social Procurement Compliance Plan or Social Procurement Response Schedule

(a) The Respondent's Social Procurement Commitments made within the Social Procurement Compliance Plan or Social Procurement Response Schedule will be considered a key selection criterion as part of the overall ITS evaluation process.

(b) The Social Procurement Commitments made within the Social Procurement Compliance Plan will be assessed against the relevant Social or Sustainable Outcomes as defined in 11.3(b) and this assessment will be weighted at a percentage determined by HPV of the total ITS evaluation score.

(c) In addition to the relevant Social or Sustainable Outcomes identified at 11.3(b), consideration may also be given to any other Social or Sustainable Outcome that the Respondent is willing to commit to as a Social Procurement Commitment within their Social Procurement Compliance Plan or Social Procurement Response Schedule.

(d) The Social Procurement Commitments (made within the successful Respondent's Social Procurement Compliance Plan) and the Social Procurement Compliance Plan or Social Procurement

Response Schedule will be included as part of the Contract to be entered into between the successful Respondent and HPV.

11.4 Reporting

Where Reporting is required, the following clause will apply:

(a) The successful Respondent will be required to submit written Social Procurement Performance Reports to the Contract Manager of the HPV outlining its performance against the Social Procurement Compliance Plan every year.

(b) The Social Procurement Performance Report submitted in accordance with clause 11.4(a) must:

(i) be in a form satisfactory to the Victorian Government (acting reasonably); and

(ii) include all supporting information reasonably required by the Victorian Government to verify the contents of the Social Procurement Performance Report.

c) In addition to these Social Procurement Performance Reports, the successful Respondent will also be required to submit:

(i) a final Social Procurement Performance Report within 2 months of the date of practical completion or the date the Contract is completed, whichever is earlier; and

(ii) a statutory declaration made by the Contractor declaring that the contents of the final Social Procurement Performance Report are true and correct, which must be submitted together with the final Social Procurement Performance Report.

The Respondent must attend any briefing provided by the HPV on the Social Procurement Framework. Where it is not practicable for the Respondent to attend such a briefing, the Respondent must read and certify that they have read and understood any briefing materials provided to the Respondent by HPV.

Part 4 Statement of Requirements

SCOPE

1 General Requirements

a. Sterilising Consumables are required for use in Sterilising departments for the reprocessing of reusable medical devices within Victorian Health Service facilities.

b. The Sterilising Consumable must be free of toxic ingredients, non-fast dyes, noxious odours and latex.

c. Sterilising Consumable hardware accessories must be accompanied by instruction for appropriate surface decontamination and details of repair, maintenance and validation programs.

d. Manufacturers or their agents providing a recycling program for their Sterilising Consumables and packaging should clearly outline this process.

e. Testing and validation services required in the central sterile processing area are included in the scope of this ITS. This includes water quality testing and steam purity testing to comply with all the requirements of AS/NZS 4187 amdt no.2.

2 Participating Health Services

a. The Participating Health Services for this ITS are:

(i) All 'Public Health Services' (as legislatively defined) referred to in Schedule 1 and Schedule 5 of the Health Services Act 1988; and

b. For a full list refer to Schedule 4 Reporting guidelines .

3 Product and Service Categories

a. The categories of Sterilisation Consumables required include:

(i) Cleaning Agents

(ii) Instrument Cleaning Brushes

(iii) Instrument Protectors

(iv) High And Low Temperature Sterilisable Containers Or Trays

(v) High And Low Temperature Sterilisable Accessories

(vi) Single Use Sterilisation Wraps

(vii) Laminate/Flexible Packaging

(viii) Tray Liners

(ix) Chemical And Process Indicators

(x) Biological Indicator Tests

(xi) Manual Batch Tracking And Processing Accessories

(xii) Chemical And Gas Sterilants, High Level Disinfectants And Test Strips

(xiii) Filters

(xiv) Testing Services And Validation Of Reprocessing Equipment

b. For a full list of product categories and subcategories, see Appendix 1 – Category List.

c. The Respondent may offer products in one, some or all categories.

d. HPV reserves the right not to consider any additional products offered.

4 Product Offering

a. Respondents are to list a direct match to the part and part number listed on the Response Worksheet.

b. If a direct match is not possible, list alternative or best match with the alternate part number.

c. HPV may not consider any product that is subject to a current HPV Agreement, other than those listed below:

(i) HPVC2015-010 Sterilisation Consumables

d. Respondents will ensure that each product is offered in only one subcategory. It is the Respondent's responsibility to ensure that each product is submitted in the most appropriate subcategory.

PRODUCT REQUIREMENTS

5 Product Compatibility

a. Respondents offering third-party items must provide clinical testing and evidence of each item's compatibility with specific models of Original Equipment Manufacturer (OEM)

equipment. Where product is compatible with an OEM product, but was manufactured by a third party, product title to begin with a non-OEM keyword such as “compatible”, “third party”, “generic” or with the name of the third party manufacturer.

b. Successful Respondents must also make these certificates of compliance and/or evidence of testing available to Participating Health Services upon request.

c. Further evidence of testing will be required for product variations requested during the contract period. Certificates of compliance and/or evidence of testing must not be more than two (2) years old at the time the variation request is made.

d. HPV reserves the right to require further testing from successful Respondents if:

- a product quality issue is identified during the contract
- an option period is exercised at the end of the contract principal period.

e. Ensuing to clauses 5.c and 5.d in the event that HPV requires further certificates of compliance and/or evidence of testing to be provided, HPV reserves the right to remove products from contract if the successful Respondent refuses to or cannot produce the required evidence.

6 Standards and Compliance

a. All items offered must comply with relevant Australian Standards, Orders, Legislation and Regulations (collectively ‘Compliance Requirements’), or their equivalent International Compliance Requirements. Refer to Appendix 2 - Compliance Requirements for a list of the minimum Compliance Requirements.

b. All therapeutic goods offered must be approved by the Australian Therapeutic Goods Administration (TGA), unless exempt. The Respondent must provide evidence of this (i.e. public ARTG certificates) in its response.

c. The successful Respondent must provide evidence of ARTG certification to Participating Health Services upon request.

7 Packaging and Labelling

a. Sterilisation packaging materials must not react in any manner with the sterilizing agent other than that for which it is designed ie packaging with indicators.

b. Where flexible packaging material includes a seam/seal as part of its design, the seam/seal must:

(i) Be designed to maintain integrity of the contents during and after sterilisation process and during transport, handling and storage;

(ii) Be at least as strong as the base materials from which the packaging/wrapping materials are made;

(iii) Be designed so as to prevent reuse.

c. Self-sealable flexible packaging material must provide a complete seal that is easy to close and maintain the integrity of the package or its recommended shelf life.

d. The adhesive of self-sealable flexible packaging material must be compatible to the sterilizing process.

e. All goods must be suitably packed and otherwise appropriately prepared for transportation, including temperature-controlled supply chain, with quality management processes in place to ensure that the manufacturers' storage temperature requirements are met.

f. All labels must comply with the Therapeutic Goods Act 1989 and the Therapeutic Goods (Medical Devices) Regulations 2002.

g. It is desirable for individual product packaging to include (where applicable):

(i) whether the product is sterile;

(ii) whether the product is MRI compatible (implantable products);

(iii) whether the product (or packaging) contains latex or is latex-free; and

(iv) tracking labels.

8 Infection Control

a. Where applicable, all items must meet the requirements of the Australian Guidelines for the Prevention and Control of Infection in Healthcare (2019).

b. Upon request by Participating Health Services, successful Respondents must provide cleaning details for all reusable products. Recommended cleaning products must be available for purchase within Australia.

9 Substances of Concern

a. Preference may be given to products (including their accompanying packaging) that are latex-free, unless otherwise stated.

b. Preference may be given to products that are free of diethylhexyl phthalate (DEHP).

10 Product Information

a. The Respondent will submit a copy of relevant product diagrams, specifications or brochures to assist in accurately identifying products offered.

b. Where research papers or relevant scientific information is available, this should not be provided unless specifically requested by HPV.

c. All product information submitted should:

(i) be in electronic format

(ii) be in English

(iii) be specific to the product offered

(iv) contain the Respondent's company name

(v) include the product code

(vi) include a detailed specification of the product

(vii) include clear diagrams/pictures of the product.

d. To assist in managing this material, all product information submitted should be labelled with the relevant HPV category and subcategory number.

e. Electronic copies should include the HPV category and subcategory numbers in the filename or identifying metadata.

f. HPV may not consider unlabelled submissions.

(i) Product information will not be evaluated, but is necessary to assist in accurately identifying products offered.

(ii) HPV reserves the right to exclude products from evaluation when the product is unidentifiable and provided information is:

- Not labelled as per Part 4 .10 .d above; or
- Is incomplete as to Part 4 .10 .c

(iii) Product samples are **not** to be provided unless specifically requested by HPV, as per Part 2 .19, Samples.

(iv) The Respondent should not submit information relating to products that are not called for in this ITS.

11 Warranty

a. All products covered in this ITS are to be issued a warranty for a minimum of twelve (12) months from the delivery date for normal use.

b. Upon request, the successful Respondent will provide information (printed or electronic) explaining product warranty.

c. The repair or replacement of any item under warranty will be at no cost to the Participating Health Service.

d. The cost of any pickup or delivery associated with a repair or replacement under warranty will be borne by the successful Respondent.

e. The successful Respondent provides Participating Health Services with a replacement or suitable loan item at no cost until the repaired item is returned.

12 Recall Process

a. All recalls must be managed in line with the Uniform Recall Procedure for Therapeutic Goods (URPTG) (V2.1, February 2019).

b. Within three (3) months of agreement commencement, all recalls and/or hazard alerts will be completed using GS1 Recall OR Recall Health.

c. Class 1 recalls (as defined by the TGA's Uniform Recall Procedure for Therapeutic Goods (URPTG) (V2.1, February 2019)) must also meet the requirements under section Part 4 .11 Warranty, where applicable.

DELIVERY

13 Electronic Data Interchange

a. The Participating Health Services prefer to exchange orders, payments, acknowledgements, invoices, remittance notices and other records (Data) electronically, in place of tangible documents. Successful Respondents are required to work with the Participating Health Services to achieve this outcome.

14 Delivery

a. Sterilisation Consumables will be delivered to the location(s) specified by Participating Health Services within the shortest possible timeframe; however, this should not exceed two (2) Business Days from receipt of order unless otherwise agreed with the Participating Health Service.

b. All deliveries are bound as per the Deed of Standing Offer Agreement, Part 5 7.2 Acceptance and Rejection of Goods.

15 Urgent Deliveries

a. For the purposes of this section, urgent deliveries refers to urgent requests placed by an individual Participating Health Service, and does not include state-wide emergency situations.

b. The Respondent should be able to receive and action urgent delivery requests 24 hours a day, 7 days a week.

c. Urgent deliveries should be received by Participating Health Services within 24 hours from receipt of order.

d. Any additional costs associated with Urgent Deliveries shall be clearly outlined in the User Guide tab of the Tender Response Worksheet and shall be discussed and agreed with the ordering health service prior to acceptance of any urgent order.

SUPPORT

16 Training

a. Upon request by a Participating Health Service, successful Respondents will deliver a training package and/or training materials to facilitate the introduction of their products/offering to clinicians in their operating environment.

b. Training requirements may include (but are not limited to):

(i) face-to-face training at Participating Health Service sites (i.e. in-service training);

(ii) off-site study days for clinicians;

(iii) updates and refresher training on new products and/or equipment and surgical techniques;

(iv) training on cleaning and sterilisation to nominated personnel and the Participating Health Services' CSSD and SSU (for reusable instruments);

(v) training on handling and use of cleaning agents, disinfectants and chemical sterilising agents; and

(vi) training materials.

17 Customer Service and Support

a. The successful Respondent must be able to provide customer service and support to Participating Health Services, either directly or via a third party, during business hours.

b. The successful Respondent will provide Participating Health Services with representatives that are:

(i) inherently familiar with the contracted products

(ii) appropriately qualified

(iii) technically/clinically knowledgeable about the contracted products

(iv) available to respond to Participating Health Services' queries during business hours.

c. The level of customer service and support required of Representatives is expected to include (but is not limited to):

(i) liaising with clinicians to recommend products and solutions

(ii) promptly answering clinicians' queries (including after hours)

(iii) liaising with various hospital departments (for example: operating theatre, Nurse Unit Managers)

(iv) providing on-site clinical support during cases (if requested)

(v) providing informational materials

(vi) providing education and in-service training upon request.

d. Representatives must comply with Participating Health Services' local policies regarding engagement with Participating Health Service staff.

AWARD

18 Conditional Acceptance

a. Products may be designated as 'Conditionally Accepted' for the following reasons:

(i) Where products offered are not 'known and accepted' but represent value for money HPV; or

(ii) Where products are inactive and have not been in use for at least 12 months.

(iii) Where minimum data information is not provided e.g. UNSPSC code.

b. Clause 3.10 **Conditional acceptance** of Part 5 Draft Deed of Standing Offer Agreement sets out terms relating to Conditionally Accepted Deliverables. .

c. Products designated as 'Conditionally Accepted' may be subject to desktop and functional evaluation by health services.

d. "Acceptance for use" is confirmed by issuing a product acceptance certificate or any other form signed by an appropriate clinical representative of a Participating Health Service

e. Pricing will be as per response position and cannot be amended post Agreement acceptance.

19 Key Performance Indicators

a. Refer to Part 5 Draft Deed of Standing Offer Agreement clause 5 and Schedule 1 Supply Schedule, Item 17.

20 Service Level Agreement

a. Participating Health Services may enter into a Service Level Agreement (SLA) with the successful Respondent(s). The SLA may cover arrangements including, but not limited to:

(i) the provision of products on consignment

(ii) requirements for stock management and rotation

(iii) arrangements for ordering, invoicing and delivery

(iv) clinical support, including attendance requirements for Representatives in relation to education and training

(v) communication arrangements for product recalls and safety alerts (refer to 12 Recall / Recall Health).

(vi) Where applicable, the provision of Services

b. The SLA will be in addition to the Agreement between the successful Respondent(s) and HPV, and will not alter any terms of the Agreement.

c. HPV will not be responsible for monitoring compliance with any SLA. This is a matter of agreement between the parties to the SLA.

d. Successful Respondent(s) will provide a copy of all Service Level Agreements to HPV within 1 week of being finalised.

Category 1 - Cleaning Agents

a. A range of cleaning agents and associated products are required to support decontamination of reusable medical and surgical instruments and equipment within the central sterile processing area. This includes:

(i) a range of volumes and presentations of:

- pre-cleaners
- enzymatic cleaners
- cleaning solutions for manual and automated cleaning processors
- rinse aid/neutraliser/drying agents
- biofilm removers
- stain removers for instruments and sterilisation and washing equipment
- de-scaling agents

(ii) a range of compatible additional components including:

- opening devices e.g. spanners for removing the cap or lid on containers of cleaning agents.
- replacement caps
- lubricants compliant to Australian standards
- measuring and dispensing devices, including a closed system for dispensing
- supporting or retaining brackets to stabilise containers of cleaning chemicals.

b. Opening devices (eg: spanner) should be provided free of charge.

c. For each cleaning agent offered, Respondents must advise if the product is recommended for a specific brand/model of equipment.

d. Where the items offered are suitable for generic use Respondents must advise of any recalibration and testing required supporting effective use of the offered products.

e. Respondents must advise the availability and any costs associated with the provision of additional services that will assist in maintaining the integrity of the cleaning systems and cycles e.g. monthly testing and reporting on pump function, dilutions, dosing etc.

f. As per AS NZS 4187 clause 3.1.3, successful Respondents must make the following information readily available for all contract users in electronic and/or hard copy documentation:

- current Material Safety Data Sheets
- toxicology reports that discuss the presence of residue that may remain on any products following the cleaning cycle

- compatibility of chemicals with other products.

Category 2 - Instrument Cleaning Brushes

g. Offers are required for the following type of Instrument Cleaning Brushes

(i) Instrument cleaning brush, flexible, reusable

(ii) Instrument cleaning brush, flexible, single use

(iii) Instrument cleaning brush, rigid, reusable

(iv) Instrument cleaning brush, rigid, single use

(v) Instrument cleaning brush, double ended, to pass through cannulated instruments, reusable

(vi) Instrument cleaning brush, double ended, to pass through cannulated instruments, single use

(vii) Instrument cleaning brush, flexible with protected tip, for anaesthetic equipment, reusable

(viii) Instrument cleaning brush, flexible with protected tip, for anaesthetic equipment, single use

(ix) Instrument cleaning brush, flexible, for flexible endoscopes, reusable

(x) Instrument cleaning brush, flexible, for flexible endoscopes, single use

h. The product must be:

(i) designed specifically for surgical instruments/medical devices;

(ii) non-abrasive;

(iii) compatible with thermal disinfection in washer disinfectors;

(iv) single or double ended;

(v) constructed of material appropriate for its use;

(vi) designed with an atraumatic tip.

i. Where brushes are deemed to be reusable, they must be capable of withstanding thermal disinfection.

j. Offer all sizes, styles and types.

Category 3 - Instrument Protectors

k. A range of instrument protectors is required in the central sterile processing area. This includes:

- (i) Sterilisable, single use paper/laminate
- (ii) Sterilisable, single use plastic, vented
- (iii) Sterilisable, re-usable silicone, vented
- (iv) full range of sizes and shapes
- (v) clear, tinted and solid colours.

l. The products must:

- (i) have radiopaque properties;
- (ii) be permeable to permit sterilisation processes;
- (iii) protect instrument tips from damage;
- (iv) be suitable for steam and / or low temperature peroxide plasma sterilisation.

m. Offer all sizes, styles and types.

Category 4 - High and Low Temperature Sterilisable Containers Or Trays

n. A range of re-usable, high and low temperature sterilisable containers and trays is required in the central sterile processing area. This includes a full range of sizes and volumes of:

(i) Sterilisable Equipment, Perforated, Plastic Tray

(ii) Sterilisable Equipment, Perforated, Metal Trays With Or Without Lids

(iii) Sterilisable Equipment, Perforated, Metal Basket

(iv) Sterilisable Equipment, Rigid Container

o. The sterilisable containers and trays must:

(i) have no rough or sharp edges

(ii) be compatible with a range of cleaning agents

(iii) be durable and lightweight

(iv) rigid containers must contain or come with a suitable solution for a check sheet to be sterilised on the outside of the container

(v) be easily cleanable with no ridges or 'lips' that may trap moisture or blood and body fluids.

p. Instructions for recommended disinfection and sterilisation must be provided, according to Australian standards, including any warnings regarding known conditions that may reduce the useful life expectancy of the equipment.

q. Where metal containers are offered, preference will be given to containers constructed with a single pressed sheet of metal.

Category 5 - High and Low Temperature Sterilisable Accessories

r. A range of brand specific and generic use rigid container consumables and sterilisable accessories is required in the central sterile processing area. This includes a full range of sizes, colours and volumes of:

(i) Sterilisable Equipment, Tray Insert: Silicone Bars And Holders: Reusable

(ii) Sterilisable Equipment, Tray Insert: Silicone Liner Or Mat: Reusable

(iii) Sterilisable Equipment, Plastic Kidney Dish

(iv) Sterilisable Equipment, Plastic Gallipot

(v) Sterilisable Equipment, Plastic Bowl

(vi) Sterilisable Equipment, Rigid Container Consumable, Single Use Filter

(vii) Sterilisable Equipment, Rigid Container Consumable, Reusable Filter

(viii) Sterilisable Equipment, Rigid Container Consumables, Tamper Evident Lock

(ix) Sterilisable Equipment, Rigid Container Consumables, Arrow

(x) Sterilisable Equipment, Rigid Container Consumables, Indicator Tabs

s. Accessories should include:

(i) tamper evident locks for the rigid containers;

(ii) single use or reusable filters;

(iii) container seal / lock with or without indicator;

(iv) container identification tags that can be etched with tray name;

(v) sterility oil spray for care and maintenance of lid hinges;

(vi) adhesive labels for patient data sheets

t. The product must:

(i) have no rough or sharp edges;

(ii) be compatible with the range of cleaning agents;

(iii) be durable and lightweight;

(iv) have low profile securement mechanism;

(v) be easily cleanable with no ridges or ‘lips’ that may trap moisture or blood and body fluids.

u. Instructions for recommended disinfection and sterilisation must be provided, according to Australian standards, including any warnings regarding known conditions that may reduce the useful life expectancy of the equipment.

v. Offer all sizes, styles and types

Category 6 - Single Use Sterilisation Wraps

w. A range of single-use, non-woven, low linting sterilisation wraps is required in the central sterile processing area. This includes:

(i) a range of materials:

(ii) cellulose based

(iii) polypropylene

(iv) combination of cellulose and polypropylene

(v) a range of sizes and strengths

(vi) single and multi-layer presentations.

x. For the purposes of this Statement of Requirements, “Extra Heavy Strength” refers to material that exceeds the specification of “Heavy Duty” for tensile strength as per AS 1079.5-2003.

y. The product must:

(i) for the purpose of identifying batch information post-decanting of product, inner packaging will include batch information;

(ii) clearly identify shelf life of sterile barrier system post manufacturing to pre-use;

(iii) maintain sterility until the point of use. Real time maintenance of package integrity testing should be used to demonstrate the wrap’s ability to maintain integrity through independent data (eg 30 days, 6 months, 1 year);

(iv) be manufactured from low linting papers/polymers and/or non-woven fabric, which are resistant to tears, punctures, strain abrasion and fraying;

(v) be designed to permit the removal of air from the package, allow penetration of the sterilisation agent during the process, and the removal of the sterilising agent and any water vapour at the completion of the process;

(vi) be designed to withstand the conditions of the Sterilisation cycle without any adverse effects on the integrity of the packaging material or the products being sterilised;

(vii) be compliant with relevant ISO and Australian standards;

(viii) have education provided for correct product use including how to maintain sterility and asceptic presentation.

Category 7 - Laminate/Flexible Packaging

z. A range of single-use laminate/flexible sterilisation packaging for steam and low temperature sterilisation processes is required in the central sterile processing area. This includes:

(i) a range of materials:

(ii) cellulose based

(iii) porous non-cellulose based

(iv) flat and gusseted

(v) rolls and pouches

(vi) heat sealing

(vii) a full range of sizes, widths and lengths.

aa. Laminate/flexible packaging must:

(i) have the sterilisation process indicator located on the laminated side of the packaging

(ii) incorporate a directional arrow to indicate direction of peel to open packaging.

(iii) manufactured from low linting materials, which are resistant to tears, punctures, strain abrasion and fraying under normal conditions;

(iv) for the purpose of identifying batch information post-decanting of product, inner packaging will include batch information and lot numbers;

(v) free from holes and have a uniform consistency;

(vi) designed to maintain the sterility of contents throughout the nominated shelf life, unless damaged or opened;

(vii) designed to allow the aseptic non touch technique (ANTT) removal of the contents from the package;

(viii) designed to allow penetration of the sterilisation agent during the process, and the removal of the sterilising agent and any water vapour at the completion of the process;

(ix) designed to withstand the conditions of the sterilisation cycle without any adverse effects on the integrity of the packaging material or the products being sterilised;

(x) inclusive of Type 1 or better chemical sterilisation indicator(s) into the packaging;

(xi) validated by double pouching;

Category 8 - Tray Liners

bb. Tray liners is required in the central sterile processing area. This includes:

(i) Tray Liner, Sterilisable, Paper, Single Use

(ii) Tray Liner, Sterilisable, Non-Woven, Single Use .

cc. The product must:

(i) be absorbent;

(ii) be manufactured from non linting/low linting materials, which are resistant to tears, punctures, strain abrasion and fraying under normal conditions;

(iii) be free from holes and have a uniform consistency;

(iv) be free from chemicals with potential to leach during sterilisation;

(v) be designed to maintain the sterility of contents throughout the nominated shelf life, unless damaged or opened;

(vi) be designed to allow penetration of the sterilisation agent during the process, and the removal of the sterilising agent and any water vapour at the completion of the process;

(vii) be designed to withstand the conditions of the Sterilisation cycle without any adverse effects on the integrity of the material or the products being sterilised.

(viii) include expiry date and clearly identified lot numbers on each box.

(ix) a full range of sizes, widths and lengths

Category 9 - Chemical and Process Indicators

dd. Offers are required for the following type of Chemical and Process Indicators

(i) Chemical Indicators, Sterilisation: Type 1; Process Indicator

(ii) Chemical Indicators, Sterilisation: Type 2; Specific Test Indicator

(iii) Chemical Indicators, Sterilisation: Type 3; Single Parameter Indicator

(iv) Chemical Indicators, Sterilisation: Type 4; Multi-Parameter Indicator

(v) Chemical Indicators, Sterilisation: Type 5; Integrating Indicator

(vi) Chemical Indicators, Sterilisation: Type 6; Emulating Indicator

(vii) Chemical Indicators, Sterilisation: Test Kit E.G. Bowie-Dick Device, Process Challenge Device

(viii) Chemical Indicators, Sterilisation, Indicator Tape For Steam/Low Temperature Sterilisation

(ix) Tape, Sterilisation, Without Indicator For Steam/Low Temperature Sterilisation

(x) Water & Chemical Tests E.G. Ph, Hardness, Iron, Chlorine & Chemical Residue

(xi) Cleaning Process Indicator E.G. Soil Removal Test, Chemical Test

(xii) Cleaning Process Indicator Challenge Device E.G. Cleaning Indicator Holder

(xiii) Atp (Adenosine Triphosphate) Cleaning Indicator Test Kit (Swabs & Measuring Device)

(xiv) Blood & Protein Residue Tests (Swabs & Indicator Vials)

(xv) Steripeel Sealant Tests E.G. Paper, Ink Test

ee. The chemical indicators product must:

(i) exhibit a colour change after exposure to the sterilising agent, that is clear distinct and uniform, and be markedly different to the unprocessed form of the product;

(ii) have indicator properties that remain stable, up to a maximum recommended shelf life;

(iii) clearly identify the type of sterilisation process for which it is suitable;

(iv) offer all accessories.

(v) offer all sizes, styles and types

ff. The indicator tape products must:

(i) be moisture stable and permeable to the sterilising agent;

(ii) not delaminate when drawn from the roll;

(iii) leave no adhesive residue on removal;

(iv) exhibit a colour change in the media following sterilisation that is clear, distinct and uniform and markedly different to the unprocessed tape;

(v) be non-toxic, pressure sensitive and adhere to clean surfaces;

(vi) remain intact during sterilisation;

(vii) full range of sizes, widths and lengths

Category 10 - Biological Indicator Tests

gg. A range of biological indicator tests for steam, and low temperature sterilisation is required in the central sterile processing area. This includes:

(i) self-contained biological indicators

(ii) rapid read-out biological indicators

(iii) biological indicator disposable test packs

(iv) a range of incubators compatible with indicators.

(v) compatible Accessories e.g. record keeping log book, thermometer

hh. Successful Respondents must make the following information readily available for all contract users in electronic and/or hard copy documentation:

(i) identifying the recommended shelf life for the indicator properties to remain stable.

(ii) details of repair, maintenance and validation programs.

(iii) details on the storage and handling requirements specifically required to maintain the efficacy of the biological indicator

ii. The product must:

(i) be designed with a spore strip and media in a vial;

(ii) show a clear colour change in the media following incubation for an indication of failure;

(iii) include a chemical indicator to clearly differentiate between processed and unprocessed vials;

(iv) be compatible with dry incubation systems;

(v) have indicator properties that remain stable, up to a maximum recommended shelf life;

(vi) be labelled (i.e. each vial) with the type of sterilisation process for which it is suitable;

(vii) include information on spore count and expiry on each batch;

(viii) have a batch number on each vial;

(ix) be supplied with user information.

jj. Offer all accessories.

kk. Offer all sizes, styles and types.

Category 11 - Manual Batch Tracking and Processing Accessories

ll. A range of manual batch tracking labels, labelling devices and accessories is required in the central sterile processing area. This includes:

(i) Manual Batch Tracking, Single Adhesive Identification Label With Indicator

(ii) Manual Batch Tracking, Single Adhesive Identification Label Without Indicator

(iii) Manual Batch Tracking, Manual Dual Adhesive Label With Indicator

(iv) Manual Batch Tracking, Manual Dual Adhesive Label Without Indicator

(v) Labelling Guns And Associated Sterilisable Labels/Tapes

(vi) Labelling Gun Accessories E.G. Ink Roller And Ink Pad, Pen Markers

(vii) Pen Marker; Sterilisation

(viii) Pen Marker; Cleaning

(ix) Tray Tags, Sterilisable, Single Use

(x) Tray Tags, Sterilisable, Reusable

(xi) Dust Covers, Heat Sealable, Single Use

(xii) Dust Covers, Self Sealable, Single Use

mm. The labels range tendered must:

(i) retain clarity of label information after the sterilisation process

(ii) incorporate an effective and durable adhesive compatible with sterilisation processes used be moisture stable and permeable to the sterilising agent;

nn. The labelling guns and pens range tendered must:

(i) be designed specifically for use in sterilisation services;

(ii) be non-leaching solvent based black ink;

(iii) be non-toxic and free of heavy metals;

(iv) dry rapidly .

(v) preference will be given to:

- finer felt tipped markers;
- labelling guns with loading instructions included.

(vi) Offer all accessories.

oo. The tray tags range tendered must:

(i) be available in multiple colours and pack sizes;

(ii) be compatible with non-toxic marker pens;

(iii) be available in different dimensions;

(iv) have a method of securing them to trays;

(v) be non-leaching.

(vi) preference will be given to a supplier with a full range.

pp. The dust cover range tendered must:

(i) be manufactured from low density materials of between 50-75 microns, formed into a bag by an unbroken heat seal.

(ii) preference will be given to products including the words “Dust Cover Only” printed on the outside of the bag.

(iii) offer all sizes, styles & types

Category 12 - Chemical and Gas Sterilants, High Level Disinfectants and Test Strips

qq. A range of chemical sterilants and high level disinfectants and test strips is required in the central sterile processing area. This includes:

(i) Glutaraldehyde

(ii) Ortho-phthalaldehyde

(iii) Peracetic Acid

(iv) Hydrogen Peroxide

rr. There is a requirement for a range of presentations / volumes and concentrations

ss. Successful Respondents must make the following information readily available for all contract users in electronic and/or hard copy documentation:

(i) copies of current Material Safety Data Sheets;

(ii) include instructions on recommended method for safe disposal of cartridges; cassettes and waste chemicals;

(iii) all procedures for the storage, handling, decanting and disposal of chemicals in accordance with manufacturer's instructions and regulatory requirements; and

(iv) include documented evidence of compatibility of chemicals with other products.

Category 13 - Filters

tt. A range of filters is required for automatic and manual reprocessing systems, that includes but is not limited to:

(i) peracetic acid sterilisation systems

(ii) ortho-phthalaldehyde systems

(iii) other systems

uu. The product must:

(i) include instructions for use with the relevant sterilisation system;

(ii) include documented evidence of compatibility with the relevant sterilisation system.

(iii) offer all sizes, styles and types

Category 14 - Testing Services and Validation of Reprocessing Equipment

vv. Testing and validation services is required in the central sterile processing area. This includes:

(i) Water Quality Testing to comply with all the requirements of AS/NZS 4187 amdt no.2 clause 7.2.3.1

(ii) Steam Purity Testing to comply with all the requirements of AS/NZS 4187 amdt no.2 clause 7.2.3.2.2

ww. The successful Respondents providing this service will:

(i) have a testing kit that is approved by TGA and is compliant with the standard AS4187 and other referenced standards and must be compatible with the Health Services disinfectors and sterilizers.

(ii) be responsible for performing the required testing and be able to provide a full test analysis that will be compared to the base test results to comply with all the requirements of AS/NZS 4187 amdt no.2 table 8.1 and table 8.2

Appendices to statement of requirements

Appendix 1 - Product List

Category Description	Subcategory	Subcategory Description
1 Cleaning Agents	1.01	Cleaning Agent, Pre-Treatment
	1.02	Cleaning Agent, Enzymatic Cleaner
	1.03	Cleaning Agent, Manual And Automated Cleaning Processor
	1.04	Cleaning Agent, Rinse Aid, Neutraliser, Drying Agent
	1.05	Cleaning Agent, Biofilm Remover
	1.06	Cleaning Agent, Stain Remover
	1.07	Cleaning Agent, De-Scaling Agent
	1.08	Cleaning Agent, Chemical Testing Kit
	1.09	Cleaning Agent, Opening Device E.G. Spanner
	1.1	Cleaning Agent, Replacement Cap
	1.11	Cleaning Agent, Lubricants
	1.12	Cleaning Agent, Measuring And Dispensing Device
	1.13	Cleaning Agent, Supporting Or Retaining Bracket
2 Instrument Cleaning Brushes	2.01	Instrument Cleaning Brush, Flexible, Reusable
	2.02	Instrument Cleaning Brush, Flexible, Single Use
	2.03	Instrument Cleaning Brush, Rigid, Reusable
	2.04	Instrument Cleaning Brush, Rigid, Single Use
	2.05	Instrument Cleaning Brush, Double Ended, To Pass Through Cannulated Instruments, Reusable
	2.06	Instrument Cleaning Brush, Double Ended, To Pass Through Cannulated Instruments, Single Use
	2.07	Instrument Cleaning Brush, Flexible With Protected Tip, For Anaesthetic Equipment, Reusable
	2.08	Instrument Cleaning Brush, Flexible With Protected Tip, For Anaesthetic Equipment, Single Use
	2.09	Instrument Cleaning Brush, Flexible, For Flexible Endoscopes, Reusable
	2.1	Instrument Cleaning Brush, Flexible, For Flexible Endoscopes, Single Use
3 Instrument Protectors	3.01	Instrument Protector, Sterilisable, Single Use Paper/Laminate
	3.02	Instrument Protector, Sterilisable, Single Use, Plastic, Vented
	3.03	Instrument Protector, Reusable, Silicone, Vented
4 High And Low Temperature Sterilisable Containers Or Trays	4.01	Sterilisable Equipment, Perforated, Plastic Tray
	4.02	Sterilisable Equipment, Perforated, Metal Trays With Or Without Lids

	4.03	Sterilisable Equipment, Perforated, Metal Basket
	4.04	Sterilisable Equipment, Rigid Container
5 High And Low Temperature Sterilisable Accessories	5.01	Sterilisable Equipment, Tray Insert: Silicone Bars And Holders: Reusable
	5.02	Sterilisable Equipment, Tray Insert: Silicone Liner Or Mat: Reusable
	5.03	Sterilisable Equipment, Plastic Kidney Dish
	5.04	Sterilisable Equipment, Plastic Gallipot
	5.05	Sterilisable Equipment, Plastic Bowl
	5.06	Sterilisable Equipment, Rigid Container Consumable, Single Use Filter
	5.07	Sterilisable Equipment, Rigid Container Consumable, Reusable Filter
	5.08	Sterilisable Equipment, Rigid Container Consumables, Tamper Evident Lock
	5.09	Sterilisable Equipment, Rigid Container Consumables, Arrow
	5.1	Sterilisable Equipment, Rigid Container Consumables, Indicator Tabs
6 Single Use Sterilisation Wraps	6.01	Single Use Sterilisation Wrap, Cellulose Based, Lint Free, Single Layer
	6.02	Single Use Sterilisation Wrap, Polypropylene, Lint Free, Single Layer
	6.03	Single Use Sterilisation Wrap, Combination, Lint Free, Single Layer
	6.04	Single Use Sterilisation Wrap, Cellulose Based, Lint Free, Multi Layer
	6.05	Single Use Sterilisation Wrap, Polypropylene, Lint Free, Multi-Layer
	6.06	Single Use Sterilisation Wrap, Combination,Lint Free, Multi Layer
7 Laminate/Flexible Packaging	7.01	Laminate/Flexible Packaging, Cellulose Based, Flat, Roll
	7.02	Laminate/Flexible Packaging, Cellulose Based, Flat, Pouch
	7.03	Laminate/Flexible Packaging, Cellulose Based, Gusseted, Roll
	7.04	Laminate/Flexible Packaging, Cellulose Based, Gusseted, Pouch
	7.05	Laminate/Flexible Packaging, Porous Non-Cellulose Based, Flat, Roll
	7.06	Laminate/Flexible Packaging, Porous Non-Cellulose Based, Flat, Pouch
	7.07	Laminate/Flexible Packaging, Porous Non-Cellulose Based, Gusseted, Roll
	7.08	Laminate/Flexible Packaging, Porous Non-Cellulose Based, Gusseted, Pouch
8 Tray Liners	8.01	Tray Liner, Sterilisable, Paper, Single Use
	8.02	Tray Liner, Sterilisable, Non-Woven, Single Use
9 Chemical And Process Indicators	9.01	Chemical Indicators, Sterilisation: Type 1; Process Indicator

	9.02	Chemical Indicators, Sterilisation: Type 2; Specific Test Indicator
	9.03	Chemical Indicators, Sterilisation: Type 3; Single Parameter Indicator
	9.04	Chemical Indicators, Sterilisation: Type 4; Multi-Parameter Indicator
	9.05	Chemical Indicators, Sterilisation: Type 5; Integrating Indicator
	9.06	Chemical Indicators, Sterilisation: Type 6; Emulating Indicator
	9.07	Chemical Indicators, Sterilisation: Test Kit E.G. Bowie-Dick Device, Process Challenge Device
	9.08	Chemical Indicators, Sterilisation, Indicator Tape For Steam/Low Temperature Sterilisation
	9.09	Tape, Sterilisation, Without Indicator For Steam/Low Temperature Sterilisation
	9.1	Water & Chemical Tests E.G. Ph, Hardness, Iron, Chlorine & Chemical Residue
	9.11	Cleaning Process Indicator E.G. Soil Removal Test, Chemical Test
	9.12	Cleaning Process Indicator Challenge Device E.G. Cleaning Indicator Holder
	9.13	Atp (Adenosine Triphosphate) Cleaning Indicator Test Kit (Swabs & Measuring Device)
	9.14	Blood & Protein Residue Tests (Swabs & Indicator Vials)
	9.15	Steripeel Sealant Tests E.G. Paper, Ink Test
10 Biological Indicator Tests	10.01	Biological Indicator Test, For Steam
	10.02	Biological Indicator Test, For Low Temperature Hydrogen Peroxide / Plasma Sterilisation/Peracetic Acid / Ethylene Oxide /Formaldehyde
	10.03	Incubators Compatible With Biological Indicators
	10.04	Compatible Accessories E.G. Record Keeping Log Book, Thermometer
11 Manual Batch Tracking And Processing Accessories	11.01	Manual Batch Tracking, Single Adhesive Identification Label With Indicator
	11.02	Manual Batch Tracking, Single Adhesive Identification Label Without Indicator
	11.03	Manual Batch Tracking, Manual Dual Adhesive Label With Indicator
	11.04	Manual Batch Tracking, Manual Dual Adhesive Label Without Indicator
	11.05	Labelling Guns And Associated Sterilisable Labels/Tapes
	11.06	Labelling Gun Accessories E.G. Ink Roller And Ink Pad, Pen Markers
	11.07	Pen Marker; Sterilisation
	11.08	Pen Marker; Cleaning
	11.09	Tray Tags, Sterilisable, Single Use
	11.1	Tray Tags, Sterilisable, Reusable
	11.11	Dust Covers, Heat Sealable, Single Use

	11.12	Dust Covers, Self Sealable, Single Use
12 Chemical And Gas Sterilants, High Level Disinfectants And Test Strips	12.01	Chemical Disinfecting Agent: Glutaraldehyde
	12.02	Process Indicator/Test Strips: Glutaraldehyde
	12.03	Chemical Disinfecting Agent: Ortho-Phthalaldehyde
	12.04	Process Indicator/Test Strips: Ortho-Phthalaldehyde
	12.05	Chemical Disinfecting Agent: Peracetic Acid
	12.06	Process Indicator/Test Strips: Peracetic Acid
	12.07	Chemical Disinfecting/Sterilising Agent: Hydrogen Peroxide
	12.08	Chemical & Process Indicator: Hydrogen Peroxide
13 Filters	13.01	Filter For Peracetic Acid High Level Disinfection Sterilisation Systems
	13.02	Filter For Ortho-Phthalaldehyde Systems
	13.03	Filter For Other Systems In Use
14 Testing Services And Validation Of Reprocessing Equipment	14.01	Water Quality Testing Service (Conduct On-Site Sample, Delivery To Laboratory)
	14.02	Water Quality Purity Testing (Testing For Wide Range Of Impurities To Be Conducted By Nata Accredited Laboratory In Accordance With The Requirements Of As4187)

Appendix 2 - Compliance Requirements

Australian Standards, Orders, Legislation and Regulations

a. It is the responsibility of the Respondent to ensure that all products offered comply with the Compliance Requirements listed below. This is not an exhaustive list, Respondents must ensure they comply with any other Compliance Requirements that are not listed below, this includes primary and subordinate instruments of the State and Commonwealth, and any relevant amendments, revisions or consolidations.

Standard Number	Standard Name
Category 1 Cleaning Agents	
AS/NZS 4187, clause 3.2	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities
Category 2 Instrument Cleaning Brushes	
AS/NZS 4187 clause 6.3.4	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities
Category 3 Instrument Protectors	
ISO 11607- 1:2013	Part 1: Amd 1:2014 Requirements for materials, sterile barrier systems and packaging systems
AS 1079.5	Packaging of items (sterile) for patient care Part 5: Non-re-usable, non-woven wrapping materials – For goods undergoing sterilization in health care facilities
AS/NZS 4187	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities
Category 4 High and Low Temperature Sterilisable Containers or Trays	
ISO/TS16775:2014	Education provided (including cleaning instructions and maintenance schedule) as per ISO/TS16775:2014
Category 5 High And Low Temperature Sterilisable Accessories	
AS/NZS 4187	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities
Category 6 Single Use Sterilisation Wraps	
AS 1079.1	Packaging of items (sterile) for patient care Part 1: Selection of packaging materials for goods undergoing sterilization

AS 1079.5	Packaging of items (sterile) for patient care Part 5: Non-re-usable, non-woven wrapping materials – For goods undergoing sterilization in health care facilities
AS/NZS 4187	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities
AS 1409-5	For the purposes of this Statement of Requirements, "Extra Heavy Strength" refers to material which exceeds the specification of "Heavy Duty" for tensile strength as per AS1409-5-1994
ISO 11607- 1:2013	Part 1: Amd 1:2014 Requirements for materials, sterile barrier systems and packaging systems
AS 3789	Textiles for healthcare facilities and institutions
Category 7 Laminate/Flexible Packaging	
AS1079.1	Packaging of items (sterile) for patient care Part 1: Selection of packaging materials for goods undergoing sterilization
AS1079.4	Packaging of items (sterile) for patient care Part 4: Flexible Packaging Systems – for single use in hospitals
AS/NZS 4187	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities
ISO 11607-1	Packaging for terminally sterilized medical devices Part 1: Requirements for materials, sterile barrier systems and packaging systems
ISO 11607-2	Packaging for terminally sterilized medical devices Part 2: Validation requirements for forming, sealing and assembly processes
Category 8 Tray Liners	
AS1079.1	Packaging of items (sterile) for patient care Part 1: Selection of packaging materials for goods undergoing sterilization
AS/NZS 4187	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities
AS 3789	Textiles for healthcare facilities and institutions
Category 9 Chemical And Process Indicators	

ISO11140-1	Sterilization of health care products – Chemical indicators Part 1: General Requirements (including all amendments)
ISO11140.2	Sterilization of health care products – Chemical Indicators Part 2: test equipment and methods
ISO11140-3	Sterilization of health care products – Chemical indicators Part 3: Class 2 indicators for steam penetration test sheets
ISO11140-4	Sterilization of health care products – Chemical Indicators Part 4: Class 2 indicators for steam penetration test packs
ISO11140-5	Sterilization of health care products – Chemical Indicators Part 5: Class 2 indicators for air removal test sheets and packs
ISO11138	Sterilization of health care products – Biological indicators (series)
ISO14937	Sterilization of health care products – General requirements for characterizations of a sterilizing agent and the development, validation and routine control of a sterilization process for medical devices
BS EN867-1	Non-Biological systems for use in sterilizers. General Requirements
BS/EN867-3	Non-Biological systems for use in sterilizers. Specification for Class B indicators for use in the Bowie and Dick test
BS/EN867-4	Non-Biological systems for use in sterilizers. Specification for indicators as an alternative to the Bowie and Dick test for the detection of steam penetration
AS/NZS 4187	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities
AS1410	Sterilizers – Steam – Pre-Vacuum
AS ISO IEC 17025	
Category 10 Biological Indicator Tests	
ISO11138-1	Sterilization of health care products - Biological indicators Part 1: General
ISO11138-2	Sterilization of health care products - Biological indicators Part 2: Biological indicators for ethylene oxide sterilization
ISO11138-3	Sterilization of health care products - Biological indicators Part 3: Biological indicators for moist heat sterilization

AS/NZS 3100	Approval and test specification – General requirements for electrical equipment.
AS/NZS 4187	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities
Category 11 Manual Batch Tracking and Processing Accessories	
AS/NZS 4187	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities.
ISO11140-1	Where a Class 1 Process Indicator is present, Sterilization of health care products – Chemical indicators Part 1: General Requirements (including all amendments)
Category 12 Chemical and Gas Sterilants, High Level Disinfectants and Test Strips	
ISO/TS 15883-5:2005:	Part 5: Test soils and methods for demonstrating cleaning efficacy (Items d and f only);
Category 13 Filters	
AS/4260 ISO 9001	HEPA Filters Water Filters
Category 14 Testing Services and Validation Of Reprocessing Equipment	
AS/NZS 4187 amdt 2 clause 7.2.3.1 , clause 7.2.3.2.2 and table 8.1 and table 8.2	Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities

Legislation

a. The references to the below legislation include any amendments, revisions or consolidations to those references.

(i) Therapeutic Goods (Medical Devices) Regulations 2002

(ii) Therapeutic Goods Act 1989

(iii) Uniform Recall Procedure for Therapeutic Goods (URPTG) (V2.1, February 2019)

Guidelines and Other References

b. The references to the below guidelines include any amendments, revisions or consolidations to those guidelines.

(i) NHMRC (2019), Australian Guidelines for the Prevention and Control of Infection in Healthcare, Commonwealth of Australia

(ii) Uniform Recall Procedure for Therapeutic Goods (URPTG) (V2.1, February 2019). Therapeutic Goods Administration (2011), Australian Regulatory Guidelines for Medical Devices

Part 5 Draft Deed of Standing Offer Agreement

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Standing Offer Agreement for the Supply of Goods and Services

HPVC2020-010

Sterilisation Consumables a
Services

Health Purchasing Victoria

and

<insert Contractor Name>

HEALTH PURCHASING VICTORIA

Health Purchasing Victoria
ABN 28 087 208 309
Level 34, 2 Lonsdale Street
Melbourne Victoria 3000
Telephone: +61 3 9947 3700
Facsimile: +64 3 9947 3701

Website: www.hpv.org.au

Version release: May 2019

Background

a. The Organisation is establishing a panel of suppliers (of which the Contractor will become a member upon execution of this Deed) subject to a Standing Offer Agreement.

b. The Organisation wishes to engage the Contractor to supply the Goods and related services on and subject to the terms of this Agreement on behalf of the Participating Health Services and in its own right.

c. The Organisation hereby engages the Contractor and the parties mutually acknowledge that it is their common intention to work together throughout the Term to continuously seek improvements in value, efficiency and productivity in connection with the supply of Goods under this Agreement to the mutual benefit of both parties.

Agreed terms

1. Definitions and Interpretation

1.1 Definitions

1.1.1 In this Agreement, the following terms will have the following definitions, unless the context otherwise requires:

1.1.2

TERM	DEFINITION
Agreement	means this agreement executed by way of a deed and includes the schedules and any annexures to it or documents incorporated by reference.
Approved Subcontractors	mean the subcontractors approved by the Organisation and set out in Item 19 of the Supply Schedule.
Supply Schedule	means the document which sets out the details of this Agreement and which is under Schedule 1.
Authorised Representative	means, in respect of the Organisation or a Participating Health Service, any person who holds themself out as having authority to bind that entity. The Organisation's Authorised Representative at the Commencement Date is the person named in Item 3 of the Supply Schedule.
Business Day	means a day which is not a Saturday, Sunday or public holiday (being a public holiday appointed as such under the Public Holidays Act 1993 (Vic)) in Melbourne.
Code of Practice	means a code of practice as defined in, and approved under, the *Privacy and Data Protection Act 2014* (Vic).

TERM	DEFINITION
Commencement Date	means the date set out in Item 5 of the Supply Schedule.
Conditionally Accepted Goods	mean items that HPV has assessed under clause 3.10.
Confidential Information	means any technical, scientific, commercial, financial or other information of, about or in any way related to the party, including any information designated by the party as confidential, which is disclosed, made available, communicated or delivered to the other party in connection with this Agreement, but excludes information: a) which is in or which subsequently enters the public domain other than as a result of a breach of this Agreement; b) which the other party can demonstrate was in its possession prior to the date of this Agreement; c) which the other party can demonstrate was independently developed by the Contractor; d) which is lawfully obtained by the other party from another person entitled to disclose such information; or e) which is disclosed pursuant to legal requirement or order or pursuant to this Agreement.
Consequential Losses	mean: a) any loss of profits, business reputation, access to markets or denial of business opportunity; b) any loss of or damage to goodwill; or c) damage to credit rating or payment of liquidated sums or damages under any other agreement. For the avoidance of doubt, Consequential Losses do not include loss of revenue, loss of income or loss of funding.
Consignment Stock	means those Goods maintained by the Contractor at the Participating Health Services' premises, as agreed by the parties from time to time.
Consumables	mean the consumables described in the Specifications or in the Purchase Order Contract.
Contract Manager	means the person nominated by the Organisation pursuant to clause 13.1.1(a) for the time being.
Control	means, in relation to the Contractor, the ability of any person directly or indirectly to exercise effective control over the Contractor (including the ability to determine the outcome of decisions about the financial operating and other policies of the Contractor) by virtue of the holding of voting shares, units or other interest in the Contractor by any other means.
Defective Goods Notice	means a notice from the Organisation to the Contractor that the Goods, either before or after acceptance: a) are found to contain defects or imperfections;

TERM	DEFINITION
	b) do not comply with the Specifications; or c) fail to meet statutory requirements at any time prior to the expiry of the respective warranty period which applies to those Goods.
Delivery Point	means the location or address to which the Goods are to be delivered, as specified in the relevant Purchase Order (or such other location or address as may be agreed in writing).
Distributor	Means any third-party courier, freight or logistics provider engaged by the Contractor to undertake the distribution and delivery of the Goods for and on behalf of the Contractor, except wholesalers.
Emergency Event	means a pandemic epidemic or other medical emergency as set out in clause 3.8.
Expiry Date	means the date set out in Item 6 of the Supply Schedule.
Force majeure	means: (a) a labour dispute not solely involving the Contractor's Personnel; (b) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), terrorism, civil war, rebellion, revolution, insurrection or militarily usurped power, martial law or confiscation by order of any government or governmental, semi-governmental or judicial entity or authority; (c) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel not caused by the Contractor or the Contractor's Personnel; or (d) a flood event, an earthquake, a lightning strike causing personal injury or death or property loss or damage, a cyclone, a storm, a tornado, a bushfire, or an explosion not caused by or contributed to by the Contractor, the cause and consequences of which are beyond the control of Contractor.
Further Term	Means the period identified in Item 7 of the Supply Schedule.
Goods	means the goods and may include associated training, education and case support (or any of them) specified in Item 2 of the Supply Schedule and Schedule 3 (as amended from time to time in accordance with clause 3.2) and, in relation to a Purchase Order Contract, means the goods specified and quantified in the relevant Purchase Order.
HPV Purchasing Policy	means a purchasing policy issued by HPV pursuant to Division 3 of Part 6 of the *Health Services Act 1988* (Vic).
Information Privacy Principles	means the information privacy principles set out in the *Privacy and Data Protection Act 2014* (Vic).

TERM	DEFINITION
Initial Term	Means the period identified in item 7 of the Supply Schedule.
Intellectual Property Rights	includes all present and future copyright and neighbouring rights, all proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.
Invitation to Supply	means the invitation to supply documents published by the Organisation for the market place to submit offers to provide the Goods pursuant to this Agreement and which is described in Item 1 of the Supply Schedule.
Laws	means: a) the law in force in Australia and Victoria, including common law, legislation and subordinate legislation; and b) ordinances, regulations, orders and by-laws of relevant government, semi-government or local authorities.
Loan Sets	means supporting equipment, instruments and tools temporarily provided by the Contractor to assist the Ordering Participating Health Service in using the Goods.
NPC	means the National Product Catalogue.
Offer	Means the documentation and any supporting materials lodged by the Contractor in response to the Invitation to Supply containing an offer to provide Goods in the form finally accepted by the Organisation, as described in Item 11 of the Supply Schedule.
Ordering Participating Health Service	Means the Participating Health Service which orders Goods pursuant to a Purchase Order Contract.
Organisation	means the entity entering into this Agreement as defined in Item 3 of the Supply Schedule.
Participating Health Service	means any one of the Health Services or other entities listed in Item 8 of the Supply Schedule and any other entity added to that list pursuant to clause 1.4.
Personnel	means employees, agents, officers, contractors or subcontractors including representatives.
Protective Data Security Standard	means any standard issued under Part 4 of the *Privacy and Data Protection Act 2014* (Vic).
Purchase Order	means an order for Goods, submitted by an Authorised Representative to the Contractor in accordance with clause 6.1.
Purchase Order Contract	means the contract which arises between the Ordering Participating Health Service and the Contractor when an Authorised Representative delivers a Purchase Order, which is then accepted by the Contractor.

TERM	DEFINITION
Purchase Price	means the sum ascertained by multiplying the Unit Price for the applicable Goods by the number of units delivered under a Purchase Order Contract.
Rates	means the rates (whether charged on an hourly, daily, weekly or other time-related basis) payable to the Contractor for the provision of specified Services under a Purchase Order Contract, determined in accordance with the Price Schedule.
Related Body Corporate	has the meaning given to it by the *Corporations Act 2001* (Cth).
Relationship Manager	means the person named in Item 4 of the Supply Schedule or otherwise nominated by the Contractor pursuant to clause 13.1.1(b) for the time being.
Responsibility Chart	has the meaning given to that term in clause 13.2.
Scientific Research	means Participating Health Service activities that are subject to the Australian Code of Responsible Conduct of Research (2018), as amended from time to time.
Services	means the Services (or any of them) specified in Item 2 of Schedule 1 and, in relation to a Purchase Order Contract, means the Services specified and quantified in the relevant Purchase Order.
Service Level Agreement	means the service levels the Contractor must comply with in performing its obligations under a Purchase Order Contract, as agreed to by the Contractor and each Participating Health Service and as amended from time to time.
Specifications	means the specifications to which the Goods must comply, including any relevant performance requirements, technical constraints and quality standards, as set out in Schedule 2.
State	means the Crown in right of the State of Victoria.
Supply Schedule	means the schedule set out under Schedule 1.
Tax Invoice	has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
Term	means the period commencing from the Commencement Date and ending on the date the Agreement is terminated or expires.
Time for Delivery	means the date and time specified in the relevant Purchase Order (or such other date or time as may be agreed in writing) by or on which delivery of the Goods must be effected by the Contractor.

1.2 Interpretation

1.2.1 Unless expressed to the contrary, in this Agreement:

(a) words in the singular include the plural and vice versa;

(b) any gender includes the other genders;

(c) if a word or phrase is defined its other grammatical forms have corresponding meanings;

(d) 'includes' means includes without limitation;

(e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;

(f) a reference to:

(i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;

(ii) a person includes the person's legal personal representatives, successors, assignees and persons substituted by novation;

(iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;

(iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;

(v) amounts are to be expressed in Australian dollars ('$', 'dollars' or 'AUD')

(vi) a party or parties is a reference to the Organisation and the Contractor (as the case requires); and

(vii) if the date on or by which any act must be done under this Agreement is not a Business Day, the act must be done on or by the next Business Day.

1.3 Headings

1.3.1 Headings do not affect the interpretation of this Agreement.

1.4 Access

1.4.1 The Organisation may grant access to the Agreement to other 'health or related service' (as that phrase is defined in the Health Services Act 1988 (Vic)) (in addition to those named in Item 8 of the Supply Schedule). Such access shall be granted by the Organisation notifying the Contractor that the relevant entity has become a party to this Agreement. In those circumstances, this Agreement shall be deemed to be amended from the date when such access is granted.

1.4.2 Pursuant to a HPV Purchasing Policy, at any time during the term of this Agreement, the Organisation may exempt one or more Participating Health Services from the requirement to obtain the Goods from the Contractor pursuant to this Agreement.

2. Term

2.1 Term

2.1.1 This Agreement commences on the Commencement Date and continues until expiry of the Initial Term on the Expiry Date, unless terminated earlier in accordance with this Agreement or extended under clause 2.2,.

2.2 Extension of term

2.2.1 The Organisation and the Contractor may agree in writing to extend the Agreement for the Further Term, for one or more further periods or part thereof, as set out in Item 7 of the Supply Schedule, no later than one month prior to expiry of the then current Term.

2.2.2 The Organisation may elect, by notice in writing to the Contractor not later than one month prior to the expiry of the then current Term, to extend the Term of this Agreement for a transition period not longer than the period set out in Item 7A of the Supply Schedule. For the avoidance of doubt, the terms and conditions (including the obligations and rights relating to price) of this Agreement continue during the transition period.

2.2.3 Any such Further Term or terms will be on the same terms and conditions as this Agreement or as agreed between the parties (excluding, in respect of the final further period, this clause 2.2).

2.2.4 Notwithstanding clause 2.2.1, the Contractor and the Organisation may agree to vary the Initial Term or Further Term of this Agreement.

3. Provision of Goods and Services

3.1 Standing Offer to Provide Goods and Services

3.1.1 The Contractor hereby makes a standing offer to provide the Goods and Services to the Participating Health Services during the Term, on and subject to the terms of this Agreement.

3.1.2 The Goods and Services supplied under this Agreement must comply in all respects with the Statement of Requirements (as set out in Schedule 2).

3.1.3 In relation to the Goods, the Contractor warrants that, as at the Commencement Date, the Contractor has sufficient inventory of the Goods to meet anticipated supply.

3.2 New Products

3.2.1 If, during the Term, a Participating Health Service advises the Organisation of a requirement to order from the Contractor any item that is not at that time one of the Goods (New Product), the Organisation will investigate the request on its merits. Any such application may be rejected by the Organisation at its discretion. Should the Organisation wish to consider adding the New Product to this agreement, the Organisation will notify the Contractor of that fact in writing.

3.2.2 Within ten Business Days of receiving a notification under clause 3.2.1, the Contractor must provide to the Organisation a quote detailing the price at which the Contractor is prepared to supply the New Product to the Organisation and the Participating Health Services, together

with any other conditions applicable to such supply and all information requested by the Organisation, including the following:

(a) confirmation that the New Product complies with the functional requirements of the Specification;

(b) full details of the New Product as required during the Invitation to Supply; and

(c) confirmation that the product and price data for accepted products including, both item data and contract price, has been published, where applicable, to the Victorian Health data recipient Global Location Number (GLN) (9377779142295), referencing the price location 'Whole of State' GLN (9339626009991) in the appropriate ship-to field for direct supply.

3.2.3 The Contractor undertakes that in determining the Unit Price for any New Product, it will have regard to the obligations contained in clause 15 and, to the extent that it is reasonably possible to do so, will calculate the Unit Price for any New Product on the same basis as that on which the Unit Price of the Goods was calculated.

3.2.4 The Organisation and the Contractor must negotiate in good faith with a view to reaching agreement as to the terms on which the requested New Product will be supplied by the Contractor under this Agreement.

3.2.5 If the parties reach agreement pursuant to clause 3.2.1, the Organisation will provide to the Contractor an updated version of Schedule 3 containing a list of all Goods and their respective Unit Prices and the New Product will be deemed to form part of the Goods for the purposes of this Agreement.

3.2.6 If the parties are unable to reach agreement pursuant to clause 3.2.3 within a timeframe reasonably acceptable to the Organisation, the New Product will not form part of the Goods for the purposes of this Agreement.

3.2A **Contractor to provide equipment**

The Contractor must provide any and all equipment (including computer hardware and software and any ancillary support) necessary for the performance of the Services.

3.3 Inability to supply Goods or Services

3.3.1 The Contractor must notify any affected Participating Health Service and the Organisation as soon as practicable of any significant potential stock issues due to local or global dynamics and Emergency Events.

3.3.2 The Contractor must carry out effective and systematic stock management measures, including, but not limited to the following:

(a) utilise supply chain management tools;

(b) conduct regular discussions or correspondence with the Participating Health Service regarding usage or demand;

(c) manage specific lead times for customised Goods;

(d) conduct detailed forecasting with the Participating Health Service based on data analysis of usage patterns;

(e) maintain buffer stock, where possible;

(f) offer supply arrangements to the Participating Health Service, such as standing orders or reserved stock; and

(g) any other relevant supply management strategies.

3.3.3 HPV may request, with 5 Business Days' notice, from the Contractor evidence of stock management measures and reporting undertaken by the Contractor pursuant to clause 3.3.2.

3.3.4 If at any time during the Term the Contractor is unable or is likely to become unable, for whatever reason, to supply a particular Good or Service, irrespective of the reason for that inability to supply, the Contractor must:

(a) immediately notify the Organisation and Participating Health Services of that fact (including the cause of the unavailability, and the expected duration of the unavailability);

(b) promptly provide to the Participating Health Services for its consideration, a substitute for the relevant item, if a substitute is available; and

(c) where required, provide an action plan to remedy the supply disruption.

3.3.5 If clause 3.3.4(b) applies, any substitute or replacement item will be supplied at the same cost (or lower) as the item that it has replaced, unless otherwise agreed in writing by the Participating Health Services.

3.3.6 If clause 3.3.4 applies, in its absolute discretion:

(a) the Organisation may terminate the Agreement with respect to the particular relevant Good or Service;

(b) the Organisation may add any other product tendered in the same category/subcategory, as the Good or Service to the Agreement;

(c) the Participating Health may terminate (without any compensation to the Contractor) all outstanding Order Contracts;

(d) the Participating Health Service may source an alternative product to the Good or Service from other suppliers; or

(e) the Organisation reserves the right to add additional suppliers to the panel to mitigate the risk of non-supply.

3.3.7 Where a Participating Health Service decides to source an alternative product in accordance with clause 3.3.6(d), the Contractor is liable for the Organisation's or Participating Health Service's reasonable expenses in obtaining an alternative product (including the difference in the cost of the alternative products when compared to the Goods, shipping costs, plus a 10% administration fee of the Purchase Order value), provided that:

(a) the Organisation and Participating Health Service take all reasonable steps to mitigate any loss arising from clause 3.3.6(d); and

(b) the Organisation and Participating Health Service provide the Contractor with reasonable substantiating evidence of expenses incurred, if requested by the Contractor.

3.3.8 For the purposes of this clause 3.3, an inability to supply shall not arise (and this clause 3.3 shall not apply) as a consequence of:

(a) a Force Majeure; or

(b) an act or omission of the Organisation or a Participating Health Service.

3.4 No guarantee of volume

3.4.1 Nothing in this Agreement should be construed as granting the Contractor an exclusive right to provide the Goods and/or Services to the Organisation or a Participating Health Service.

3.4.2 The Organisation provides no guarantee that the Organisation or the Participating Health Services (together or individually) will order any particular volume of Goods and/or Services from the Contractor.

3.4.3 The Contractor acknowledges and agrees that a Participating Health Service may seek supply of non-contracted goods outside of the panel of suppliers that are:

(a) within the scope of the Specifications; and

(b) necessary to its Scientific Research.

3.5 Distributors

3.5.1 The Contractor is responsible for the delivery of the Goods and Services under this Agreement. Where the Contractor has nominated one or more Distributors in item 21 of the Supply Schedule, the Contractor remains totally accountable and fully responsible for delivery, including:

(a) the continued availability of the Goods via each distributor within the contracted and agreed timeframes;

(b) the accuracy of pricing, including any modification or amendment as approved by the Organisation during the term of this Agreement; and

(c) the provision of the reports required to be supplied pursuant to this Agreement; and

(d) ensuring that all services performed by the Distributor are carried out in accordance with the terms and conditions of the Agreement.

3.6 Variation to the Goods

3.6.1 The Contractor must notify the Organisation in writing as soon as practicable of any variation to the Goods, including, but not limited to

(a) a modification to the Goods;

(b) a modification to the description;

(c) a change in unit of measure;

(d) a change to the packaging;

(e) a change to Australian Register of Therapeutic Goods (ARTG) registration (where applicable); or

(f) a change to the Pharmaceutical Benefits Scheme (PBS) / Repatriation Pharmaceutical Benefits Scheme (RPBS) status (where applicable).

3.6.2 Except where a variation or modification is required by any Law, the Contractor must apply to seek approval from the Organisation to vary or modify the Goods, or to substitute a range of Goods. Any such application must:

(a) be made as soon as possible, and preferably at least 3 months prior to the variation or modification taking effect;

(b) confirm that the modified or varied Goods comply with the Specifications;

(c) include a request (if applicable) from the Participating Health Services;

(d) include clinical acceptance;

(e) include reference sites;

(f) show how and why any modification will be beneficial to the Participating Health Services; and

(g) provide all the details required by the Invitation to Supply.

3.6.3 The Organisation may grant or refuse the application made pursuant to this clause, in whole or in part, in its absolute discretion by giving the Contractor written notice. The Organisation may also:

(a) suspend this Agreement and purchase from another source without infringement of the Agreement whilst the application is being considered; or

(b) terminate this Agreement with respect to the Goods and/or:

(c) add any other product tendered in the same category/subcategory, to the Agreement; or

(d) source an alternative from other suppliers.

3.6.4 In the event the manufacture or supply of one of the Goods is discontinued, the Contractor must notify the Organisation (and provide evidence reasonably acceptable to the Organisation) as soon as possible, but no less than six (6) months before the last date of manufacture. The Contractor must provide the Organisation and any affected Participating Health Service with a transition plan identifying planned actions in the process of discontinuation, including but not limited to:

(a) a communication strategy to notify Participating Health Services;

(b) a summary of available substitute products in the Australian market; and

(c) timeframes for availability of remaining stock.

3.7 New to market technology (market dynamics)

3.7.1 The Organisation would like to ensure that Participating Health Services have access to new technology introduced during the Term.

3.7.2 At all times, the Contractor must inform the Organisation of the latest available technology or the most recent model or version of the relevant Goods that becomes available, based on reasonably available information to the Contractor.

3.7.3 The Organisation will consider applications from the Contractor for the supply of new-to-market technology that meets the functional requirements of the Specifications at any time during the Term.

3.7.4 On receipt of any such application the Organisation may:

(a) call for competitive quotes for product that meets the functional requirements of the Specifications;

(b) accept any offer from the Contractor that meets the functional requirements of the

(c) Specifications and add the new product to this Agreement;

(d) substitute the Contractor's existing product for the new product; and

(e) initiate a sourcing activity.

3.7.5 Acceptance of any such application will be at the Organisation's discretion.

3.8 Emergencies

3.8.1 The Contractor acknowledges that the volume of Goods required to be supplied pursuant to this Agreement may substantially increase in the event of any Emergency Event.

3.8.2 The Contractor, must, if directed by the Organisation or by an Ordering Participating Health Service in response to an Emergency Event, take such positive steps to re-sequence or accelerate the supply of Goods as required by the Organisation or by the Ordering Participating Health Service.

3.8.3 If the Organisation or an Ordering Participating Health Service issues a direction under clause 3.8.2:

(a) the Contractor will be entitled to be paid by the Ordering Participating Health Service the extra costs reasonably incurred by it and directly attributable to complying with the direction; and

(b) the Contractor will not be entitled to make any claim against the Organisation or the Ordering Participating Health Service, arising out of, or in any way in connection with the Emergency Event and the direction under clause 3.8.2, other than for the amount which is payable by the Ordering Participating Health Service under clauses 3.8.3(a) and clause 8.

3.9 Loan Sets

3.9.1 The Contractor may, upon prior written agreement, provide Loan Sets (or free on loan items) to the Ordering Participating Health Service at no cost, or as otherwise set out in the Purchase Order Contract.

3.9.2 Loan Sets provided must be fit for their intended purpose and free from any defects.

3.9.3 Without limitation, the Contractor shall be responsible for any expenses for the following:

(a) delivery and removal;

(b) loss or damage; and

(c) replacement of any worn or damaged items,

except where, on the balance of probabilities, such expenses are incurred due to the negligence, abuse, breach or wilful default by the Participating Health Service or any of its Personnel.

3.9.4 Where applicable, the Contractor shall ensure that all Loan Sets:

(a) are clearly identified and the contents labelled on the outers of the container;

(b) have comprehensive tray check lists;

(c) are clean and fully functional instrument sets and transport containers;

(d) are subject to periodic equipment maintenance schedules; and

(e) contain instructions for use and manufacturer's recommendations for cleaning and sterilisation.

3.9.5 The Participating Health Service shall take reasonable care of the Loan Sets supplied under this Agreement.

3.10 Conditional acceptance

3.10.1 Conditionally Accepted Goods are goods that the Organisation has conditionally accepted because they were either:

(a) goods offered by the Contractor but are designated as "not known and accepted" by the Organisation; and/or

(b) goods offered by the Contractor but have incomplete product information.

3.10.2 The Contractor agrees that pricing is fixed for Conditionally Accepted Goods, as set out under Schedule 3, and can only be varied in accordance with clause 4.

3.10.3 The Contractor must not sell Conditionally Accepted Goods under this Agreement.

3.10.4 Within 12 months from the Commencement Date, the Contractor must notify and provide supporting evidence to the Organisation, that:

(a) items listed as Conditionally Accepted Goods have been accepted through a Product Evaluation Committee by a public health service or public hospital in the State of Victoria;

(b) a public health service or public hospital has requested that the product undergo acceptance evaluation; or

(c) it has provided all necessary product information, as required by the Organisation.

3.10.5 Following the process set out in clause 3.10.4, the Organisation will notify the Contractor in writing of its determination if, in its sole discretion, it has determined that the items are to be designated as the Goods under this Agreement.

3.10.6 The Organisation may permanently remove items designated as Conditionally Accepted Goods under this Agreement after 12 months from the Commencement Date without further notice to the Contractor.

3.11 Stock management

Applicable

The following clause 3.12 applies to a Purchase Order Contract, if specified as applicable in a Purchase Order, or if it is reasonably necessary to give effect to a Purchase Order.

3.12 Consignment Stock

3.12.1 The Participating Health Service may order Goods for use as Consignment Stock and the Contractor will supply them for use as Consignment Stock that are ordered by the Participating Health Service in accordance with this clause 3.12, or as otherwise set out in the Purchase Order Contract.

3.12.2 If required, the parties will establish a process for reconciling, ordering, restocking, collection and removal of Consignment Stock as it is used at the discretion of the Participating Health Service, including the following:

(a) identification of products that require consignment;

(b) appropriate stock levels;

(c) a stock management system to ensure effective and efficient use of goods including identification of low moving items and the management of short dated stock;

(d) the turnaround time for replacement of used consignment stock following order replacement; and

(e) reporting of any stock that has been removed and reallocated by the Contractor.

3.12.3 The Contractor must supply and maintain the Goods constituting Consignment Stock for the Participating Health Service in accordance with:

(a) any minimum amounts set by the Participating Health Service from time to time and provided to the Contractor; or

(b) any reasonable direction from the Participating Health Service requiring restocking.

3.12.4 The Contractor is responsible for the insurance of consigned goods once “on shelf’ in the Participating Health Service.

3.12.5 Unless otherwise set out in the Purchase Order Contract, the Contractor must:

(a) regularly attend the Contractor’s premises for the purpose of monitoring the levels of Consignment Stock suitable for the Participating Health Service’s requirements;

(b) ensure that all Consignment Stock are in date and usable at all times;

(c) check the expiry date of Consignment Stock and replace any stock that is out of date at no cost;

(d) replace all damaged or broken Consignment Stock free of charge, except where, on the balance of probabilities, such damage or breakage is due to the negligence, abuse, breach or wilful default by the Participating Health Service or any of its Personnel; and

(e) replace all lost or incorrectly opened Consignment Stock at the Participating Health Service’s cost except where on the balance of probabilities, such loss or incorrect opening is due to the negligence, abuse, breach or wilful default of the Contractor or any of its Personnel. Upon delivery of Consignment Stock, the Participating Health Service must confirm and sign for the delivery of Consignment Stock.

3.12.6 Title in the Goods in the Consignment Stock will pass:

(a) when the Participating Health Service withdraws those Goods from the Consignment Stock for use or purchase pursuant to this Agreement; or

(b) as set out under clauses 3.12.5(d) and 3.12.5(e).

3.12.7 The Participating Health Service may issue an Order for the payment of any Consignment Stock that it has used in accordance with the terms of this Agreement.

3.12.8 If the Participating Health Service wishes to vary or no longer wishes to maintain the Consignment Stock under this Agreement, the Contractor and the Participating Health Service will agree on a plan, pursuant to the process established under clause 3.12.2.

4. Price for the Goods

4.1 Fixed Pricing

4.1.1 The Unit Prices and Rates for the Services must remain fixed for the Term and no further adjustment of the Unit Prices shall take place, except:

(a) as detailed in the price review mechanism set out in Item 9 of the Supply Schedule; or

(b) as expressly provided otherwise in the Agreement.

4.1.2 Except as expressly provided otherwise in this Agreement the Unit Prices for the Goods and Rates for the Services include all packaging, transport, insurance, storage, delivery and loading and unloading at the Delivery Point.

4.1.3 Any agreed price variation must be in writing.

4.2 Volunteered special offers (market dynamic)

4.2.1 The Contractor has the opportunity to provide short term pricing 'specials' as part of this Agreement. The Contractor must submit requests for specials in writing to the Organisation for review. The following parameters will apply for 'specials':

(a) they must be accessible by all Participating Health Services;

(b) a maximum of one special per product per product range per 12 month period may be submitted;

(c) specials will have a validity period of no longer than 60 days; and

(d) supporting evidence must be submitted.

4.2.2 The Organisation will accept specials based on the supporting evidence submitted and reserves the right not to accept such offers.

4.2.3 Specials will only be deemed accepted upon written notification from the Organisation and will be displayed on the Organisation's website.

4.3 Bulk purchasing (market dynamic)

4.3.1 Where a Participating Health Service or a group of Participating Health Services have a requirement for purchasing at a volume level that may result in providing different pricing than those set out in Schedule 3, the Organisation may:

(a) call for competitive quotes that meets the functional requirements of the Specifications; or

(b) accept any offer from any incumbent that meets the functional requirements of the Specifications. Offers are subject to the value for money considerations and will take into account transition costs.

4.3.2 The Contractor may consider volume, purchasing trend or commitment spend when providing a competitive quote.

5. Specifications and key performance indicators

5.1.1 The Goods and Services supplied under this Agreement must comply in all respects with the Specifications (as set out in Schedule 2).

5.1.2 The Contractor must comply with any Key Performance Indicators (KPIs) listed in Item 17 of the Supply Schedule and any KPIs agreed between the Participating Health Service and the Contractor. Failure to comply with those indicators will entitle the Organisation and/or a Participating Health Service to:

(a) request the Contractor to implement an action plan to address the non-compliance;

(b) require more frequent reporting and monitoring of the Contractor's performance under this Agreement, the extent of which will be in the Organisation or that Health Service's absolute discretion;

(c) recover costs associated with KPI non-compliance; and/or

(d) impose the financial rebates set out in Item 17 of the Supply Schedule

5.1.3 The Contractor agrees that the financial rebates set out in Item 17 of the Supply Schedule are intended to reflect the costs that Participating Health Services incur if the Contractor fails to meet the relevant performance indicators, and are not intended to be a penalty.

5.1.4 The Organisation and/or the Contractor may request a review of the KPIs at any time during the Term, and the parties must negotiate in good faith on the requested amendment.

5.1.5 If the Organisation and the Contractor are unable to agree to amend the KPIs, then the KPIs listed in Item 17 of the Supply Schedule will continue to apply.

5.1.6 If required by the Organisation, the Contractor must report to the Organisation its compliance levels with KPIs, as agreed between the Contractor and a Participating Health Service, and any resulting outcomes under clause 5.1.2.

5A Non-compliant Services

5A.1.1.1 Without limiting any other clause of this Agreement, or any other remedy the Organisation and the Participating Health Services may have, if the Contractor fails to provide or perform any of the Services in accordance with the requirements of a Purchase Order Contract and the applicable service level requirements, the Ordering Participating Health Service will not be required to pay for those Services and may, by notice in writing to the Contractor, require the Contractor to:

(a) remedy any default (if the default is capable of being remedied) at the Contractor's own expense; or

(b) re-perform the Services (if the Services are capable of being re-performed by the Contractor),

(c) within the time specified in the notice (which must be reasonable having regard to the nature of the Services).

5A1.1.2 If the remedied or re-performed Services are remedied or re-performed in accordance with the applicable service level requirements and otherwise to the satisfaction of the Ordering Participating Health Service, then the Ordering Participating Health Service will pay the applicable Rates or Fees for those remedied or re-performed Services (which the parties

acknowledge may be less than the cost to the Contractor of remedying or re-performing the Services).

5A1.1.3 If the default referred to in clause **Error! Reference source not found.** is not capable of eing remedied or the Services are not capable of being re-performed, or the Contractor fails within the time specified to remedy the default or re-perform the Services, the Ordering Participating Health Service may either:

(a) remedy that default or re-perform the Services itself; or

(b) have the Services remedied or re-performed by a third party,

and in either case, the Contractor must pay the reasonable costs incurred by the Ordering Participating Health Service in doing so.

5B Contractor's Staff

5B.1 Nominated Staff

5B.1.1.1 If nominated in Item 11 of the Supply Schedule, the Services must be performed by the referenced staff. If left blank, this is to be agreed between the Contractor and the Ordering Participating Health Service.

5B1.1.2 If the persons identified in Item 11 of the Supply Schedule are unavailable or otherwise unable to provide the Services, the Contractor must promptly notify the Organisation of that fact and provide details of alternate, suitably qualified and experienced staff to replace the persons specified in Item 11 of the Supply Schedule (Replacement Staff).

5B1.1.3 The Organisation must notify the Contractor in writing as to whether or not it accepts the Replacement Staff proposed by the Contractor pursuant to clause 0. The Contractor acknowledges and agrees that the Organisation will be under no obligation to accept any person proposed by the Contractor if the Organisation is not satisfied as to the qualifications and experience of such person.

5C Staff Screening

5C.1.1.1 The Contractor must, at its cost:

(i) obtain the statutory declarations required by the Accountability Principles 2014 (Cth) if a staff member is to provide services to aged care recipients, as required in a Service Level Agreement;

(ii) require its staff to notify it immediately if any staff involved in the provision of the Services:

(a) are under investigation for a criminal offence, whether in Australia or outside Australia;

(b) have been charged with a criminal offence (other than a minor traffic offence) and is awaiting the final court outcome, whether in Australia or outside Australia;

(c) have been found guilty of a criminal offence (other than a minor traffic offence), whether in Australia or outside Australia; or

(d) have had a criminal offence (other than a minor traffic offence) proven against them, whether in Australia or outside Australia; and

(iii) not, without the written consent of the relevant Ordering Participating Health Service, knowingly allocate any staff to perform the Services at that Health Service if: the staff have notified the Contractor under paragraph (d).

5C1.1.2 If required in a Service Level Agreement, the Contractor consents and authorises the Organisation to obtain Police Checks from the Victorian Police, for staff involved in the provision of the Services.

5C1.1.3 If a Participating Health Service asks the Contractor to provide the Services that involve child-related work, or work within a facility that requires a 'Working with Children's Check' the Contractor must satisfy that Health Service that the relevant staff of the Contractor have passed a working with children check in accordance with the Working with Children Act 2005 (Vic).

If a Participating Health Service reasonably believes that any staff of the Contractor pose an unacceptable risk to that Health Service or its staff or patients, that Health Service:

(a) may request re-education or re-deployment of the staff member(s);

(b) may refuse to allow the person to perform the Services; and

(c) may require the Contractor to remove the person from its premises at the Contractor's expense.

6. Request for Goods and Services

6.1 Formation of Purchase Order Contract

6.1.1 During the Term, an Authorised Representative may request the Contractor to supply Goods and/or Services to the Participating Health Services he/she represents by submitting a Purchase Order to the Contractor.

6.1.2 Any Purchase Order submitted pursuant to clause 6.1 must, as a minimum, specify the following details:

(a) the identity of the Participating Health Service, the relevant Authorised Representative and the order number (including addresses for delivery of invoices and notices);

(b) the Contractor's details;

(c) the required Goods/and or Services (including the quantity of each item required if in relation to Goods);

(d) the Time for Delivery (where the required delivery time is not otherwise specified in the Specifications); and

(e) the Delivery Point.

6.1.3 The Contractor and the Participating Health Service may review and negotiate a Purchase Order Contract. A Purchase Order Contract will be formed, and the Purchase Order will become binding on the Contractor and the Participating Health Service only upon acceptance of the Purchase Order by the Contractor.

6.1.4 A Purchase Order Contract will consist of:

(a) the terms of this Agreement (other than clauses 2, 3.1, 3.2, 3.7, 15.1, 15.3, 15.4, 19, 20.1, 20.4, Items 3, 5, 6, 7, 12, 13 of the Supply Schedule and with such consequential changes as are necessary to reflect the formation of the relevant Purchase Order Contract in such manner);

(b) the Purchase Order; and

(c) any other document that is expressly incorporated as part of the Purchase Order Contract under clause 6.1.2 above.

6.1.5 For the avoidance of doubt, the termination of the Purchase Order Contract is not a termination of this Agreement or vice versa.

6.1.6 The Contractor acknowledges that a Participating Health Service may request trials of the Goods before entering into an Order Contract on terms agreed by the parties.

6.2 Inconsistency

6.2.1 In resolving inconsistencies in the Agreement:

(a) this document (excluding its Schedules);

(b) the Schedules;

(c) any conditions set out in a Purchase Order;

(d) the Service Level Agreement;

(e) the Invitation to Supply; and

(f) the Contractor's Offer

have application priority in that order. A condition relating to a Purchase Order issued by a Participating Health Service shall not override this Agreement.

7. Delivery

7.1 Delivery of Goods

7.1.1 The Contractor must deliver the Goods to the Delivery Point at the Time for Delivery, or by such other date and time as is agreed in writing between the Participating Health Service and the Contractor, or as defined in the Purchase Order. Delivery will not be taken to have occurred unless and until the proof of delivery is acknowledged in writing by the Authorised Representative of the receiving Participating Health Service.

7.2 Acceptance and Rejection of Goods

7.2.1 Acceptance of the Goods by an Ordering Participating Health Service does not relieve the Contractor of its obligations or warranties under the Agreement or in any way prohibit the issuing of a Defective Goods Notice, where the Goods subsequently become (or are discovered to be) defective, provided that the Goods have not become defective due to any failure by the Ordering Participating Health Service to comply with the storage and maintenance requirements specified by the Contractor, or due to any negligence or reckless act or omission on the part of the Ordering Participating Health Service or its Personnel.

7.2.2 If:

(a) The Contractor supplies Goods of a type or quantity that does not match the relevant Purchase Order; or

(b) The Ordering Participating Health Service issues a Defective Goods Notice,

then the Contractor must within seven (7) days of notification

(a) remove the Goods;

(b) refund to the Ordering Participating Health Service all money paid in respect of the rejected Goods;

and the Ordering Participating Health Service must decide whether it wishes to maintain, vary or cancel the Purchase Order Contract.

7.2.3 If the Contractor fails to remove the Goods within this timeframe, the Ordering Participating Health Service may:

(a) return the Goods to the Contractor; or

(b) move them to another place and/or storage.

7.2.4 The Contractor is liable to an Ordering Participating Health Service for all reasonable expenses incurred by the Ordering Participating Health Service in giving effect to its rights under clause 7.2.

7.3 Late delivery

7.3.1 If the Contractor is delayed in the supply of Goods due to any cause beyond its reasonable control, it may make application in writing to the Ordering Participating Health Service, immediately upon becoming aware of such delay. The application must include:

(a) a request for an extension of time for delivery;

(b) the proposed revised time for delivery;

(c) details of the circumstances giving rise to the delay; and

(d) such other information that may reasonably be requested by the Ordering Participating Health Service.

7.3.2 The Ordering Participating Health Service may agree to extend the Time for Delivery if, in the reasonable opinion of the Ordering Participating Health Service, the circumstances giving rise to the delay are legitimate and warrant an extension of time for completion of the relevant Purchase Order Contract. The Ordering Participating Health Service will promptly notify the Contractor in writing of any agreed revised Time for Delivery. For the avoidance of doubt, circumstances giving rise to a legitimate delay, include Force Majeure events and delays caused by an Ordering Participating Health Service.

7.3.3 If the Contractor fails to deliver any Goods ordered in accordance with clause 6 by the Time for Delivery (or any revised Time for Delivery agreed pursuant to clause 7.2.2), such failure or delay will constitute a breach by the Contractor of the relevant Purchase Order Contract and the Ordering Participating Health Service may:

(a) [Guide note: HPV please highlight liquidated damages to health services, if appropriate for their procurement.] require the Contractor to pay to the Ordering Participating Health Service liquidated damages at the rate stated in the relevant Purchase Order for every day after the Time for Delivery by which the delivery of the Goods remains outstanding; or

(b) terminate the relevant Purchase Order Contract.

7.4 Unloading

7.4.1 Where the Goods to be delivered can be manually unloaded at the Delivery Point in accordance with applicable Laws (including all relevant occupational health and safety codes) the Unit Price for the Goods will include the cost of unloading the Goods, which will

be the responsibility of the Contractor. Where the Goods are unable to be manually unloaded in the manner described above, general arrangements for unloading the Goods must be made with the Ordering Participating Health Service.

7.4.2 Notwithstanding any other provision, the parties to a Purchase Order Contract may agree in writing, alternate arrangements relating to delivery of the Goods.

7.5 Manufacturer's warranty

7.5.1 The Contractor must take all necessary action to obtain for the Ordering Participating Health Services the benefit of any manufacturer's warranties applicable to the Goods, or in accordance with the warranty period specified in Item 15 of the Supply Schedule, whichever is greater.

7.5.2 The Contractor must:

(a) after receiving notice from the Participating Health Service (or such other period as agreed between the parties), remedy all defects discovered in the Goods during the warranty period as soon as possible, or as agreed between the Participating Health Service and the Contractor;

(b) subject to clause 7.5.3 bear all costs incurred to comply with clause 7.5.2(a); and

(c) perform its obligations under clause 7.5.2(a) in a way that causes the least amount of disruption possible to the business and usual activities of the Participating Health Service.

7.5.3 If the Contractor satisfies the Participating Health Service that a defect is due solely and directly to the Participating Health Service's negligence or use or modification of the Goods contrary to the Specifications, the Contractor will not be liable for any remedial costs.

8. Invoicing and payment

8.1 Invoicing

8.1.1 The Contractor must submit to the Ordering Participating Health Service a Tax Invoice or Tax Invoices in respect of each Purchase Order Contract:

(a) as soon as practicable after the completion of the supply of Goods and/or Services; or

(b) as otherwise provided for in the relevant Purchase Order.

8.1.2 A Tax Invoice submitted for payment pursuant to clause 8.1.1 must contain each of the matters specified in Item 10 of the Supply Schedule and be sent to the address specified in the relevant Purchase Order Contract.

8.1.3 The Ordering Participating Health Services must pay the Contractor the Purchase Price for the Goods and/or Services. The Unit Prices specified in Schedule 3 do not include GST. The only amounts payable by the Ordering Participating Health Services will be the Purchase Price and any applicable GST. No additional handling, freight, delivery charges, insurance, taxes, imposts, or royalties whether foreseen or unseen shall be payable.

8.2 Payment of invoice

8.2.1 Subject to the remainder of this clause 8.2:

(a) if the Contractor is a small business under the Australian Supplier Payment Code as set out in Item 10 of the Supply Schedule, the Ordering Participating Health Service will pay the invoiced amount within 30 days from receipt of a correctly rendered invoice; or

(b) If the Contractor is not a small business under the Australian Supplier Payment Code as set out in Item 10 of the Supply Schedule, the Ordering Participating Health Service will pay the invoiced amount to the Contractor within 30 days from the end of the month in which the Ordering Participating Health Service receives the invoice.

8.2.2 An invoice will not be paid until such time as the invoice is certified for payment by the Authorised Representative of the Ordering Participating Health Service. An invoice will not be certified for payment unless the relevant Authorised Representative is satisfied that it is correctly calculated with respect to the Goods and/or Services that are the subject of the relevant Purchase Order Contract and the Contractor is entitled to claim payment.

8.2.3 If the Authorised Representative disputes the invoiced amount (whether in whole or in part) for any reason, the Ordering Participating Health Service will pay the undisputed amount of such invoice (if any), and notify the Contractor of the amount the Ordering Participating Health Service believes is due for payment. If the Ordering Participating Health Service and the Contractor are unable to agree on the balance of the invoiced amount within reasonable time (being no more than 14 days after notifying the Contractor), the dispute will be referred for determination in accordance with clause 24.

8.2.4 Payment of an invoice is not to be taken as:

(a) evidence or an admission that the Goods and/or Services have been supplied in accordance with the Specification;

(b) evidence of the value of the Goods and/or Services supplied;

(c) an admission that the Goods and/or Services were satisfactorily supplied;

(d) an admission of liability; or

(e) acceptance or approval of the Contractor's performance,

but must be taken only as payment on account.

9. Title in and risk to Goods

9.1.1 Except for Consignment Goods, title in the Goods will pass to the Ordering Participating Health Service after delivery and upon full payment for the Goods by the Ordering Participating Health Service. In relation to Goods that have previously been delivered by the Contractor on consignment, title will pass upon use of the Goods.

9.1.2 Except for Consignment Goods, risk in the Goods will pass to the Ordering Participating Health Service when the Goods are delivered to the Delivery Point.

9.1.3 The Ordering Participating Health Service shall not be liable for any loss or damage to the Good which is caused or contributed to by a defect, design fault or failure to provide adequate instructions for us.

10. Non-conforming Goods

10.1.1 Without limiting any other clause of this Agreement or any other remedy that the Organisation and/or the Ordering Participating Health Service may have, if Goods supplied pursuant to a Purchase Order Contract do not meet or exceed the standards required under this Agreement (including the Specifications), either upon delivery or at any time during their intended shelf life, the Ordering Participating Health Service will not be required to pay for those Goods (Non-conforming Goods) and the Contractor must, at the Contractor's cost, if the Ordering Participating Health Service requires it to do so, promptly remove those Non-conforming Goods from the Ordering Participating Health Service's premises, and at the election of the Ordering Participating Health Service, either:

(a) replace the Non-conforming Goods with Goods that do meet the relevant standards and Specifications and which are acceptable to the Ordering Participating Health Service; or

(b) refund to the Ordering Participating Health Service all money paid in respect of the Non-Conforming Goods.

10.1.2 Goods will not be Non-conforming Goods for the purposes of clause 10.1.1 if the reason for their failure to meet or exceed the standards required under this Agreement or the Specifications, is due to abuse, improper use, breach or negligence on the part of a Participating Health Service or its Personnel.

11. Warranties Goods

11.1.1 The Contractor warrants to the Organisation and each Participating Health Service that:

(a) the Contractor has the right to sell and transfer full and unencumbered title to and property in the Goods to each Participating Health Service;

(b) the Goods:

(i) (except as otherwise provided in the Specifications) are new;

(ii) are fit for their intended purpose and use as set out in the Australian Therapeutic Goods Administration (ARTG) certificate for the relevant Goods, or as agreed by the parties in writing;

(iii) conform to the description, model number and the sample (if any) provided by the Contractor to either the Organisation and/or the Participating Health Service;

(iv) conform in all other respects with the requirements of this Agreement and the relevant Purchase Order Contract (including the Specifications);

(v) are free from defects in workmanship and materials (including defects in installation where the Contractor is responsible for installation of the Goods);

(vi) are of merchantable quality and comply with all applicable Laws and standards;

(vii) to the best of its knowledge, have been manufactured, constructed or assembled at the location and in the facility disclosed by the Contractor in the Offer (or as otherwise advised to the Organisation)

as the place of manufacture, construction or assembly of the Goods; and

(viii) are legally available for sale in Australia and are included on the Australian Register of Therapeutic Goods (unless exempt).

(c) all representations made by the Contractor in or in connection with the Offer were and remain accurate and the Contractor has and will maintain during the Term the quality assurance arrangements and environmental management system at least to the standard set out in the Offer;

(d) the Contractor must, as soon as practicable, notify the Contract Manager in writing of any variations to the specification, design, shape, configuration or characteristics of the Goods during the Term; and

(e) if the Contractor is a trustee, it enters into this contract personally and in its capacity as trustee and has the power to perform its obligations under this Agreement.

11A Warranties Services

11A.1.1.1 The Contractor warrants that:

(a) the provision of the Services will be carried out with all due care and skill and in accordance with all applicable standards, principles and practices;

(b) it has the accreditation or membership of professional or other bodies in relation to the provision of the Services as set out in the Offer for the provision of the Services and that it will use its best endeavours to maintain such accreditation or membership during the Term;

(c) it and its employees, agents and contractors are appropriately qualified and have the requisite knowledge, skill and expertise to provide the Services in accordance with the Service Level Requirements;

(d) whilst on premises owned or controlled by the Organisation or the Participating Health Services, the Contractor and its employees, agents and contractors will at all times comply with the Organisation's or the Participating Health Service's lawful directions and policies of which the Contractor is notified or is otherwise aware, including any applicable occupational health and safety and security policies;

(e) it has, or will be able to, obtain all the necessary consents, permits, registrations or authorities necessary in order for the Contractor to perform the Services;

(f) where the Organisation or the Participating Health Service has, either expressly or by implication, made known to the Contractor any particular purpose for which the Services are required, the Services will be performed in such a way as to achieve that result;

(g) the provision of the Services will not infringe any right of any third party (including, without limitation, any intellectual property right) or any Laws;

(h) all representations made by the Contractor in or in connection with the Offer were and remain accurate, and the Contractor has not provided any false or misleading information or failed to provide any material information relevant to the Contractor's ability to perform the Services;

(i) the Contractor has and will maintain during the Term the quality assurance arrangements and environmental management system at least to the standard set out in the Offer;

(j) it will notify the Organisation if it becomes aware of any potential breaches of this Agreement;

(k) it is responsible for all industrial relations matters concerning the Services, its employees, and all other persons for whom it is responsible, and is obligated to notify the Organisation of any disputes, industrial disputes or other issues that may affect the provision of the Services or pose a reputational risk for the Contractor, Organisation or any of the Participating Health Services;

(l) it will comply fully with all of its obligations under this Agreement; and

(m) it has a code of conduct that is communicated and understood by all employees.

12. Liability

12.1.1 The Contractor must indemnify the Organisation and each Participating Health Service and their officers, employees and agents (Indemnified Party) against any loss, damage, claim, action or expense (including legal expense) which any Indemnified Party suffers as a direct or indirect result of any of the following:

(a) a breach of this Agreement by the Contractor, including any failure to deliver the Goods and/or Service in accordance with either this Agreement or any Purchase Order Contract;

(b) any warranty given by the Contractor under this Agreement being incorrect or misleading in any way; or

(c) wrongful or any negligent act or failure to act by the Contractor or any of the Contractor's Personnel,

except to the extent that any such loss, damage, claim, action or expense is caused or contributed to by the negligence or other wrongful act or omission of the Indemnified Party.

12.1.2 If any indemnity payment is made by the Contractor under this clause 12, the Contractor must also pay to the Indemnified Party an additional amount equal to any tax which is payable by the Indemnified Party in respect of that indemnity payment.

12.1.3 If the Contractor fails to meet any date for delivery of the Goods as specified in a Purchase Order Contract, the Contractor must pay to the Ordering Participating Health Service any liquidated damages in accordance with the Purchase Order Contract. The parties agree that any such liquidated damages constitute a fair and reasonable pre-estimate of the loss that will be suffered by the Ordering Participating Health Service with respect to such failure.

12.1.4 Notwithstanding the foregoing or any provision in this Agreement, the Contractor's liability under this Agreement and each Purchase Order Contract shall be capped at the greater of the total value of the Purchase Order Contract or $5 million per event, for each occurrence with an aggregate limit of $20 million per annum. This limitation does not apply to claims for loss or damage arising from personal injury or death, damage to tangible property, breach of intellectual property rights, breach of confidentiality or privacy or any breach of warranty given under this Agreement. For the avoidance of doubt, where the cap applies, it applies individually in respect of each Purchase Order Contract.

12.1.5 Notwithstanding any other provision of this Agreement, no party shall be liable under this Agreement or an individual Purchase Order Contract (including but not limited to liability for breach of warranty or an indemnity) for any Consequential Losses.

13. Contract management

13.1 Parties' representatives

13.1.1 For the purposes of ensuring a productive and efficient relationship between the Organisation and the Contractor under this Agreement:

(a) the Organisation nominates the person specified in Item 3 of the Supply Schedule as its Contract Manager; and

(b) the Contractor nominates the person specified in Item 4 of the Supply Schedule as its Relationship Manager for other queries, consents, approvals, complaints and disputes required or arising under or in connection with this Agreement.

13.1.2 The Organisation may, from time to time, nominate a replacement Contract Manager by notice in writing to the Contractor. The appointment of the replacement Contract Manager will be effective for the purposes of this Agreement from the date on which notice is given to the Contractor in accordance with this clause 13.1.2.

13.1.3 The Contractor may only replace a Relationship Manager nominated by it if:

(a) the proposed replacement Relationship Manager is of an equal or higher seniority as the Relationship Manager to be replaced; and

(b) the change to the Relationship Manager will not adversely affect the quality of the relationship between the Organisation and the Contractor.

13.1.4 Unless otherwise agreed, a replacement Relationship Manager must be appointed no later than five Business Days after the previous Relationship Manager ceases to act in that capacity.

13.1.5 The Relationship Manager must make him or herself available at all times during business hours, and at all other times on reasonable notice by the Contract Manager, to meet with the Contract Manager and discuss any queries, concerns, issues or disputes arising under or in connection with this Agreement.

13.1.6 The Contractor must nominate a Contract Manager for a Participating Health Service at the request of the Participating Health Service for queries, complaints and disputes required or arising under or in connection with this Agreement.

13.2 Responsibility Chart

13.2.1 At a Participating Health Service's request, the Contractor will prepare a Responsibility Chart identifying the key tasks and obligations under this Agreement, and the party responsible for completing or otherwise performing the relevant task or obligation.

13.2.2 To assist with the management and successful implementation of the tasks and obligations contained in this Agreement, the parties agree to regularly review and update the Responsibility Chart throughout the Term.

13.2.3 This clause 13.2 sets out the intentions of the parties with respect to its subject matter but does not create any binding obligations on the other parties.

13.3 Service Level Agreement

13.3.1 Where applicable, the Contractor must comply with the Service Level Agreement in respect of the Goods and/or Services during the Term.

13.3.2 A Service Level Agreement may include, but is not limited to the following:

(a) requirements for stock management;

(b) loan set requirements;

(c) arrangements for ordering, invoicing and delivery;

(d) clinical support, including attendance requirements for Representatives in relation to education and training; or

(e) communication arrangements for product recalls and safety alerts (Recall Health).

(f) Specifics of the provision of Services

13.3.3 If required by the Organisation, the Contractor must provide the Organisation with a copy of all Service Level Agreements.

13.4 Reporting

13.4.1 The Contractor must provide to the Organisation:

(a) the reports specified in Item 12 of the Supply Schedule and such reports to be provided at the times, in the format and containing the matters specified in Item 12 of the Supply Schedule; and

(b) all other data or information that the Organisation or the Contract Manager may request to enable it to adequately assess the performance of the Contractor.

13.4.2 Where requested by a Participating Health Service, the Contractor must provide the Authorised Representative of that Health Service with a copy of the information referred to in paragraph 13.4.1 above.

13.4.3 In addition to the obligations contained in paragraphs 13.4.1 and 13.4.2 above, the Contractor must, if so requested by the Organisation or the Contract Manager, ensure that its Relationship Manager attends all relevant Organisation and/or government forums.

13.4.4 The reports referred to in clause 13.4.1 must be provided to the Organisation no later than 2 weeks from the end of each reporting period.

13.4.5 It is the responsibility of the Contractor to ensure timely and accurate reports. The Organisation will monitor the Contractor's performance in delivering reports and rate that performance. This rating may form part of the evaluation criteria for future sourcing decisions.

13.4.6 If requested, the Contractor must allow an auditor or other nominated representative of the Organisation to have reasonable access to, and to obtain information from, the Contractor's records and staff for the purposes of confirming accuracy of the submitted reports. The auditor or other nominated representative of the Organisation will exercise his or her reasonable discretion in assessing the Contractor's performance under this clause and shall take into account any issue raised by the Contractor which was beyond the Contractor's reasonable control and which fairly caused the Contractor to fail to meet its responsibilities under this Agreement. The Contractor may require the auditor or representative to enter into

an HPV-approved Non-Disclosure Agreement prior to providing access pursuant to this clause. For the avoidance of doubt, a failure by the Contractor to provide accurate reports (as determined by the auditor or nominated representative) will be regarded as a breach of this Agreement.

13.5 'Value adding' initiatives

13.5.1 The parties agree that they will, to the extent that it is commercially feasible to do so, work together during the Term to identify new measures or initiatives for mutual value enhancement in connection with the supply of Goods and/or Services under this Agreement, including through the:

(a) identification of efficiencies in the supply chain;

(b) implementation of any applicable technological improvements; and

(c) utilisation of any applicable industry-wide productivity gains,

with a view to achieving improvements in value for all parties.

13.5.2 Any value adding measures or initiatives identified by the parties will be discussed and, if deemed appropriate, implemented by the parties as soon as practicable.

13.6 Contract management review

13.6.1 The Contract Manager and the Relationship Manager must meet at the time and in the manner specified in Item 13 of the Supply Schedule to discuss contract management issues and to review the Contractor's performance under this Agreement, including:

(a) a review of the Contractor's compliance with the Service Level Requirements; and

(b) an examination of the value adding measures or initiatives proposed or implemented by the parties pursuant to clause 13.5.

13.6.2 The Relationship Manager must meet with the Participating Health Service representative(s) to discuss contract management issues and to review the Contractor's performance under this Agreement, at the frequency and request of a Participating Health Service.

14. Not used

15. Competitive pricing

15.1 Competitive pricing principles

15.1.1 The Organisation and the Contractor agree that it is their common intention that the Unit Prices and any pricing agreed with Ordering Participating Health Services will be (and will remain, for the term of the Agreement) commercially competitive in terms of:

(a) the price offered by the Contractor to other similar customers whose orders for goods are of a comparable volume to the orders for Goods and/or Services placed by the Participating Health Services under this Agreement; and

(b) prices and terms and conditions, offered by other providers in the market for goods which are the same as or equivalent to the Goods and or Services.

15.2 Most favoured pricing

15.2.1 The Contractor must ensure at all times during the Term that the Unit Prices or Rates are no less favourable than any price at which the Contractor provides or offers to provide Goods that are equivalent or similar to the Goods and/or Services to any similar customer of the Contractor in Australia whose orders of goods are of a comparable volume to those placed by the Participating Health Services under this Agreement.

15.3 Global Benchmarking (Market Dynamic)

15.3.1 Notwithstanding any other provision in this Agreement, the Organisation reserves the right to benchmark the Goods and/or Services against Australian standards at any time throughout the Term.

15.4 Uncompetitive pricing

15.4.1 Where contract pricing is determined to be non-competitive by the Organisation (due to the benchmarking referred to in clause 15.3 or otherwise), the Organisation may, at its absolute discretion:

(a) offer the Contractor the opportunity to adopt pricing in line with competitive pricing trends;

(b) offer the Contractor the opportunity to validate the price differential;

(c) call for competitive quotes for equivalent products to the particular Goods and/or Services;

(d) accept any offer from another Contractor that meets the Specification, and betters any offer made by the Contractor for the Goods and/or Services;

(e) source an alternative product from another Contractor; or

(f) retain the Goods at the contract price.

16. Access to records

16.1 Contractor to retain records

16.1.1 The Contractor must, for a period of seven years after the Expiry Date (or, if the Agreement is extended in accordance with clause 2.2, seven years after the date on which such extension of the term concludes) keep true and particular accounts and records of:

(a) all Goods and/or Services supplied under this Agreement and any Purchase Order Contract; and

(b) all associated records including:

(i) records of purchase of Goods and/or Services by the Contractor; and

(ii) all supporting materials used to generate and substantiate invoices submitted in respect of Goods and/or Services supplied under this Agreement.

16.2 Right to access and audit

16.2.1 The Organisation, the Participating Health Services, or their duly authorised representatives will have the right, after giving no less than 5 Business Days' written notice at any time

during business hours, to access the Contractor's premises in order to inspect and/or audit the accounts and records of the Contractor relating to the supply of Goods and/or Services, including, but not limited to matters relevant to the calculation of the Unit Price and the Purchase Price and compliance with the Supplier Code of Conduct, Key Performance Indicators and the Specifications. Such representatives will be entitled (at the expense of the Organisation or the Participating Health Service, as the case may be) to take copies of or extracts from any such records.

16.2.2 The right of access and audit granted under clause 16.2.1 may be exercised by the Organisation and/or the Participating Health Services at any time during the Term or in the seven year period following the expiry of the Term.

16.2.3 The Organisation and/or the Participating Health Services, as the case may be, will be solely responsible for the costs of conducting any audit under clause 16.2.1. However, if an audit reveals an overcharging by the Contractor by more than 3%, or any other misrepresentation or material breach of the Agreement by the Contractor, then the Contractor must pay all fees and expenses associated with conducting the audit pursuant to clause 12.

17. Intellectual Property Rights

17.1 Warranty and indemnity by Contractor

17.1.1 The Contractor warrants to the Organisation that it is entitled to use and deal with in accordance with this Agreement any Intellectual Property Rights which may be used by it in connection with the supply of, or which is incorporated in, any Goods and/or Services or other items supplied under this Agreement or any Purchase Order Contract.

17.1.2 The Contractor indemnifies and will at all times keep the Organisation and each Participating Health Service indemnified against any action, claim, suit, demand or liability to pay compensation or damages and costs or expenses arising out of or in respect of any breach or alleged breach of any third party's intellectual property rights relating to the supply of Goods and/or Services or other items under this Agreement or any Purchase Order Contract or relating to use of the Goods or other supplied items in accordance with this Agreement.

17.2 Licence to the Organisation

17.2.1 The Contractor grants to the Organisation and the Participating Health Services a non-exclusive, perpetual, royalty-free, licence to use any Intellectual Property Rights in relation to any Goods and/or Services or other items supplied to the extent necessary to allow the Organisation and the Participating Health Services the full use and enjoyment of those Goods and/or Services or other items in accordance with this Agreement and the Contractor must upon request by the Organisation or a Participating Health Service, do all things as may be necessary (including executing any documents) to give full effect to this clause.

17.3 No assignment

17.3.1 Nothing in this clause affects any assignment of Intellectual Property Rights in any Goods and/or Services or other items supplied under this Agreement unless the parties expressly agreed in writing to the contrary.

17.4 Infringement of Intellectual Property Rights

17.4.1 If it is determined by any independent tribunal of fact or law, or agreed between the parties to a dispute, that the use of the Goods and/or Services by a Participating Health Service constitutes an infringement of Intellectual Property Rights, the Contractor must at its own expense:

(a) obtain for the Participating Health Services the right to continue using the Goods and/or Services; or

(b) modify or replace the Goods and/or Services (without detracting from their overall performance) so as to avoid the infringement, and compensate each Participating Health Service and/or the Organisation for any loss or damage sustained or incurred by the Participating Health Service and /or the Organisation during, or as a result of, such modification or replacement; or

(c) if the solutions in either of the two preceding paragraphs cannot be achieved on reasonable terms, remove the Goods from the Delivery Point, refund the moneys paid for the Goods, and compensate each Participating Health Service and/or the Organisation for any loss or damage sustained or incurred as a result of such removal;

provided that each Participating Health Service and/or the Organisation, in its discretion, may determine that it is necessary to retain and continue to use the Goods and/or Services and any payments required to be made to a third party as a consequence of this action shall be reimbursed by the Contractor to each Participating Health Service or the Organisation.

17.4.2 Not used.

17.4.3 For the purposes of this clause, “infringement” includes unauthorised acts which would, but for the operation of s163 of the Patents Act 1990 (Cth), s 96 of the Designs Act 2003 (Cth) or s 183 of the Copyright Act 1968 (Cth) constitute an infringement.

17.4.4 If any claim is made or brought against the Organisation or a Participating Health Service in respect of any of the matters stated in this clause, the Organisation or the Health Service shall immediately notify the Contractor of this fact. The Contractor shall, with the Organisation’s or the Participating Health Service’s assistance if required, but at the Contractor’s sole expense, conduct all negotiations for the settlement of the claim or any litigation arising from the claim.

18. Governance

18.1.1 The Contractor warrants to the Organisation and the Participating Health Services that it does not, and will ensure that its Personnel do not hold any office or possess any property, are not engaged in any business, trade or calling and do not have any obligations by virtue of any contract whereby, directly or indirectly, duties or interests are or might be created in conflict with, or might appear to be created in conflict with, their duties and interest under this Agreement.

18.1.2 The Contractor must disclose in writing to the Organisation and the Ordering Participating Health Service all actual and potential conflicts of interest (direct or beneficial) that exist, arise or may arise (either for the Contractor or any of the Contractor’s staff or agents) in the course of providing the Goods as soon as practical after it becomes aware of that conflict.

18.1.3 The Contractor must promptly disclose in writing to the Organisation all fraud and corruption that:

(a) was detected or become known within the Contractor's operating entities within three years prior to the commencement of this Agreement, and

(b) is detected or of which the Contractor becomes aware during the term of this Agreement within the Contractor's operating or associated entities.

18.1.4 In making the disclosures referred to in clause 18.1.3, the Contractor must provide the date and nature of the fraud or corruption, details of the nature of the fraud or corruption and the nature of the corrective and preventative actions which the Contractor has taken in light of the fraud or corruption.

18.1.5 Upon disclosure of a conflict of interest, fraud or corruption, the Organisation or an Ordering Participating Health Service may do anything to mitigate the risk that the conflict of interest, fraud or corruption presents to protect the financial integrity of this Agreement and the State of Victoria including terminating this Agreement.

18.1.6 The Contractor acknowledges and agrees that failure to comply with this clause 18 will constitute a breach of a fundamental term of this Agreement.

19. Change in Control

19.1.1 The Contractor must notify the Organisation in writing of any change in control of the Contractor (of the ultimate holding company of the Contractor) within 7 days after that change occurs (the Notice).

19.1.2 The Organisation may within 30 days of receiving the Notice, in its absolute discretion by notice in writing to the Contractor, terminate this Agreement. Such termination to take effect by the Organisation on the date specified which may be at any time within the immediately following 12 months after the Organisation received the Notice.

20. Termination

20.1 Grounds for termination by the Organisation

The Organisation may terminate this Agreement and any or all Purchase Order Contracts in whole or in part, or in relation to 1 or more Participating Health Services by notice in writing to the Contractor (such termination to take effect at any nominated time within the immediately following 12 months) if the Contractor:

20.1.1 fails to supply the Goods and/or Services in accordance with the Specifications or otherwise in accordance with the requirements of this Agreement and in the reasonable opinion of the Organisation such failure cannot be remedied;

20.1.2 fails to remedy, to the satisfaction of the Organisation, any breach of this Agreement (which in the reasonable opinion of the Organisation is able to be remedied) within 14 days after the date on which the Organisation issues the Contractor a written notice requiring the Contractor to remedy the breach;

20.1.3 breaches any material provision of this Agreement and in the reasonable opinion of the Organisation such breach cannot be remedied;

20.1.4 assigns its rights under, or sub-contracts the whole or part of, the Agreement without the prior written consent of the Organisation;

20.1.5 fails to notify the Organisation of a recall in accordance with clause 32;

20.1.6 engages in the conduct referred to in clause 28, and/or breaches any confidentiality provisions of this Agreement;

20.1.7 breaches a warranty;

20.1.8 or any of its employees, agents or sub-contractors are guilty of fraud, dishonesty or any other serious misconduct;

20.1.9 commits any act or does anything that is contrary to prevailing community standards, or is otherwise regarded by the public as unacceptable or which brings the reputation of the Contractor into disrepute and as a consequence the Organisation believes that its continued association with the Contractor will be prejudicial or otherwise detrimental to the reputation of the State, the Organisation and/or 1 or more of the Participating Health Services; or

20.1.10 the Contractor:

(a) being a partnership, company or other composite body undergoes a change in its structure which, in the reasonable opinion of the Organisation, limits the capacity of the Contractor to supply the Goods and/or Services or otherwise precludes or adversely affects the Contractor's ability to carry out its obligations and duties under this Agreement or under a Purchase Order Contract; or

(b) goes into liquidation or a receiver and manager or mortgagee's or chargee's agent is appointed or becomes subject to any form of insolvency administration or arrangement, or in the case of an individual, becomes bankrupt or enters into a scheme or arrangement with creditors.

20.2 Grounds for termination by the Contractor

20.2.1 The Contractor may immediately terminate any Purchase Order Contract by notice in writing to the relevant Ordering Participating Health Service (with a copy to the Organisation) if:

(a) the Ordering Participating Health Service fails to remedy, to the satisfaction of the Contractor, any breach of this Agreement (which in the reasonable opinion of the Contractor is able to be remedied) within 14 days after the date on which the Contractor issues the Ordering Participating Health Service a written notice requiring the Ordering Participating Health Service to remedy the breach; or

(b) the Ordering Participating Health Service breaches any material provision of this Agreement and in the reasonable opinion of the Contractor such breach cannot be remedied.

20.3 Grounds for termination by a Participating Health Service

20.3.1 The Participating Health Service may immediately terminate any Purchase Order Contract by notice in writing to the Contractor (with a copy to the Organisation) if:

(a) the Contractor fails to remedy, to the satisfaction of the Participating Health Service, any breach of this Agreement (which in the reasonable opinion of the Participating Health Service is able to be remedied) within 14 days after the date on which the

Participating Health Service issues the Contractor a written notice requiring the Contractor to remedy the breach; or

(b) the Contractor breaches any material provision of this Agreement and in the reasonable opinion of the Participating Health Service such breach cannot be remedied.

20.4 Termination for convenience

20.4.1 The Organisation may wholly or partially terminate this Agreement without cause by providing 30 days' notice to the Contractor.

20.5 Consequences of termination or expiry

20.5.1 Termination or expiry of this Agreement will not prejudice any right of action or remedy which may have accrued to a party prior to termination or expiry (as the case may be).

20.5.2 Termination or expiry of a Purchase Order Contract will not prejudice any right of action or remedy which may have accrued to a party to it prior to termination or expiry (as the case may be).

20.5.3 Where the Organisation or the Participating Health Service tenders a notice to terminate to the Contractor, the Contractor will immediately comply with any direction given in the notice and do all that is possible to mitigate its losses arising from the termination of the Agreement or the relevant Purchase Order Contract.

20.5.4 Upon termination or expiry of this Agreement, the Participating Health Services must pay to the Contractor all amounts owing in respect of Purchase Order Contracts that have been completed but not billed as at the date of termination or expiry (provided that such Goods and/or Services have been supplied in accordance with the Specifications, any applicable performance standards, Service Level Requirements, and otherwise in accordance with the terms of this Agreement and the relevant Purchase Order Contract).

20.5.5 If the Agreement is terminated for any reason (other than under clause 20.2):

(a) all losses that have been incurred by the Organisation and/or a Participating Health Service as a result of the termination shall be recoverable by the Organisation and that Participating Health Service from the Contractor;

(b) the Organisation and the Participating Health Services will not be liable to make any further payments for undelivered Goods and/or Services or pay any compensation to the Contractor;

(c) the Participating Health Service in relation to whom the Agreement has been terminated may cease to make any payments to the Contractor under the Agreement; and

(d) the Participating Health Services may recover from the Contractor all sums paid for undelivered Goods and/or Services.

20.6 Survival

20.6.1 Clauses 7.5, 11, 12, 16, 17, 20.5, 21, 22 and 23 of this Agreement survive the termination or expiry of this Agreement and may be enforced at any time.

21. Insurance

21.1.1 The Contractor must effect and maintain for the Term, the insurances specified in Item 14 of the Supply Schedule in respect of any claim related to this Agreement.

21.1.2 The policies must cover the Contractor's liability to the Organisation and the Participating Health Services for loss and damage to property and the death or injury to any person.

21.1.3 The Contractor must, upon request by the Organisation, provide proof within 10 Business days of the request that the insurance policies have been effected and maintained.

22. Accident Compensation

22.1.1 The Contractor must ensure that, in respect of its employees and contractors and any other persons engaged by the Contractor to provide the Goods and/or Services, it:

(a) complies with the provisions of the Accident Compensation Act 1985 (Vic) and the Workplace Injury Rehabilitation and Compensation Act 2013 (Vic);

(b) insures against its liability to pay compensation whether under legislation or otherwise; and

(c) produces to the Organisation on request any certificates or like documentation required by the Accident Compensation Act 1985 (Vic) and the Workplace Injury Rehabilitation and Compensation Act 2013 (Vic).

22A Notice of Accident

22A.1.1.1 The Contractor must give written notice to the Organisation and provide full particulars of any accident or other circumstance relevant to the Contractor's provision of the Goods and/or Services under this Agreement which:

(a) requires notification to any external authority including an external authority concerned with OH&S;

(b) might reasonably result in an investigation by any external authority including an OH&S authority; or

(c) might give rise to a risk to the health and safety of the Contractor or any other person, as soon as the Contractor ought reasonably to have become aware of such accidents or other circumstances.

22A1.1.2 The Contractor acknowledges that the Organisation may carry out its own investigation into any accident or circumstance which it becomes aware of. The Contractor must fully co-operate with any such investigation.

23. Confidentiality, privacy and data protection

23.1 Use of Confidential Information

23.1.1 Except as set out under clause 23.2, each party must (and must ensure that its employees, agents and advisers will):

(a) use and reproduce Confidential Information only to perform its obligations under this Agreement; and

(b) not disclose or otherwise make available Confidential Information other than to Personnel who have a need to know the information to enable that party to perform its obligations under this Agreement.

23.1.2 All Confidential Information will remain the property of the party and all copies or other records containing the Confidential Information (or any part of it) must be returned by the other party to the party who owns the Confidential Information, on termination or expiry of this Agreement, except as set out under clause 23.2.

23.1.3 The Contractor accepts that Participating Health Services are required to supply data and information to the Organisation about their current pricing and usage volume, pursuant to legislation. The Contractor unconditionally waives any rights which would prevent this supply from taking place and undertakes to desist from any action to enforce such rights.

23.1.4 Each party acknowledges that the other party will be entitled (in addition to any other remedy it may have) to seek an injunction or other equitable relief with respect to any actual or threatened breach by a party of this clause 23 and without the need on the part of the party to prove any special damage.

23.2 Disclosure

23.2.1 Notwithstanding clause 23.1, the Contractor hereby acknowledges and/or consents to:

(a) the Organisation providing any information which the Organisation has obtained from the Contractor pursuant to the Invitation to Supply, the Offer and/or this Agreement (including financial information) to third parties for the purposes of benchmarking, monitoring, comparison or evaluation of:

(i) contracts of this type; or

(ii) the purchase of the Goods and/or Services,

with the Organisation taking reasonable steps (in its opinion) to keep such information confidential (including requiring the relevant third party to sign a confidentiality agreement).

(b) the Organisation and the Participating Health Services (or such other public sector agency as may, from time to time, be responsible for doing so) publishing, whether on the internet or otherwise, all such information as is necessary to comply with the requirements of the HPV Purchasing Policies or the Health Services Act 1988 (Vic);

(c) the Organisation and the Participating Health Services making available to the Victorian Auditor-General all information that is requested by the Auditor-General;

(d) the Organisation and the Participating Health Services making available all information in relation to the Contractor or this Agreement as may be required to comply with its obligations under the Freedom of Information Act 1982 (Vic);

(e) the Organisation and the Participating Health Services making available, Confidential Information to Parliament, the Governor, Cabinet or a Parliamentary or Cabinet committee or sub-committee

(f) the Organisation and the Participating Health Services making available, Confidential Information to any agency, authority, instrumentality, Minister or officer of the State to whom it is customary for the Organisation or the Participating Health Services to disclose the Confidential Information (whether or not the Organisation or the Participating Health Services are legally obliged to do so);

(g) only being able to make public announcement in relation to this Agreement with express prior written consent of the Organisation.

23.3 Non-disclosure of patient information

23.3.1 The Contractor shall ensure that its Personnel are made aware and comply with the provisions of section 141 of the *Health Services Act* 1988 (Vic) and section 346 of the *Mental Health Act* 2014 (Vic) (where relevant) which relate to the unlawful disclosure of patient information.

23.4 Contractor Privacy

23.4.1 The Contractor acknowledges that it will be bound by the Information Privacy Principles and any applicable Code of Practice with respect to any act done or practice engaged in by the Contractor under or in connection with this Agreement or any Purchase Order Contract in the same way and to the same extent as the State or the Organisation would have been bound had it been directly done or engaged in by the State or the Organisation.

23.5 Data protection

23.5.1 The Contractor acknowledges that it will be bound by the Protective Data Security Standards and will not do any act or engage in any practice that contravenes a Protective Data Security Standard in respect of any data collected, held, used, managed, disclosed or transferred by the Contractor, on behalf of the Organisation, under or in connection with this Agreement.

24. Disputes

24.1 Parties to meet

24.1.1 Subject to clause 24.1.3 if any dispute arises under or in connection with this Agreement or any Purchase Order Contract (Dispute) which is not able to be resolved by the relevant Authorised Representative and the Relationship Manager within 14 days, the nominated senior executive officer (or equivalent) of each disputing party will promptly meet and discuss in good faith with a view to resolving such Dispute.

24.1.2 The Contractor must notify the Organisation of any Dispute.

24.1.3 This clause 24 shall not apply to any dispute arising from or relating to termination of this Agreement or any Order Contract by the Organisation or the Participating Health Service.

24.2 Mediation

24.2.1 If any Dispute is unable to be resolved in accordance with clause 24.1 within 14 days, the parties agree to attempt to settle the Dispute in good faith by mediation administered by the Australian Disputes Centre ('ADC') or its successor before having recourse to arbitration or litigation.

24.2.2 The mediation will be conducted in accordance with the commercial mediation guidelines of ADC ('Guidelines') which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and the terms of those Guidelines are incorporated in this Agreement.

24.2.3 In the event that the ADC (or any successor to the ADC) no longer exists, the mediation under this clause 24.2 will be administered by a similar body nominated by the Organisation, and will be conducted in accordance with any relevant mediation guidelines of that body.

24.3 Arbitration or litigation

24.3.1 If the parties fail to settle any Dispute in accordance with clause 24.2 the parties may agree to submit the Dispute for resolution to final and binding arbitration under the Rules of Arbitration of the Institute of Arbitrators and Mediators Australia (or its successor) by one or more arbitrators appointed in accordance with those rules.

24.3.2 If the parties do not agree to refer the Dispute to arbitration in accordance with clause 24.3.1, either party may submit the Dispute for resolution to the exclusive jurisdiction of the Courts of Victoria, Australia.

24.4 Performance during Dispute resolution

24.4.1 The parties to a Dispute will continue to perform their respective obligations under this Agreement, and under any Purchase Order Contract, pending the resolution of a Dispute under this clause 24.

24.5 Interlocutory relief

24.5.1 Nothing in this clause 24 is to be taken as preventing any party to a Dispute from seeking interlocutory relief in respect of such dispute.

25. Compliance with Law and Policy

25.1 General Law

25.1.1 The Contractor must, in performing its obligations under this Agreement and under any Purchase Order Contract, comply with all Laws affecting or applicable to the provision of Goods and/or Service by the Contractor under this Agreement.

25.1.2 Where the Contractor is supplying medicines or medical devices pursuant to this Agreement, those items may only be supplied by the Contractor if they are legally available for sale in Australia and are included on the Australian Register of Therapeutic Goods.

25.2 Employment policy

25.2.1 The Contractor and any person engaged in the supply of Goods and/or Services must not:

(a) engage in unethical work practices; or

(b) engage employees or sub-contracted workers upon terms and conditions which do not meet industry standards generally applicable in Victoria.

25.2.2 Upon request by the Organisation, the Contractor must:

(a) demonstrate, to the Organisation's reasonable satisfaction, that the Contractor has, and will continue during the term of the Agreement, to meet its obligations to its employees under applicable industrial instruments and legislation;

(b) provide full written details of any adverse finding against the Contractor in any proceeding or prosecution in respect of a breach of an applicable industrial instrument or legislation; and

(c) permit the Organisation, or its duly authorised representatives (including an accountant or auditor), from time to time during ordinary business hours and upon reasonable notice, to inspect and verify all records maintained by the Contractor for the purposes of this clause 25.2; and give such authorised representative all reasonable assistance to facilitate the conduct of such audit or inspection.

25.2.3 Where a Federal industrial award may apply to the capacity in which an employee is engaged by the Contractor or a sub-contractor in the provision of the Goods and/or Services, the conditions on which that employee is engaged shall be no less beneficial to the employee than the rates and conditions under that award.

25.3 Local Jobs First Policy ("LJF Policy")

25.3.1 If the Participating Health Service indicates that the LJF Policy applies to the Purchase Order, then the terms and conditions set out in Schedule 5 are incorporated into the Purchase Order Contract.

26. Sub-contracting

26.1.1 The Contractor must not sub-contract to any third person any of its obligations under this Agreement or Purchase Order Contract (other than to the Approved Subcontractors set out in Item 19 of the Supply Schedule), other than to a Related Body Corporate, without the prior written consent of the Organisation which may be given or withheld by the Organisation in its absolute discretion, which will not be unreasonably withheld.

26.1.2 The Contractor must ensure that any sub-contractor engaged by it complies with all obligations imposed on the Contractor by this Agreement, including, without limitation, the ethical employment requirements set out in clause 25.2.

26.1.3 The Contractor will not, as a result of any sub-contracting arrangement, be relieved from the performance of any obligation under this Agreement or a Purchase Order Contract and will be liable for all acts and omissions of a sub-contractor as though they were the actions of the Contractor itself.

27. Access and safety

27.1.1 When the Contractor enters the premises of the Organisation or a Participating Health Service, the Contractor must and must ensure that its Personnel use reasonable endeavours to:

(a) protect people and property;

(b) prevent nuisance and unnecessary noise and disturbance;

(c) act in a safe and lawful manner and comply with the safety standards and policies of the Organisation (as notified to the Contractor); and

(d) comply with the Occupational Health and Safety Act 2004 (Vic) and any applicable regulations made under that Act.

27A Risk Management and Occupational Health and Safety (OH&S)

27A.1.1.1 The Contractor must have in place robust risk management and mitigation strategies for the following:

(a) business continuity or disaster recovery

(b) back up and data recovery systems when applicable data centres are unavailable

27A1.1.2 Before commencing any Services and at any other time directed by the Organisation, the Contractor must provide to the Organisation:

(a) A completed risk assessment form in a form that complies with the Occupational Health and Safety Act 2004 (Vic) or any other form as requested by the Organisation; and

(b) A health and safety plan that complies with the Occupational Health and Safety Act 2004 (Vic) and any other requirements as requested by the Organisation.

27A.1.1.3 The Contractor must perform the Services and comply with the OH&S obligations arising under this clause unless directed otherwise.

28. Code of Conduct

28.1.1 The Contractor acknowledges that the Participating Health Services and the Organisation's employees are bound by a code of conduct that requires probity in all dealings, including those conducted with contractors. The Organisation has adopted the code to ensure that all functions are undertaken efficiently, impartially and with integrity.

28.1.2 The Contractor affirms that it has not given, offered to give, nor intends to give at any time any inducement or reward including any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favour or service of personal gain to any parliamentarian, public servant, or employee, agent or subcontractor of the Organisation or any Participating Health Service or Member of the Parliament, in connection with this Agreement and the process which led to this Agreement being executed.

28.1.3 If the Contractor is found to have offered any inducement or reward in accordance with clause 28.1.2, or to have colluded with another party, with the object of arriving at a price for supply of the Goods which is artificially constructed so as to mislead or not be bona fide in all the circumstances, or is otherwise found to have engaged in conduct deemed by the Organisation to have compromised the integrity of the Organisation's process, this Agreement may be terminated by the Organisation, and/or a Participating Health Service upon the giving of notice to the Contractor, and in those circumstances the Contractor is liable for all costs and expenses associated with the termination of those documents.

28.1.4 The Contractor agrees to promptly report to the Organisation any reasonably held suspicion of fraudulent activity involving the Participating Health Services or the Organisation, arising out of or connected with this Agreement.

29. Supplier Code of Conduct

29.1.1 The Victorian State Government's Supplier Code of Conduct is available at the Victorian Government Purchasing Board website:

http://www.procurement.vic.gov.au/Suppliers/Supplier-Code-of-Conduct.
Updates and amendments to the Code will also be made available at this website.

29.1.2 The Contractor acknowledges that:

(a) the Supplier Code of Conduct is an important part of the State's approach to procurement and describes the State's minimum expectations regarding the conduct of its suppliers;

(b) the Contractor has read the Supplier Code of Conduct; and

(c) the expectations set out in the Supplier Code of Conduct are not intended to reduce, alter or supersede any other obligations which may be imposed on the supplier, whether under this Agreement or at Law.

30. Social Procurement Framework ("SPF") Commitments

30.1.1 The Organisation's commitment to Social and Sustainable Outcomes as per Victoria's Social Procurement Framework (SPF) is outlined in this Agreement at item 20 of the Supply Schedule, and detailed in Schedule 6 of this Agreement.

31. GST

31.1 Definitions

31.1.1 Terms used in this clause have the same meanings given to them in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

31.2 Consideration is exclusive of GST

31.2.1 Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with this Agreement are exclusive of GST.

31.3 Participating Health Services to pay GST

31.3.1 If GST is imposed on any supply made under or in accordance with this Agreement, the Participating Health Service receiving the taxable supply must pay to the Contractor an additional amount equal to the GST payable on or for the taxable supply subject to the Participating Health Service receiving a valid tax invoice in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time as payment for the taxable supply in accordance with this Agreement.

31.4 Reimbursement

31.4.1 If this Agreement requires a party to pay for, reimburse or contribute to any expense, loss or outgoing (Reimbursable Expense) suffered or incurred by another party, the amount required to be paid, reimbursed or contributed by the first party will be the amount of the Reimbursable Expense net of input tax credits (if any) to which the other party is entitled in respect of the Reimbursable Expense plus any GST payable by the other party.

31A Staff Costs

31A.1.1.1 The Contractor will indemnify and keep indemnified the Organisation and the Participating Health Services from and against all liability for the Staff Costs in any way relating to the Services.

31A.1.1. If the Organisation or the Participating Health Services is or becomes liable to pay any Staff Costs, that Organisation or the Participating Health Services (as the case may be) may deduct the amount of its liability for the Staff Costs from any amount due by the Organisation or the Participating Health Services (as the case may be) to the Contractor, whether under this Agreement or otherwise.

32. Recall Process

32.1.1 The Contractor must manage all recalls in accordance with the requirements of *the Uniform Recall Procedure for Therapeutic Goods (URPTG) (V2.1, February 2019)* (as amended from time to time).

32.1.2 In accordance with the requirements set out in Item 17 of the Supply Schedule, all recalls and/or hazard alerts must be completed by the Contractor using GS1 'Recall Health', as endorsed by the National E-Health Transition Authority.

32.1.3 Class 1 recalls (as defined by the TGA's *Uniform Recall Procedure for Therapeutic Goods (URPTG) (V2.1, February 2019)*) must also meet the requirements of this Agreement.

32.1.4 The Contractor must hold a "live" status on GS1 Recall Health within three months of the Commencement Date.

32.1.5 If the Contractor fails to comply with the requirements of clause 32.1.5, the Organisation may, in its absolute discretion, enter into an agreement with an alternative supplier for the supply of the Goods.

33. National Product Catalogue

33.1.1 The Contractor must load and publish all product information and pricing for the Goods on the NPC within three months from commencement of the Agreement.

33.1.2 The Contractor must maintain all product data loaded to the NPC for all Goods and LocateNet information, for the Term of this Agreement. In addition, the Contractor must maintain GS1 LocateNet information, for the Term of the Agreement.

34. Notices

34.1 Giving a communication

34.1.1 A Purchase Order, notice, demand, certification, process or other communication relating to this Agreement must be in writing in the English language, and may (in addition to any other method permitted by law) be sent by pre-paid post, pre-paid courier or by electronic mail as follows:

(a) to the Organisation/Participating Health Service: at the address which is set out in Item 3 of the Supply Schedule (or, where the notice or document is in relation to a Purchase Order Contract, to the address of the Ordering Participating Health Service nominated in the relevant Purchase Order); and

(b) to the Contractor: at the address which is set out in Item 4 of the Supply Schedule.

34.2 Time of delivery

34.2.1 A notice or document shall be taken to be delivered or served as follows:

(a) in the case of delivery in person or by courier, when delivered;

(b) in the case of delivery by post within Australia, two Business Days after the date of posting;

(c) in the case of delivery by post to or from an address outside Australia, ten days after the date of posting; and

(d) in the case of electronic mail, if the message is correctly addressed and successfully transmitted to that party's electronic mail address (email address), when acknowledgment of receipt is recorded on the sender's computer.

34.3 After hours communications

34.3.1 If any notice or document is delivered or deemed to be delivered:

(a) after 5.00pm in the place of receipt; or

(b) on a day which is a Saturday, Sunday or public holiday in the place of receipt,

it is taken as having been delivered at 9.00am on the next day which is not a Saturday, Sunday or public holiday in that place.

35. General

35.1 Legal costs

35.1.1 Except as expressly stated otherwise in this Agreement, each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this Agreement.

35.2 Amendment

35.2.1 This Agreement may only be varied or replaced by a document executed by the Organisation and the Contractor.

35.2.2 A Purchase Order Contract may only be varied or replaced by a document executed by the relevant Ordering Participating Health Service and the Contractor.

35.3 Waiver and exercise of rights

35.3.1 A single or partial exercise or waiver by a party of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.

35.3.2 A party is not liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

35.4 Severability

35.4.1 Any provision of this Agreement or a Purchase Order Contract which is invalid or unenforceable is to be read down, if possible, so as to be valid and enforceable, and, if that

is not possible, the provision shall, to the extent that it is capable, be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions.

35.5 Rights cumulative

35.5.1 Except as expressly stated otherwise in this Agreement, the rights of a party under this Agreement are cumulative and are in addition to any other rights of that party.

35.6 Set off

35.6.1 The Organisation and the Participating Health Services may set off against any sum owing to the Contractor under this Agreement or any Purchase Order Contract any amount then owing by the Contractor to the Organisation or the Participating Health Services (as the case may be).

35.7 Governing law and jurisdiction

35.7.1 This Agreement is governed by and is to be construed in accordance with the Laws.

35.7.2 Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Victoria and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

35.8 Assignment of rights

35.8.1 A party shall not assign or encumber any rights or obligations under this Agreement without the prior written consent of the other party.

35.8.2 The Contractor will not, as a result of any assignment pursuant to clause 35.8.1, be relieved from the performance of any obligation under this Agreement, and will be responsible for acts and omissions of any assignee;

35.8.3 The Organisation will not unreasonably withhold its consent to any proposed assignment or encumbrance in accordance with clause 35.8.1 or unreasonably delay such consent;

35.8.4 The Organisation may, by notice in writing to the Contractor, assign its rights to any other State government department, administrative office or any other public body in the event of any State government restructure or other re organisation; and

35.8.5 For the purpose of this clause, assignment includes a change of control (as defined in section 50AA of the Corporations Act) in the Contractor.

35.9 Divestment

35.9.1 Notwithstanding any other clause in this Agreement, and in the event of a divestment by the Contractor of a product or product line forming part of the Goods (Divested Product) or Services (Divested Services), if the Organisation does not provide consent to a proposed assignment, encumbrance, novation or sub-contract, the Contractor may either:

(a) On 60 days written notice to the Organisation, terminate this Agreement; or

(b) On 30 days written notice to the Organisation, the Agreement be varied such that the Divested Product or Divested Services shall no longer be a Good for the purposes of this Agreement and (without prejudice to any existing rights or remedies) all

references to the Divested Product(s) or Divested Services shall be deemed to be deleted.

35.9.2 If the Organisation does not provide consent to an assignment or novation requested by the Contractor within 90 days of a request, the Organisation will be deemed, for the purposes of this clause, to have refused the request.

35.10 Counterparts

35.10.1 This Agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

35.11 Entire understanding

35.11.1 This Agreement, together with any other documents or representations specified in Item 16 of the Supply Schedule contain the entire understanding between the parties as to the subject matter of this Agreement.

35.11.2 Each Purchase Order Contract formed pursuant to this Agreement contains the entire understanding between the parties as to the subject matter of that Purchase Order Contract.

35.11.3 Except as otherwise provided in clauses 35.8.1 or 35.8.2 (as the case requires):

(a) all previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this Agreement or Purchase Order Contract (as the case requires) are merged in and superseded by this Agreement or Purchase Order Contract (as the case requires) and are of no effect; and

(b) no oral explanation or information provided by any party to another:

(i) affects the meaning or interpretation of this Agreement or Purchase Order Contract (as the case requires); or

(ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

35.12 Relationship of parties

(a) This Agreement is not intended to create a partnership, joint venture or agency relationship between the parties.

(b) In their dealings with third parties, neither the Organisation, a Participating Health Service, the Contractor or any of the Contractor's staff have authority to bind another party in any manner whatsoever, except with the prior written approval of the other party.

(c) Each Participating Health Service is entitled to exercise its rights under this Agreement independently of the other Participating Health Services.

(d) The Contractor acknowledges that the Participating Health Services are not liable for each other's actions.

The Parties agree to the supply and purchase of the Goods described above on the standard terms and conditions set out in the attached document.

EXECUTED as a Deed.

SIGNED, SEALED AND DELIVERED for and on behalf of Health Purchasing Victoria (ABN 28 087 208 309) acting in its own right and as agent for the Participating Health Services	*Signature*
Name and title of authorized signatory	*Elaine Ko CEO*
Date of signing	*Insert date of signing*
In the presence of	*Odette Commins*
Signed	*Signature of witness*
Name and position of witness	*Odette Commins*

Guide Note: use the execution block below for a company (by directors or director/company secretary):

SIGNED, SEALED AND DELIVERED for and on behalf of [insert name of Contractor (ABN xx xxx xxx xxx)] in accordance with section 127 of the *Corporations Act 2001*	*Signature of director*
Name of director	*insert name and title of signatory (print)*
Date of signing	*Insert date of signing*
Signed	*Signature of director/company secretary/sole director and sole company secretary (Please delete as applicable)*
Name	*Name of director/company secretary/sole director and sole company secretary (print)*
Date of signing	*Insert date of signing*

Guide note: use the execution block below for a company (authorised officer):

SIGNED, SEALED AND DELIVERED for and on behalf of [insert name of Contractor (ABN xx xxx xxx xxx)] by a duly authorised officer, who has no knowledge that the Power of Attorney has been revoked, in accordance with a Power of Attorney [insert details of Power Attorney]	*Signature of Authorised Officer*
Name of Authorised Officer	*insert name and title of signatory (print)*
Date of signing	*Insert date of signing*
Signed by witness	*Signature of witness)*
Name of witness	*Name of witness (print)*
Date of signing	*Insert date of signing*

Guide Note: use the execution block below for a trustee company:

SIGNED, SEALED AND DELIVERED for and on behalf of [insert name of Contractor (ABN xx xxx xxx xxx)] personally and as trustee pursuant to the Trust Deed dated [insert Trust name and Deed details] and in accordance with section 127 of the *Corporations Act 2001*	*Signature of Director*
Name of Director	*insert name and title of signatory (print)*

Date of signing	*Insert date of signing*
Signed	*Signature of director/company secretary/sole director and sole company secretary (Please delete as applicable)*
Name	*Name of witness (print)*
Date of signing	*Insert date of signing*

Schedule 1 Supply Schedule

1.	Invitation to Supply Details	HPVITS2020-010 Sterilisation Consumables and Related Services
2.	General Description of Goods to be supplied General Description of Services to be provided	This ITS is for the provision of Sterilising Consumables and related services which are used in Sterilising departments for the reprocessing of reusable medical devices within Victorian Health Service facilities. This ITS is for the provision of Testing Services and Validation Services of Reprocessing Equipment which includes Water Quality Testing and Steam Purity Testing
3.	Organisation Details	Health Purchasing Victoria, ABN 28 087 208 309, a body incorporated pursuant to section 129 of the Health Services Act 1988 (Vic) acting in its own right and as agent for the Participating Health Services. HPV's Contract Manager: Name: Vishal Mago Title: Category Manager Phone: 03 9947 3736 Email: v.mago@hpv.org.au HPV's Authorised Representative: Name: Elaine Ko Title: Chief Executive Phone: 03 9947 3700 Email: e.ko@hpv.org.au
4.	Contractor's Details	Enter Contractor Name, ABN number of Address ("the Contractor") Relationship Manager: Name: Insert Title: Insert Phone: Insert Email: Insert

5.	Commencement Date (clause 2.1)	1 June 2020
6.	Expiry Date (clause 2.1)	31 May 2023
7.	Initial Term and Further Terms (clause 2.2)	Initial Term: 3 years Further Term: 1x2 years
7.A	Transition Period (clause 2.2)	3 months
8.	Participating Health Services (clause 1.4)	All 'Public Health Services' (as legislatively defined) referred to in Schedule 1 and Schedule 5 of the Health Services Act 1988. Refer to Schedule 4 Reporting Guidelines
9.	Price review (clause 4.1)	Price review mechanism: Any price review in anticipation of a further term will be subject to the following: . • will be initiated by the Organisation at least six months prior and agreed by the Contractor and Organisation no later than one month before contract expiry. • Response to pricing review must be submitted in the format requested by the Organisation must be complete and full. • Any changes to the pricing, irrespective of whether it is an increase or reduction must be accompanied with the supporting evidence and justification. • No response by the Contractor will be deemed as an acceptance of the current contract terms and conditions for the option period term. Price increase proposed must not exceed the CPI rate at the time of option review. Increase associated to the CPI must apply to the local component of the product.

10.	Invoicing (clause 8)	A small business has an annual turnover of up to $10M and employs fewer than 20 employees. Is the Contractor a small business under the Australian Supplier Payment Code? ☐ Yes ☐ No Invoice requirements: Click here to enter text. Address for invoice: All invoices must be sent to the person(s) (if any) specified in the relevant Purchase Order, to the address specified in the Purchase Order.
11.	Offer (clause 1.1)	Offer in response to HPVITS 2020-010 Sterilisation Consumables
12.	Reports (clause 13.4)	The Contractor must provide the Organisation with the following reports: Sales data and other sales related data in line with the defined reporting format, including accurate details of: Direct sales per Good at a transactional level, per health service; Indirect sales (via distributor) per Good at a transactional level, per health service; Reports of the Contractor's performance against the Key Performance Indicators specified in Item 16 of the Supply Schedule, or as agreed from time to time; and Reports of the Contractor's performance against the LIDP plan submitted by the Contractor to the Industry Capability Network in support of their Offer (where applicable). These reports must be provided on a quarterly basis with the first reports due on 14 July 2020. These reports must be provided in the following format(s) *Sales data must be submitted via the HPV website in comma-separated values (CSV) file format.* *If your Data Management System cannot automatically generate sales report as a comma-separated values (CSV) file with all columns as per tab Template, please create sales report in excel as per instructions below and at the end save your report as CSV file and upload to the HPV website*
13.	Contract Management Review (clause 13.6)	The Contract Manager and Relationship Manager will meet annually to discuss contract issues, or as required by the Contract Manager.

<table>
<tr><td>14.</td><td>Insurance
(clause 21)</td><td colspan="3">Tick one or more of the boxes below to specify the types and amount of insurance that the Contractor is required to obtain and maintain during the Term:</td></tr>
<tr><td></td><td></td><td></td><td>Type of coverage</td><td>Amount (AUD)</td></tr>
<tr><td></td><td></td><td>☒</td><td>Public liability insurance</td><td>Insert (minimum required $20M) for any one event and in the aggregate in any one policy period</td></tr>
<tr><td></td><td></td><td>☒</td><td>Product liability insurance</td><td>Insert (minimum required $10M) for any one event and in the aggregate in any one policy period</td></tr>
<tr><td></td><td></td><td>☐</td><td>Professional indemnity insurance</td><td>Insert (minimum required $10M) for any one event and in the aggregate in any one policy period</td></tr>
<tr><td></td><td></td><td>☐</td><td>Other (please specify):</td><td>Insert</td></tr>
<tr><td></td><td></td><td colspan="3">Minimum periods of insurance post contract completion:

Type of coverage — Minimum period

Public liability insurance — Insert period of insurance (no less than 15 years)

Product liability insurance — Insert period of insurance (no less than 15 years)

Professional indemnity insurance — Insert period of insurance (no less than 10 years)

Other (please specify): — Insert</td></tr>
<tr><td>15.</td><td>Warranty (clause 7.5)</td><td colspan="3">Insert relevant Manufacturer's Warranty period (note: this must be at least 12 months)</td></tr>
<tr><td>16.</td><td>Documentation
(clause 35.10)</td><td colspan="3">The Contractor's Offer

[Insert any other documentation containing the Contractor's representations to HPV.]</td></tr>
<tr><td>17.</td><td></td><td colspan="2">KPI</td><td>KPI Metric</td></tr>
</table>

	Key Performance Indicators (clause 5.1.3) Performance against these KPIs is recorded; may be shared with health services; and may be considered in future ITSs	Sales Reports Accurate (≥95%) sales reports are received by the organisation, on time (≥95%), as per the reporting schedule.	$\frac{\text{No. of correct HPV contracted sales report fields}}{\text{No. of HPV contracted sales report fields}}$ $\frac{No.\,of\ reports\ submitted\ on\ time}{Total\ \text{no.}\,of\ reports\ due}$
		Recall Compliance ≥95% use of Recall Health for all recalls. (If the contractor is Recall live AND there are no applicable recalls in this period, this KPI defaults to 100%)	$\frac{No.\ of\ recalls\ managed\ using\ GS1\ Recall}{No.\ of\ recalls}$
		Maintenance of product data on the National Product Catalogue ≥95% of contracted products are loaded and maintained on the NPC. ≥80% attribute synchronisation between the NPC and the current pricing schedule (i.e. VPCS sync score).	$\frac{No.\ of\ HPV\ contracted\ items\ found\ on\ the\ NPC}{No.\ of\ HPV\ contracted\ items\ required\ to\ be\ listed\ on\ the\ NPC}$ $\frac{No.\ of\ HPV\ contracted\ NPC\ fields\ that\ match\ the\ current\ price\ schedule}{No.\ of\ HPV\ contracted\ item\ fields}$
		Product delivery ≥95% Delivery In Full On Time to the Quality Specified (DIFOT-Q) as specified in the Agreement, Schedule 2 – Specifications.	$\frac{No.\,of\ products\ delivered\ in\ full,\,on\ time,\ to\ the\ quality\ specified}{No.\,of\ products\ delivered}$

		Invoice accuracy 98/100% of invoices must be 100% accurate against the current pricing schedule.	$\frac{No.\ of\ invoices\ where\ all\ lines\ match\ the\ current\ HPV\ pricing\ schedule}{No.\ of\ invoices}$
		Training and technical support ≥95% provision of educational sessions for health services as specified in the Agreement. (If no educational sessions are required for this period, this KPI defaults to 100%)	$\frac{No.\ of\ education\ sessions\ provided\ to\ HPV\ health\ services}{No.\ of\ education\ sessions\ requested\ by\ HPV\ health\ services}$
		Product shelf life ≥99% of items supplied have sufficient shelf life remaining, as specified in the Agreement, Schedule 2 – Specifications.	$\frac{No.\ of\ items\ supplied\ with\ sufficient\ shelf\ life\ remaining}{No.\ of\ items\ supplied}$
		Backorders ≥95% of items ordered within this period are not on backorder.	$\frac{No.\ of\ ordered\ items\ NOT\ on\ backorder}{No.\ of\ ordered\ items}$

		Customer Service, Enquiries, Complaints ≥95% customer service satisfaction.	
18.	Local Jobs First Policy (clause 25.3)	Contestable Items Does the Local Jobs First Policy apply to this Agreement? ☐ Yes ☐ No	
19.	Approved Subcontractors (clause 26)	[Guide note: set out any approved subcontractors identified by the Contractor in its Response.]	
20.	Social Procurement Framework (clause 30)	Does the Organisation commit to social outcomes as per Victoria's Social Procurement Framework in this Agreement? ☒ Yes ☐ No	
21.	Distributor (clause 3.5)	[Set out any Distributors identified by the Contractor, such as DHL, Toll, etc]	

Schedule 2 Specifications

To be inserted upon contract finalisation

Schedule 3 Pricing Schedule

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Schedule 4 Reporting guidelines

Reporting Guidelines

a. Contractors are required to submit sales reports in the format as outlined in the Excel spreadsheet included in the release package.

b. The reporting periods are indicated below. HPV reserve the right to amend these dates.

Period	**Report start date** (YYYY-MM-DD)	**Report end date** (YYYY-MM-DD)	**Report due date** (YYYY-MM-DD)
Q2 2020	**2020-06-01**	2020-06-30	2020-07-14
Q3 2020	2020-07-01	2020-09-30	2020-10-14
Q4 2020	2020-10-01	2020-12-31	2021-01-28
Q1 2021	2021-01-01	2021-03-31	2021-04-14
Q2 2021	2021-04-01	2021-06-30	2021-07-14
Q3 2021	2021-07-01	2021-09-30	2021-10-14
Q4 2021	2021-10-01	2021-12-31	2022-01-28
Q1 2022	2022-01-01	2022-03-31	2022-04-14
Q2 2022	2022-04-01	2022-06-30	2022-07-14
Q3 2022	2022-07-01	2022-09-30	2022-10-14
Q4 2022	2022-10-01	2022-12-31	2023-01-28
Q1 2023	2023-01-01	2023-03-31	2023-04-14
If the option to extend the Agreement Period is <u>not</u> taken up, the following reporting dates will apply.			
Q2 2023	2023-04-01	**2023-05-31**	**2023-06-14**
If the option to extend the Agreement Period is taken up, the following reporting dates will apply.			
Q2 2023	2023-04-01	2023-06-30	2023-07-14
Q3 2023	2023-07-01	2023-09-30	2023-10-14
Q4 2023	2023-10-01	2023-12-31	2024-01-28
Q1 2024	2024-01-01	2024-03-31	2024-04-14
Q2 2024	2024-04-01	2024-06-30	2024-07-14
Q3 2024	2024-07-01	2024-09-30	2024-10-14
Q4 2024	2024-10-01	2024-12-31	2025-01-28
Q1 2025	2025-01-01	2025-03-31	2025-04-14
Q2 2025	2025-04-01	**2025-05-31**	**2025-06-14**

Health Purchasing Policies are made by the Health Purchasing Victoria (HPV) Board in accordance with s134 of the *Health Services Act 1988* (*the Act*). All Schedule 1 and 5 public hospitals and health services as listed under *the Act* must comply with these policies which are legally binding, effective from date of publication in the Government Gazette (unless specifically granted an exemption by HPV).

Public Hospitals

The following entities are *public hospitals* by definition in Schedule 1 of the *Health Services Act* 1988. Public hospitals **must comply with HPV contracts unless specifically exempted by HPV**.

Public Hospitals	**This is the NAME of the legal entity as per the Australian Business Register (ABR).**	**The Australian Business Number (ABN) of the legal entity** (as per the Australian Business Register (ABR)).	**The legal entity consists of the following hospitals or sites. FOR REPORTING PURPOSES PLEASE PROVIDE TRANSACTIONAL PURCHASING RECORDS PER HOSPITAL/SITE**
	Alexandra District Health	**60 130 305 561**	Alexandra District Health, Alexandra Campus Alexandra District Health, Eildon Campus Alexandra District Health, Marysville Campus
	Bairnsdale Regional Health Service	**99 640 620 478**	Bairnsdale Regional Health Service, Day Street Campus Bairnsdale Regional Health Service, Ross Street Campus Maddocks Gardens
	Bass Coast Health	**86 627 309 026**	Wonthaggi Hospital Bass Coast Health, Wonthaggi site Bass Coast Health, Cowes site Bass Coast Health, San Remo site Armitage House Nursing Home Kirrak House Nursing Home Griffiths Point Lodge Hostel
	Beaufort and Skipton Health Service	**54 754 317 520**	Beaufort and Skipton Health Service, Beaufort Campus

			Beaufort and Skipton Health Service, Skipton Campus
	Beechworth Health Service	**66 925 509 211**	Beechworth Health Service
	Benalla Health	**96 078 399 891**	Benalla Health
	Boort District Health	**61 440 342 041**	Boort District Health
	Casterton Memorial Hospital	**62 051 291 134**	Casterton Memorial Hospital
	Castlemaine Health	**93 073 879 138**	Castlemaine Health
	Central Gippsland Health Service	**85 050 485 681**	Central Gippsland Health Service, Sale Campus Central Gippsland Health Service, Maffra Campus Heyfield Hospital Wilson Lodge Rosedale Community Health Centre Loch Sport Community Health Centre Laurina Lodge Stretton Park
	Cobram District Health	**22 697 331 144**	Cobram District Health Irvin House Cobram Community Health Centre Moira Community Rehabilitation Centre
	Cohuna District Hospital	**44 332 472 725**	Cohuna District Hospital
	Colac Area Health	**39 087 165 191**	Colac Area Health
	Djerriwarrh Health Services	**83 271 740 698**	Bacchus Marsh and Melton Regional Hospital Melton Health Grant Lodge Residential Care Melton Community Health Centre Bacchus Marsh Community Health Centre Caroline Springs Community Health Centre
	East Grampians Health Serv	**93 473 547 006**	East Grampians Health Service, Ararat Campus

			East Grampians Health Service, Willaura Campus
	East Wimmera Health Service	**91 424 920 693**	East Wimmera Health Service, Birchup Campus East Wimmera Health Service, Charlton Campus East Wimmera Health Service, Donald Campus East Wimmera Health Service, St Arnaud Campus East Wimmera Health Service, Wycheproof Campus
	Echuca Regional Health	**30 490 690 530**	Echuca Regional Health
	Edenhope & District Memorial Hospital	**19 442 911 836**	Edenhope & District Memorial Hospital
	Gippsland Southern Health Service	**55 344 811 591**	Korumburra Hospital Leongatha Hospital Korumburra Community Health Centre Mirboo North Community Health Centre Tarwin Lower Community Health Centre Alchera House Koorooman House Hillside Lodge
	Heathcote Health	**22 808 993 283**	Heathcote Health
	Hepburn Health Service	**31 793 115 158**	Hepburn Health Service, Clunes Campus Hepburn Health Service, Creswick Campus Hepburn Health Service, Daylesford Campus Hepburn Health Service, Trentham Campus
	Hesse Rural Health Service	**12 766 864 906**	Hesse Rural Health Service, Winchelsea Campus Hesse Rural Health Service, Bannockburn Beeac Community Health Centre Moriac Community Health Centre

			Rokewood Community Health Centre Winchelsea Community Health Centre Chelsea Lodge
	Heywood & District Memorial Hospital	**13 439 112 909**	Heywood & District Memorial Hospital
	Inglewood & Districts Health Service	**59 289 296 574**	Inglewood & Districts Health Service
	Kerang District Health	**43 863 112 728**	Kerang District Health
	Kilmore & District Hospital	**49 260 016 741**	Kilmore & District Hospital
	Kooweerup Regional Health Services	**36 069 036 918**	Kooweerup Regional Health Services Killara Hostel Westernport Nursing Home
	Kyabram and District Health Service	**40 003 759 225**	Kyabram and District Health Service Sheridan Aged Care Community Health Stanhope Community Health Tongala
	Kyneton District Health Service	**60 500 832 938**	Kyneton District Health Service
	Lorne Community Hospital	**29 191 876 319**	Lorne Community Hospital
	Maldon Hospital	**62 239 398 514**	Maldon Hospital
	Mansfield District Hospital	**65 866 548 895**	Mansfield District Hospital Buckland House Nursing Home Bindaree Retirement Centre
	Maryborough District Health Service	**81 511 515 955**	Maryborough District Health Service, Avoca Campus Maryborough District Health Service, Dunolly Campus Maryborough District Health Service, Maryborough Campus
	Moyne Health Services	**30 586 278 991**	Moyne Health Services, Koroit Campus Moyne Health Services, Port Fairy Belfast House Moyneyana House

Public Hospitals

Nathalia District Hospital	**51 530** **871 165**	Nathalia District Hospital Banawah Nursing Home
Northeast Health Wangaratta	**13 157** **273 279**	Northeast Health Wangaratta Illoura Nursing Home
Numurkah District Health Service	**24 620** **742 736**	Numurkah District Health Service Karinya Nursing Home Numurkah Pioneer Memorial Lodge
Omeo District Hospital	**24 479** **149 504**	Omeo District Hospital
Portland District Health	**19 736** **725 377**	Portland District Health
Rochester & Elmore District Health Service	**76 670** **975 935**	Rochester & Elmore District Health Service
Rural Northwest Health	**23 976** **871 636**	Rural Northwest Health, Warracknabeal Rural Northwest Health, Hopetoun Campus Rural Northwest Health, Beulah Campus Yarriambiack Lodge
Seymour District Memorial Hospital	**91 289** **605 355**	Seymour District Memorial Hospital Barrabill House, Residential Aged Care Ambulatory Care Centre
South Gippsland Hospital	**35 364** **836 505**	South Gippsland Hospital
South West Healthcare	**41 189** **754 233**	Warrnambool Base Hospital Camperdown Hospital Warrnambool Community Health Portland Mental Health Services Hamilton Mental Health Services Merindah Lodge Aged Care Camperdown Mental Health Services Lismore Community Health Macarthur Community Health Manifold Place David Newman Adult Day Centre
Stawell Regional Health	**50 467** **753 315**	Stawell Regional Health Macpherson Smith Residential Care

Swan Hill District Health	**24 314 338 210**	Swan Hill District Health Jacaranda Lodge
Tallangatta Health Service	**30 043 875 294**	Tallangatta Health Service Bolga Court Hostel
The Queen Elizabeth Centre	**23 237 300 347**	The Queen Elizabeth Centre
Terang and Mortlake Health Services	**43 323 722 091**	Terang and Mortlake Health Services, Terang Campus Terang and Mortlake Health Services, Mortlake Campus Mount View Nursing Home
Tweddle Child & Family Health Service	**38 630 063 750**	Tweddle Child & Family Health Service
West Gippsland Healthcare Group	**39 261 883 406**	Baw Baw Health and Community Care Centre Warragul Community Services Centres Trafalgar Community Services Centres Cooinda Lodge Aged Care Residence Rawson Community Health Centre Andrews House Aged Care Residence West Gippsland Hospital
West Wimmera Health Service	**50 275 032 704**	Nhill Hospital Kaniva Hospital Jeparit Hospital Rainbow Hospital Natimuk Hospital Goroke Community Health Centre Cooinda Disability Service Rupanyup Nursing Home Minyip Community Health Centre Murtoa Community Health Centre
Western District Health Service	**47 616 976 917**	Hamilton Base Hospital Frances Hewett Community Centre

			The Birches Extended Care Facility Grange Residential Care Service Coleraine District Health Services Penshurst and District Health Service Merino Community Health Centre
	Wimmera Health Care Group	**21 203** **855 611**	Wimmera Health Care Group, Dimboola Campus Wimmera Health Care Group, Horsham Campus Kurrajong Lodge Wimmera Nursing Home
	Yarram and District Health Service	**23 682** **798 533**	Yarram and District Health Service St Elmo's Nursing Home Crossley House Hostel Bakers Community Service Centre
	Yarrawonga Health	**32 983** **213 307**	Yarrawonga Health Warrina Hostel Karana Residential Care Allawah Special Care Hostel
	Yea & District Memorial Hospital	**89 549** **896 178**	Yea & District Memorial Hospital Rosebank Hostel Rosebank Nursing Home Yea Community Health

Public Health Services

The following entities are *Public Hospitals or Public Health Services* by definition in Schedules 5 of the *Health Services Act 1988*. Public Hospitals/Health Services listed in these Schedules **must comply with HPV contracts unless specifically granted an exemption by HPV**.

Public Health Services	**This is the NAME of the legal entity as per the Australian Business Register (ABR).**	**The Australian Business Number (ABN) of the legal entity** (as per the Australian Business Register (ABR)).	**The legal entity consists of the following hospitals or sites. FOR REPORTING PURPOSES PLEASE PROVIDE TRANSACTIONAL PURCHASING RECORDS PER HOSPITAL/SITE**
	Albury Wodonga Health	**31 569 743 618**	Albury Wodonga Health, Wodonga Campus Albury Wodonga Health, Albury Campus
	Alfred Health	**27 318 956 319**	Caulfield Hospital Sandringham Hospital The Alfred Melbourne Sexual Health Centre
	Austin Health	**96 237 388 063**	Austin Hospital Heidelberg Repatriation Hospital The Royal Talbot Rehabilitation Centre Darley House
	Ballarat Health Services	**39 089 584 391**	Ballarat Health Services, the Base Hospital site Ballarat Health Services, the Queen Elizabeth Centre site Ballarat Health Services, the Mental Health Services site
	Barwon Health	**45 877 249 165**	University Hospital Geelong McKellar Centre Belmont Community Rehabilitation Centre Alan David Lodge Andrew Love Cancer Centre Wallace Lodge

			Blakiston Lodge Percy Baxter Lodge Anglesea Community Health Centre Belmont Community Health Centre Corio Community Health Centre Newcomb Community Health Centre Torquay Community Health Centre Surfcoast Community Mental Health Bellarine Community Mental Health
	Bendigo Health Care Group	**26 875 445 912**	Bendigo Health, Anne Caudle Campus Bendigo Health, Bendigo Hospital Campus John Bomford Centre Alexander Bayne Centre Carshalton House Stella Anderson Nursing Home Joan Pinder Nursing Home Golden Oaks Nursing Home Simpkin House
	Dental Health Services Victoria	**55 264 981 997**	The Royal Dental Hospital of Melbourne
	Eastern Health	**68 223 819 017**	Angliss Hospital Box Hill Hospital Healesville and District Hospital Maroondah Hospital Peter James Centre Wantirna Health Yarra Ranges Health Yarra Valley Community Health Monda Lodge Hostel Edward Street Nursing Home

			Mooroolbark Residential Aged Care Service Northside Residential Aged Care Service
	Goulburn Valley Health	**69 541** **423 898**	Goulburn Valley Health, Shepparton Campus Goulburn Valley Health, Tatura Campus Goulburn Valley Health, Waranga Campus
	Latrobe Regional Hospital	**18 128** **843 652**	Latrobe Regional Hospital
	Melbourne Health	**73 802** **706 972**	North West Dialysis Service NorthWestern Mental Health The Royal Melbourne Hospital, City Campus The Royal Melbourne Hospital, Royal Park Campus Victorian Infectious Diseases Reference Laboratory (VIDRL)
	Monash Health	**82 142** **080 338**	Cardinia Casey Community Health Service Casey Hospital Cranbourne Integrated Care Centre Dandenong Hospital Kingston Centre Monash Children's Hospital Greater Dandenong Community Health Service Monash Medical Centre Clayton Monash Heart McCulloch House Moorabbin Hospital Biala Assement Unit AG Eastwood Hostel Allambee Nursing Home

			Chestnut Gardens Nursing Home Mooraleigh Hostel Yarraman Nursing Home
	Northern Health	**42 986** **169 981**	Broadmeadows Health Service Bundoora Extended Care Centre Craigieburn Health Service Panch Health Service The Northern Hospital
	Peninsula Health	**52 892** **860 159**	Frankston Hospital Rosebud Hospital The Mornington Centre Golf Links Road Rehabilitation Centre Mount Eliza Centre Peninsula Community Mental Health Service Frankston Community Health Hastings Community Health Mornington Community Health Rosebud Community Health Jean Turner Community Nursing Home Lotus Lodge Hostel Michael Court Residental Aged Care Hostel Rosewood House Carinya Residential Aged Care Service
	Peter MacCallum Cancer Institute	**42 100** **504 883**	Peter MacCallum Cancer Institute
	The Royal Children's Hospital	**35 655** **720 546**	The Royal Children's Hospital
	Royal Victorian Eye & Ear Hospital	**81 863** **814 677**	Royal Victorian Eye & Ear Hospital
	The Royal Womens Hospital	**62 787** **822 077**	The Royal Womens Hospital
	Western Health	**61 166** **735 672**	Sunshine Hospital Western Hospital Williamstown Hospital Sunbury Day Hospital

			Hazeldean Transition Care

Other health or related services are eligible to apply for access to HPV collective agreements. The following entities have been granted access to this contract and therefore must comply with this contract.

Additional Entities	**This is the NAME of the legal entity as per the Australian Business Register (ABR).**	**The Australian Business Number (ABN) of the legal entity** (as per the Australian Business Register (ABR)).	**The legal entity consists of the following hospitals or sites. FOR REPORTING PURPOSES PLEASE PROVIDE TRANSACTIONAL PURCHASING RECORDS PER HOSPITAL/SITE**
	Gateway Health	***76 640 576 694***	*Gateway Health, Wangaratta site* *Gateway Health, Wodonga site* *Gateway Health, Myrtleford site*

Schedule 5 Local Jobs First Policy

The below is required by the Contractor in respect of the Local Jobs First Policy and the requirement to develop a Local Industry Development Plan to be included as part of any Order Contract where applicable.

1. Definitions

In this Schedule:

Agreement means this agreement.

Apprentice means a person whom an employer has undertaken to train under a Training Contract.

Cadets means those persons enrolled in a recognised tertiary level organisation and who receive structured learning opportunities as part of their engagement to a Local Jobs First project (e.g. cadets in architecture, quantity surveying, or engineering) but which is not under a Training Contract.

Contractor means the person or entity (however described) providing the goods and services under this Agreement.

Contract Manager means the Participating Health Service for all communication and liaison with the Contractor for the purposes of this Agreement in connection with Local Jobs First Policy.

Guidelines means Local Jobs First Supplier Guidelines, available at www.localjobsfirst.vic.gov.au.

ICN Analytics is a cloud based secure online platform that enables the collection, analysis and reporting of local content and jobs data, including supply chain monitoring and reporting.

Industry Capability Network (**Victoria**) means Industry Capability Network (Victoria) Limited of Level 11, 10 Queens Road, Melbourne VIC 3004 ACN 007 058 120.

LIDP means the Local Industry Development Plan as an example set out in Attachment 1 to this Schedule.

LIDP Monitoring Table means the table included as an example at Attachment 2 to this Schedule.

Local Content has the meaning given in s 3(1) of the *Local Jobs First Act 2003*.

Local Jobs First Commissioner means the person appointed under s 12 of the *Local Jobs First Act 2003*.

Local Jobs First Policy means the policy of the Victorian Government made under s 4 of the *Local Jobs First Act 2003*.

HPV means Health Purchasing Victoria with which the Contractor has entered into this Agreement.

Notice means a notice given, delivered or served in accordance with this Agreement.

Practical Completion means:

(a) Practical Completion as defined in the main body of this Agreement; or

(b) If not defined in the main body of this Agreement it means when the Contractor has completed the delivery of the goods and/or services to be provided under this Agreement (excluding administrative or regulatory obligations remaining to be fulfilled); or

(c) In any case, such other reporting dates for the purposes of clause 2.3(d) of this Schedule as notified by HPV.

Responsible Minister means the Minister with responsibility for administering the *Local Jobs First Act 2003*.

Trainee means a person (other than an Apprentice) employed under a Training Contract.

Training Contract has the meaning given in the *Education and Training Reform Act 2006*.

2. Local Jobs First Policy

2.1 Local Industry Development Plan

(a) The Contractor must, in performing its obligations under this Agreement:

(i) comply with the LIDP;

(ii) perform all obligations required to be performed under the LIDP by the due date for performance; and

(iii) comply with the Local Jobs First Policy.

(b) The Contractor acknowledges and agrees that its obligations as set out in the LIDP apply during the term of this Agreement, any extensions to the term and until all of its Reporting obligations as set out in clause 2.3 of this Schedule are fulfilled.

(c) The Contractor's failure to comply with this clause 2.1 will constitute a material breach of this Agreement.

2.2 Revised LIDP

(a) If at any time a variation to this Agreement is proposed which involves or effects a change in the nature of any LIDP commitments, the Contractor must prepare a revised LIDP in collaboration with and certified by Industry Capability Network (Victoria) (**Revised LIDP**).

(b) When requested by the Contract Manager, the Contractor must provide the Revised LIDP to HPV.

(c) The Revised LIDP must be agreed by the parties before any variation to the Agreement can take effect unless the parties agree that a Revised LIDP is unnecessary.

(d) Once the Revised LIDP is agreed by the parties, the Revised LIDP replaces the LIDP and forms part of this Agreement.

2.3 Reporting

(a) The Contractor must prepare and maintain records demonstrating its compliance with the LIDP.

(b) The Contractor must provide a six monthly report demonstrating its progress towards implementing the LIDP in the form of the LIDP Monitoring Table.

(c) If the Agreement is for a project valued at $20 million or more, the Contractor must use the ICN Analytics for LJF monitoring and reporting.

(d) Prior to or at Practical Completion pursuant to clause 1 of this Schedule, the Contractor must provide to the Contract Manager:

(i) the LIDP Monitoring Table identifying LIDP commitments and actual achievements. The LIDP Monitoring Table must identify and explain any departures from the LIDP Commitments and the aggregated outcomes as reported in the LIDP Monitoring Table; and

(ii) a Statutory Declaration in the form set out in Attachment 3 to this Schedule to confirm that the information contained in the LIDP Monitoring Table is true and accurate. The Statutory Declaration must be made by a director of the Contractor or the Contractor's Chief Executive Officer or Chief Financial Officer.

(e) At the request of the Contract Manager, the Contractor must provide further information or explanation of any differences between expected and achieved LIDP outcomes.

(f) The reporting obligations in this Schedule are in addition to and do not derogate from any other reporting obligations as set out in this Agreement.

2.4 Verification of Contractor's compliance with LIDP Plan

(a) The Contractor agrees that each of HPV will have the right to inspect its records in order to verify compliance with the LIDP.

(b) The Contractor must:

(i) permit the Contract Manager, an accountant or auditor on behalf of HPV or any other person authorised by HPV, from time to time during ordinary business hours and upon Notice, to inspect and verify all records maintained by the Contractor for the purposes of this Agreement;

(ii) permit HPV from time to time to undertake a review of the Contractor's performance in accordance with the LIDP; and

(iii) ensure that its employees, agents and subcontractors give all reasonable assistance to any person authorised by HPV to undertake such audit or inspection.

(c) The Contractor acknowledges and agrees that HPV, and HPV's duly authorised representatives and Industry Capability Network (Victoria) are authorised to obtain information from any relevant persons, firms or corporations, including third parties, regarding the Contractor's compliance with the LIDP.

(d) The obligations set out in this clause 2.4 are in addition to and do not derogate from any other obligation under this Agreement.

2.5 Use of information

The Contractor acknowledges and agrees that:

(a) Industry Capability Network (Victoria) will assess the Contractor's performance against the LIDP;

(b) the statistical information contained in the LIDP and the measures of the Contractor's compliance with the LIDP as reported in the LIDP Monitoring Table will be:

(i) included in HPV's report of operations under Part 7 of the *Financial Management Act 1994* in respect of the HPV's compliance with the Local Jobs First Policy in the financial year to which the report of operations relates;

(ii) provided to the Responsible Minister for inclusion in the Responsible Minister's report to the Parliament for each financial year on the compliance and performance of the LIDP during that year; and

(iii) may be disclosed in the circumstances authorised or permitted under the terms of this Agreement or as otherwise required by Law.

3. Subcontracting

(a) Where approval has been granted under clause 12.1 of this Agreement, the Contractor must ensure that any subcontracts

entered into by the Contractor in relation to work under this Agreement contain clauses requiring subcontractors:

(i) to comply with the Local Jobs First Policy and the LIDP to the extent that it applies to work performed under the subcontract,

(ii) to provide necessary information that allows the Contractor to comply with its reporting obligations under clause 2.3 of this Schedule, and

(iii) to permit HPV to exercise their inspection and verification rights under clause 2.4 of this Schedule.

(b) The subcontracting obligations set out in this clause 3 are in addition to and do not derogate from any other obligations under this Agreement.

(c) The Contractor's failure to comply with this clause 3 will constitute a material breach of this Agreement.

4. Local Jobs First Commissioner

(a) The Contractor acknowledges that:

(i) it is required to comply with any information notice issued to it by the Local Jobs First Commissioner in accordance with s 24 of the *Local Jobs First Act 2003*;

(ii) it is required to comply with any compliance notice issued to it by the Local Jobs First Commissioner in accordance with s 26 of the *Local Jobs First Act 2003*;

(iii) its failure to comply with the compliance notice referred to in this clause 4(a) may result in the issue of an adverse publicity notice by the Responsible Minister under s 29 of the *Local Jobs First Act 2003*; and

(iv) the Local Jobs First Commissioner may:

(A) monitor and report on compliance with the Local Jobs First Policy and LIDP; and

(B) request HPV to conduct an audit in relation to the Contractor's compliance with the Local Jobs First Policy and the LIDP.

(b) The Contractor acknowledges that the Commissioner may recommend that HPV take enforcement proceedings against the Contractor if the Contractor has failed to comply with the Local Jobs First Policy or the LIDP by:

(i) applying to a court to obtain an injunction; or

(ii) taking action available under this Agreement.

Attachment 1 - Local Industry Development Plan

= https://localjobsfirst.vic.gov.au/__data/assets/word_doc/0017/21383/Local-Jobs-First-VIPP-Local-Industry-Development-Plan-LONG.dotx

LOCAL INDUSTRY DEVELOPMENT PLAN

This document provides a template to prepare a Local Jobs First Victorian Industry Participation Policy (VIPP) Local Industry Development Plan (LIDP). Use of this guide is optional. Bidders may choose to use other formats, however each question outlined in this guide must be answered in order to receive VIPP acknowledgment. Bidders must consult with the Industry Capability Network (Victoria) Ltd (ICN) for certification of their Local Industry Development Plan. ICN can be contacted on (03) 8614 6700 or at info@icnvic.org.au. Please refer to the Local Jobs First Victorian Industry Participation Policy (VIPP) Supplier Guidelines document for more details.

1. Company Details

Company name:	Click here to enter text.
Contact person:	Click here to enter text.
Contact phone:	Click here to enter text.
Email:	Click here to enter text.

2. Project Details

Tender name:	Click here to enter text.
Tender reference number:	
Tender due date	Click here to enter text.
Lead agency:	Click here to enter text.
Lead agency contact:	Click here to enter text.

3. Project Description

Attachment 2 - LIDP Monitoring Table

https://localjobsfirst.vic.gov.au/__data/assets/word_doc/0017/21383/Local-Jobs-First-VIPP-Local-Industry-Development-Plan-LONG.dotx

Attachment D: Steel Monitoring Table

The monitoring table shall be completed to demonstrate the VIPP outcomes, of local steel products made from locally milled steel, have been achieved through the project. Additional comments may need to be provided to reasonably explain any discrepancies between the expected outcomes from the agreed LIDP to the outcomes reported in the monitoring table.

			LIDP Commitments			Secured VIPP Outcomes						
WBS/ Item Number	Item Description	Brand / Manufacturer/ Supplier	Mass (t)	% Local steel products made from locally milled steel*	% Local (A)	% of Contract Content (B)	% Local steel products made from locally milled steel (C)	No. of SMEs in supply chain (D)	% of SMEs in supply chain (E)	Mass (t)	ICN Assist	Progress/Comments
[insert number e.g. 1]	[insert description e.g. Item 1]	[insert brand/ manufacturer]	[insert mass]	[insert percentage e.g. 1.5%]	[insert percentage e.g. 85%]	[insert percentage]	[insert percentage using the formula C = A% x B%]	[insert no. of SMEs engaged in the supply chain]	[insert percentage using the formula E =Or Total no. of suppliers]	[insert mass]	[Y/N]	
		Total Committed			Total Secured:	100%						

*Refers to ANZ value-added activity commitment for corresponding WBS/Item number in Attachment B: Steel Commitments

Steel Related Employment

New Jobs		Existing Jobs		Total Jobs Committed	Total Jobs Secured	Progress / Comments
Committed	Secured	Committed	Secured			

Steel Related Trainees

New trainees		Existing trainees		Total trainees Committed	Total trainees Secured	Progress / Comments
Committed	Secured	Committed	Secured			

Steel Related Apprentices

New Apprentices		Existing Apprentices		Total Apprentices Committed	Total Apprentices Secured	Progress / Comments
Committed	Secured	Committed	Secured			

Attachment E: VIPP Monitoring Table

The monitoring table shall be completed to demonstrate the VIPP outcomes, have been achieved through the project. Additional comments may need to be provided to reasonably explain any discrepancies between the expected outcomes from the agreed LIDP to the outcomes reported in the monitoring table.

			LIDP Commitments	Secured VIPP Outcomes						
WBS/ Item Number	Item Description	Brand / Manufacturer/ Supplier	% Local value	% Local (A)	% of Contract Content (B)	% ANZ Value Activity (C)	No. of SMEs in supply chain (D)	% of SMEs in supply chain (E)	ICN Assist	Progress/Comments
[insert number e.g. 1]	[insert description e.g. Item 1]	[insert brand/ manufacturer]	[insert percentage e.g. 1.5%]	[insert percentage e.g. 85%]	[insert percentage]	[insert percentage here using the formula C = A% x B%]	[insert no. of SMEs engaged in the supply chain of this item]	[insert percentage using the formula E =Or Total no. of suppliers on the project]	[Y/N]	
[insert number here e.g. 30]										
		Total Committed		Total Secured:	100%					

Employment

New Jobs		Existing Jobs		Total Jobs Committed	Total Jobs Secured	Progress / Comments
Committed	Secured	Committed	Secured			

Trainees

New trainees		Existing trainees		Total trainees Committed	Total trainees Secured	Progress / Comments
Committed	Secured	Committed	Secured			

Apprentices

New Apprentices		Existing Apprentices		Total Apprentices Committed	Total Apprentices Secured	Progress / Comments
Committed	Secured	Committed	Secured			

Attachment 3 - Statutory Declaration

State of Victoria Statutory Declaration

I, (Full name)

of [address]

[occupation] , do solemnly and sincerely declare that: -

[contracted company]

achieved the Local Jobs First outcomes relating to local content; employment; skills and technology transfer; and apprentices/ trainees reflected in the Local Jobs First Monitoring Table (or ICN Analytics report) for [name and tender number of procurement activity]

as submitted to [the Participating Health Service] on _____/____/_____

[date]

I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.

Declared at

this day of 20

Signature of person making this declaration

[to be signed in front of an authorised witness]

Before me,

Signature of Authorised Witness

The authorised witness must print or stamp his or her name, address and title under section 107A of the Evidence (Miscellaneous Provisions) Act 1958 (as of 1 January 2010), (previously Evidence Act 1958), (e.g. Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist)

Schedule 6 Social Procurement Framework

1. Social Procurement Framework

2. Definitions

In this Schedule:

Kinaway means Kinaway Chamber of Commerce Victoria Limited (ABN 43 600 066 199).

Map for Impact means the online map produced by the Victorian Social Enterprise Mapping Project (accessible at https://mapforimpact.com.au/), as amended from time to time.

Social Benefit Supplier means a business that operates and has business premises in Victoria and meets one or more of the following criteria:

(i) it is a Social Enterprise;

(ii) it provides "supported employment services" as defined in section 7 of the *Disability Services Act 1986* (Cth);

(iii) it is verified by Supply Nation, Kinaway and/or Small Business Victoria (in consultation with Kinaway) to meet the definition of "Victorian Aboriginal business" under the Social Procurement Framework.

Social Enterprise means an organisation that is certified by Social Traders or listed on the Map for Impact.

Social or Sustainable Outcome means an outcome listed in Tables 1 and 2 of the Social Procurement Framework.

Social Procurement Commitment means a commitment to deliver a Social or Sustainable Outcome through an individual procurement activity, as identified in the Social Procurement Compliance Plan or as otherwise documented and outlined in this Agreement.

Social Procurement Compliance Plan means the plan included at Attachment 1 to this Schedule or any document attached outlining the Contractor's Social Procurement Commitment to the Social and/or Sustainable Outcomes.

Social Procurement Framework *Victoria's Social Procurement Framework* published 26 April 2018 by the Victorian Government, as amended from time to time.

Social Procurement Performance Report means a report submitted by a Contractor to the Contract Manager of the Organisation, which details the Contractor's performance against the Social Procurement Commitments made within the Contractor's Social Procurement Compliance Plan.

Social Traders means Social Traders Limited (ABN 132 665 804).

2. Social Procurement Compliance Plan and Social Procurement Response Schedule

(a) Where a Social Procurement Compliance Plan or Social Procurement Response Schedule, applies to this Agreement, the Contractor must, in performing its obligations under this Schedule, comply with the Social Procurement Compliance Plan or Social Procurement Response Schedule (including the Social Procurement Commitments).

(b) The Contractor acknowledges and agrees that the Social Procurement Compliance Plan or Social Procurement Response Schedule (including the Social Procurement Commitments) applies during the term of the Standing Offer Agreement for the Supply of Goods and Services, any extensions to the term and until all of its reporting obligations as set out in clause 3 are fulfilled.

(c) The Contractor agrees that the Social Procurement Commitments will bind the Contractor in relation to:

(i) the Standing Offer Agreement for the Supply of Goods and Services as a whole (or to all of the works specified in the Standing Offer Agreement for the Supply of Goods and Services), including any change of scope during the term of the Standing Offer Agreement for the Supply of Goods and Services; and

(ii) all Construction conducted off site provided that the work has been specified as part of the Standing Offer Agreement for the Supply of Goods and Services.

(d) The Contractor's failure to undertake all reasonable measures to achieve compliance with clauses 2 to 4 may be determined by the Organisation to constitute a material breach of this Standing Offer Agreement for the Supply of Goods and Services.

(e) The Contractor must ensure that any sub-contracts entered into by the Contractor, or by sub-contractors of any tier, in relation to work under the Standing Offer Agreement for the Supply of Goods, contain clauses requiring sub-contractors of any tier to:

(i) comply with the Social Procurement Commitments to the extent that it applies to work performed under the sub-contract;

(ii) provide all necessary information to the Contractor so that the Contractor can fulfil its reporting obligations under clause 5 of this Schedule; and

(iii) permit the Organisation to exercise its verification and inspection rights under clause 4 of this Schedule.

3. Reports

(a) Where requested by the Organisation, The Contractor must submit written Social Procurement Performance Reports to the Contract Manager of the Organisation outlining its performance against the Social Procurement Compliance Plan at least every year.

(b) The Social Procurement Performance Report submitted in accordance with clause 3(a) must:

(i) be in a form satisfactory to the Organisation (acting reasonably); and

(ii) include all supporting information reasonably required by the Organisation to verify the contents of the Social Procurement Performance Report.

(c) Social Procurement Performance Reports must include details specifying the Contractor's performance in complying with the Social Procurement Compliance Plan. Any reasons for deviations from the Social Procurement Compliance Plan must also be detailed in Social Procurement Performance Reports.

(d) In addition to the Social Procurement Performance Reports, the Contractor must submit:

(i) a final Social Procurement Performance Report within 2 months of the date of practical completion or the date the Standing Offer for the Supply of Goods is completed, whichever is earlier; and

(ii) a statutory declaration made by the Contractor declaring that the contents of the final Social Procurement Performance Report are true and correct, which must be submitted together with the final Social Procurement Performance Report.

(e) Where maintenance or ongoing service components form part of the work under the Standing Offer for the Supply of Goods, the final Social Procurement Performance Report must be submitted at the time at which the primary substance of the work under the Standing Offer for the Supply of Goods and Services has been practically completed (excluding any ongoing maintenance or service work).

4. Verification of Contractor's compliance with Social Procurement Compliance Plan or Social Procurement Response Schedules

(a) Where a Social Procurement Compliance Plan or the incorporated Social Procurement Response Schedule applies to this Agreement, The Contractor agrees that the Organisation will have the right to inspect the Contractor's records in order to verify compliance with the Social

Procurement Compliance Plan and/or Social Procurement Response Schedule.

(b) The Contractor must:

(i) permit the Organisation, or its duly authorised representative, from time to time during ordinary business hours and upon reasonable notice, to inspect, verify and make copies at the Organisation's expense of all records maintained by the Contractor for the purposes of this Schedule at the Contractor's premises, or provide copies of those records to the Contract Manager of the Organisation at the Organisation's request;

(ii) permit the Organisation, or its duly authorised representative, from time to time to undertake a review of the Contractor's performance in accordance with the Social Procurement Compliance Plan; and

(iii) ensure that its employees, agents and sub-contractors give all reasonable assistance to any person authorised by the Organisation to undertake such audit or inspection as described in (i) and (ii) above.

(c) The Contractor acknowledges and agrees that the Organisation and the Organisation's duly authorised representative are authorised to obtain information from any relevant persons, firms or corporations, including third parties, regarding the Contractor's compliance with the Social Procurement Compliance Plan and/or Social Procurement Response Schedule.

(d) The obligations set out in this clause 4 are in addition to and do not derogate from any other obligation under this Schedule.

5. Use of Information

The Contractor acknowledges and agrees that the statistical information contained in the Social Procurement Compliance Plan or where applicable the Social Procurement Response Schedule and the measures of the Contractor's compliance with the Social Procurement Compliance Plan and/or Social Procurement Response Schedule as reported will be:

(a) reported by the Organisation to the Department of Treasury and Finance; and

(b) considered in the assessment or review of the Contractor's eligibility to tender for future Victorian Government Contracts.

Attachment to Schedule 6 – Social Procurement Compliance Plan (where applicable) or [insert details of Contractor's Social Procurement Commitments to Social and/or Sustainable Outcomes from the Social Procurement Response Schedule.

Part 6 Forms

The following forms have been provided and are required to be completed as part of this ITS:

a. Statutory Declaration

b. Supplier Code of Conduct

c. Response to Offer

d. Tender Response Worksheet

e. Proposed departures form

f. Social Procurement Compliance Plan template, where applicable