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Attention:

Re: GlaxoSmithKline LLC., MMS2200724

The following contract contains language that protects the terms and pricing found in this contract. Please review Article 11.3 to ensure your compliance.

If you have any questions, please contact MMCAP at 651-201-2420.

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Minnesota Department of Administration
Office of State Procurement
50 Sherburne Avenue, Suite 112 Administration Building, St. Paul, MN 55155
Phone: 651.201.2420

GlaxoSmithKline LLC

MMCAP Infuse Agreement Number: MMS2200724

Prepared on October 17, 2022

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PREFIX A

Definitions and Acronyms

Are attached and incorporated into the Agreement

Definitions

1. **Administrative Fee**: Means one and a half percent (1.5%) of Contract Pricing for Products or as listed on ***Attachment A***, which will supersede Prefix A.
2. **Agreement**: Means the resulting agreement that is reached between MMCAP Infuse and the Vendor.
3. **Authorized Wholesaler(s)**: ASD Specialty Healthcare, LLC, FFF Enterprises, Inc., McKesson Medical-Surgical Government Solutions, LLC.
4. **Class of Trade:** All Members are eligible for Contract Pricing provided they meet the Vendor's eligibility on *Paragraph 5.3*.
5. **Contract Pricing**: Means the price that the Vendor has agreed to provide the Products to MMCAP Infuse and its Membership as set forth on ***Attachment A*** and any subsequent amendment to this Agreement.
6. **Days**: (Not required to be capitalized) Unless otherwise specified in this Agreement, all references to days will be calendar days.
7. **Flu Year/Season**: Means the appliable annual cycle for the Contract Pricing as defined in ***Attachment A*** and subsequent revisions to ***Attachment A.***
8. **Government Unit**: Any entity as defined by Minnesota Statute 471.59.
9. **Member or Participating Member**: Means an approved MMCAP Infuse State or other Government Unit that has executed a membership application and Member agreement with MMCAP Infuse, in addition to completing the Onboarding Forms and approved by Vendor.
10. **Membership**: Means the joint power cooperative comprised of the MMCAP Infuse authorized States, Members, and other Government Units.
11. **Onboarding Date**: Means the Vendor must allow new Members to access to the Agreement within fifteen to thirty (15 to 30) days from the date MMCAP Infuse notifies Vendor and/or Member completion of the required paperwork on ***Attachment B*** in accordance with *Article V.*
12. **Onboarding Forms**: GSK GROUP PURCHASING ORGANIZATION MEMBERSHIP DECLARATION w/ SURVEY (***Attachment B***).
13. **Order Forms (Pre-Book Reservation)**: The method (paper or electronically) a Member utilizes to make purchases of Products directly from the Vendor. Members can order directly from the Vendor at: www.gskdirect.com.
14. **Products**: Means all products offered by the Vendor in this Agreement, which are identified in ***Attachment A***.
15. **State**: Means one of the recognized fifty (50) states of the United States of America.

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AGREEMENT FOR MMCAP INFUSE NO. MMS2200724

THIS Agreement is entered into as of the Effective Date by and between the State of Minnesota acting through its Commissioner of Administration ("**Minnesota**") on behalf of MMCAP Infuse ("**MMCAP Infuse**") and GlaxoSmithKline LLC, a Delaware limited liability company with an address of 2929 Walnut Street, Suite 1700, Philadelphia PA 19104 and 410 Blackwell Street, Durham, NC 27701 ("**GSK**" or "**Vendor**").

Agreement Term:

1. **Effective Date**: January 1, 2023, or the date MMCAP Infuse obtains all required signatures as required under Minnesota Statute, whichever is later.
2. **Expiration Date**: December 31, 2024, or as cancelled pursuant to *Paragraph 4.1*.
3. The Agreement Term may be extended upon mutual agreement of MMCAP Infuse and Vendor.

AGREEMENT COMPONENTS

The following components are the Agreement; all referenced Prefix and Attachments, are attached and incorporated into this Agreement.

1. **Prefix A**: Definitions
2. **Attachment A**: Flu Year Products, Pricing, and Terms
3. **Attachment B**: Required Member Onboarding Forms
4. **Attachment C**: Required Reporting for Direct Sales
5. **Attachment D**: MN Statutory Language

ARTICLE I
PRICING AND CHANGES

1.1 **Notices**. All notices under this Article must be sent to: MMCAP_Infuse.Contracts@state.mn.us. If to GSK, all notices will be sent to:

GlaxoSmithKline LLC
2929 Walnut Street, Suite 1700
Philadelphia, PA 19104
Attention: Babatunde Adedeji
Contract Development Manager
babatunde.a.adedeji@gsk.com

With a copy to:
GSK Legal Counsel
GlaxoSmithKline LLC
410 Blackburn Street
Durham, NC 27701

1.2 **Pricing Structure:** Pricing for Products are listed on ***Attachment A*** and will remain in effect during the first Influenza Season (2023 – 2024). For subsequent Flu Seasons, MMCAP Infuse will receive Amendments from the Vendor for each Flu Season.

1.3 **Fixed Pricing**. Vendor must hold pricing firm for the applicable Flu Year, which will be stated on ***Attachment A***.

A. Price Reductions. After the Effective Date, Vendor may submit to MMCAP Infuse price reductions but must notify MMCAP Infuse before they can take effect.

1.4 **Notice to MMCAP Infuse:** In the event Vendor does not notify MMCAP Infuse of a price increase, Vendor must honor wholesalers' chargebacks for the most recent previous Contract Price until MMCAP Infuse and Vendor amend the price increase into the Agreement.

1.5 **Notice to Authorized Wholesalers**. The Vendor must notify any and all Authorized Wholesalers of price changes. Vendor must confirm with MMCAP Infuse that price changes have been sent to the Authorized Wholesalers.

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1.6 **Competitive Pricing**. Deleted in its entirety.
1.7 **Vendor's Right of First Refusal on Equivalent Products**. Deleted in its entirety**.**
1.8 **Value-Added Programs.** Deleted in its entirety.

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ARTICLE II
SUPPLYING AND AVAILABILITY

2.1 **Authorized Wholesaler Requirements**. Vendor will notify the Authorized Wholesalers of the initial Products and Contract Pricing and any subsequent changes.

A. All indirect sales of Products to Members must be through the Authorized Wholesalers unless previously authorized in writing by MMCAP Infuse. Notwithstanding anything to the contrary in this Agreement, MMCAP Infuse hereby agrees that MMCAP Infuse Members may place orders for any of the Vendor vaccines listed on ***Attachments A*** either through MMCAP Infuse Authorized Wholesalers or directly from Vendor through www.gskdirect.com.

B. Vendor must establish and maintain chargeback agreement(s) with the Authorized Wholesalers.

C. Vendor must notify MMCAP Infuse immediately of any issues (e.g., failure to negotiate terms, etc.) with Authorized Wholesalers that could affect the Products' availability. Notices must be sent to: MMCAP_Infuse.Contracts@state.mn.us.

2.2 **First DataBank, Inc**. All contracted prescription Products must have an 11-digit NDC code that is registered with First DataBank, Inc., unless such designation is expressly waived by MMCAP Infuse.

A. If NDC codes are not applicable (e.g., OTC products), Vendor must use the product's UPC number to create an 11-digit number by adding a zero to the sixth position (e.g., 5-5 [99999-99999] becomes 5-4-2 [99999-0999-99]). If the Product does not have an NDC number or a UPC code, Vendor must use its product number with leading zeroes (e.g., product #90024 = 00000-0900-24).

B. Vendor must report Products to Authorized Wholesalers using only these approved formats.

2.3 **Product Discontinuation**. With the exception of a recall, if the Vendor assigns, discontinues, or deletes a Product during the Agreement, Vendor must provide written notice to MMCAP Infuse and Authorized Wholesaler and where possible the Vendor should give at least thirty (30) days' notice. If the Vendor removes a Product, Vendor will honor Contract Pricing until the Authorized Wholesalers' inventories are depleted or a mutually agreed upon removal date.

2.4 **Product Recalls**. Vendor will supply a copy of its returned goods/credit policy to MMCAP Infuse and/or Authorized Wholesalers upon request.

2.5 **Returned Goods/Credits.** The Vendor will supply a copy of its returned goods/credit policy to MMCAP Infuse and/or Authorized Wholesalers upon request.

2.6 **Backorders**. Vendor will post supply updates for vaccine Products on the Vendor's https://www.gskdirect.com/gsk/en/USD/ website.

2.7 **Product Dating**. All Vaccines Products supplied directly by GSK to Members must have an expiration date of at least six (6) months later than the delivery date unless the unique stability characteristics of the vaccine product(s) requires a shorter dating period. However, all other Products supplied must still be usable on the date received by the Member.

2.8 **Product Shortages**. In the event that a market shortage would require that a government agency assume control of product allocation, or in the event that doses of GSK Influenza Vaccines must be made available for sale to government agencies, the product amounts and delivery schedules may be changed to meet such requirements. In addition, in the event there is a shortage of any GSK Influenza Vaccine, GSK shall have the right to allocate available product quantities among Participating Members and other GSK customers in such a manner as GSK, in its sole discretion, deems appropriate. Therefore, the parties understand and agree that this Agreement does not extend any agreement or guarantee, express or implied, as to the supply or distribution of any specified quantity of GSK Influenza Vaccine, except as otherwise set forth herein. If GSK starts requiring pre-payment for pre-books, the parties agree to work in good-faith to revise this Paragraph.

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ARTICLE III
PREBOOKING ORDERING, PAYMENT, AND DELIVERY

3.1 **Payment Terms**. Members shall pay for all regular orders, with payment to be received by Vendor no later than thirty (30) days from the date of the invoice. At the Vendors discretion, a discount may be available every Flu Year; details will be provided on ***Attachment A***. Unauthorized deductions are not permitted and are in violation of this offer and may result in delayed shipments. If GSK does not receive payment within thirty (30) days from the date of invoice, GSK may elect to withhold shipment of GSK products. For further information on EFT, contact GSK Customer Financial Services at 866-334-7111.

3.2 **Payment Method**. Vendor will accept Electronic Funds Transfer (EFT) or check payable to Vendor as a payment method and Member will initiate this process with its financial institution. Payment must be sent to the following address:

GlaxoSmithKline Financial, Inc.
P.O. Box 740415
Atlanta, GA 30374-0415

3.3 **Federal Funds**. Payments under this Agreement may be made from federal funds. The Vendor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Vendor's failure to comply with federal requirements.

3.4 **Member Fees**. In the event a Member requires a fee, assessment, and/or additional costs in addition to the Contract Pricing; those fee, assessment, and/or additional costs must be added on top of the Contract Pricing and/or an adjustment to the discounts must be made so Vendor the vendor does not absorb the fee. Vendor must not pay a Member levied fee without first collecting the fee through increased Contract Pricing for the applicable Member. The fees will be set aside and paid to the Member as detailed in a form provided and approved by MMCAP Infuse.

3.5 **Orders**. As a condition for purchasing under this Agreement, purchasers must be Members in good standing with MMCAP Infuse. All orders on this Agreement, must go through an Authorized Wholesaler or the Vendor's website at www.gskdirect.com. Vendor's online terms and conditions shall apply and will be defined for the Participating Member on website at time of reservation. *Vendor's online terms and conditions are subject to change without notice to MMCAP or its Participating Members*. *Please check www.gskdirect.com for the most up to date terms & conditions.* However, *Paragraph 11.10* will apply if there is a conflict between this Agreement and online terms and conditions. Each Member will be responsible for payment for Products to the Vendor and MMCAP Infuse will not be liable for any unpaid invoice of any Member. Vendor agrees to invoice the Members as established in this Agreement.

A. Once the Participating Member places its pre-book reservation, confirmation of the reservation will be subject to a credit check prior to shipment. At its discretion, Vendor can accept or refuse any Influenza Vaccine pre-book reservation. Influenza Vaccine pre-book reservations will generally be on a first come first serve basis. If the Participating Member wants to increase its Influenza Vaccine pre-book reservation after the initial reservation and after the edit lock-in date (as stated on ***Attachment A***), then a separate pre-book reservation will have to be placed and that reservation will be subject to availability. All Products furnished will be subject to inspection and acceptance by the ordering entity after delivery.
B. The order minimum in effect as of the Effective Date of this Agreement is the following: There is currently no shipping fee associated with purchases on this Agreement provided the minimum doses requirement stated on the ***Attachment A*** is met by the Participating Member.
C. Vendor will send an email confirmation to each Member once their order(s) have been processed and respective prebook doses are available.

3.6 **Termination of Individual Orders.** Members may terminate, immediately or as identified by Member, individual pre-book, in whole or in part, upon written notice to Vendor upon the occurrence of any of the following events:

A. The Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Products to be purchased under the pre-book.; Participating Members must amend their pre-book before orders are shipped. Once the products are shipped, the Participating Member will be responsible for the payment of such order.
B. Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the purchase of the Products under the Order Form are prohibited, or the Member is prohibited from paying for the Products from the planned funding source; or

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C. Vendor commits any material breach of this Agreement or Order Form.

Upon receipt of written notice of termination, Vendor will stop performance under the Order Form as directed by the Member. If a standing Order Form is not terminated, the Member must pay Vendor in accordance with the terms of this Agreement for goods delivered and accepted by the Member.

3.7 **Jurisdiction and Venue of Orders**. Upon completion of the Dispute Resolution process outlined in this Agreement, and solely with the prior written consent of MMCAP Infuse and the State of Minnesota Attorney General's Office, the Member may bring a claim, action, suit, or proceeding against Vendor. The Member's request to MMCAP Infuse to bring the claim, action, suit, or proceeding must identify the desired jurisdiction, venue, and governing law. Upon completion of the Dispute Resolution process outlined in this Agreement, the Vendor may bring a claim, action, suit or proceeding against the Member, in Vendor's sole discretion As it applies to purchases made by a Member, nothing in the Agreement will be construed to deprive the Member of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions, or limitations of liability applying to this Agreement or afforded by the Member's law.

3.8 **Shipment for Products**. Vendor must distribute and deliver the Products covered under this Agreement to all Members, including the states of Alaska and Hawaii. If the Member account is in good standing, the Vendor will at no time, refuse to deliver to any Member without the prior written approval by the Member and MMCAP Infuse. Delivery for Products under this Agreement shall be FOB Destination, unless otherwise agreed to by Vendor and Member. GSK shall prepay all carrier charges and insurance against the MMCAP Infuse Member's risk of loss or damage to GSK products during carriage. GSK reserves the right to change this policy. Vendor will not add any fuel surcharges to the purchase under this Agreement. Notwithstanding the foregoing, emergency orders, rush orders, orders for products not regularly stocked by Vendor's local servicing distribution center, products dropped shipped from Vendor's contracted supplier, and orders not regularly scheduled are subject to an added shipping and handling charge determined by Vendor and disclosed to in writing Member before a purchase is made.

A. Delivery Schedule: Vendor will ship the product ordered to the address specified at the time of order in accordance with and subject to the terms and conditions of the GSK Direct Website and ***Attachment A***.

B. Hazardous Materials: Vendor will only ship hazardous materials as allowed by the appropriate government regulations.

C. Damaged Products: All damaged Products will be reported to Vendor's customer service department and applicable credits will be issued within ten (10) days from date of notification of the damaged item. If product arrives in broken or damaged condition, the Member shall insist upon carrier's agent noting the damage or breakage on the delivery receipt.

D. Lost and Damaged Products: All lost and damaged Products will be reported to Vendor's customer service department. Vendor will issue credit within fourteen (14) days of notification of lost Product; alternatively, re-shipment of missing Product will occur immediately after notification. The Member shall immediately report to Vendor any in-transit loss or shortage of Vendor products. The Infuse Member shall report all claims within fourteen (14) days of the receiving date. Proper documentation must accompany all claims. If appropriate, Vendor will issue credit to the Members for the claim. Vendor reserves the right to change this policy.

E. Special Conditions for Products: If applicable to the Products offered under this Agreement, Vendor will maintain appropriate temperatures and environmental conditions in accordance with manufacturer requirements for delivery of the Products to the Members. All refrigerated Products will be shipped in or disposable insulated containers with appropriate packaging to maintain the required temperature range. Products requiring refrigeration will be clearly marked as such. Temperature monitors will be used if they are required by the manufacturer. If Member refuses Products that have been inadequately packaged, the Member will notify Vendor's customer service department within fourteen (14) days of receiving the shipment to log the complaint. Any costs associated with the return of Product due to improper packaging or transport, will be at the expense of the Vendor.

3.9 **Invoicing**. Vendor will submit an invoice with each order.

A. Invoice Fields: At a minimum, Vendor's invoice will contain the following fields:

i. Member name and Vendor-assigned account number for the Member;
ii. Invoice line number and Member's order number (Member must provide an order number at the time of order for this to appear on Vendor's invoice);
iii. Bill to and ship to address;
iv. Invoice date;

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v. Vendor's SKU item number, Product name/description and packaging as associated with NDC number(if applicable to this Agreement);
vi. Unit price, quantity ordered, quantity shipped, extension (unit price multiplied by the quantity shipped), and total invoice price; and
vii. Applicable omit codes (e.g., manufacturer backorder, manufacturer discontinued, etc.).

B. Invoice Rounding: Vendor agrees to round down if the third digit after the decimal is four (4) or less. Vendor agrees that any rounding will occur at the Member invoice unit price.

C. Invoice Disputes: Member will notify Vendor of any known dispute with an invoice within fifteen (15) days from receipt of the invoice. If all, or a portion of the disputed invoice is found to be in error, Vendor shall issue a credit and/or adjust the original invoice to the Member appropriately and provide a corrected invoice. Where the above is prohibited by a Member state's applicable law(s), the Vendor shall comply with requirements of that state's law(s) related to disputed invoices. Vendor will make a good faith effort to resolve known disputes related to Agreement pricing within thirty (30) days of notice of the dispute. This clause will in no way be deemed a limitation on the parties, as it relates to the future auditing and/or correction of invoices.
i. In the event that applicable state law mandates set-off by a Member, such set-off rights shall be exercised only to the extent expressly set forth in the applicable statute.

3.10 **Credits and Rebills**. Vendor will process credits and rebills as notifications are received from a Member. In the case of an invoice dispute, Vendor will promptly issue credits/rebills, after the Dispute Resolution process set forth in this Agreement.

A. Vendor credits are valid until they are refunded or the account has used payment.
B. In the event of a facility closure, or other extreme event where the Member will not be making another purchase through Vendor, the Member may cash out its credit(s).
C. If directed by a Member, a credit can be transferred from one account to another account.
D. The Vendor will take all commercially reasonable steps to ensure that credits that become available close to the end of the Member's fiscal year, are activated for use by the Member no later than five (5) days before the end of the fiscal year.
E. Vendor's credit memo will contain, but is not limited to the following information:
i. original order number and invoice number;
ii. itemized listing of the Products affected;
iii. any new invoices associated with the credit; and
iv. Net credit amount available to the Member.

ARTICLE IV
TERMINATION, CANCELLATION, AND REMEDIES

4.1 **Cancellation.** Either party may cancel this Agreement any time, without cause, upon thirty (30) days' written notice to the other Vendor.

4.2 **Termination for Cause**. Either party may terminate this Agreement at any time on the basis the other party breached this Agreement. The moving party must provide written notice to the other party, which upon, the receiving party has thirty (30) days to cure the defects. Upon thirty (30) days, the breaching party has not cured the defects, the moving party may terminate this Agreement after ten (10) subsequent days.

4.3 **Termination for Insufficient Funding**. MMCAP Infuse may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the Products covered here. Termination must be by written or electronic mail notice to the Vendor. MMCAP Infuse is not obligated to pay for any Products that are provided after notice and effective date of termination. However, the vendor will be entitled to payment, determined on a pro rata basis, for Products satisfactorily performed to the extent that funds are available. Minnesota will not be assessed any costs, fees, or other charges if the Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. MMCAP Infuse must provide the Vendor notice of the lack of funding within a reasonable time of MMCAP Infuse receiving that notice. Notwithstanding the foregoing, all Members under this Agreement will do their best to make sure that there are funds appropriated to pay for any Products to be purchased before the purchase order is issued for such purchase.

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A. For orders made by a Member, Vendor agrees to the applicable statutory terms of the applicable Member if the Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels enough to pay for the Products. Participating Members must amend their pre-book before the orders are shipped. Once the products are shipped, the Participating Member will be responsible for the payment of such order.

4.4 **Force Majeure**. Parties will not be considered in default in the performance of its obligations in the Agreement to the extent that performance of any such obligations is prevented or delayed by acts of God, war, acts of terrorism, or civil commotion, novel regulations or laws of any government after the Effective Date, product or materials shortage, destruction of product facilities and materials, fire, earthquake or storm, failure of public utilities or common carrier, failure or fluctuations of air conditioning, heat, power or communications equipment or lines, computer program or software failure, and any other causes beyond the reasonable control of the parties (each a "Force Majeure Event") or other catastrophes beyond the reasonable control of the party. Force majeure will not apply to the extent that the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party claiming excuse of performance under this provision must provide the other party prompt written notice of the failure to perform, take commercially reasonable efforts to mitigate the damages caused to all parties, and take all necessary steps to bring about performance as soon as practicable. In the event that any Force Majeure Event delays a party's performance for more than thirty (30) days following notice by such party pursuant to this Agreement, the other party may terminate this agreement immediately upon written notice to such party.

4.5 **Breach**. In the event of a breach of this Agreement by any party , the parties reserve the right to pursue any remedy available by law. For any breach by Vendor, the Vendor may be removed from the Minnesota's vendors list; suspended; or debarred from receiving a contract for failure to comply with terms and conditions of the Agreement.

4.6 **Failure to Perform**. Upon failure to perform the following items in the time and manner as set forth herein, the following remedies shall be put forth by Vendor:

A. Reports. In the event that any report and/or data provided by the Vendor, pursuant to the terms of this Agreement, is not received according to schedule, contains incorrect data, incomplete data, or no data, or is more than a minor defect or causes harm to MMCAP Infuse's ability to conduct business or its governmental purpose, Vendor will dedicate a specified person to work with MMCAP Infuse until this is resolved.

B. Late Administrative Fee Payments: As provided for in statute for late payments to the State of Minnesota.

C. Notices and Signatures. If the Vendor fails to provide notice or signature as provided for in this Agreement, the Vendor will work with MMCAP Infuse until this is resolved.

D. Adding and Removing Members. Every time the Vendor fails to meet the timeline requirements in this Agreement to add or remove a Member's eligibility to purchase Products, Vendor will work with MMCAP Infuse until this is resolved and backdate eligibility to the time of first notice.

E. Application of Fees. The application of the amounts herein shall not excuse Vendor's performance obligations as set forth in this Agreement, nor will it waive any rights of MMCAP Infuse or Members to seek any and all available legal and equitable remedies. Vendor acknowledges that the fees set forth above are not penalties, but rather seek to make MMCAP Infuse and Members whole for any failure of performance by the Vendor, as based upon good faith estimates as agreed to by the parties.

4.7 **Dispute Resolution**. Vendor and MMCAP Infuse will handle dispute resolution for unresolved issues using the following procedure.

A. Notification. Parties shall promptly notify each other of any known dispute and work in good faith to resolve such dispute within thirty (30) days.

B. Escalation. If parties are unable to resolve the issue in a timely manner, as specified above, either MMCAP Infuse or Vendor may escalate the resolution of the issue to a higher level of management. When escalated a teleconference will be scheduled between MMCAP Infuse and the Vendor to review the dispute and develop a proposed resolution and plan of action.

C. Performance while Dispute is Pending. Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of their responsibilities under the Agreement that are not affected by the dispute. If the Vendor fails to continue without delay to perform its

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responsibilities under the Agreement, in the accomplishment of all undisputed work, any additional costs incurred by MMCAP Infuse and/or Members as a result of such failure to proceed shall be borne by the Vendor.

D. No Waiver. This clause shall in no way limit or waive either party's right to seek available legal or equitable remedies.

ARTICLE V
MEMBERSHIP

5.1 **Onboard, Transition, and Implementation.** If the Vendor requires additional paperwork for Members to acquire the Products**,** Vendor will work with MMCAP Infuse and Members to determine the appropriate steps and schedule for an onboard and transition. Vendor's documents and/or procedure for implementing and transitioning Members to this Agreement is set forth on ***Attachment B***.

5.2 **Membership Listing**. MMCAP Infuse will provide Vendor a complete listing of the Membership. MMCAP Infuse reserves the right to add and remove Members during the Agreement Term.

A. New Members. The Vendor must allow new Members to access to the Agreement by the Onboarding Date. As new Members are added, MMCAP Infuse will provide Vendor with monthly e-mail notices announcing a new Membership list has been posted.

B. Removing Members. MMCAP Infuse can access Vendor's E-Commerce Solutions website at any time to track membership removals. In addition, MMCAP Infuse can subscribe to notifications on the same website for visibility when there are contract changes which includes but is not limited to removal of members from their contracts.

5.3 **Membership Eligibility**: Participating Members shall include City/County/State health care facilities that are in good standing with Vendor and currently identifying MMCAP Infuse as their primary group affiliation. The Eligible Members of City/County/State include:

A. City/County/State hospitals.
B. City/County/State clinics.
C. City/County/State non-health related offices; City Jails, Detention Centers, Fire Departments, etc.
D. County or State Correctional facilities.
E. City/County/State residential schools, colleges and universities without a hospital.
F. And other city, county, state and municipal owned or run public agencies and entities, non-profit organizations with statutory authority to purchase from State contracts.

5.4 **Eligibility**. Vendor will determine the eligibility of the Participating Member utilizing the following requirements. Vendor may declare that a Participating Member shall no longer be eligible as a Participating Member under this Agreement if any of the following requirements for eligibility are no longer met.

A. Member must dispense to Participating Member's patients only;
B. Must have dispensations limited to prescriptions or standing orders by healthcare providers employed by or on the professional staff of the Participating Member;
C. Must report all discounts received pursuant to this Agreement as may be required under 42 CFR § 1001.952 (h); and
D. Participating Members certify on GSK's MMCAP Declaration Form (***Attachment B***) or a form acceptable to Vendor, that any Vendor Product purchased under this Agreement are offered solely for such member's "own use" and shall not be acquired for the purpose of competing against private enterprise. For purposes of this Paragraph, the Member's "own use" is further addressed in *Paragraph 11.6* below ("**Own Use**") and the term "own use" shall be as defined by the United States Supreme Court in its opinions reported at *Abbott Laboratories et al. v. Portland Retail Druggist Association, Inc.*, 425 U.S. 1 (1976), and *Jefferson County Pharmaceutical Association, Inc. v. Abbott Laboratories, et al.*, 103 S. Ct. 1011 (1983).
E. Upon request, Vendor will send an electronic eligibility list identifying which Members are eligible for Contract Pricing to: MMCAP_Infuse.Contracts@state.mn.us.
    i. Participating Membership Changes**.** GSK shall determine which of MMCAP Infuse's current Members identified on MMCAP's Membership Roster are eligible for Contract Pricing and terms of Agreement and into which class of trade each belongs. New Members will only become eligible for the Contract Prices under this Agreement as determined by GSK. In order to be added to this Agreement, Members shall complete a GSK Declaration Form (***Attachment B***), which notice shall include the institution

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name, DEA/HIN or other acceptable identification numbers, name of department contact, telephone number of department contact, email address of department contact, address of the institution, Type of Business designation, and Own Use certification. Members will be added to Contract Pricing and terms of agreement upon verification by GSK, and eligibility will be effective based solely upon the eligibility effective date in GSK's contract system, not to exceed thirty (30) days from the date of Declaration Form submission for paper-based submissions and not to exceed fifteen (15) days from the of the Declaration Form submission for electronic submissions via the GSK Direct website. MMCAP Infuse will notify GSK in writing if they wish to remove any Members and GSK will, upon verification, notify MMCAP Infuse of the removed Member along with the effective date(s). GSK may rely upon the conclusion of a third-party data source as to the membership group to which a proposed member belongs. Vendor will notify the Authorized Wholesalers, MMCAP Infuse, and the Member whether it agrees to extend the terms of this Agreement to such proposed Members and the effective date of such addition.

F. Membership Declaration Form. Vendor's Group Purchasing Organization Membership Declaration Form is attached and incorporated as ***Attachment B***.

5.5 **Non-Solicitation**. During the term of this Agreement, Vendor will not solicit any Members or prospective Members to enter into or negotiate a separate contract or agreement for the same or substantially equivalent products and services offered in this Agreement without MMCAP Infuse's prior written consent. Vendor is not prohibited from responding to a request for proposals issued by a Member that may include Products and services covered by this Agreement.

5.6 **DEA License/HIN**. Unless the Member purchases a controlled substance, the Vendor may not require that a Member have a Drug Enforcement Administration number assigned to it in order to be eligible for Contract Pricing. The Vendor may require a Health Industry Number from Member.

5.7 **Product Use*.*** All items acquired by Members under this Agreement are purchased for consumption in traditional governmental functions and not for the purpose of competing against private enterprise.

5.8 **Member-requested Participating Addendum (MPA)**. In order to use this Agreement, some States will require jurisdiction-specific paperwork or contract language to establish a statewide contract for Members. Vendor may be required to review an MMCAP Infuse MPA, as an addendum to this Agreement to provide for laws specific to a State jurisdiction. If these circumstances exist, the Vendor will work with MMCAP Infuse and applicable State to prepare an MPA to set forth the additional or altered terms and conditions. An MPA must clearly apply only to the requesting State and will not affect the rights of the other States and its Members, nor will it modify, derogate, or otherwise diminish the rights and obligations set forth herein, except in regard to the applicable named State and Members located in its jurisdiction. When the specific terms are agreeable to the Vendor and the State, the MPA will be presented by MMCAP Infuse to each party for execution. No other mechanism of modifying or "attaching to" the Agreement is authorized. Vendor is not required to agree to any additional terms; however, by not agreeing to the MPA, Vendor may be precluded from doing business with that State/Member. No verbal or written instructions from State/Members, or any of their staff or officials, to change any provision of this Agreement will be accepted by Vendor without the prior written approval of MMCAP Infuse.

ARTICLE VI
AGREEMENT MANAGEMENT

6.1 **Primary Account Representative*.*** Vendor will assign a primary account representative to MMCAP Infuse for this Agreement and must provide a minimum of seventy-two (72) hours advanced notice to MMCAP Infuse if that person is reassigned. In the event that the primary account representative is unresponsive or does not meet MMCAP Infuse's needs, the Vendor will assign another primary account representative upon MMCAP Infuse's request. The primary account representative will be responsible for:

A. Proper maintenance and management of the Agreement, including timely execution of all amendments.
B. Timely response to all MMCAP Infuse inquiries
C. Performance of the business review as described in *Paragraph 6.2*.

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D. Personnel Changes. Vendor will provide MMCAP Infuse with written advance notice of changes to the primary account representative. In the event that an employee is removed pursuant to a written request from MMCAP Infuse, the Vendor will have ten (10) business days in which to fill the role with an acceptable employee.

6.2 **Business Reviews**. Vendor will perform at least one business review with MMCAP Infuse annually. The review will be at a time and location that is mutually agreeable to Vendor and MMCAP Infuse and at a minimum address: a review of sales to members, pricing and contract terms, administrative fees and reporting, supply issues, customer issues, and any other necessary information.

ARTICLE VII
WARRANTS, COVENANTS, AND DUTIES OF VENDOR

7.1 **Covenant of Laws**. Vendor and Members shall comply with all state and federal laws, as applicable to each Party, in the performance of this Agreement.

7.2 **Required Licenses, Permits, and Registration.** Vendor shall have in place prior to the start of the Agreement, and must maintain for the life of the Agreement, all current licenses, permits and registrations required by state and federal agencies. Vendor must make such documentation available upon request by MMCAP Infuse.

7.3 **FDA-Certified Drug Application.** The Vendor acknowledges that each Product has, if required by law, an FDA-certified New Drug Application, an Abbreviated New Drug Application, or a Biologics License Application on file and accepts the liability with which such application confers. The Vendor guarantees to furnish Products that have not been adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, or any regulation of the Federal Food and Drug Administration, or as required by each member state's Board of Pharmacy.

7.4 **Debarment**. Vendor warrants and certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota, the United States federal government, or any Member; and has not been convicted of a criminal offense related to the subject of this Agreement. Vendor further warrants that it will provide immediate written notice to MMCAP Infuse if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

A. Certification regarding debarment, suspension, ineligibility, and voluntary exclusion: Federal money will be used or may potentially be used to pay for all or part of the work under the Agreement, therefore Vendor certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549.

7.5 **Indemnification**. Pursuant to the Minnesota Constitution Article XI Section 1, MMCAP Infuse cannot indemnify the Vendor. Except for causes due to MMCAP Infuse's or Members' sole negligence, Vendor will defend and hold harmless MMCAP Infuse, including MMCAP Infuse's, Members, agents, directors, employees, attorneys, and other representatives during and after this Agreement from and against all actual and potential claims relating to loss, liability, damage, costs and expenses (including attorneys' fees and legal costs), causes of action, regulatory proceedings, suits, demands, or judgements relating to Vendor's:

A. Intentional, willful, or negligent acts or omissions;
B. Fraud and or deceit;
C. Actions that give rise to strict liability;
D. Breach of contract;
E. Breach of warranty;
F. Violations of federal, state, or local laws, orders, and/or policies;
G. Employees or subcontractors' criminal and civil claims; and/or
H. Failure to pay fees, charges, expenses, taxes, or other debts to third parties.

7.6 ***cGMP*** Vendor certifies that it is in compliance with the Food and Drug Administration's current "Good Manufacturing Practices" (**cGMP**) and the current United States Food, Drug, and Cosmetic Act. If the Vendor receives a 483 or similar type warning letter for any Product, it must inform MMCAP Infuse within a commercially reasonable timeframe of receipt by Vendor.

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7.7 **Failure to Manufacture in Compliance with GMP.** Vendor hereby agrees to indemnify and hold MMCAP Infuse and Members (**Purchaser**) harmless from and against any claim, loss, liability, damages, or expenses including reasonable attorneys' fees (hereinafter, "**Loss**"), arising directly from any claim regarding Vendor's failure to manufacture such products in compliance with FDA Good Manufacturing Practices (**GMP**), provided that Purchaser provides notice and cooperation as set forth below. This indemnity does not extend to any portion of the loss due to Purchaser's own conduct, such that the Loss, or any part thereof, would not have occurred but for Purchaser's conduct. This indemnity does not extend to anyone other than Purchaser, and no third party, including any person or entity having an ownership, affiliate, agency, or employment relationship with Purchaser shall have any rights under this provision.

7.8 **Infringement.** Vendor agrees that it shall indemnify and hold Purchaser harmless from and against any claim, loss, liability, damage, cost, expense, including reasonable attorneys' fees Loss, by or to a third party arising directly from any claim that the Products that Vendor furnished under this Agreement, infringe any existing patent, trademark, copyright, or other proprietary right of any third party, provided that Purchaser provides notice and cooperates as set forth below. This indemnity does not extend to any portion of the loss due to Purchaser's own conduct, such that the Loss, or any part thereof, would not have occurred but for Purchaser's conduct. This indemnity does not extend to anyone other than Purchaser and no third party, including any person or entity having an ownership, affiliate, agency, or employment relationship with Purchaser, shall have any rights under this provision.

7.9 **Notice, Cooperation and Conduct of Litigation**. MMCAP Infuse shall promptly notify Vendor of any claim asserted against it for which indemnification is sought, and shall promptly deliver to GSK a true copy of any such claim including but not limited to, a true copy of any summons or other process, pleading or notice issued in any lawsuit or other proceeding to assert or enforce such claim. Where acceptance of the obligation to indemnify is deemed proper by GSK, GSK reserves the right to control the investigation, trial and defense of such lawsuit or action (including all settlements and negotiations to effect settlement) and any appeal arising therefrom and to employ or engage attorneys of its own choice. Purchaser may, at its own cost, participate in the investigation, trial and defense of such lawsuit or action and any appeal arising therefrom. Purchaser, its employees, agents, servants and representatives shall provide full cooperation to GSK at all times during the pendency of the claim or lawsuit, including, without limitation, providing GSK with all available information concerning the claim.

7.10 **Limitation of Damages.** To the extent allowable by statute**,** in no event shall GSK be liable for loss of profit or use, special, incidental, indirect, or consequential damages in any claim whether based in contract, tort or any other legal theory, for any claim asserted by MMCAP Infuse Members under this Agreement.

7.11 **Antitrust**. The Vendor hereby assigns to the State of Minnesota any and all claims for overcharges as to services provided in connection with this Agreement resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota, and/or the antitrust laws of any Member unless otherwise assigned directly to that Member by Vendor with MMCAP Infuse's approval.

7.12 **Anti-Bribery and Corruption**. GSK is committed to the highest ethical standards and requires that all GSK employees and third parties acting for or on behalf of GSK conduct their activities in compliance with all anti-corruption laws and regulations. MMCAP Infuse and GSK agree that MMCAP Infuse is not a third party acting for or on behalf of GSK. Notwithstanding the foregoing, MMCAP Infuse agrees that nothing in this Agreement requires that MMCAP Infuse make improper payments or other transfer of value to any private or government official or entity for the purpose of influencing or as a reward for any act, omission or decision to secure an improper advantage or to improperly assist GSK in obtaining or retaining business.

7.13 **Regulatory Reporting Requirements.**

A. Compliance with Anti-Kickback Provisions. To the extent applicable, MMCAP Infuse and Members will comply with applicable provisions of 42 U.S.C. 1320a-7b prohibiting illegal remuneration (including any kickback, bribe, or a prohibited cost incentive or discount) and the applicable provisions of any similar state law, rule or regulation prohibiting the payment of such illegal remuneration. MMCAP Infuse or such Members will comply with the applicable requirements set forth at 42 C.F.R. 1001.952(h) by, among other things, appropriately reporting the discounts described in this Agreement in the costs claimed to or charges made under the Medicare, Medicaid, TRICARE/CHAMPUS, or any other Federal health care program or state funded health care program, and providing information and documentation regarding any

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discount and/or rebate that may be provided under this Agreement, upon request, to the Secretary of the Department of Health and Human Services and/or a State agency.

B. GPO Safe Harbor. To the extent applicable and required on the Effective Date, MMCAP Infuse represents, warrants, and covenants that it satisfies and will continue to satisfy the requirements of 42 U.S.C. §1320a-7b(b)(3)(C) and 42 C.F.R. §1001.952(j), including that (i) it is acting as a "group purchasing organization" as defined in 42 C.F.R. §1001.952(j); (ii) it maintains and will continue to maintain written agreements with each of its members that state that participating vendors will pay an administrative service fee (**ASF**) of three percent (3%) or less of the purchase price of the goods provided by such vendors; and (iii) it will disclose in writing at least annually to its members, and to the Secretary of Health and Human Services upon request, the amount received from such vendors with respect to sales made to Members. MMCAP's eligibility for an ASF as specified in this Agreement, and any attached Exhibits, shall be contingent upon MMCAP Infuse's compliance with its representation, warranty and covenant as specified in this Paragraph.

C. Other Reporting Requirements**.** Vendor and MMCAP Infuse agree that Vendor, pursuant to 42 C.F.R. section 1001.952 (h) and (j), has informed MMCAP Infuse and Members of their federal statutory and regulatory reporting obligations.

D. Compliance with State Laws**.** MMCAP Infuse and its Members shall comply with applicable reporting requirements to any health care corporation, health care insurer, other third party reimburser, or any patient imposed pursuant to the following law Minn. 62J.23

ARTICLE VIII
ADMINISTRATIVE FEE AND REPORTING

8.1 **Administrative Fee.** In consideration for the administrative support and other services provided by MMCAP Infuse in connection to this Agreement, the Vendor will pay an Administrative Fee on all purchases (minus any credits) made through the MMCAP Infuse Authorized Wholesalers or directly with the Vendor. The Vendor will submit a check payable to "Financial Management & Reporting – MMCAP Infuse" for all Products, minus any credits for an amount equal to one and a half percent (1.5%) of MMCAP Participating Facilities' purchases for all Products. The Administrative Service Fee for sales of vaccine to all MMCAP Participating Facilities will be paid to MMCAP within 90 days after the Return's Expiration Date as stated on Exhibit A.

A. Vendor must provide Administrative Fee data to MMCAP Infuse at the time the Administrative Service Fee is paid to MMCAP Infuse.

B. The Vendor will submit a check payable to:

Financial Management & Reporting – MMCAP Infuse
50 Sherburne Avenue, Suite 309
St. Paul, MN 55155

C. Vendor shall not be required to pay the Administrative Fees on tax amounts, returns, or other shipments for which Vendor did not collect payment.

8.2 **Reporting**.

A. Prebook Reports: Vendor must supply MMCAP Infuse with updates during prebooking and delivery. The report will be sent MMCAP Infuse periodically (at least once a month) during the pre-booking and delivery season. What must be included is set forth on Table 2 of ***Attachment C***.

B. Final Sales Flu Season Report: Within thirty (30) days of Vendor's final shipment for the applicable Flu Season, Vendor must submit a final sales report for that Flu Season to mmcap.infuse@state.mn.us. Sales Data Report requirements can be found on Table 1 of ***Attachment C.***

C. Administrative Fee Data Report. The Vendor must submit a quarterly Administrative Fee Data Report that includes both direct (sales made direct from Vendor to Member) and indirect purchases (sales made through an Authorized Wholesaler). Vendor agrees that for indirect sales, chargeback or sales data received from Authorized Wholesalers will be utilized to create the Administrative Fee Data Report and if additional reports are needed to support creation of the Administration Fee Data Report, Vendor agrees to bear the cost of any special reporting that may be required by the Vendor in its relationship with the Authorized Wholesalers. All

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Administrative Fee Data Reports must be sent to: mmcap.infuse@state.mn.us at the end of each quarter, but no later than forty-five (45) days after the end of the quarter. The quarterly Administrative Fee Data Report must contain the fields detailed below.

i. MMCAP Infuse Assigned Authorized Wholesaler Number
ii. MMCAP Infuse Assigned Manufacturer Number (GSK = 4150)
iii. Direct or Indirect Purchase Indicator (I=Indirect, D=Direct)
iv. Invoice Date (Point of Sale Date)
v. Invoice Number
vi. MMCAP Infuse Member Name
vii. Vendor's Account Number for the MMCAP Infuse Member
viii. MMCAP Infuse Member DEA Number, if applicable
ix. MMCAP Infuse Member HIN Number, if applicable
x. MMCAP Infuse Member Address
xi. MMCAP Infuse Member City
xii. MMCAP Infuse Member State
xiii. Product's NDC (Use all 11 digits (00076888888))
xiv. Product Name (e.g. Acetaminophen with Codeine, Acticin Cream 5%)
xv. Credit Indicator (C = credit)
xvi. Contracted Units (The number of units purchased on contract.)
xvii. MMCAP Infuse Contracted Unit Price
xviii. Administrative Fee Decimal Percentage (The contracted administrative fee percentage for the NDC number. Report as a decimal (e.g. 0.030))
xix. Vendor Contracted Sales (Contracted Units * Contracted Unit Price. Report in dollars)
xx. Administrative Fee Payment Amount (Administrative Fee Decimal Percentage * Vendor Contracted Sales. Report in dollars)

ARTICLE IX
INTELLECTUAL PROPERTY

9.1 **MMCAP Infuse Ownership**. MMCAP Infuse owns all rights, title, and interest in MMCAP Infuse customer data, sales transaction data, DEA/HIN information (subject to third-party rights), Contract Pricing, EDI transaction data, reverse distribution data, and payment data, including copyrights and trade secrets contained therein. MMCAP Infuse grants to Vendor an unlimited, non-revocable, nontransferable, fully paid license, for the term of this Agreement, to: (A) release state specific data to a Member's primary contact; (B) release any of the above data to product manufacturers, when necessary for the performance of this Agreement or as required by Vendor's agreements with such product manufacturers; (C) to release any of the above data to other MMCAP Infuse approved third parties, when necessary for the performance of this Agreement; (D) to provide Member purchase data to aggregators, including IQVIA and NDC Health, subject to Vendor's reasonable efforts to require such data aggregators to protect any identifiable data from discovery by another third party; and (E) to provide Member purchase data to other group purchasing organizations of which the Member is also a member, provided such data will not include MMCAP Infuse-identifiable data. Any MMCAP Infuse identifiable data provided hereunder to a third party must identify the data as MMCAP Infuse data and subject to Minnesota Statutes, Chapter 13. To the extent permitted by law, Vendor hereby agrees that in the event that MMCAP Infuse or a Member requests in writing that its purchase data be kept confidential, such data will not be provided to third party aggregators.

9.2 **Vendor Ownership**. Vendor owns all rights, title, and interest to any aggregated data not identifiable as arising from this Agreement and any other intellectual property created for or presented to MMCAP Infuse. Vendor grants to MMCAP Infuse an unlimited, non-revocable, non-transferable, fully paid, perpetual license, to use all intellectual property created for or presented to MMCAP Infuse under this Agreement. Nothing in this Agreement shall be construed as granting or implying the grant of any license under any patent or trademark rights or any other intellectual property rights held by GSK or any of its affiliates anywhere in the world, and GSK shall be entitled to exercise such patent or trademark rights and/or other intellectual property rights to the fullest extent legally permissible at the time of such exercise. In the case where a trademark was on the goods when originally supplied, this trademark shall not be altered, partly removed or partly obliterated.

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9.3 **Pre-Existing Intellectual Property**. MMCAP Infuse and Vendor will each retain ownership of, and all right and, title and interest in and to, their respective pre-existing intellectual property. The Vendor grants Minnesota a perpetual, irrevocable, non-exclusive, royalty free license for Vendor's pre-existing intellectual property that are incorporated in the products, materials, equipment, deliverables, or services that are purchased through the Agreement. The aforementioned license is solely for use by Members, and their agents related to an internal business or governmental purposes.

9.4 **Vendor Obligations**. The Vendor must perform all acts, and take all steps necessary to ensure that all intellectual property rights created for MMCAP Infuse or Member are the sole property of MMCAP Infuse or Member, and that neither Vendor nor its employees, agents, or subcontractors retain any interest in and to the works and documents. The Vendor represents and warrants that the works and documents do not and will not infringe upon any intellectual property rights of other persons or entities.

9.5 **Intellectual Property Indemnification**. The Vendor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless MMCAP Infuse, at the Vendor's expense, from any action or claim brought against MMCAP Infuse to the extent that it is based on a claim of an infringement upon the intellectual property rights of others. The Vendor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Vendor's or MMCAP Infuse's opinion is likely to arise, the Vendor must, at MMCAP Infuse's discretion, either procure for MMCAP Infuse the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of MMCAP Infuse will be in addition to and not exclusive of other remedies provided by law.

9.6 **Publicity and Endorsement**. Any publicity regarding the subject matter of this Agreement must identify MMCAP Infuse as a sponsoring or endorsing agency and must not be released without prior written approval from MMCAP Infuse. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Agreement. Notwithstanding the aforementioned, each party agrees that it will not use for its own commercial purposes any trademark, service mark, or corporate name of the other party hereto without the prior written consent of the other party. GSK and MMCAP Infuse may use or indicate the Agreement status in selected promotional activities directed to Member including, but not limited to written communication, presentation items, and academic and physician detailing. In addition, MMCAP Infuse will work with GSK to notify Member physicians of the formulary status of GSK Products and to develop and implement pull-through programs and patient compliance programs.

A. Marketing. Any direct advertising, marketing, or direct offers with Members must be approved by MMCAP Infuse. Violation of this may be cause for immediate cancellation of this Agreement and/or MMCAP Infuse may reject any proposal submitted by the Vendor in any subsequent solicitations for awards.

B. Endorsement. The Vendor must not claim that MMCAP Infuse, the State of Minnesota, or any Member State endorses its products or services.

ARTICLE X
INSURANCE

10.1 **Notice**. The Vendor is required to submit Certificates of Insurance acceptable to MMCAP Infuse as evidence of insurance coverage requirements prior to commencing work under the Agreement. Vendor will not commence work under the Agreement until they have obtained all the insurance described below and MMCAP Infuse has approved such insurance. Vendor shall maintain such insurance in force and effect throughout the term of the Agreement. The failure of MMCAP Infuse to obtain a Certificate of Insurance, for the policies required under this Agreement or renewals thereof, or failure of the insurance company to notify MMCAP Infuse of the cancellation of policies required under this Agreement shall not constitute a waiver by MMCAP Infuse to the Vendor to provide such insurance. MMCAP Infuse reserves the right to immediately terminate the Agreement if the Vendor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Vendor. All insurance policies must be open to inspection by MMCAP Infuse and copies of policies must be submitted to MMCAP Infuse. The Vendor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.

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10.2 **Additional Insurance Conditions**.

A. Vendor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to MMCAP Infuse with respect to any claim arising out of Vendor's performance under this Agreement;

B. If Vendor receives a cancellation notice from an insurance carrier affording coverage herein, Vendor agrees to notify MMCAP Infuse within five (5) business days with a copy of the cancellation notice, unless Vendor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to MMCAP Infuse;

C. Vendor is responsible for payment of Agreement related insurance premiums and deductibles;

D. If Vendor is self-insured, a Certificate of Self-Insurance must be attached;

E. Vendor's policy(ies) shall include legal defense fees in addition to its liability policy limits;

F. Vendor's insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best; and

G. An Umbrella or Excess Liability insurance policy may be used to supplement the Vendor's policy limits to satisfy the full policy limits required by the Agreement.

10.3 **Coverage**. Vendor is required to maintain and furnish satisfactory evidence of the following insurance policies:

A. Workers' Compensation Insurance: Except as provided below, Vendor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Vendor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance minimum limits are as follows:

i. $100,000 – Bodily Injury by Disease per employee
ii. $500,000 – Bodily Injury by Disease aggregate
iii. $100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts Vendor from Workers' Compensation insurance or if the Vendor has no employees in the State of Minnesota, Vendor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Vendor from the Minnesota Workers' Compensation requirements. If during the course of the Agreement the Vendor becomes eligible for Workers' Compensation statutory requirements, the Vendor must comply with the Workers' Compensation Insurance requirements herein and provide MMCAP Infuse with a certificate of insurance.

B. Commercial General Liability Insurance: Vendor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Agreement whether the operations are by the Vendor or by a subcontractor or by anyone directly or indirectly employed by the Vendor under the Agreement. Insurance minimum limits are as follows:

i. $5,000,000 – per occurrence
ii. $5,000,000 – annual aggregate
iii. $5,000,000 – annual aggregate – Products/Completed Operations
iv. The following coverages shall be included:
    a. Premises and Operations Bodily Injury and Property Damage
    b. Personal and Advertising Injury
    c. Blanket Contractual Liability
    d. Products and Completed Operations Liability
    e. MMCAP Infuse named as an Additional Insured, to the extent permitted by law

C. Network Security and Privacy Liability Insurance, Including Ransomware (or equivalent): Vendor will maintain insurance to cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service. Insurance minimum limits are as follows:

i. $2,000,000 – per occurrence
ii. $2,000,000 – annual aggregate

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D. Professional/ Technical, Errors and Omissions, and or Miscellaneous Liability Insurance: This policy will provide coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to the Vendor's services required under the Agreement. Insurance minimum limits are as follows:

i. $2,000,000 – per occurrence
ii. $2,000,000 – annual aggregate

ARTICLE XI
GENERAL TERMS

11.1 **Notices**. If one party is required to provide legal notice or notice under the terms of the Agreement to the other, such notice will be in writing and will be effective upon dispatch. Delivery shall be by certified United States mail, or by email or facsimile transmission provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes.

11.2 **Audits**

A. MMCAP Infuse Audits Rights. Under Minn. Stat. § 16C.05, subd. 5, the Vendor's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the Minnesota, MMCAP Infuse, and/or the Minnesota Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Agreement. This clause extends to the Membership as it relates to business conducted with and sales a Member.

i. Invoice and Pricing Audit. MMCAP Infuse and Members served by this Agreement may periodically audit validity of invoice pricing. Such audits may be conducted only during ordinary business hours and upon reasonable notice.
ii. Costs. Vendor, MMCAP Infuse, and Members shall each be responsible for its own costs associated with any audit, including costs related to the production of records and/or other documents requested by the other party.

B. GSK Audit/Records Rights**.** During the Term of this Agreement and for two (2) years thereafter, GSK shall have the right to or the right to engage an independent firm to audit MMCAP Infuse and its Members to verify their performance and compliance with their obligations under the Agreement. GSK or such independent auditing firm will be authorized to access to information including all systems and processes reasonably necessary to perform procedures pursuant to this Paragraph of the Agreement, including the right upon reasonable prior written notice to MMCAP Infuse, to audit, or to engage an independent firm to audit, documentation at MMCAP Infuse business locations during normal working hours. MMCAP Infuse and its Members shall have the right to specify certain confidential or proprietary information that should not be disclosed to GSK; provided, however, that information shall be made available on an unrestricted basis to the auditing firm, as necessary, for such firm to perform procedures requested by GSK pursuant to this Paragraph of the Agreement unless statute prevents MMCAP Infuse or Member from sharing with the auditor or GSK. Any and all information required will be requested by GSK and/or the independent auditing firm from MMCAP Infuse and its Members, and MMCAP Infuse and its Members will make all reasonable efforts to ensure the requested information is made available to the independent auditing firm within a specified period of time as agreed to by GSK and MMCAP Infuse and its Members.

C. MMCAP Infuse Record Retention***.*** Unless mandiated by Minnesota's retention record, MMCAP Infuse shall for the Term of this Agreement plus two (2) years, keep and maintain accurate records with respect to its Members, all information relating to the purchase of Products by Members and all such other information that is necessary to verify MMCAP Infuse and the Members' performance and compliance with their obligations under the Agreement. MMCAP Infuse shall upon written request allow GSK to inspect, at reasonable times, all such information and shall furnish such information to GSK consistent with the forgoing Paragraph, provided, however, that under no circumstances shall MMCAP Infuse be required to disclose information contrary to applicable law or in violation of patient confidentiality.

11.3 **Confidential Information**. **During the term of this Agreement and for a period of three (3) years following the date of expiration or termination of this Agreement, MMCAP** Infuse **agrees to make best effort to keep the terms of this Agreement non-public.** If the situation arises where disclosure is requested, notification of a request to release would be sent immediately to the Vendor's Authorized

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Representative. Vendor will acknowledge receipt of the notification within five business days or MMCAP Infuse will be free to release the information. Upon notification to MMCAP Infuse, Vendor, at its own expense, may pursue an action to enjoin the disclosure of information considered by the Vendor to be "confidential information." Without prior notice, MMCAP Infuse may release the following information:

A. Contract release and contract documents to MMCAP Infuse Members;
B. Contract Pricing to MMCAP Infuse's Authorized Wholesalers for use in the Authorized Wholesaler's ordering, invoicing, and reporting systems;
C. Contract Pricing to other third parties under non-disclosure agreement or contract with MMCAP Infuse to perform specific tasks such as auditing and data analysis; and
D. Member State Attorneys General or auditors requiring contract or pricing data to perform their duties.

11.4 **Assignment**. The rights and/or obligations of each party under this Agreement may not be assigned, delegated, transferred, conveyed or sold, by operation of law or otherwise, without the prior written consent of the other party, except that GSK may assign, delegate, transfer, convey or sell its rights and/or obligations to (A) a parent, subsidiary, or affiliate or to an entity into which GSK is consolidated or merged with, (B) another party as part of a corporate reorganization, (C) a purchaser of all or substantially all of its assets, or (D) any party that purchases from GSK the right to manufacture, market or distribute a Product, or that acquires, or succeeds to the interests of GSK. In a change of control, GSK will use reasonable efforts to ensure MMCAP Infuse executes an assignment agreement or amendment with the assignee within thirty (30) days of the change of control. MMCAP Infuse may assign to another agency or branch of government within the state of Minnesota.

11.5 **Amendments**. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved this Agreement, or their successors in office.

11.6 **Own Use.** MMCAP Infuse represents and warrants that its Members are not in the business of and do not engage in the wholesale or retail resale of pharmaceutical products, and that each of its Members is purchasing each GSK Product at the Contract Price made available under this Agreement solely for dispensing to and solely for the "Own Use" (as defined in *Paragraph 5.4(D)*) by each such Member's patients incidental to the healthcare services provided by the Member in connection with its designated business entity type as set forth in the Declaration Form(s). MMCAP Infuse further represents and warrants that it shall inform each Member that such Member may not engage in retail sales of GSK Products purchased under this Agreement, and that all GSK Products purchased under this Agreement are exclusively for the Own Use of such Member in connection with its designated business entity type as set forth in the Declaration Form(s). If any Member fails to observe the terms of this Paragraph, GSK may, at its option, immediately terminate the eligibility of such Member to participate in this Agreement. GSK reserves all rights and legal remedies against a violating Member in the event that products sold under the "own use" restrictions are administered by a Member in a manner that is inconsistent with the "Own Use" requirements contained in this provision.

11.7 **Storage and Handling Requirements**. GSK expects that Members will take such precautions as are necessary to prevent the GSK Products Members receive from falling into the hands of those who may not lawfully possess or handle them, and shall fully comply with local, state and federal laws applicable to the storage, and shipment of pharmaceutical products and/or vaccines.

A. Members shall maintain all federal, state and local licensure or registration necessary for the lawful handling and use of all products and shall immediately notify GSK of any denial, revocation or suspension of any such licensure or registration or any changes in the products which Members are authorized to handle and use.
B. Members shall handle and store GSK Products in a clean and orderly location and in a manner that will assure that the proper rotation and quality of such products are maintained. Members shall comply with GSK criteria on storing and shipping GSK products that require special handling. Members shall allow physical inspection of storage facility at any time GSK requests. GSK maintains applicable Shipping & Handling Guidelines at www.gskdirect.com.

11.8 **Best Price.** If Vendor determines in good faith (e.g., if there is any change in any GSK Product's WAC or change in legislation) or GSK receives any notice, opinion, determination, or ruling from the Centers for Medicare and Medicaid Services ("**CMS**" f/k/a the Health Care Financing Administration) that the discounts and rebates provided under this Agreement may establish a lowered federal "Best Price," or increased "Unit Rebate Amount" pursuant to Section 1927 (c) of the Social Security Act (Public Law 74-271, 42 U.S.C. Section 1396r-8(c)), (collectively, "a **Best Price Impact**") then GSK reserves the right to immediately make any and all adjustments to the GSK Product discount and/or rebate, so as to avoid

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establishment of a Best Price Impact and to eliminate and correct such effect. Upon discovery, GSK will provide timely written notice to MMCAP Infuse and the affected Members if this occurs. In the event of such a Best Price Impact, Vendor reserves the right to immediately make any and all adjustments to a Product's or Products' discounts, so as to avoid establishment of the Best Price Impact and to eliminate and correct such effect, upon prior notice to MMCAP Infuse. This includes Vendor's right to offset current or future ASF that may be due to MMCAP Infuse, and/or the responsibility for repayment of such ASF by MMCAP Infuse.

11.9 **HIPAA**. GSK and MMCAP Infuse acknowledge that the United States Department of Health and Human Services published final medical records privacy regulations under 45 C.F.R. Part 164 (**HIPAA Rules**). The parties further acknowledge that MMCAP Infuse and/or the Members may be a "Covered Entity" under the HIPAA Rules and as such may have access to "Protected Health Information" within the meaning of the HIPPA Rule. MMCAP Infuse shall comply, and shall require all Members to comply, with the HIPAA Rules. It is the parties' intent that neither MMCAP Infuse, nor any third party, will provide to GSK any data that contain any Protected Health Information or any other information that would allow GSK to identify an individual patient.

11.10 **Order of Precedence**. Vendor agrees that applicable federal and state law will supersede this Agreement, however this Agreement will take precedence over all other the terms, covenants, conditions, commitments, stipulations, order forms, website use of terms, Offer Letters, and other legal documents MMCAP Infuse, Vendor, and/or Member may use in the performance of this Agreement. If the provisions of this Agreement are inconsistent, or are modified, diminished, or derogated with any of the terms and provisions of the aforementioned legal documents in this Paragraph, this Agreement will supersede and govern. MMCAP Infuse does not agree to or bound by any additional terms and conditions between the Vendor and Member. For the MMCAP Infuse Members purchasing vaccines directly from the GSKDirect website, such purchases are governed by the Terms of Sale and Term of Use of the website unless in direct conflict with this Agreement.

11.11 **Counterparts and Electronic Signature**. The Agreement cannot be executed in counterparts and will not be enforceable until MMCAP Infuse has obtained all required signatures. If requested by MMCAP Infuse and Vendor expressly agree to conduct transactions under the Agreement by electronic means (including, without limitation, with respect to execution, delivery, storage, and transfer of this Agreement by electronic means and to the enforceability of this electronic agreement). MMCAP Infuse will be deemed to have control of the authoritative copy for the electronic transferable record, in each case regardless of whether applicable law recognizes electronic transferable records or control of electronic transferable records and regardless of whether this Agreement is an electronic record or transferable record.

11.12 **Severability**. If any provision of the Agreement, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both MMCAP Infuse and the Vendor will be relieved of all obligations arising under such provisions. If the remainder of the Agreement is capable of performance, it will not be affected by such declaration or finding and will be fully performed.

11.13 **Waiver**. If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or each party's right to enforce it in any subsequent default whether of the same or similar nature.

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11.14 **Governing Law, Jurisdiction, and Venue**. Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

VENDOR: GlaxoSmithKline, LLC

The Vendor certified that the appropriate person(s) have executed this Agreement on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Jennifer Costello

Signature: DocuSigned by: Jennifer Costello
65FF9B8B79D040C...

Title: ntegrated Accounts

Date: 10/19/2022

STATE OF MINNESOTA FOR MMCAP INFUSE
In accordance with Minn. Stat. § 16C.03, subd. 3

Name: Brandon Sis

Signature: DocuSigned by: Brandon Sis
19F82B642E3BE41C...

Date: 10/19/2022

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. § 16C.05, subd. 2

Name: Michelle Korpela

Signature: DocuSigned by: Michelle Korpela
430F52BFF2D41F...

Date: 10/29/2022

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ATTACHMENT A
Product Pricing
2023/2024 Influenza Program

NDC No.	Product Description	Contract Price (per box) [1, 2]
19515-0814-52	FLULAVAL QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$177.15
58160-0909-52	FLUARIX QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$177.15

[1] *Price for Fluarix®/FluLaval® does not include the Federal Excise Tax of $0.75 per antigen, per dose.*
[2] GSK reserves the right to decrease the price through a Limited Time Offer (LTO), where GSK has lowered a price temporarily, upon written notice, to *MMCAP Infuse.*
Once minimum order is achieved for Fluarix QIV & FluLaval QIV Tip Lok, additional doses can be ordered by the pack (10 doses).

Indirect Purchases

The following are the terms and conditions which relate to indirect purchases of GSK Influenza Vaccine under the Agreement.

Participating Members may purchase GSK Influenza Vaccines through Authorized Distributors that are authorized GSK Influenza Vaccines distributors . GSK Influenza Vaccines purchased through authorized vaccine distributors will be subject to the distributor's terms of sale and will not be eligible for any additional discounts offered through www.gskdirect.com nor any GSK delivery guarantees and such purchases are not eligible for return directly to GSK.

Direct Purchases
The following are the terms and conditions which relate to direct purchases of GSK Influenza Vaccines under this Agreement.

Ordering Process
GSK Influenza Vaccines are accessible to Participating Members by placing a pre-book reservation directly with GSK at www.gskdirect.com ("**GSKDirect**"). GSKDirect terms and conditions shall apply and will be defined for the Participating Member on the website at the time of the reservation. ***GSK online terms and conditions are subject to change without notice to Company or to Participating Members. Please check www.gskdirect.com for the most up to date terms & conditions.***

After the Participating Member places their pre-book reservation, Participating Member will be required to confirm their reservation and will be subject to a credit check prior to shipment. At its discretion, GSK can accept or refuse any GSK Influenza Vaccine pre-book reservation. Members' GSK Influenza Vaccine pre-book reservations will generally be on a first come first serve basis. If the Participating Member wants to increase their GSK Influenza Vaccine pre-book reservation after their initial reservation and after the edit lock-in date (March 31, 2023), then a separate pre-book reservation will have to be placed and that reservation will be subject to availability. GSK Influenza Vaccine pre-book reservations are subject to and conditioned on FDA licensure and sufficient product availability in the United States. Participating Members agree to fully comply with local, state and federal laws applicable to the storage of GSK Influenza Vaccines. The payment term is 0% net 30 days.

Right Reservation Discount
Participating Members will earn a Right Reservation Discount of 2% on their 2024/2025 GSK Influenza Vaccines purchases. This Discount is available for Participating Members that take delivery of a minimum of 90% of the influenza doses that the Participating Member pre-booked **for the 2023/2024 Influenza season** through www.gskdirect.com as of **March 31, 2023.** The Right Reservation Discount will be applied to the 2024/2025 GSK Influenza Vaccines purchases. **This discount is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com**.

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Delivery Guarantee
GSK will provide an additional 10% discount on GSK Influenza Vaccine doses in the 2023/2024 season for any doses which are pre-booked on or prior to March 31, 2023 and are shipped and invoiced after October 13, 2023.
Please note that this delivery guarantee discount will only apply to those doses which are late due to GSK's inability to ship and invoice on or prior to the above-referenced dates. The delivery guarantee will not apply if Participating Member chooses to delay shipment past such dates. **This delivery guarantee is only available on doses pre-booked and purchased directly from GSK via** www.gskdirect.com**.**

Returns

Unless otherwise specified to the contrary in the purchasing agreement or required by applicable state law, Participating Members may return up to 15% of GSK Flu doses purchased via GSKDirect for full credit (the 15% eligibility is applied to all presentations in aggregate). In order to qualify for return reimbursement of eligible Flu doses, customers must obtain a **GSK issued Return Goods Authorization (RGA)**[1]. The RGA can be obtained via www.gskdirect.com or by calling the GSK Vaccine Service Center at 1-866-475-8222.

Eligible Flu doses returned must be received at the GSK Return Goods Vendor within the Flu Vaccine Return period, unless otherwise specified by applicable state law. GSK will notify eligible customers of the return window begin date and end date ("The Flu Vaccine Return Period") and when the RGA will be available. GSK Influenza Vaccine doses returned outside of the communicated Flu Vaccine Return period, or the period specified by applicable state law, without a GSK issued Return Goods Authorization, or in excess of the return limit will be destroyed and no refund or credit will be issued with the exception of the Federal Excise Tax (FET) that participating facility paid for the product.

- [1]**GSK issued Return Goods Authorization (RGA)** – GSK will provide customer with a document in the form of a debit memo, unique to the given season, authorizing the return of eligible Flu doses.
  - Any Flu Vaccine product returns for the current season, received under a prior season debit memo, will be deemed ineligible and no credit will be issued
  - Please note: the creation of a Return Box Label through the GSK Return Goods Vendor is not a guarantee of reimbursement and is not to be used in place of a GSK issued RGA.
- With the exception of any provision to the contrary in these terms (in which case these terms will govern), all other GSK Return Goods Policy provisions apply as published on www.gskdirect.com. GSK's Returns Goods Policy is subject to change on www.gskdirect.com without notice.
- GSK reserves the right, upon written notice to MMCAP Infuse, to increase the percentage of each branded presentation which is eligible for return.

Indirect & Direct Purchases

The following terms and conditions apply to both indirect and direct purchases of GSK Influenza Vaccine under this agreement.

Shipment of FLUARIX/FLULAVAL Orders
Subject to product availability, GSK anticipates shipments of GSK Influenza Vaccines to begin in August 2023. GSK reserves the right to make partial deliveries based on availability and FDA approval of each GSK Influenza Vaccine. GSK will ship GSK Influenza Vaccines to the Participating Members' address supplied at time of order. Title to and risk of loss for GSK Influenza Vaccines shipped to Participating Members will pass to Participating Member when delivered. GSK shall prepay all carrier charges and insurance against Participating Member risk of loss or damage to GSK Influenza Vaccines during carriage on orders when routing is done at GSK's discretion. If Participating Member requests special routing and GSK approves of the routing which results in higher transportation costs than would have been incurred as a result of GSK's routing of choice, then the difference in transportation cost shall be borne by Participating Member.

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In the event that a market shortage would require that a government agency assume control of product allocation, or in the event that doses of GSK Influenza Vaccines must be made available for sale to government agencies, the product amounts and delivery schedules may be changed to meet such requirements. In addition, in the event there is a shortage of any GSK Influenza Vaccine, GSK shall have the right to allocate available product quantities among Participating Members and other GSK customers in such a manner as GSK, in its sole discretion, deems appropriate.

Therefore, the parties understand and agree that this Agreement does not extend any agreement or guarantee, express or implied, as to the supply or distribution of any specified quantity of GSK Influenza Vaccine, except as otherwise set forth herein.

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ATTACHMENT B
Required Member Onboarding Forms

GROUP PURCHASING ORGANIZATION MEMBERSHIP DECLARATION w/ SURVEY

In order to take advantage of prices and/or rebates under a Group Purchasing Organization (GPO) or Alliance with GSK contracts, GSK requires an eligible facility to designate only **ONE** GPO whose contract(s) said facility will access to purchase GSK products. **The GPO designation listed below, if different from current files, will remove facility from their current GPO (or other segment) within 30 days of notification.** Multiple GPO designations, even for different product groups, will not be honored. Designations may be changed but will require thirty (30) days advance written notice to GSK. GSK reserves the right to refuse to extend a contract price to a facility that has failed to designate a GPO/Alliance, seeks to purchase under agreements with multiple alliances, or does not meet contract eligibility requirements. Facility will be added to the designated GPO's contract(s) within thirty (30) days, if GSK determines that all contract eligibility requirements are met. Declaration forms must be submitted for each location.

PLEASE COMPLETE ALL REQUESTED INFORMATION (PLEASE PRINT) INCOMPLETE FORMS WILL NOT BE PROCESSED

FACILITY NAME _____

DEA or HIN # (must be current) _____ STATE LICENSE #_____ STATE LICENSE # EXPIRATIONDATE _____

FACILITY STATE LICENSE NAME OR AUTHORIZED Health Care Provider STATE LICENSE NAME _____
PHYSICAL ADDRESS _____ SUITE # _____

CITY _____ STATE _____ ZIP _____

TELEPHONE _____ FAX # _____

MUST DESIGNATE SOLE GROUP PURCHASING ORGANIZATION: _____
PRIMARY WHOLESALER (NAME, CITY, STATE)_____

TYPE OF BUSINESS:

- ☐ On-site hospital clinic
- ☐ Off-site satellite clinic (affiliated with _____ Hospital)
- ☐ City County or State (CCS) funded health clinic
- ☐ Surgery Center
- ☐ HMO/Managed health care
- ☐ Intermediate Care Facilities for Mentally Retarded
- ☐ Outpatient Clinic in a Hospital
- ☐ Hospice Inpatient
- ☐ Inpatient Psychiatric Facility
- ☐ Outpatient Mental Health Clinic
- ☐ Public Health Department
- ☐ Hospital owned and funded by government
- ☐ Correctional Facility
- ☐ Other (please describe: _____)

Is this facility owned, leased, or managed by a hospital or hospital system? YES NO
If so, name and location of hospital or hospital system _____
Is a pharmacy or physician-dispensing unit physically located within this facility? YES NO

Is this pharmacy or physician dispensing unit a closed-door pharmacy? (i.e. only serves patients and employees of the facility?) YES NO

Is this facility for profit? YES NO

CERTIFICATION: By signing below, Facility certifies, under penalty of perjury, that all of the above information is true and correct. Further,
Facility certifies and agrees that (1) any GSK product purchased under any agreement shall be for its "Own Use," as defined by the United States
Supreme Court in its opinions report at Abbott Laboratories et al. v. Portland Retail Druggist Association, Inc., 425 U.S. 1 (1976), and Jefferson County Pharmaceutical Association, Inc., v. Abbott Laboratories, et al., 103 S. Ct. 1011 (1983), and (2) GSK may, in its sole

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discretion, contact Facility's staff, and/or visit Facility's locations to verify that the above information is correct, and Facility agrees to provide such information to GSK as is reasonably necessary for GSK to make such a determination.

Printed Name *(Required)* Title *(Required)* Signature *(Required)* Date *(Required)*

PLEASE FAX FORM BACK TO 215-933-3947 OR EMAIL TO: iqq86213@gsk.com

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ATTACHMENT C
Reporting Requirements

Table 1: Required Data Field for Sales Data Report

Excel Column	Required Data Field Full Name for Sales Data Report
A	MMCAP Infuse-assigned Member ID
B	MMCAP Infuse Member Name
C	Vendor Distribution Center Code
D	Vendor-assigned Account number for MMCAP Infuse Member (this should be the ship-to account number)
E	Invoice Number
F	Invoice Line Number
G	Purchase Order Number
H	Invoice date (MMDDYYYY)
I	Buyer name or equivalent of buyer ID for person submitting the invoices (if available)
J	Vendor's (distributor) SKU item number
K	NDC of purchased Product as stored in First DataBank, Inc. (Required for pharmaceutical Products)
L	Label Name/Product Description
M	Unit Dose (Required for pharmaceutical Products)
N	Pack Size
O	Unit
P	Case Size
Q	Dose (Required for pharmaceutical Products).
R	Strength (Required for pharmaceutical Products).
S	Route (Required for pharmaceutical Products).
T	Unit Price (99999.9999)
U	Quantity Ordered (not Vendor repackaged or re-bundled quantity)(99999.9999)
V	Quantity Shipped (not Vendor repackaged or re-bundled quantity)(99999.9999)
W	Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999.9999)
X	Type of transaction (MMCAP Infuse contract purchase, other contract purchase (340B, PHS), not on contract purchase) 1=contract item, 2=other contract, 3=not on contract
Y	Bill to Address 1
Z	Bill to City
AA	Bill to State (2 alpha postal code)
AB	Bill to Zip (standard 5-4 format, no dash necessary)
AC	Ship to Address 1
AD	Ship to City
AE	Ship to State (2 alpha postal code)
AF	Ship to Zip (standard 5-4 format, no dash necessary)
AG	Service Fee (99999.9999)
AH	MMCAP Infuse Contract Number (MMS2200724)
AI	Admin Fee
AJ	Credit Indicator (C for credit)
AK	MMCAP Infuse Assigned Wholesaler Code (*ASD = 3102, FFF Enterprises = 3402, McKesson Med-Surg = 1001*)
AL	Manufacturer Name (MFG Name)
AM	Class of Trade
AN	340b Purchase
AO	Category
AP	Manufacturer Part Number

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AQ	List Price
AR	UNSPSC Code (XXXXXXXX)
AS	UNSPSC Description
AT	GLN
AU	GTIN

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Table 2: Influenza Vaccine Prebooking Report

GSK/MMCAP Infuse Member Prebooks					2023-2024 Season			Report Date					
Customer Name	GSK Customer Number	Order Number	Order Date	Bill to Address	Bill to City	Bill to State	Zip	NDC (xxxxx-xxxx-xx)	Product Name	Pack size	Contract Price/Pack	Quantity Ordered in packs	Extended Price

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ATTACHMENT D

Minnesota Statutory Procurement Language

1. **Government Data Practices**. Parties to this Agreement must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (**Data Practices Act**), as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Vendor or MMCAP Infuse.
   A. Notification. If the Vendor receives a request to release the data referred to in statute, the Vendor must immediately notify and consult with MMCAP Infuse as to how the Vendor should respond to the request.
   B. Indemnification. Vendor agrees to indemnify, save, and hold Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision of the Agreement.
   C. Release of MMCAP Infuse Data. Except as may be required by Data Practices Act, Vendor will not release to any third party any MMCAP Infuse customer data, sales transaction data, DEA/HIN information, contract pricing, EDI transaction data, reverse distribution data, or payment data.
2. **Data Disclosure.** Under Minn. Stat. § 270C.65, subd. 3 and other applicable law, the Vendor consents to disclosure of its social security number, federal employer tax identification number, and Minnesota tax identification number, already provided to MMCAP Infuse, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Vendor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.
3. **Non-discrimination**. The Vendor will comply with the provisions of Minn. Stat. § 181.59.
4. **Affirmative Action Requirements**.
   A. Covered contracts and vendors. If the Agreement exceeds $100,000 and the Vendor employed more than forty (40) full-time employees on a single working day during the previous twelve (12) months in Minnesota or in the state where it has its principal place of business, then the Vendor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600.
   B. Minn. R. 5000.3400-5000.3600.
      i. General. Minn. R. 5000.3400-5000.3600 implements Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a Vendor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.
      ii. Disabled Workers. The Vendor must comply with the following affirmative action requirements for disabled workers.
         a. The Vendor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Vendor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
         b. The Vendor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
         c. In the event of the Vendor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat.

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§ 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

d. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the Vendor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

e. The Vendor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Vendor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

iii. Consequences. The consequences for the Vendor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Agreement by the Commissioner or Minnesota.

iv. Certification. The Vendor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

5. **E-Verify certification (In accordance with Minn. Stat. § 16C.075)**. For services valued in excess of $50,000, Vendor certifies that as of the date of services performed on behalf of Minnesota, Vendor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of Minnesota. Vendor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc. All subcontractor certifications must be kept on file with Vendor and made available to Minnesota upon request.

6. **Certification of Nondiscrimination (In accordance with Minn. Stat. § 16C.053**). The following term applies to any contract for which the value, including all extensions, is $50,000 or more: Vendor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the Vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

7. **Contingency Fees Prohibited**. Pursuant to Minn. Statute § 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

8. **Diverse Spend Reporting**. If the total value of this Agreement may exceed $500,000 in Minnesota, including all extension options, the Vendor must track and report, on a quarterly basis, the amount paid to diverse businesses both: (A) directly to subcontractors performing under the Agreement, and (B) indirectly to diverse businesses that provide supplies/services to your company (in proportion to the revenue from this Agreement compared to your company's overall revenue). When this applies, you will be set up in a free portal to help report the Tier 2 diverse spend, and the requirement continues as long as the Agreement is in effect.

9. **Retainage for Minnesota Government Units**. Under Minn. Stat. § 16C.08, subd. 2 (10), no more than ninety percent (90%) of the amount due under this Agreement may be paid until the final product of this Agreement has been reviewed by a Minnesota agency head. The balance due will be paid when the Minnesota agency head determines that the Vendor has satisfactorily fulfilled all the terms of this Agreement.

10. **Payment to Subcontractors.** To the extent applicable, the Vendor must pay all subcontractors pursuant to Minn. Stat. § 16A.1245.

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March 22, 2023

GSK/MMCAP Infuse FLU Amendment #1
Contract# 522219
Effective March 24, 2023

Michelle Korpela, PharmD
Clinical Pharmacy Coordinator
MMCAP Infuse
Office of State Procurement
Room 112, Administration
Building 50 Sherburne Ave.
St. Paul, MN 55155-1402

Subject: MMCAP Infuse Influenza Vaccine Pricing Agreement - Change to 2023/2024 GSK Flu Program Terms

Effective March 24, 2023, the parties hereto agree to amend Influenza Vaccine Agreements – MMCAP Infuse Agreement # MMS2200724; GSK Contract #522219 (the "Agreement") between GlaxoSmithKline LLC ("GSK") and MMCAP Infuse ("Company"), the Agreement shall be amended by adding, deleting and/or replacing the following contract terms and/or Exhibits as follows:

- GSK is eliminating the 2023/2024 Right Reservation Discount ("RRD") requirement currently necessary to receive a 2% discount on 2024/2025 flu purchases made via www.gskdirect.com. The RRD will be replaced by an Early Reservation Discount opportunity in the 2024/2025 Influenza season. The deletion of this provision will have no effect on the 2022/2023 GSK Standard Flu Program RRD.

- Attachment A 2023/2024 GSK Flu Program shall be deleted in its entirety and replaced with the attached Attachment A 2023/2024 GSK Flu Program to the Vaccines Agreement.

Please confirm your acceptance by signing this Amendment and send a scanned copy to the email address below and/or your Account Director's email by April 1, 2023:

GlaxoSmithKline
Attention: Babatunde Adedeji
Email: Babatunde.a.adedeji@gsk.com

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement. All other terms and conditions of the Vaccines Agreement shall remain in full force and effect.

Once this Amendment has been fully executed by both parties, we will send an original to you for your files.

Accepted on behalf of **GlaxoSmithKline LLC**

DocuSigned by:
Jennifer Costello
Jennifer Costello
Vice President – Enterprise Integrated Accounts

3/26/2023
Date

Accepted on behalf of **MMCAP Infuse**

Title

Date

STATE OF MINNESOTA FOR MMCAP INFUSE
In accordance with Minn. Stat. 16C.03, Subd.3
Name: Brandon Sis
Signature: Brandon Sis
Date: 3/27/2023

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. 16C, Subd.2
Name: Michelle Korpela
Signature: Michelle Korpela
Date: 3/28/2023

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Accurate as of September 28, 2026
The most current version
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Attachment A
GSK 2023/2024 Influenza Vaccine Program
Products and Contract Pricing

NDC No.	Product Description	Contract Price [1, 2]
19515-0814-52	FLULAVAL QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$177.15
58160-0909-52	FLUARIX QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$177.15

[1] *Price for Fluarix®/FluLaval® does not include the Federal Excise Tax of $0.75 per antigen, per dose.*
[2] *GSK reserves the right to decrease the price through a Limited Time Offer (LTO), where GSK has lowered a price temporarily, upon written notice to the Company.*

Indirect Purchases
The following are the terms and conditions which relate to indirect purchases of GSK Influenza Vaccine under the Agreement.
Participating Members may purchase GSK Influenza Vaccines through Authorized Distributors that are authorized GSK Influenza Vaccines distributors . GSK Influenza Vaccines purchased through authorized vaccine distributors will be subject to the distributor's terms of sale and will not be eligible for any additional discounts offered through www.gskdirect.com nor any GSK delivery guarantees and such purchases are not eligible for return directly to GSK.

Direct Purchases
The following are the terms and conditions which relate to direct purchases of GSK Influenza Vaccines under this Agreement.

Ordering Process
GSK Influenza Vaccines are accessible to Participating Members by placing a pre-book reservation directly with GSK at www.gskdirect.com ("**GSKDirect**"). GSKDirect terms and conditions shall apply and will be defined for the Participating Member on the website at the time of the reservation. ***GSK online terms and conditions are subject to change without notice to Company or to Participating Members. Please check www.gskdirect.com for the most up to date terms & conditions.***

After the Participating Member places their pre-book reservation, Participating Member will be required to confirm their reservation and will be subject to a credit check prior to shipment. At its discretion, GSK can accept or refuse any GSK Influenza Vaccine pre-book reservation. Members' GSK Influenza Vaccine pre-book reservations will generally be on a first come first serve basis. If the Participating Member wants to increase their GSK Influenza Vaccine pre-book reservation after their initial reservation and after the edit lock-in date (March 31, 2023), then a separate pre-book reservation will have to be placed and that reservation will be subject to availability. GSK Influenza Vaccine pre-book reservations are subject to and conditioned on FDA licensure and sufficient product availability in the United States. Participating Members agree to fully comply with local, state and federal laws applicable to the storage of GSK Influenza Vaccines. The payment term is 0% net 30 days.

Right Reservation Discount - (Earned in 2022/2023, Applied in 2023/2024)
Participating Members, (i.e., members that took delivery of at least 90% of the influenza doses that the member pre-booked **for the 2022/2023 Influenza season** through www.gskdirect.com as of **March 31, 2022),** will receive a Right Reservation discount of 2% for certain **2023/2024 GSK Influenza Vaccines** purchases. **This discount is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com.**

Delivery Guarantee
GSK will provide an additional 10% discount on GSK Influenza Vaccine doses in the 2023/2024 season for any doses which are pre-booked on or prior to March 31, 2023 and are shipped and invoiced after October 13, 2023.
Please note that this delivery guarantee discount will only apply to those doses which are late due to GSK's inability to ship and invoice on or prior to the above-referenced dates. The delivery guarantee will not apply if Participating Member chooses to delay shipment past such dates. **This delivery guarantee is only available on doses pre-booked and purchased directly from GSK via** www.gskdirect.com.

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Returns

Unless otherwise specified to the contrary in the purchasing agreement or required by applicable state law, Participating Members may return up to 15% of GSK Flu doses purchased via GSKDirect for full credit (the 15% eligibility is applied to all presentations in aggregate). In order to qualify for return reimbursement of eligible Flu doses, customers must obtain a **GSK issued Return Goods Authorization (RGA)**[1]. The RGA can be obtained via www.gskdirect.com or by calling the GSK Vaccine Service Center at 1-866-475-8222.

Eligible Flu doses returned must be received at the GSK Return Goods Vendor within the Flu Vaccine Return period, unless otherwise specified by applicable state law. GSK will notify eligible customers of the return window begin date and end date ("The Flu Vaccine Return Period") and when the RGA will be available. GSK Influenza Vaccine doses returned outside of the communicated Flu Vaccine Return period, or the period specified by applicable state law, without a GSK issued Return Goods Authorization, or in excess of the return limit will be destroyed and no refund or credit will be issued with the exception of the Federal Excise Tax (FET) that participating facility paid for the product.

- [1]**GSK issued Return Goods Authorization (RGA)** – GSK will provide customer with a document in the form of a debit memo, unique to the given season, authorizing the return of eligible Flu doses.
  - Any Flu Vaccine product returns for the current season, received under a prior season debit memo, will be deemed ineligible and no credit will be issued
  - Please note: the creation of a Return Box Label through the GSK Return Goods Vendor is not a guarantee of reimbursement and is not to be used in place of a GSK issued RGA.
- With the exception of any provision to the contrary in these terms (in which case these terms will govern), all other GSK Return Goods Policy provisions apply as published on www.gskdirect.com. GSK's Returns Goods Policy is subject to change on www.gskdirect.com without notice.
- GSK reserves the right, upon written notice to MMCAP Infuse, to increase the percentage of each branded presentation which is eligible for return.

Indirect & Direct Purchases

The following terms and conditions apply to both indirect and direct purchases of GSK Influenza Vaccine under this agreement.

Shipment of FLUARIX/FLULAVAL Orders

Subject to product availability, GSK anticipates shipments of GSK Influenza Vaccines to begin in August 2023. GSK reserves the right to make partial deliveries based on availability and FDA approval of each GSK Influenza Vaccine. GSK will ship GSK Influenza Vaccines to the Participating Members' address supplied at time of order. Title to and risk of loss for GSK Influenza Vaccines shipped to Participating Members will pass to Participating Member when delivered. GSK shall prepay all carrier charges and insurance against Participating Member risk of loss or damage to GSK Influenza Vaccines during carriage on orders when routing is done at GSK's discretion. If Participating Member requests special routing and GSK approves of the routing which results in higher transportation costs than would have been incurred as a result of GSK's routing of choice, then the difference in transportation cost shall be borne by Participating Member.

In the event that a market shortage would require that a government agency assume control of product allocation, or in the event that doses of GSK Influenza Vaccines must be made available for sale to government agencies, the product amounts and delivery schedules may be changed to meet such requirements. In addition, in the event there is a shortage of any GSK Influenza Vaccine, GSK shall have the right to allocate available product quantities among Participating Members and other GSK customers in such a manner as GSK, in its sole discretion, deems appropriate.

Therefore, the parties understand and agree that this Agreement does not extend any agreement or guarantee, express or implied, as to the supply or distribution of any specified quantity of GSK Influenza Vaccine, except as otherwise set forth herein.

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October 4, 2023

GSK/MMCAP Infuse Flu
Amendment #2
MMS2200724 / GSK #522219
Pricing will be loaded 1/15/24 to Vendor's system.

Michelle Korpela, PharmD
Clinical Pharmacy Coordinator
MMCAP Infuse
Office of State Procurement
Suite 112 Administration Building
50 Sherburne Ave.
St. Paul, MN 55155-1402

Subject: Amendment to Minnesota Multistate Contracting Alliance for Pharmacy Infuse (MMCAP) Contract #522219

Effective January 15, 2024, the parties hereto agree to amend Influenza Vaccine Agreements – MMCAP Infuse Agreement #MMS2200724 and GSK Contract #522219 (the "Agreement") between GlaxoSmithKline LLC ("GSK") and MMCAP Infuse ("Company"), the Agreement shall be amended by adding, deleting and/or replacing the following contract terms and/or Exhibits as follows:

- Replace Attachment A of the Agreement with Attachment A in this Amendment - GSK 2024/2025 Influenza Vaccine Program, Products and Contract Pricing - which is attached hereto as Exhibit 1.

All other terms and conditions of the Agreement shall remain in full force and effect.

Please confirm your acceptance by signing this Amendment and send a scanned copy to the email address below and/or your Account Director's email:

GlaxoSmithKline
Attention: Babatunde Adedeji
Email: Babatunde.a.adedeji@gsk.com

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement. All other terms and conditions of the Vaccines Agreement shall remain in full force and effect.

Once this Amendment has been fully executed by both parties, we will send an original to you for your files.

Accepted on behalf of **GlaxoSmithKline LLC**

DocuSigned by:
Jennifer Costello
65FF9B8B79D040C...

Jennifer Costello
Vice President – Purchaser Accounts

10/10/2023

Date

STATE OF MINNESOTA FOR MMCAP INFUSE
In accordance with Minn. Stat. § 16C.03, subd. 3

Name: Brandon Sis
Signature: DocuSigned by: Brandon Sis 7DEB89B34EBE41...
Date: 10/11/2023

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. § 16C.05, subd. 2

Name: Renata Vaschevici
Signature: DocuSigned by: Renata Vaschevici 69ABFC827DA744F...
Date: 10/12/2023

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Attachment A
GSK 2024/2025 Influenza Vaccine Program
Products and Contract Pricing

NDC No.	Product Description	Contract Price [1, 2]
19515-0825-52	FLULAVAL QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$177.15
58160-0892-52	FLUARIX QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$177.15

[1] *Price for Fluarix®/FluLaval® does not include the Federal Excise Tax of $0.75 per antigen, per dose.*
[2] *GSK reserves the right to decrease the price through a Limited Time Offer (LTO), where GSK has lowered a price temporarily, upon written notice to the Company.*

I. Indirect Purchases

The following are the terms and conditions which relate to indirect purchases of GSK Influenza Vaccine under the Vaccines Agreement.

Participating Members may purchase GSK Influenza Vaccines through authorized GSK Influenza Vaccines distributors. GSK Influenza Vaccines purchased through authorized vaccine distributors will be subject to the distributor's terms of sale and will not be eligible for any additional discounts offered through www.gskdirect.com nor any GSK delivery guarantees and such purchases are not eligible for return directly to GSK.

Actual invoice price, payment terms, shipping terms and returnability for GSK Products purchased indirectly through an authorized vaccine distributor will be negotiated between each Participating Member and the authorized vaccine distributor.

II. Direct Purchases

The following are the terms and conditions which relate to direct purchases of GSK Influenza Vaccines under this agreement.

a) Ordering Process

GSK Influenza Vaccines are accessible to Participating Members by placing a pre-book reservation directly with GSK at www.gskdirect.com ("GSKDirect"). GSKDirect terms and conditions shall apply and will be defined for the Participating Member on the website at the time of the reservation. ***GSK online terms and conditions are subject to change without notice to MMCAP Infuse or to Participating Members. Please check www.gskdirect.com for the most up to date terms & conditions.***

After the Participating Member places their pre-book reservation, Participating Member will be required to confirm their reservation and will be subject to a credit check prior to shipment. At its discretion, GSK can accept or refuse any GSK Influenza Vaccine pre-book reservation. Customers' GSK Influenza Vaccine pre-book reservations will generally be on a first come first serve basis. If the Participating Member wants to increase their GSK Influenza Vaccine pre-book reservation after their initial reservation and after the edit lock-in date (March 31, 2024), then a separate pre-book reservation will have to be placed and that reservation will be subject to availability. GSK Influenza Vaccine pre-book reservations are subject to and conditioned on FDA licensure and sufficient product availability in the United States. Participating Members agree to fully comply with local, state and federal laws applicable to the storage of GSK Influenza Vaccines. The payment term is 0% net 30 days.

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b) Early Reservation Discount

Participating Members may earn an Early Reservation Discount of 2% on their 2024 GSK Influenza Vaccines by pre-booking influenza doses through www.gskdirect.com on or prior to April 1, 2024. **This discount is only available on doses pre-booked and purchased directly from GSK via** www.gskdirect.com**.**

c) Delivery Guarantee

For Participating Members, GSK will provide an additional 10% discount on GSK Influenza Vaccine doses which were pre-booked on or prior to March 31, 2024 and are shipped and invoiced after October 13, 2024.

Please note that this delivery guarantee discount will only apply to those doses which are late due to GSK's inability to ship and invoice on or prior to the above-referenced dates. The delivery guarantee will not apply if Participating Member chooses to delay shipment past such dates. **This delivery guarantee is only available on doses pre-booked and purchased directly from GSK via** www.gskdirect.com**.**

d) Returns

Unless otherwise specified to the contrary in the purchasing agreement or required by applicable state law, eligible customers may return up to 15% of GSK Flu doses purchased via GSKDirect for full credit (the 15% eligibility is applied in the aggregate for Fluarix and Flulaval purchases, but is calculated at the ship to level on each shipment). In order to qualify for return reimbursement of eligible Flu doses, customers must obtain a **GSK issued Return Goods Authorization (RGA)**[1]. The RGA can be obtained via www.gskdirect.com or by calling the GSK Vaccine Service Center at 1-866-475-8222.

Eligible Flu doses returned must be received at the GSK Return Goods Vendor within the Flu Vaccine Return period, unless otherwise specified by applicable state law. GSK will notify eligible customers of the return window begin date and end date ("The Flu Vaccine Return Period") and when the RGA will be available. GSK Influenza Vaccine doses returned outside of the communicated Flu Vaccine Return Period, or the period specified by applicable state law, without a GSK issued Return Goods Authorization, or in excess of the return limit will be destroyed and no refund or credit will be issued with the exception of the Federal Excise Tax (FET) that eligible customer paid for the product.

- [1]**GSK issued Return Goods Authorization (RGA)** – GSK will provide eligible customer with a document in the form of a debit memo, unique to the given season, authorizing the return of eligible Flu doses.
  - Any Flu Vaccine product returns for the current season, received under a prior season debit memo, will be deemed ineligible and no credit will be issued.
  - Please note: the creation of a Return Box Label through the GSK Return Goods Vendor is not a guarantee of reimbursement and is not to be used in place of a GSK issued RGA.

- With the exception of any provision to the contrary in these terms (in which case these terms will govern), all other GSK Return Goods Policy provisions apply as published on www.gskdirect.com. GSK's Returns Goods Policy is subject to change on www.gskdirect.com without notice.

- GSK reserves the right, upon written notice to MMCAP Infuse, to increase the percentage of each branded presentation which is eligible for return.

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III. Indirect & Direct Purchases

The following terms and conditions apply to both indirect and direct purchases of GSK Influenza Vaccine under this agreement.

Shipment of FLUARIX/FLULAVAL Orders

Subject to product availability, GSK anticipates shipments of GSK Influenza Vaccines to begin in August 2024. GSK reserves the right to make partial deliveries based on availability and FDA approval of each GSK Influenza Vaccine. GSK will ship GSK Influenza Vaccines to the Participating Members' address supplied at time of order. Title to and risk of loss for GSK Influenza Vaccines shipped to Participating Members will pass to Participating Member when delivered. GSK shall prepay all carrier charges and insurance against Participating Member risk of loss or damage to GSK Influenza Vaccines during carriage on orders when routing is done at GSK's discretion. If Participating Member requests special routing and GSK approves of the routing which results in higher transportation costs than would have been incurred as a result of GSK's routing of choice, then the difference in transportation cost shall be borne by Participating Member.

In the event that a market shortage would require that a government agency assume control of product allocation, or in the event that doses of GSK Influenza Vaccines must be made available for sale to government agencies, the product amounts and delivery schedules may be changed to meet such requirements. In addition, in the event there is a shortage of any GSK Influenza Vaccine, GSK shall have the right to allocate available product quantities among Participating Members and other GSK customers in such a manner as GSK, in its sole discretion, deems appropriate.

Therefore, the parties understand and agree that this Exhibit does not extend any agreement or guarantee, express or implied, as to the supply or distribution of any specified quantity of GSK Influenza Vaccine, except as otherwise set forth herein.

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MMS2200724
Amendment #3
Effective January 15, 2024
NDC replacement

January 18, 2024

Michelle Korpela, PharmD
Clinical Pharmacy Coordinator
MMCAP Infuse
Office of State Procurement
Suite 112 Administration Building
50 Sherburne Ave.
St. Paul, MN 55155-1402

Ref: Notice of Change to Terms of Vaccines Agreement

Dear Ms. Korpela:

In response to recommendations from public health authorities, GlaxoSmithKline LLC ("GSK") is transitioning back to trivalent ("TIV") influenza ("flu") vaccines for the upcoming 2024/2025 flu season. Accordingly, GSK gives notice herein of changes to the Vaccines Agreement ("Vaccines Agreement") by and between GSK and MMCAP Infuse ("Company") to replace the previously communicated GSK quadrivalent ("QIV") flu vaccines with the GSK TIV flu vaccines. Please note that pricing shall remain the same.

Accordingly, effective January 15, 2024, please update the Influenza Vaccines Contract 522219 Exhibit(s) as follows:

within for

- Delete Product Pricing Attachment A and replace with Product Pricing Attachment A attached hereto; and
- Replace any references to "Quadrivalent" or "QIV" in the Agreement with "Trivalent" or "TIV,".

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Vaccines Agreement. All other terms and conditions of the Vaccines Agreement shall remain in full force and effect.

Please contact your GSK Account Director or me if you have any questions. We thank you for your interest in GSK and for the opportunity to be of service to you.

Kind Regards,

B-A

Babatunde Adedeji
Contract Development Manager
GlaxoSmithKline

STATE OF MINNESOTA FOR MMCAP INFUSE
In accordance with Minn. Stat. 16C.03, Subd.3
Name: DocuSigned by: Brandon Sis
Signature: Brandon Sis
Date: 2/2/2024 EB89B34EBE41C...

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. 16C.Subd.2
Name: DocuSigned by: Renata Vaschevici
Signature: Renata Vaschevici
Date: 2/2/2024 ABFC827DA744F...

BPS

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Attachment A
GSK 2024/2025 Influenza Vaccine Program
Products and Contract Pricing

NDC No.	Product Description	Contract Price [1, 2]
19515-0810-52	FLULAVAL Trivalent 0.5 mL Tip-Lok No Needle Syringe 10s	$177.15
58160-0884-52	FLUARIX Trivalent 0.5mL Tip-Lok No Needle Syringe 10s	$177.15

[1] *Price for Fluarix®/FluLaval® does not include the Federal Excise Tax of $0.75/ dose.*
[2] *GSK reserves the right to decrease the price through a Limited Time Offer (LTO), where GSK has lowered a price temporarily, upon written notice to the Company.*

BPS

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AMENDMENT NO. 4 TO MMCAP INFUSE AGREEMENT NO. MMS2200724

THIS AMENDMENT NO. 4 ("**Amendment**") to MMS2200724 and its amendments ("**Agreement**") is entered into on the date all required signatures are obtained for this document and is by and between the State of Minnesota acting through its Commissioner of Administration ("**Minnesota**") on behalf of MMCAP Infuse ("**MMCAP Infuse**") and GlaxoSmithKline LLC, a Delaware /limited liability company with an address of 2929 Walnut Street, Suite 1700, Philadelphia, PA 19104 and 410 Blackwell Street, Durham, NC 27701 ("**Vendor**").

RECITALS

WHEREAS, MMCAP Infuse and Vendor have agreed to certain changes in the terms and conditions set forth in the Agreement and have agreed to amend the Agreement to reflect said changes;

WHEREAS, besides the terms and conditions of the Agreement amended in this Amendment, the Agreement remains in full force and effect; and

NOW, THEREFORE, the parties acknowledge and hereby agree that the Agreement shall be amended as follows:

Capitalized Terms; Definitions; Conditions. The Agreement and Amendments shall be read together as one document. Any capitalized terms used in the Amendment that are defined in the Agreement will have the same meaning(s) when used herein, unless the context clearly requires otherwise. To the extent there shall exist a conflict between the Agreement and this Amendment, the terms of this Amendment will control. Unless otherwise clearly altered, modified, deleted, or amended otherwise, the terms of the Agreement will continue in their entirety and govern the contractual relationship between Vendor and MMCAP Infuse.

In this Amendment, changes to pre-existing Agreement language will use ~~strike through~~ for deletions and underlining for insertions.

Modifications

Revision 1: Line 2 of the *Contract Term* in the Agreement will be revised as follows:

2. **Expiration Date**: December 31, ~~2024~~ 2025

VENDOR: GlaxoSmithKline, LLC
The Vendor certified that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Cathy Pritchett
Signature: Signed by: Cathy Pritchett E4BB6925C1F7458...
Title: FVP
Date: 10/11/2024

STATE OF MINNESOTA FOR MMCAP INFUSE
In accordance with Minn. Stat. § 16C.03, subd. 3

Name: DocuSigned by: Krista McQuaid
Signature: Krista McQuaid 9AE8C2F9FB9A452...
Date: 10/16/2024

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. § 16C.05, subd. 2

Name: DocuSigned by: Michelle Korpela
Signature: Michelle Korpela 450F253EFE4D41F...
Date: 10/17/2024

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AMENDMENT NO. 7 TO MMCAP INFUSE AGREEMENT NO. MMS2200724

THIS AMENDMENT NO. 7 ("**Amendment**") to MMS2200724 and its amendments ("**Agreement**") is entered into on the date all required signatures are obtained for this document and is by and between the State of Minnesota acting through its Commissioner of Administration ("**Minnesota**") on behalf of MMCAP Infuse ("**MMCAP Infuse**") and GlaxoSmithKline LLC, a Delaware limited liability company, with an address of 2929 Walnut Street, Suite 1700, Philadelphia, PA 19104 and 410 Blackwell Street, Durham, NC 27701 ("**Vendor**").

RECITALS

WHEREAS, MMCAP Infuse and Vendor have agreed to certain changes in the terms and conditions set forth in the Agreement and have agreed to amend the Agreement to reflect said changes;

WHEREAS, besides the terms and conditions of the Agreement amended in this Amendment, the Agreement remains in full force and effect; and

NOW, THEREFORE, the parties acknowledge and hereby agree that the Agreement shall be amended as follows:

Capitalized Terms; Definitions; Conditions. The Agreement and Amendments shall be read together as one document. Any capitalized terms used in the Amendment that are defined in the Agreement will have the same meaning(s) when used herein, unless the context clearly requires otherwise. To the extent there shall exist a conflict between the Agreement and this Amendment, the terms of this Amendment will control. Unless otherwise clearly altered, modified, deleted, or amended otherwise, the terms of the Agreement will continue in their entirety and govern the contractual relationship between Vendor and MMCAP Infuse.

In this Amendment, changes to pre-existing Agreement language will use ~~strike-through~~ for deletions and underlining for insertions.

Modifications

Revision 1: Line 2 of the *Contract Term* in the Agreement will be revised as follows:

2. **Expiration Date**: December 31, ~~2025~~ 2026

VENDOR: GlaxoSmithKline, LLC
The Vendor certified that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Signed by: Cathy Pritchett itchett
Signature: E4BB6925C1F7458...
Title: FVP
Date: 10/1/2025

STATE OF MINNESOTA FOR MMCAP INFUSE
In accordance with Minn. Stat. § 16C.03, subd. 3

Name: DocuSigned by: Brandon Sis Brandon Sis
Signature: 7DEB89B34EBE41C...
Date: 10/6/2025

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. § 16C.05, subd. 2

Name: Signed by: Derek LaBar Derek LaBar
Signature: FE93CEC7070D4C2...
Date: 10/6/2025

Docusign Envelope ID: 3E843BFE-0495-8357-800D-03FB54F5A151

Accurate as of September 28, 2026
The most current version
https://members.mmcap.mn.gov/contract-documents

AMENDMENT NO. 10 TO MMCAP AGREEMENT NO. MMS2200724

THIS AMENDMENT NO. 10 ("**Amendment**") to MMS2200724 and its amendments ("**Agreement**") is entered into on the date all required signatures are obtained for this document and is by and between the State of Minnesota acting through its Commissioner of Administration ("**Minnesota**") on behalf of MMCAP ("**MMCAP**") and GlaxoSmithKline LLC, a Delaware limited liability company, with an address of 2929 Walnut Street, Suite 1700, Philadelphia, PA 19104 and 410 Blackwell Street, Durham, NC 27701 ("**Vendor**").

RECITALS

WHEREAS, MMCAP and Vendor have agreed to certain changes in the terms and conditions set forth in the Agreement and have agreed to amend the Agreement to reflect said changes;

WHEREAS, besides the terms and conditions of the Agreement amended in this Amendment, the Agreement remains in full force and effect; and

NOW, THEREFORE, the parties acknowledge and hereby agree that the Agreement shall be amended as follows:

Capitalized Terms; Definitions; Conditions. The Agreement and Amendments shall be read together as one document. Any capitalized terms used in the Amendment that are defined in the Agreement will have the same meaning(s) when used herein, unless the context clearly requires otherwise. To the extent there shall exist a conflict between the Agreement and this Amendment, the terms of this Amendment will control. Unless otherwise clearly altered, modified, deleted, or amended otherwise, the terms of the Agreement will continue in their entirety and govern the contractual relationship between Vendor and MMCAP.

In this Amendment, changes to pre-existing Agreement language will use ~~strike through~~ for deletions and underlining for insertions.

Modifications

Revision 1: Definition 3 of *Prefix A* of the Agreement will be revised as follows:

3. Authorized Wholesaler(s): ~~ASD Specialty Healthcare, LLC,~~ Cardinal Health 108, LLC, FFF Enterprises, Inc., McKesson Medical Surgical Government Solutions, LLC and Medico-Mart, Inc.

Revision 2: Line 2 of the *Contract Term* in the Agreement will be revised as follows:

2. Expiration Date: December 31, ~~2026~~ 2027

VENDOR: GlaxoSmithKline, LLC
The Vendor certified that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required and by applicable articles, bylaws, resolutions, or ordinances.

Name: Jennifer Costello, FVP, Enterprise Integrated Accounts
Signature: Signed by: Jennifer Costello, FVP, Enterprise Integrated Accounts 65FF9B8B79D040C...
Title: FVP, Enterprise Integrated Accts
Date: 9/24/2026

STATE OF MINNESOTA FOR MMCAP
In accordance with Minn. Stat. § 16C.03, subd. 3

Name: Brandon Sis
Signature: DocuSigned by: Brandon Sis 7DEB89B34EBE41C...
Date: 9/25/2026

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. § 16C.05, subd. 2

Name: Renata Vaschevici
Signature: DocuSigned by: Renata Vaschevici 69ABFC827DA744F...
Date: 9/25/2026