

Commitment Contract Template

THIS IS A LEGAL AGREEMENT CREATING LEGALLY BINDING OBLIGATIONS AND EACH PARTY SHOULD SATISFY ITSELF THAT THIS AGREEMENT IS SUITABLE FOR ITS SPECIFIC NEEDS & TAKE LEGAL ADVICE PRIOR TO ENTERING INTO THE SAME.

This **CONTRACT** is made on the **Tuesday 13th December 2022**

BETWEEN

(1) **Abbott Toxicology Limited**

whose registered office is at

21 Blacklands Way, Abingdon, Oxfordshire, England, OX14 1DY

(the "Supplier")

AND

(2) **Ministry of Justice**

whose principal place of business is at

102 Petty France, London, SW1H 9AJ

(the "Authority")

IT IS AGREED as follows:

INTERPRETATION

1. In this Contract (including the Schedule), the following definitions shall apply:

"Acceptance" means acceptance of the Consumables and/or Reagents by the Authority.

"Call-off Terms" means the Call-off Terms and Conditions which are appended to the Framework Agreement'.

"Consumables" shall have the meaning given to it in the Appendix and **"Consumables"** shall be construed accordingly.

"Contract" means this contract which shall consist of the terms referred to in the Schedule, in the order of precedence described in the Schedule.

"Contract Period" means the period specified as such in the Schedule.

“Framework Agreement” means the Framework Agreement dated 2020 between NHS Supply Chain and the Supplier for the supply of Pathology and Point of Care Testing, Associated Equipment, Instruments, Consumables and Accessories and Managed Services.

“NHS Supply Chain” means NHS Supply Chain which is operated by Akeso & Company Ltd (registered number 8382731) whose registered office is at 21 Bloomsbury Way, London, WC1A 2TH, acting as agent for Supply Chain Coordination Limited (SCCL) whose principal office is at Skipton House, 80 London Road, London, SE1 6LH.

“Party” (or **“Parties”**) means a party (or parties) to the Contract.

“Price” shall have the meaning set out in the Schedule (and shall for the avoidance of doubt apply to the Consumables and/or Reagents).

“Reagent” shall have the meaning given to it in the Appendix and **“Reagents”** shall be construed accordingly.

“Schedule” means the Schedule to this Contract.

“Specification” means the specification for Consumables and/or Reagents which are set out in the Framework Agreement, as supplemented by the Specification (if any) set out at Appendix 1 to the Schedule.

“Tests” means **Product Type** tests carried out by the Authority.

“VAT” means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

2. Unless the context otherwise requires it, reference to any statute, order, regulation or other similar instrument shall be construed as a reference to the statute, order, regulation or instrument as amended or re-enacted by any subsequent statute, order, regulation or instrument. The headings to these clauses shall not affect their interpretation.
3. In the event of any conflict between the terms of this Contract and the terms of a Schedule, the latter shall prevail. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or preceding those terms.
4. Any decision, act or thing that the Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either generally or specifically, by the Authority to take or do that decision, act or thing, provided that upon receipt of a written request the Authority shall inform the Supplier of the name of any person so authorised.

AGREEMENT

5. Subject to the terms and conditions of this Contract, the Supplier shall supply to the Authority:
 - 5.1 the Consumables and/or Reagents, in such quantities, at such times and to such locations as are ordered by the Authority from time to time, at the Price set out in the Schedule.
6. The Authority shall not be under any obligation to purchase any quantity or value of Consumables and/or Reagents under this Contract. Should the quantity of Consumables and/or Reagents which

the Authority purchases in any **year** fall below **£4,500,000** excluding VAT, the Parties may agree in writing to vary the Price in respect of any further purchase of Consumables and/or Reagents by the Authority under this Contract and if the parties do not agree, this Contract shall terminate.

7. This Contract shall be comprised of the terms referred to in the Schedule, in the order of precedence set out in the Schedule.

CONTRACT PERIOD

8. The Contract Period shall commence on the date specified in the Schedule.
9. This Contract shall expire on the expiry of the Contract Period unless it is terminated in accordance with its terms or extended by written agreement.

DELIVERY, ACCEPTANCE, RISK AND TITLE

10. The Supplier shall deliver the Consumables and/or Reagents in accordance with the terms (including in relation to delivery lead times and the transfer of risk and title in the Consumables and/or Reagents) set out in the Call-off Terms.
11. The Authority shall accept and or reject such Consumables and/or Reagents promptly following the Supplier's delivery.

PRICE AND PAYMENT

12. The Authority shall pay the Price set out in the Schedule for any Consumables and/or Reagents which are ordered by the Authority under this Contract.
13. All payment must, unless otherwise stated in the Schedule, be paid in sterling and must be paid on time, in full and in cleared funds, free and clear of any set-off, counterclaim, deductions or withholding of any nature whatsoever.
14. An invoice for each payment due to the Supplier shall be rendered in accordance with the Call-off Terms, on the Supplier's own invoice form to the Authority clearly marked with the Authority's order number (where provided). The Authority shall pay the Supplier's invoice on the terms set out in the Call-off Terms.
15. The Authority shall not be required to make payment in the event the Consumables and/or Reagents are unusable or are not in good working order for any reason and for any period.

ACKNOWLEDGEMENTS

16. The Supplier warrants that the Consumables and/or Reagents shall conform to the Specification, be of satisfactory quality and fit for any purpose held out by the Supplier.
17. The Supplier shall transfer to the Authority for the Contract Period (unless terminated earlier) the benefit of all manufacturer's and Supplier's guarantees and warranties in respect of the Consumables and/or Reagents.

DEFAULT AND REMEDIES

18. The Supplier acknowledges and agrees that, should the Supplier commit a material breach of this Contract, the Authority shall be entitled to terminate the Contract forthwith.

MISCELLANEOUS TERMS

19. If any term of the Contract is invalid it will not affect the validity of the remaining terms and the Contract will continue to be enforceable.

INFORMATION SECURITY

20. Without limitation to any other information governance requirements set out in this Contract:
- 20.1 the Supplier shall notify the Authority forthwith of any information security breaches (including without limitation any potential or actual breaches of confidentiality or actual information security breaches) relating to data that it holds in relation to the Authority or any Contract with the Authority in line with the Authority's information governance policies;
 - 20.2 the Supplier shall fully co-operate with any audits or investigations relating to information security and any privacy impact assessments undertaken by the Authority and shall provide full information as may be reasonably requested by the Authority in relation to such audits, investigations and assessments.

PROHIBITED ACTS

21. The Supplier warrants and represents that:
- 21.1 it has not committed any offence under the Bribery Act 2010 or done any of the following ("**Prohibited Acts**"):
 - 21.1.1 offered, given or agreed to give any officer or employee of the Authority any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of the Contract or any other agreement with the Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Authority; or
 - 21.1.2 in connection with any Contract, paid or agreed to pay any fee or commission; and
 - 21.2 it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 of the Bribery Act 2010.
22. If the Supplier or anyone employed by it (or anyone acting on its or their behalf) has done or does any of the Prohibited Acts or has committed or commits any offence under the Bribery Act 2010 with or without the knowledge of the Supplier in relation to this Contract or any other agreement with the Authority or is materially in breach of this Contract:
- 22.1 the Authority shall be entitled to:

- 22.1.1 terminate any Contract to which it is a party and recover from the Supplier the amount of any loss resulting from the termination;
 - 22.1.2 recover from the Supplier the amount or value of any gift, consideration or commission concerned; and
 - 22.1.3 recover from the Supplier any other loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010;
- 22.2 any termination under the terms of this Contract shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Authority; and
- 22.3 any dispute relating to:
 - 22.3.1 the interpretation of clauses 34 and 35; or
 - 22.3.2 the amount or value of any gift, consideration or commission,shall be determined by, the Authority, acting reasonably, and its decision shall be final and conclusive.

ENTIRE AGREEMENT AND VARIATION OF CONDITIONS

- 23. All contractual terms which in any way add to, vary or contradict the Contract upon which the Supplier may seek to rely or otherwise impose on the Authority shall be excluded and not form part of the Contract (whether or not such other contractual terms post-date the Contract) unless the Authority has specifically agreed in writing to be bound by any of such other contractual terms.
- 24. No later variation shall be binding unless it has been agreed in writing and signed by an authorised representative of the Supplier.
- 25. All costs and expenses (including legal costs and expenses) incurred by the Supplier in relation to any variation of the terms of the Contract shall, unless otherwise agreed, be the responsibility of the Authority.

THIRD PARTY RIGHTS

- 26. Save as otherwise provided herein, a person who is not a Party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

LAW AND JURISDICTION

- 27. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the laws of England and Wales.
- 28. The Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter.

This Contract has been entered into on the date stated at the front of it.

SCHEDULE

Form of Schedule

Contract number/reference/date: PTH-22-49-13605 between the parties referred to below (the "**Contract**")

The Parties:

- (1) **Abbott Toxicology Limited** registered in England and Wales no. **05396234** and having its registered office at **21 Blacklands Way, Abingdon, Oxfordshire, England, OX14 1DY** (the "**Supplier**"); and
- (2) **Ministry Of Justice** having its office at **102 Petty France, London, SW1H 9AJ** (the "**Authority**");

Whereas:

- (A) The parties hereto have entered into the Contract.
- (B) This Schedule is entered into pursuant to the Contract.

It is agreed:

1 Contract

The Contract shall comprise the following terms in the following order of precedence:

1. This Schedule;
2. The terms set out at the front end of this Contract;
3. The Call-off Terms and Conditions which are appended to the Framework Agreement';
4. The Specification;
5. The Framework Agreement (including its Schedules).
6. *Schedule 6 - Performance Management and Governance*
7. *Schedule 7 - The Change Control Process*
8. *Schedule 8 - The Parental Company Guarantee*

2 The Consumables and/or Reagents

The Consumables and/or Reagents to be supplied under this Contract shall be as follows:

Please refer to Lot 1 Specification – Part 4 and Lot 2 Specification – Part 3.



Interim



Interim

Specification LOT 1 D Specification LOT 2 D

3 Contract Period and Termination

3.1 This Contract shall commence on **16/01/2023** and (subject to the right of early termination set out at paragraph 3.2 below) shall expire on **15/07/2024** (the “**Contract Period**”). *There is also an option to extend for up to a further 12 Months*

3.2 Without prejudice to any other right of termination set out in this Contract, **The Authority** may terminate this contract by giving to the **Supplier** not less than **12** weeks prior written notice.

3.3 *At the Authority’s sole discretion, it may propose a shorter notice period than that set out in clause 3.2 to the Contractor. The Parties shall agree that revised notice period in writing. The Authority shall then have the right to terminate the Contract at any time by giving notice to the Contractor for such period as has been agreed by the Parties under this clause.*



Schedule 7 -
Change Control Pro

4 Price of Consumables and/or Reagents

The price (excluding VAT at the applicable rate) in respect of the Consumables and/or Reagents (the “**Price**”) shall be:

Please refer to HMPPS Pricing document

HMPPS Pricing updated
0212.xlsx

5 Delivery and Risk:

Delivery

The Supplier shall deliver the Consumables and/or Reagents to the following location at the following times:

Please refer to Lot 1 Specification – Part 4 and Lot 2 Specification – Part 3.



Interim



Interim

Specification LOT 1 D Specification LOT 2 D

Risk

The **Supplier** shall, from the date of Acceptance, bear the risk of loss or damage to the Consumables and/or Reagents however caused.

6 **Supplementary conditions**

Additional Terms shall apply: **YES**

(If yes) The following additional terms shall apply:

Contract Management

Schedule 6 – Performance Management and Governance shall supersede Section 8 “Contract Management” of Schedule 2 of the Call off Terms and Conditions.



Schedule 6 -
Performance Manag

Parental Company Guarantee

The Contractor shall, on commencement of the Contract, provide a Parental Company Guarantee as per Schedule 8 of this document.



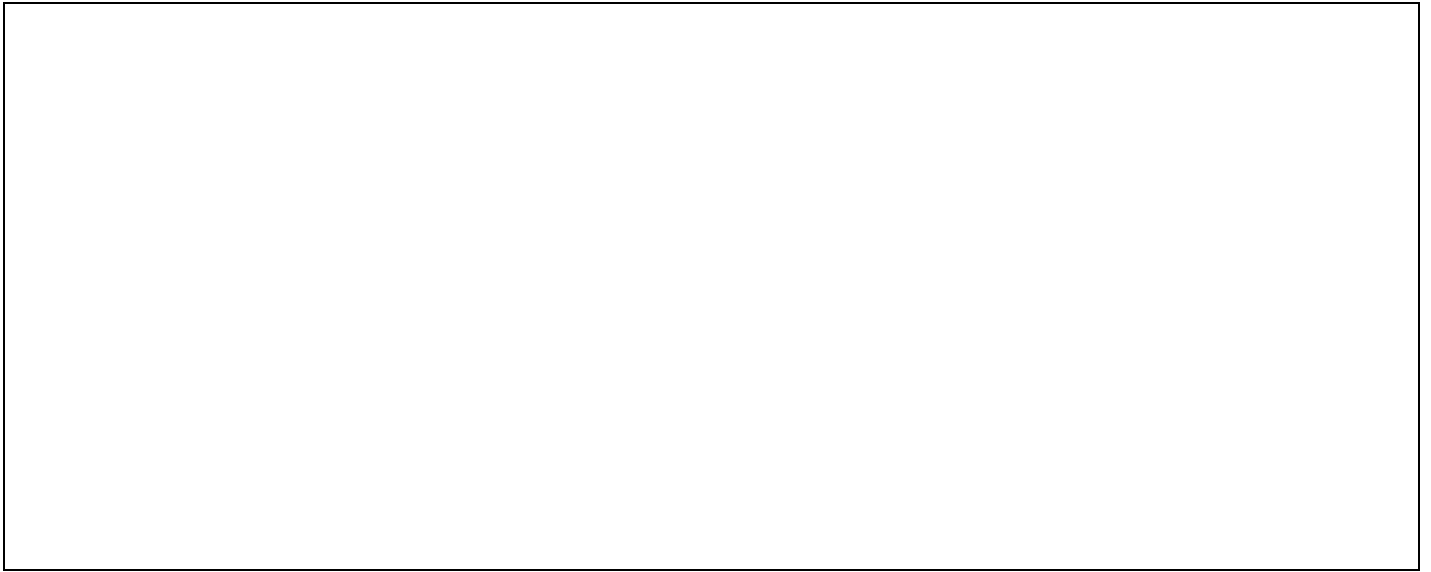
Schedule 8 - Parent
Company Guarantee

The following terms of the Contract shall not apply:

7 **Authority Obligations**

Will the terms set out in this paragraph apply to the Contract: **YES**

The Authority shall accept the Consumables and/or Reagents or reject such Consumables and/or Reagents promptly following the Supplier's delivery (and, where appropriate, the Supplier's installation and configuration of them).



13605.Call Off Contract - Pathology - Quantity Commitment Contract_MOJ Drugs of Abuse (2)

Final Audit Report

2023-01-13

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