

SUPPLY OF SERVICES CONTRACT

CONTRACT DETAILS

DATE: 14th October 2022

| | |
|-------------------------------|--|
| Contract No. | 22-08-11 / C81081 |
| Customer: | NHS Business Services Authority |
| Customer's address: | Stella House, Goldcrest Way, Newburn Riverside, Newcastle Upon Tyne, NE15 8NY |
| [REDACTED] | [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] |
| Supplier: | Campden BRI (Chipping Campden) Limited (company number: 03836922) |
| Supplier's address: | Station Road Chipping Campden Gloucestershire GL55 6LD |
| Supplier's VAT number: | GB729848087 |
| [REDACTED] : | [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] |

| | |
|-----------------------------|--|
| Services Start Date: | The date the Contract is entered into by the parties. |
| Services: | To advise on requirements and testing that may be necessary for the manufacturing of vitamins, as further detailed in Schedule 1. |
| Key Deliverables: | Provision of a Subject Matter Expert service in relation to the Healthy Start Vitamins Manufacturing Frameworks, as further detailed in Schedule 1. |
| Charges: | As detailed in Schedule 2 |
| Schedules: | Schedule 1: Services. Schedule 2: Charges. Schedule 3: Mandatory Policies. Schedule 4: Data Processing. Schedule 5: Supplier Solution Schedule 6: Service Levels and Performance Management |

1. This Contract is made up of the following:

- (a) The Contract Details.
- (b) The Conditions.
- (c) The Mandatory Policies.
- (d) The Schedules specified in the Contract Details.

2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

| | |
|------------|------------|
| [REDACTED] | |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |

Agreed terms

1 INTERPRETATION

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services by the Supplier, as set out in the Contract Details and Schedule 2.

Conditions: these terms and conditions set out in clause 1 (Interpretation) to clause 13 (General) (inclusive).

Contract: the contract between the Customer and the Supplier for the supply of the Services in accordance with the Contract Details, the Mandatory Policies, these Conditions and any Schedules.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Created IPRs: all Intellectual Property Rights either subsisting in the Deliverables (including any Customer Materials incorporated in them) or otherwise necessary or desirable to enable the Customer to receive and use the Services.

Customer Materials: all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier.

Deliverables: all documents, products and materials developed by the Supplier or its agents, subcontractors and personnel as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts), and the Key Deliverables set out in the Contract Details.

Extended Term: an extension period of the Contract of 1 year.

Group: in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

Initial Term: the initial duration of the Contract of 4 years.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Mandatory Policies: the Customer's mandatory policies and codes for contracts set out in Schedule 3, as amended by notification to the Supplier from time to time.

Services: the services, including without limitation any Deliverables, to be provided by the Supplier pursuant to the Contract, as described in Schedule 1 and Schedule 5

Services Start Date: the day on which the Supplier is to start provision of the Services, as set out in the Contract Details.

1.2 Interpretation:

- (a) A reference to legislation or a legislative provision:
 - (i) is a reference to it as amended, extended or re-enacted from time to time; and
 - (ii) shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- (b) 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 term preceding those terms.
- (c) A reference to **writing** or **written** includes fax and email.

2 COMMENCEMENT AND TERM

The Contract shall commence on the date when it has been signed by both parties and shall continue, unless terminated earlier in accordance with clause 11, for the Initial Term, when it shall terminate automatically without notice unless, no later than 1 month before the end of the Initial Term (or any Extended Term agreed under this clause), the parties agree in writing that the term of the Contract shall be extended for an Extended Term. Unless it is further extended under this clause or terminated earlier in accordance with the terms of this Contract, the Contract shall terminate automatically without notice at the end of an Extended Term.

3 SUPPLY OF SERVICES

- 3.1 The Supplier shall supply the Services to the Customer from the Services Start Date in accordance with the Contract.
- 3.2 In performing the Services the Supplier shall meet, and time is of the essence as to, any performance dates specified in Schedule 1 and any performance levels specified in Schedule 6
- 3.3 In supplying the Services, the Supplier shall:
 - (a) perform the Services with the highest level of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (b) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
 - (c) appoint or, at the written request of the Customer, replace without delay a manager, who shall have authority to contractually bind the Supplier on all matters relating to the Services;
 - (d) only use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled;

- (e) ensure that it obtains, and maintains all consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable it to comply with its obligations in the Contract;
- (f) ensure that the Services and Deliverables shall conform in all respects with the service description set out in Schedule 1 and Schedule 5 and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
- (g) provide all equipment, tools, vehicles and other items required to provide the Services;
- (h) ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;
- (i) comply with all applicable laws, statutes, regulations and codes from time to time in force; and
- (j) the Mandatory Policies.
- (k) observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises from time to time and are notified to the Supplier;
- (l) hold all Customer Materials in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
- (m) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business; and
- (n) notify the Customer in writing immediately upon the occurrence of a change of control of the Supplier.

4 CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

- (a) provide such access to the Customer's premises and data, and such office accommodation and other facilities as may reasonably be requested by the Supplier and agreed with the Customer in writing in advance, for the purposes of providing the Services;
- (b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.

4.2 A failure by the Customer to comply with the terms of the Contract can only relieve the Supplier from complying with its obligations under the Contract with effect from the date on which the Supplier notifies the Customer in writing and in reasonable detail of the Customer's failure and its effect or anticipated effect on the Services.

5 TITLE TO DELIVERABLES AND CUSTOMER MATERIALS

- 5.1 Title to any Deliverables that are goods or in any physical media on which Deliverables are stored and title to any goods or materials transferred to the Customer as part of the Services shall pass to the Customer on the earlier of their delivery to the Customer or payment of the Charges for them. The Supplier transfers the Deliverables and all such goods and materials to the Customer free from all liens, charges and encumbrances.
- 5.2 All Customer Materials are the exclusive property of the Customer.

6 DATA PROTECTION

- 6.1 The parties shall comply with their data protection obligations as set out in Schedule 4 if applicable (*Data protection*).

7 INTELLECTUAL PROPERTY

- 7.1 The Customer shall own the Created IPRs and the Supplier shall assign to the Customer, with full title guarantee and free from all third party rights, all Created IPRs. The Customer and its licensors shall at all times retain ownership of all Intellectual Property Rights in the Customer Materials.
- 7.2 The Supplier shall obtain waivers of all moral rights in the Deliverables to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 7.3 The Supplier shall, promptly, at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer all right, title and interest in and to the Created IPRs assigned to the Customer in accordance with clause 7.1.
- 7.4 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of the Contract for the purpose of providing the Services to the Customer in accordance with the Contract.
- 7.5 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with any claim brought against the Customer for actual or alleged infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt, use or onward supply of the Services by the Customer and its licensees and sub-licensees. This clause 7.5 shall survive termination of the Contract.

8 CHARGES AND PAYMENT

- 8.1 In consideration for the provision of the Services, the Customer shall pay the Supplier the Charges in accordance with this clause 8.
- 8.2 All amounts payable by the Customer exclude amounts in respect of value added tax (**VAT**) which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

- 8.3 The Supplier shall submit invoices for the Charges plus VAT if applicable to the Customer monthly in arrears. Each invoice shall include all supporting information reasonably required by the Customer.
- 8.4 The Customer shall pay each invoice which is properly due and submitted to it by the Supplier, within 30 days of receipt, to a bank account nominated in writing by the Supplier.
- 8.5 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then, without limiting the Supplier's remedies under clause 11 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 8.6 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

9 LIMITATION OF LIABILITY

- 9.1 References to liability in this clause 9 include every kind of liability arising under or in connection with this Contract including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 9.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.
- 9.3 Nothing in the Contract shall limit the Supplier's liability under 7.5 of the Contract.
- 9.4 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; and
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 9.5 Subject to clause 9.2 (No limitation in respect of deliberate default), clause 9.3 (Liability under identified clauses) and clause 9.4 (Liabilities which cannot legally be limited):
- (a) the Supplier's total liability to the Customer for all other loss or damage shall not exceed £1,000,000.
 - (b) the Customer's total liability to the Supplier for all other loss or damage shall not exceed £1,000,000.
- 9.6 Subject to clause 9.2 (No limitation in respect of deliberate default), clause 9.3 (Liability under identified clauses) and clause 9.4 (Liabilities which cannot legally be limited), clause 1.1(b)

identifies the kinds of loss that are not excluded. Subject to that, clause 1.1(a) excludes specified types of loss.

(a) Types of loss wholly excluded:

- (i) Loss of profits.
- (ii) Loss of sales or business.
- (iii) Loss of agreements or contracts.
- (iv) Loss of anticipated savings.
- (v) Loss of use or corruption of software, data or information.
- (vi) Loss of or damage to goodwill.
- (vii) Indirect or consequential loss.

(b) Types of loss and specific losses not excluded:

- (i) Sums paid by the Customer to the Supplier pursuant to the Contract, in respect of Services not provided in accordance with the Contract.
- (ii) Wasted expenditure.
- (iii) Additional costs of procuring and implementing replacements for, or alternatives to, Services not provided in accordance with the Contract. These include but are not limited to consultancy costs, additional costs of management time and other personnel costs, and costs of equipment and materials.
- (iv) Losses incurred by the Customer arising out of or in connection with any third party claim against the Customer which has been caused by the act or omission of the Supplier. For these purposes, third party claims shall include but not be limited to demands, fines, penalties, actions, investigations or proceedings, including but not limited to those made or commenced by subcontractors, the Supplier's personnel, regulators and customers of the Customer.

10 **INSURANCE**

From the commencement date, for a period of 2 years after the Initial Term, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, employer's liability insurance, and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall produce to the Customer on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

11 **TERMINATION**

- 11.1 The Customer may terminate the Contract by giving not less than 1 months' written notice to the other party.
- 11.2 Without affecting any other right or remedy available to it, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) there is a change of control of the Supplier; or
- (b) the Supplier's financial position deteriorates to such an extent that in the Customer's reasonable opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (c) the Supplier commits a breach of clause 3.3(i).

11.3 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 28 days after being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

11.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

11.5 Termination of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

12 EXIT ARRANGEMENTS

On termination of the Contract for whatever reason:

- (a) the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been delivered or returned, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract; and
- (b) the Supplier shall, if so requested by the Customer, provide all assistance reasonably required by the Customer to facilitate the smooth transition of the Services to the Customer or any replacement supplier appointed by it.

13 GENERAL

13.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 1 month, the party not affected may terminate the Contract by giving 28 days' written notice to the affected party.

- 13.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all acts and omissions of its subcontractors as if they were its own.
- 13.3 **Confidentiality.**
- (a) Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the Group to which the other party belongs, except as permitted by clause 13.3(b)
 - (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
 - (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 13.4 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 13.5 **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 13.6 **Waiver.**
- (d) A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
 - (e) A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 13.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 13.7 shall not affect the validity and enforceability of the rest of the Contract.

13.8 **Notices.**

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the address specified in the Contract Details to this Contract.
- (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 13.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This clause 13.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

13.9 **Third party rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

13.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with, the law of England and Wales.

13.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

SCHEDULE 1 - SERVICES

1. INTRODUCTION

The Healthy Start Scheme is a statutory scheme which aims to improve maternal diets and promote healthier eating for children in the early years, in the families most vulnerable to poor diets in receipt of certain income-related benefits. Healthy Start beneficiaries receive a weekly amount of £4.25 on their Healthy Start Card to use towards the cost of specified foodstuffs and are also entitled to free supplies of Healthy Start Vitamins. Pregnant women, women with a child under 12 months and children aged up to 4 years who are on the Healthy Start Scheme are entitled to free Healthy Start vitamins. Beneficiaries are entitled to one bottle of children's drops and one bottle of women's tablets every 8 weeks.

There are two Healthy Start branded vitamin products currently available.

Healthy Start Children's Vitamins Drops:

Children qualify for free vitamins from birth until their 4th birthday.

The daily dose of 5 drops contains:

- 233 micrograms of vitamin A
- 20 milligrams of vitamin C
- 10 micrograms of vitamin D3

Children who are having 500ml or more of infant formula per day do not need Healthy Start vitamins.

The vitamins are suitable for vegetarians and free from milk, egg, gluten, soya, and peanut residues, and have a current shelf life of 15 months from manufacture. Beneficiaries are entitled to 1 bottle of children's drops every 8 weeks. Further information is contained in Appendix A to this document.

Healthy Start Women's Vitamin Tablets:

Women who are pregnant or have a child under 12 months old qualify for free vitamins.

The daily dose is 1 tablet, which contains:

- 70 milligrams of vitamin C
- 10 micrograms of vitamin D
- 400 micrograms of folic acid

They are suitable for vegetarians and free from wheat, fish, egg and salt. The vitamins currently contain no colours, flavours or preservatives and no gluten-containing ingredients.

The shelf life is currently two years from manufacture. Beneficiaries are entitled to one bottle of tablets every 8 weeks. Further information is contained in Appendix B to this document.

2. DETAILED REQUIREMENTS

Service Description

The NHS Business Services Authority is seeking a Subject Matter Expert (SME) in food supplements, with specific expertise in vitamins, to provide support to the team responsible for the procurement of new Vitamins manufacturing frameworks.

The SME will be required to provide advice to the NHSBSA on the detailed service specifications for procuring the manufacture of the Women's and Children's Vitamin products, regarding the considerations identified below:

Requirements gathering and tender publication phase:

The NHSBSA requires the subject matter expert to provide advice and support with particular regard to:-

- The type of product proposed, including its shelf-life, ease of use, flavouring, dosage, and overages;
- Advice on areas such as sourcing of materials, standards and testing;
- The proposed testing (including stability testing) and quality regime during the product development stage.

Bidding & Evaluation phase

- Providing support in answering clarification questions from suppliers in respect of the manufacturing framework tender.
- Provide input into the assessment and evaluation of bids received in respect of proposals to manufacture the Women's and Children's Vitamin products.
- The manufacturers' proposed testing and quality regime during the period in which the product is available to the public

Implementation phase

- Provide advice to the NHSBSA during the implementation phase of the manufacturing frameworks on the findings of testing of new products during the implementation phase
- Attend site visits (if conducted as part of the evaluation exercise) and provide advice and approval of the site for use in live manufacture.
- Conduct an audit of the required governance for the manufacture & production of Women's and Children's Vitamins.
- Approval of the manufacturers testing reports, to ensure the products are safe to move into live production.

Delivery of the contract

- Provide support to develop suitable performance indicators in relation to manufacturing and quality processes, which will allow the NHSBSA to manage the manufacturing frameworks effectively.
- The possibility of providing further advice to the team on quality issues during the delivery phase of the manufacturing frameworks.

Evaluation:

The NHSBSA is looking to appoint a subject matter expert who can demonstrate:

- relevant experience of the formulation of food supplements, including performing quality and safety functions as required under food supplement legislation,
- relevant experience of Food Regulations.

Applicants should also note that, if they are successful, they will be required to sign an undertaking preventing them from offering services to any company during the term of the Contract, in respect of a bid which that company may wish to make for the manufacture of Healthy Start Vitamins.

3. SERVICE LEVELS

Indicative service levels include the following key areas of performance:

- Response timescale in relation to manufacturing framework procurement clarification questions
- Response timescale for approval of manufacturing framework stability test results

Please note that the service levels provided above are examples only and actual service levels and Key Performance Indicators (KPIs) will be agreed in conjunction with the successful Supplier prior to contract signature.

4. SOCIAL VALUE

In line with public sector procurement policy, as of 01 January 2021 all new procurements must evaluate social value and apply a minimum 10% evaluation score weighting to this element.

The NHSBSA will be using the Social Value Model which is set out in Procurement Policy Note 06/20 (<https://www.gov.uk/government/publications/procurement-policy-note-0620-taking-account-of-social-value-in-the-award-of-central-government-contracts>) and outlined in the table below:

| Theme | Policy Outcome |
|-------------------------------------|--|
| Covid-19 Recovery | Help local communities to manage and recover from the impact of COVID-19 |
| Tackling Economic Inequality | Create new businesses, new jobs and new skills |
| | Increase supply chain resilience and capacity |
| Fighting Climate Change | Effective stewardship of the environment |
| Equal Opportunity | Reduce the disability employment gap |
| | Tackle workforce inequality |
| Wellbeing | Improve health and wellbeing |
| | Improve community cohesion |

The NHSBSA believe the provision of Healthy Start Vitamins supports the Wellbeing Social Value Theme. Suppliers will be asked, as part of the evaluation for this opportunity, which of the following Social Value Outcomes under the Wellbeing Theme your organisation can commit to delivering in the performance of this contract.

| Social Value Theme | Policy Outcome | Social Value Outcomes |
|--------------------|-------------------------------|--|
| Wellbeing | Improve health and wellbeing | MAC 7.1: Demonstrate action to support health and wellbeing, including physical and mental health, in the contract workforce. |
| | | MAC 7.2: Influence staff, suppliers, customers and communities through the delivery of the contract to support health and wellbeing, including physical and mental health. |
| | Improve community integration | MAC 8.1: Demonstrate collaboration with users and communities in the co-design and delivery of the contract to support strong integrated communities. |
| | | MAC 8.2: Influence staff, suppliers, customers and communities through the delivery of the contract to support strong, integrated communities. |

Suppliers should also note that a Key Performance Indicator (KPI) related to Social Value will be agreed in conjunction with the successful Supplier prior to contract signature.

Timetable and ways of working

It is expected that the support required would be needed at key points during the procurement, and not on a continuous basis.

The team is based at various locations around the country. Most work is conducted by email or teleconference, though in person meetings may be required, for which expenses will be paid.

Timetable

| Activity | Likely timeline |
|--|--------------------|
| Input into the detailed service specifications and outline framework | Autumn 2022 |
| Review of the proposed evaluation methodology | Autumn 2022 |
| Advice on initial supplier submissions/Pre-Qualification questionnaire | Autumn 2022 |
| Advice on detailed supplier bids | Spring 2023 |
| Site Visits (if required) | Spring 2023 |
| Advice on finalised framework | Summer 2023 |
| Advice on findings from product testing | Summer/Autumn 2023 |

1. Formulation

| Actives (label declaration) | per 5drop dose** |
|--|-------------------------|
| Vitamin A * | 700iu (233 µg) |
| (as Vitamin A palmitate Ph Eur stabilised with tocopherol) | |
| Vitamin C (as sodium ascorbate Ph Eur) | 20mg |
| Vitamin D3* (as cholecalciferol Ph Eur) | 300iu (7.5 µg) |

*Incorporated as a vitamin premix

**Assume that the dropper provides 35 drops per ml

2. Product Description

Oral drops for babies and young children, up to 5 years of age containing Vitamins A, C and D3 are provided in 10ml quantities in glass bottles fitted with a droppers device made of polypropylene with polypropylene caps and contained in a cardboard carton with package insert. The cartons are packed into plastic trays, outers and shrink wrapped onto pallets.

1. Ingredient list

Dicalcium Phosphate, Ascorbic Acid, Cellulose, Cross-linked Sodium Carboxymethylcellulose, Magnesium Stearate, Hydroxypropylmethylcellulose, Acacia, Sucrose, Maize Starch, Folic Acid, Triglycerides, Vitamin D3, Antioxidant (Tocopherol).

2. Ingredients per tablet

| <i>Active Ingredients</i> | <i>mg per tablet</i> |
|----------------------------------|-----------------------------|
| R1176Dry Vitamin D3 100 CWS/AM | 5.200 |
| R4101Ascorbic Acid 97 % DC SF | 83.857 |
| R0165Folic Acid EP / USP | 0.560 |

Other Ingredients

R4004Dicalcium Phosphate Dihydrate EP / USP E341(ii)
R0354Microcrystalline Cellulose EP / USNF E460(i)
R0328Croscarmellose Sodium EP / USNF E468
R1124Magnesium Stearate Vegetable EP / USNF E470b

TABLET WEIGHT

240.000 mg

SCHEDULE 2 - CHARGES

1 CHARGES FOR THE SERVICES

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1.1 Any additional work or additional days required within a contract phase, subject to agreement in advance with the Customer, will be paid at the applicable day rate stated in this Schedule 2 .

1.2 The Day Rates for the Charges shall be subject to adjustment by way of Indexation.

2 INVOICING ARRANGEMENTS

2.1 Invoices are to be raised monthly in arrears to the Customer.

3 INDEXATION

3.1 Any amounts or sums in this Agreement which are expressed to be "subject to Indexation" shall be adjusted in accordance with the provisions of this Paragraph 3 to reflect the effects of inflation.

3.2 The Supplier must provide the Customer with a minimum of 90 days' notice of any intended Change to the Charges relating to Indexation, and evidence to demonstrate the increase in the Charges.

3.3 Subject to paragraph 3.1 above where Indexation applies, the relevant adjustment shall be:

3.3.1 applied following the expiry of the notice period set out at 3.2 above providing such date occurs no earlier than the first anniversary of the Services Start Date and thereafter on the first day following 12 months after the effective date of the previous indexation adjustment date (each such date an "adjustment date"); and

- 3.3.2 determined by multiplying the relevant amount or sum by a percentage not exceeding the percentage increase or changes in the Consumer Price Index published for the 12 months prior to the date the notice set out in 3.2 is issued.
- 3.3.3 Any adjustment for Indexation shall only be applied following the agreement of a Contract Change Notice by the Parties.
- 3.3.4 Except as set out in this paragraph 3, neither the Charges nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier of the performance of their obligations.

SCHEDULE 3 - MANDATORY POLICIES

The Mandatory Policies are:

- Safety Health and Environment - <https://www.nhsbsa.nhs.uk/what-we-do/safety-health-and-environment>
- Diversity and Inclusion - <https://www.nhsbsa.nhs.uk/our-policies/diversity-and-inclusion>
- Modern Slavery Statement - <https://www.nhsbsa.nhs.uk/our-policies/nhsbsa-modern-slavery-statement>
- Supplier Code of Conduct - <https://www.nhsbsa.nhs.uk/sites/default/files/2017-05/nhsbsa-supplier-code-of-conduct.pdf>

SCHEDULE 4 – DATA PROCESSING – Not Used

1. ROLE OF THE PARTIES

1.1 Where the Supplier acts as a processor

1.2 Where the Supplier acts as a controller

2. PARTICULARS OF THE PROCESSING

2.1 Scope

2.2 Nature

2.3 Purpose of processing

2.4 Duration of the processing

2.5 Types of personal data

2.6 Categories of data subject

3. TECHNICAL AND ORGANISATIONAL MEASURES

SCHEDULE 5 – SUPPLIER SOLUTION

1. Requirements gathering and tender publication phase

1.1 The Supplier will provide advice and support to the Buyer in relation to the Vitamin Product, and will work with the Buyer to develop the Vitamin Manufacturing Framework product specification, including:

1.1.1 Essential key acceptance criteria, including shelf-life, ease of use, flavouring, dosage and overages

Ease of use – From a consumer testing perspective, the supplier can advise on usability including how easy it is to dispense, how easy it is to open. From a packaging perspective, we can advise on the suitability of the packaging and whether it is fit for purpose

Sourcing of Materials – The supplier can advise that the manufacturer only sources from reputable suppliers whom possess the essential quality systems. Due to the continuous nature of rising costs, the manufacture may need to consider procuring from multiple vendors.

1.1.2 Assessment of quality assurance data requirements

1.1.3 Best practice structural formulation of the Vitamins Products

1.1.4 Assessment of historical and ongoing stability data, to ensure the selection of reputable manufacturers

1.2 The Supplier will provide advice in relation to suitable packaging formats available to maximise Vitamin Product stability and shelf life.

1.3 The Supplier will advise the Buyer in relation to what documentation should be requested from the Vitamin Manufacturer as part of the procurement process, including:

1.3.1 Documentation of stability data for all required vitamins

1.3.2 The manner in which the data was determined

1.3.3 Validated processes for any accelerated shelf-life determination

1.4 The Supplier will advise on the weighting of the requirements for the Vitamins Manufacturing Framework, as part of the developments of the product specification.

1.5 The Supplier will set up regular communication with the Buyer via email, telephone and online platforms.

2. Bidding and evaluation phase

2.1 The Supplier will provide support to the Buyer in answering clarification questions from suppliers bidding for the Vitamin Manufacturing Framework tender.

2.2 The Supplier will support the Buyer in the evaluation of the Vitamins Manufacturing Framework bids to ensure that specification standards are met.

2.2 The Supplier will thoroughly assess the documentation provided by the bidders for the Manufacturing Framework, detailed at Clause 1.3 of this Schedule, as part of the evaluation process.

2.3 The Supplier will evaluate the bids for the Vitamin Manufacturing Framework in respect to the bidders' proposed testing and quality regime during the period in which the product is available to the public.

3. Implementation phase

3.1 The Supplier will attend regular meetings with the Buyer and Vitamins Manufacturer, if required.

3.2 The Supplier will measure the stability of the Vitamins Products and approve that the Vitamins Products are safe to be moved into live production.

3.3 The Supplier will, if required, provide advice to the Vitamins Manufacturer as to how to analyse the products to ensure that the vitamin activity meets requirements.

3.4 The Supplier will consider the following when assessing stability and suitability of the Vitamin Product

3.4.1 Initial activity of each vitamin form

3.4.2 The relationship and interaction between vitamins within the Vitamin Product

3.4.3 Stability related to packaging type

3.4.4 Environmental conditions such as temperature, moisture and light

3.5 The Supplier will utilise liquid chromatography and mass spectrometry techniques for vitamin activity analysis.

3.6 The Supplier will design a testing protocol for the stability of the Vitamins Product using data supplied by the Vitamins Manufacturer.

3.6.1 The protocol may include accelerated shelf-life testing of the Vitamin Product to be undertaken, depending on the data supplied by the Vitamin Manufacturer

3.6.2 The data supplied by the Vitamin Manufacturer during the tender process will determine how the testing protocol for the Vitamin Product will be designed.

3.6.3 All analytical testing will be undertaken by the Supplier at the Supplier's premises, to ensure third party verification of vitamin activity using ISO17025 methodology. If an accredited methodology is not available from the Manufacturers nominated laboratory, the supplier will assess the suitability of the laboratory to undertake the testing and will approve the vitamin product on this basis

3.7 Data requirements for each vitamin will include:

3.7.1 Individual stability data

3.7.2 Interactions

3.7.3 Potential accelerated degradation between the structural forms of the vitamins intended for use in the Vitamin Product

3.7.4 Temperature

3.7.5 Time

3.7.6 Packaging stability data

3.8 Following production of the Vitamin Product, the Supplier will provide testing of suitable packaging formats to maximise Vitamin Product stability and shelf life, if required.

3.9 The Supplier will attend site visits (if conducted as part of the Vitamins Manufacturing Framework evaluation exercise) and provide advice and approval of the site for use in live manufacture.

The supplier is able to conduct audits in line with BRCGS and HACCP requirements which are well known food safety accreditations and measures within food and drink sector.

3.10 The Supplier will conduct an audit of the required governance for the manufacture and production of the Vitamin Products.

4. Delivery of the contract

4.1 The Supplier will support the Buyer to develop suitable performance indicators in relation to manufacturing and quality processes, to allow the Buyer to manage the Vitamin Manufacturing Frameworks effectively.

4.2 The Supplier will provide advice to the Buyer in relation to quality issues during the delivery phase of the Vitamins Manufacturing Frameworks, when required.

SCHEDULE 6 – SERVICE LEVELS AND PERFORMANCE MANAGEMENT

1. Service Levels

1.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level, detailed at Annex A.

1.2 If the level of performance of the Supplier:

1.2.1 is likely to or fails to meet any Service Level Performance Measure; or

1.2.2 is likely to cause or causes a Critical Service Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.2.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure from taking place or recurring

1.1.1.2 instruct the Supplier to comply with a rectification plan process.

2. Contract Management

2.1 The Supplier and the Buyer shall each appoint a Contract Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.

2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.

3. Role of the Supplier Contract Manager

3.1 The Supplier Contract Manager shall be:

3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;

3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;

3.1.3 able to cancel any delegation and recommence the position himself; and

3.1.4 replaced only after the Buyer has received notification of the proposed change.

3.2 The Buyer may provide revised instructions to the Supplier's Contract Manager in regards to the Contract and it will be the Supplier Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.

3.3 Receipt of communication from the Supplier Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

Annex A: Key Performance Indicators

| No. | KPI Title | Definition | Frequency of Measurement | Severity Levels | Publishable Performance Information |
|-----|---|---|--------------------------|--|-------------------------------------|
| 1 | Procurement - Clarification Question Response Time | 100% of clarification questions issued to the Supplier are responded to within 5 working hours (between 09:00-17:00 Monday - Friday) within the reporting period | Monthly | Target Performance Level: 0 Minor KPI Failure: 1 Serious KPI Failure: 2 Severe KPI Failure: 3 KPI Service Threshold: 4 | No |
| 2 | Implementation - Approval of Vitamin Manufacturing Framework stability test results | All stability test results are reviewed and approved within two weeks of submission. | Ad Hoc | Target Performance Level: 0 Minor KPI Failure: 1 Serious KPI Failure: 2 Severe KPI Failure: 3 KPI Service Threshold: 4 | No |
| 3 | Contract Delivery - Query Acknowledgement Time | All queries will receive an acknowledgement within 2 working days (Monday-Friday) of the initial request being submitted to the supplier within the reporting period | Monthly | Target Performance Level: 0 Minor KPI Failure: 1 Serious KPI Failure: 2 Severe KPI Failure: 3 KPI Service Threshold: 4 | No |
| 4 | Contract Delivery - Query Response Time | All queries will receive a full resolution within 10 working days (Monday-Friday) of the initial request being submitted to the supplier within the reporting period. | Monthly | Target Performance Level: 0 Minor KPI Failure: 1 Serious KPI Failure: 2 Severe KPI Failure: 3 KPI Service Threshold: 4 | No |
| 5 | Social Value KPI | | | | |

KPI5 (Social Value) to be agreed between the Customer and the Supplier within thirty (30) days of contract signature.