



Government  
Legal Department

THE DEPARTMENT OF HEALTH AND SOCIAL CARE

and

SIVA PLASTICS LIMITED

AGREEMENT OF VARIATION

relating to the supply of clinical waste bags

THIS AGREEMENT is signed and dated **6th May** 2021 (the “**Agreement**”)

**BETWEEN:**

- (1) The Department of Health and Social Care of 39 Victoria St, Westminster, London SW1H 0EU (the “**Authority**”); and
- (2) Siva Plastics Limited a company registered in England and Wales with registration number 2409513 whose registered office is at Spitfire House, Hazel Road, Woolston, Southampton, SO19 7GB, United Kingdom (the “**Supplier**”),

together the “**Parties**” and each a “**Party**”

**BACKGROUND:**

- A. The Authority and the Supplier are Parties to a contract for the supply of clinical waste bags dated 23 June 2020 (the “**Contract**”), as varied by an agreement of variation dated 25 November 2020 (the “**First Variation**”).
- B. The First Variation extended the term of the Contract, introduced additional storage obligations in relation to Undelivered Goods, and revised the delivery schedule.
- C. The Parties acknowledge that the Supplier has paused production of the Goods, and the Parties now wish to document their agreement in relation to the recommencement of production and delivery of the outstanding goods, and to further extend the Term of the Contract. The Parties also wish to extend the duration of the additional storage services. Consequently, the Parties wish to amend the Contract as set out in this Agreement.

**IT IS AGREED** as follows:

**1 TERMS DEFINED IN THE CONTRACT**

- 1.1 In this Agreement, unless stated to the contrary, terms defined in the Contract and used in this Agreement have the meanings set out in the Contract. The rules of interpretation set out in the Contract shall apply to this Agreement.

**2 VARIATION**

- 2.1 In consideration of the Supplier carrying out its obligations under this Agreement the Authority shall pay [REDACTED] to the Supplier, receipt of which is hereby confirmed.

- 2.2 With effect from 8 February 2021 (the “**Variation Date**”) the Parties agree to amend the Contract as follows:

**Re-commencement of production**

- (a) The Parties wish to include an updated schedule setting out a breakdown of delivery volumes and third party storage costs. As such the table at Appendix 1 of this Agreement (Revised third party storage schedule) shall be inserted at the end of the Order Form as a new Annex titled “*Annex 1 (Revised third party storage schedule)*”.
- (b) The Supplier paused production of the Goods and the Parties wish to document their agreement in relation to re-commencement of production and delivery of the outstanding goods. As such, the following words shall be inserted at the end of Section 6 of the Order Form (Deliverables):

*“As at 8 February 2021, [REDACTED] of the Goods remained undelivered (the “**Outstanding Goods**”). The Parties acknowledge and agree that, at the Authority’s request, the Supplier re-commenced production of the Outstanding Goods in the week commencing 8 February 2021, and the Supplier shall deliver the Outstanding Goods to the Authority in accordance with the delivery schedule set out at Annex 1 (Revised third party storage schedule), and the previous delivery schedules shall not apply in relation to the Outstanding Goods.”*

- (c) The Parties wish to update the wording of the Order Form to reflect the revised delivery schedule. As such, the first paragraph of Section 9 of the Order Form (Charges) shall be deleted and replaced with the following words:

*“Total contract value is [REDACTED] (exc VAT and storage charges), comprised of [REDACTED]”*

- (d) The Parties wish to extend the Term of the Contract in order to accommodate the revised delivery schedule. As such, Section 8 of the Order Form (Term) shall be deleted in its entirety and replaced with the following words:

*“The Term shall commence on 22<sup>nd</sup> June 2020,*

*And the Expiry Date shall be 28<sup>th</sup> November 2021, unless it is otherwise extended or terminated in accordance with the terms and conditions of the Contract.”*



### **Third party storage**

- (e) The Parties agree that the additional storage obligations set out in the First Variation must be varied so as to cover a higher volume of Goods for an extended period. As such, the following figure [REDACTED] within the final paragraph of Section 6 (Deliverables) (as inserted by the First Variation) shall be deleted and replaced with [REDACTED]
- (f) The Parties wish to update the charges payable in relation to the additional storage services provided by the Supplier. As such, the final paragraph of Section 6 (Charges) (as inserted by the First Variation) shall be deleted and replaced by the following words:

*"In consideration of the Supplier arranging the storage and freight of the Undelivered Goods in accordance with Section 6 (Deliverables) above from 2 November 2020 up to and including 28 November 2021, the Authority shall pay to the Supplier up to a total sum of [REDACTED] which shall be invoiced weekly in accordance with the schedule provided at Annex 1 of this Order Form (Revised third party storage schedule). To the extent that the Authority requires any proportion of the Undelivered Goods to remain in third party storage beyond 28 November 2021, the Supplier shall be entitled to invoice the authority for reasonable continuing third party storage costs, which shall not exceed [REDACTED] Such undisputed invoices are to be paid by the Authority in accordance with the Contract."*

- 2.3 Except as set out in Clause 2.2, the Contract shall continue in full force and effect.

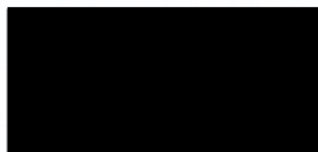
### **3 THIRD PARTY RIGHTS**

- 3.1 A person who is not a Party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 (as amended, updated or replaced from time to time) to enforce any of its terms but this does not affect any third party right which exists or is available independently of that Act.

#### **4 GOVERNING LAW AND JURISDICTION**

- 4.1 This Agreement, 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.
  - 4.2 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 this Agreement or its subject matter
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Signed for and on behalf of the Department  
of Health and Social Care by:



Name of Officer:



Position in Organisation:

STRATEGY & OPERATIONAL ENABLERS LEAD

Signed for and on behalf of SIVA Plastics  
Limited by:



Name of Officer:



Position in Organisation:

Director

Appendix 1

(Revised third party storage schedule)

