|  |  |
| --- | --- |
| DEED |  |
| between **the GOVERNMENT OF** **THE REPUBLIC OF SINGAPORE****(AS REPRESENTED BY THE MINISTRY OF HEALTH)**and **[Company]**in relation to SHARING THE COSTS OF GOVERNMENT SUBSIDY and mEDISHIELD LIFE CLAIMS FOR THE SUPPLY OF [DRUG]  |
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**DEED IN RELATION TO SHARING THE COSTS OF GOVERNMENT SUBSIDY AND MEDISHIELD LIFE CLAIMS FOR THE SUPPLY OF [DRUG]**

This deed (this “**Deed**”) is dated [date] and made between:

1. **THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE** (as represented by the Ministry of Health) (the “**Authority**”); and
2. **[insert name of drug company]** (company registration number: **[to insert]**) (the “**Company**”).

In consideration of the Authority including any Drug (as defined below) in one or more lists of drugs eligible for subsidy or for claims and benefits under the MediShield Life Scheme and the covenants contained herein, it is agreed as follows:

# DEFINITIONS

## In this Deed, unless the context otherwise requires:

 “**Adviser**” means:

* + 1. ALPS Pte. Ltd. (company registration number: 201805065E); or
		2. any of the Authority’s agents, contractors (including subcontractors), consultants or advisers (including legal advisers) engaged in, or in relation to, the performance or management of this Deed.

“**Business Day**” means a day which is not a Saturday, Sunday or a public holiday in Singapore.

“**Drugs**” means each of the following:

1. [insert name and description of drug];
2. [insert name and description of drug]; and
3. [insert name and description of drug],

and “**Drug**” means any one of them.

“**Drug List**” means any list of drugs eligible for subsidy under the Choose an item. or any other subsidy scheme, or eligible for claims or benefits under the MediShield Life Scheme.

“**Expenditure Cap**” has the meaning set out in Clause 4.3.

“**MS**” has the meaning set out in Clause 4.5.

“**New Price Date**” means a date notified by the Authority to the Company pursuant to Clause 3.2.

[REDACTED]

Table 1: [REDACTED]

“**Parties**” means the Authority and the Company, and “**Party**” means any one of them.

“**Period**” means a period of four consecutive calendar months, the first of which commences on 1 January 20XX.

“**Permitted** **Disclosure**” means:

1. disclosure of (1) the prices at which the Company will sell a Drug to all or any of the Public Healthcare Institutions and/or (2) any amount paid by the Company to the Authority under this Deed (or any formula relating thereto), by the Authority:
	* 1. to all Public Healthcare Institutions;
		2. to the Authority’s Advisers or employees (including any employee of any related body corporate) solely in order to comply with obligations, or to exercise rights, under this Deed;
		3. to the Authority’s internal management personnel, solely to enable effective management or auditing of Deed-related activities;
		4. to the responsible Minister;
		5. in response to a request by the Parliament of Singapore;
		6. to a court, tribunal or other legally constituted enquiry or for the purposes of any alternative dispute resolution process;
		7. within the Authority, or to and within another Singapore government agency or statutory board, where this serves Singapore’s legitimate interests;
		8. where required by law to be disclosed;
		9. for the administration of any Drug List, including the negotiation or administration of any existing or future risk sharing deed or the addition of new drugs onto any Drug List; and/or
		10. to the extent such information is in the public domain; or
2. disclosure of market data, invoices and/or utilisation data relating to any Drug by the Authority to any person (including any company which is in the same or similar business as the Company), for the negotiation or administration of any existing or future risk sharing deed, including determining the amounts due under any existing or future risk sharing deed.

“**PHI Patient**” means any patient of a Public Healthcare Institution.

[REDACTED]

“**Price Effective Date**” means, in relation to a Drug:

1. the date set out in column (3) of Table 2 below, corresponding to that Drug; or
2. a New Price Date applicable to that Drug.

Table : Drug Price

| (1) | (2) | (3) |
| --- | --- | --- |
| **Name/description of Drug** | **Cost price per unit, excluding GST (SGD)** | **Date** |
|  | S$[insert price] / [insert unit] | Click or tap to enter a date. |

“**Public Healthcare Institutions**” means:

1. the public healthcare institutions and polyclinics set out in Annex A; and
2. each other public healthcare institution or polyclinic in Singapore as the Authority may notify the Company from time to time.

 “**PVA** **Drugs**” has the meaning set out in Clause 4.6.

“**Reimbursement Rate**” has the meaning set out in Clause 4.4.

 “**Relevant Patient**” means any PHI Patient who is a Singapore citizen or a Singapore permanent resident.

“**Relevant Price**” means:

## in relation to the first Price Effective Date applicable to that Drug, the price (excluding goods and services tax) set out in column (2) of Table 2 above, corresponding to that Drug; and

## in relation to any Price Effective Date which is a New Price Date applicable to that Drug, the Revised Relevant Price of that Drug applicable to that New Price Date.

“**Revised Relevant Price**” has the meaning set out in Clause 3.2.

“**Risk Sharing** **Term**” means the period commencing on 1 January 20XX and ending on 31 December 20XX.

“**Singapore Dollars**”, “**S$**” or “**SGD**” means the lawful currency of the Republic of Singapore.

“**Special Pricing Arrangement**” means, in relation to a drug, any agreement that entitles the Authority to recover an amount for each unit or number of units of the drug sold to one or more of the Public Healthcare Institutions.

## “**Supply Period**” means any Year.

 “**Total** **Public Healthcare Expenditure**” has the meaning set out in Clause 4.2.

“**Year**” means a period commencing on 1 January of a calendar year and ending on 31 December of the same calendar year.

## Words importing the singular only shall also include the plural and vice versa where the context requires.

## The headings are for convenience of reference only and shall not be taken into consideration for the purpose of interpretation.

## References to a person include any individual, company, limited liability partnership, partnership, business trust, unincorporated association or government agency (whether or not having separate legal personality).

## Unless a contrary intention appears, a reference in this Deed to “including” shall not be construed restrictively but shall mean “including without prejudice to the generality of the foregoing” and “including but without limitation”.

## Unless otherwise provided, any reference to any legislation shall be deemed a reference to such legislation as amended or revised from time to time and be deemed to include any subsidiary legislation made under such legislation.

## Unless a contrary intention appears, a reference in this Deed to any agreement, document or instrument is a reference to that agreement, document or instrument as amended, novated, supplemented, extended or restated.

## In this Deed, “month” means calendar month and “day” means calendar day.

## Unless a contrary indication appears, any reference in this Deed to the “**equivalent in SGD**” of any amount in another currency (a “**foreign** **currency**”) calculated on any day shall be construed as a reference to the amount in the foreign currency being notionally converted into SGD at the rate of exchange equal to the 12-month average of the monthly exchange rates generated or obtained from the internet website of the Monetary Authority of Singapore for January to December of the year preceding that date of calculation.

# Clause References

## All references to clauses in this Deed or any other document, unless otherwise expressly stated, are references to clauses numbered in this Deed or the document in which the reference appears respectively.

# SUBSIDY and claims under medishield life SCHEME

## The Company:

## shall ensure:

## that each Drug will be offered for sale to all Public Healthcare Institutions and shall ensure that the cost price per unit charged by the Company to a Public Healthcare Institution for each unit of a Drug that is dispensed or to be dispensed to any patient of that Public Healthcare Institution (regardless of such patient’s eligibility to receive any claim or benefit under the MediShield Life Scheme or any subsidy for that Drug) shall not, on and from a Price Effective Date applicable to that Drug, exceed the Relevant Price of that Drug applicable to that Price Effective Date, for as long as that Drug is included on a Drug List; and

## that where the Company has one or more existing agreements of sale of a Drug with any Public Healthcare Institution as at a Price Effective Date, it will take all reasonable steps to vary each of such agreements so that on and after a Price Effective Date applicable to that Drug, the cost price of that Drug does not exceed the Relevant Price of that Drug applicable to that Price Effective Date;

## For the avoidance of doubt, this Clause 3.1(a) applies to a unit of a Drug even if that unit is dispensed or to be dispensed to a patient who is not eligible to receive any claim or benefit under the MediShield Life Scheme or any subsidy for that Drug;

## acknowledges that if a Drug is listed on the list of drugs eligible for subsidy under the Medication Assistance Fund, that Drug is included for subsidy under the Medication Assistance Fund only for use in the indication(s) set out in column (2) of Table 3 below corresponding to that Drug:

Table : Indication(s) (for Medication Assistance Fund)

| (1) | (2) |
| --- | --- |
| **Name/description of Drug** | **Indication(s)** |
|  |  |

## ;

## acknowledges that each Drug listed in column (1) of Table 4 below should not be used by the patients described in column (2) of Table 4 below corresponding to that Drug:

Table : Patients who should not use the Drugs

| (1) | (2) |
| --- | --- |
| **Name/description of Drug** | **Description of Patients****(describe contraindication(s), etc.)** |
|  |  |

## ;

## acknowledges that if a Drug is listed on a list of drugs eligible for claims or benefits under the MediShield Life Scheme, that Drug is included for claims or benefits under the MediShield Life Scheme only for use in the indication(s) set out in column (2) of Table 5 below corresponding to that Drug:

Table : Indication(s) (for MediShield Life Scheme)

| (1) | (2) |
| --- | --- |
| **Name/description of Drug** | **Indication(s)** |
|  |  |

## ;

1. agrees that for as long as a Drug is listed on a Drug List, the Company shall inform the Authority of any failure or inability to supply that Drug to any Public Healthcare Institution, within 5 Business Days of the Company’s failure to supply that Drug or of the Company becoming aware of its inability to supply that Drug, where:

## a failure to supply would have occurred when the Company fails to deliver the amount of that Drug requested by any Public Healthcare Institution within the period requested by that Public Healthcare Institution; and

## an inability to supply means the Company is unable to deliver any amount of that Drug requested by any Public Healthcare Institution within the period requested by that Public Healthcare Institution;

## undertakes to comply with all directions, documents, instructions, requirements, terms and conditions in relation to the inclusion of a Drug on any Drug List, as may be issued by the Authority to the Company from time to time; and

## warrants and represents to the Authority that the signatory to this Deed has been duly authorised by the Company to sign this Deed, receive any instruction, give any information, accept any contract and act for and on behalf of the Company.

## [REDACTED]

##   [REDACTED]

## From time to time, including, without limitation, upon the occurrence of any of the following events or circumstances:

##  the Company breaches and/or defaults in its performance of any provision of this Deed;

## there is no legally binding written agreement in effect between the Company and any Public Healthcare Institution for the supply of any Drug by the Company to that Public Healthcare Institution;

## the Company fails to deliver the amount of any Drug requested by any Public Healthcare Institution within the period requested by that Public Healthcare Institution;

## the Company is unable to deliver any amount of any Drug requested by any Public Healthcare Institution within the period requested by that Public Healthcare Institution;

## the entry or anticipated entry into the Singapore market of:

## a new me-too compound of the same drug class or a new non-inferior drug as that of any Drug;

## a new biosimilar or generic version to any Drug; or

##  a new medicine that is indicated for use in combination with any Drug;

##  upon an expansion to the list of registered indications for any Drug;

##  upon the availability of evidence, to the Authority or otherwise, that suggests there are or there will be changes to the cost-effectiveness of any Drug; and

## the Company has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the inclusion of any Drug on any Drug List or for showing or forbearing to show favour to any person in relation to the inclusion of any Drug on any Drug List, or the like acts shall have been done by any person employed by the Company or acting on its behalf (whether with or without the knowledge of the Company), or in relation to the inclusion of any Drug on any Drug List, the Company or any person employed by it or acting on its behalf shall have committed any offence under Chapter 9 of the Penal Code 1871 or the Prevention of Corruption Act 1960 or shall have abetted or attempted to commit such an offence or shall have given any fee or reward the receipt of which is an offence under Chapter 9 of the Penal Code 1871 or the Prevention of Corruption Act 1960,

the Authority shall have the right to do one or more of the following in its absolute discretion, and the Company shall have no claim for any damages or compensation:

#### call for a re-evaluation of, and re-evaluate, the drugs listed on the Drug Lists (or any of them);

#### review prices of one or more of the drugs listed on the Drug Lists (or any of them);

#### include or remove any drug (including, without limitation, any Drug) from any one or more of the Drug Lists, and/or amend any one or more of the Drug Lists in any way;

#### notify the Company in writing that one or more drugs (each a “**New PVA Drug**”, and collectively, “**New PVA Drugs**”) will be added to the list of PVA Drugs for the purposes of this Deed, subject to any limitations contained in the notice.

## The notice issued under Clause 3.4(iv) by the Authority must define the New PVA Drug and the date from which it will be added onto the list of PVA Drugs.

## The notice issued under Clause 3.4(iv) by the Authority may define the New PVA Drug by reference to some or all of the following:

## the drug or medicinal preparation it contains;

## a brand it may be supplied under;

## a form in which it may be supplied;

## a manner in which it may be administered; or

## the circumstances in which it may be prescribed.

## If:

## the Company sold a Drug (each, an “**Earlier Sale**”) to any Public Healthcare Institution (each, an “**Applicable PHI**”) before that Drug’s first Price Effective Date at a cost price per unit (“**Earlier Sale Price**”) that exceeds the first Relevant Price of that Drug; and

## that Applicable PHI has on the date falling one month after the first Price Effective Date of that Drug, any unit of that Drug that can be reasonably attributed to that Earlier Sale (each, an “**Earlier Sale Unit**”),

## the Company shall within 90 Business Days after a request by the Authority, for each Earlier Sale Unit:

#### pay that Applicable PHI; or

## (ii) deduct from any amount liable to be paid by that Applicable PHI to the Company for that Drug,

## an amount in Singapore Dollars calculated in accordance with the following formula:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Amount per Earlier Sale Unit*  | *=* | *Earlier Sale Price of that Earlier Sale Unit*  | *-* | *the first Relevant Price*  |

## [REDACTED]

## If on or after a Price Effective Date applicable to a Drug, the Company sells that Drug to any Public Healthcare Institution (the “**Relevant PHI**”) at a cost price per unit (each, a “**Defaulting Price**”) exceeding the Relevant Price of that Drug applicable to that Price Effective Date, the Authority shall have the right (in addition to and without prejudice to all other rights or remedies available) to require the Company to pay as liquidated damages for each unit of that Drug sold to the Relevant PHI a sum calculated in accordance with the following formula:

*Liquidated sum per unit of that Drug = (Subsidies disbursed)Default – (Subsidies disbursed)VBP*

where:

(Subsidies disbursed)Default = the average amount of subsidies disbursed by the Authority to the Relevant PHI per unit of that Drug based on that Defaulting Price; and

(Subsidies disbursed)VBP = the average amount of subsidies which would have been disbursed by the Authority to the Relevant PHI per unit of that Drug based on that Relevant Price of that Drug.

## In the event that a Drug is to be removed from a Drug List as a result of any of the events set out in Clauses 3.4(a) to (d), the Company shall draft and publish not later than one month before such removal takes effect, in a daily English newspaper circulating generally in Singapore a public statement, vetted by the Authority, explaining the reasons why that Drug is to be removed from a Drug List.

## The Authority shall have the right, at its sole discretion, to elect to claim general damages in common law from the Company instead of imposing liquidated damages under Clause 3.9.

## Clauses 3.7 to 3.11 shall survive the termination or expiry of this Deed.

# UNDERTAKING TO PAY

## If the Total Public Healthcare Expenditure for any Year exceeds the Expenditure Cap for that Year, the Company agrees to pay the Authority an amount in Singapore Dollars calculated in accordance with the following formula:

## $$[REDACTED]$$

## For the purposes of this Deed, “**Total** **Public Healthcare Expenditure**” means an amount in Singapore Dollars, calculated in accordance with the following formula:

## $$[REDACTED]$$

Where:

## $$[REDACTED]$$

## For the purposes of this Deed, each Year’s Expenditure Caps are:

1. Year 1, 20XX: S$[Insert Expenditure Cap];
2. Year 2, 20XX: S$[Insert Expenditure Cap];
3. Year 3, 20XX: S$[Insert Expenditure Cap];
4. Year 4, 20XX: S$[Insert Expenditure Cap]; and
5. Year 5, 20XX: S$[Insert Expenditure Cap];

## For the purposes of this Deed, the “**Reimbursement Rate**” means [insert reimbursement rate between 0% to 100%].

## For the purposes of this Deed, “**MS**” means a fraction which is calculated by applying the following formula:

## $$MS= \frac{\begin{array}{c}The part of the Total Public Healthcare Expenditure that\\relates to the supply of the Drugs during that Year\end{array}}{Total Public Healthcare Expenditure}$$

## *Note: Where the Drugs are the only PVA Drugs, MS will equal to 1.*

## For the purposes of this Deed, “**PVA Drugs**” means:

1. the Drugs;
2. [insert name and description of drug];
3. [insert name and description of drug];
4. [insert name and description of drug]; and
5. each other drug added by the Authority pursuant to Clauses 3.4(iv), 3.5 and 3.6.

## If in any Supply Period and for any reason:

##### supply of one or more Drugs to any Public Healthcare Institution is exhausted for a period of 10 or more Business Days, whether consecutive or in total; and/or

##### the Authority forms the opinion, acting reasonably, that the Company has failed to adequately supply one or more Drugs to any Public Healthcare Institution,

## the Expenditure Cap for that Supply Period will be reduced in accordance with the following formula:

## $$\frac{S}{T} ×Expenditure Cap for that Supply Period$$

## where:

## “**S**” means the number of days in that Supply Period when all the Drugs were available for dispensing, being:

#### the number of days in that Supply Period less the sum of all the No-Stock Days in relation to the Public Healthcare Institutions (or any of them); and/or

#### the number of days in that Supply Period less the sum of all the Non-Supply Days in relation to the Public Healthcare Institutions (or any of them);

#### “**No-Stock Days**” means, in relation to a Public Healthcare Institution, the number of days during which stocks of one or more Drugs in that Public Healthcare Institution were exhausted. In calculating the sum of all the No-Stock Days in relation to the Public Healthcare Institutions, there shall be no double-counting of the days on which stocks of a Drug in more than one Public Healthcare Institution were exhausted and no double-counting of the days on which stocks of more than one Drug were exhausted;

#### “**Non-Supply Days**” means, in relation to a Public Healthcare Institution, the number of days between (and including) the date on which the Company first fails to supply any Drug to that Public Healthcare Institution and (but excluding) the date on which the Company resumes supplying that Drug to that Public Healthcare Institution. In calculating the sum of all the Non-Supply Days in relation to the Public Healthcare Institutions, there shall be no double-counting of the days on which the Company fails to supply a Drug to more than one Public Healthcare Institution and no double-counting of the days on which the Company fails to supply more than one Drug; and

#### “**T**” means the number of days in that Supply Period.

## The Company undertakes not to misrepresent any formula in this Clause 4 or the amount to be paid in accordance with that formula.

## This Clause 4 shall survive the termination or expiry of this Deed.

# PAYMENTs

## If Clause 4.1 applies, the Authority shall (or shall designate another person to):

##### notify the Company of that event; and

##### provide the Company with a properly rendered invoice and supporting information to enable the Company to validate the calculation of the amount payable under the respective clause.

## This Clause 5 shall survive the termination or expiry of this Deed.

# Supporting information

## For each Period, the Company shall provide the Authority with information on the sale of each Drug to all Public Healthcare Institutions in that Period no later than 20 Business Days after the last day of that Period, including without limitation, the following information:

## purchase orders issued to the Company by the Public Healthcare Institutions in relation to the supply of a Drug in that Period;

## invoices issued by the Company to the Public Healthcare Institutions in relation to the supply of a Drug in that Period; and

## any other data requested by the Authority that is relevant to the calculation of an amount payable under Clause 4 and can be obtained by the Company.

## For the purposes of Clause 5, “**supporting information**” includes any or all of the following information for any Drug and any PVA Drug:

## drug dispensing data maintained by the Authority or any or all of the Public Healthcare Institutions;

## invoices issued by the Company to the Public Healthcare Institutions in relation to the supply of any Drug or any of the PVA Drugs; and

## any other information relevant to the calculation of any amount payable under Clause 4.1,

## and each supporting information is, subject to Clauses 6.4 and 6.5, final and conclusive.

## The Company may request in writing that the Authority provide the Company with additional data for a Drug that was not provided to the Company under Clause 5, and the Authority shall take reasonable steps to provide that data for that Drug to the Company as it becomes available to the Authority during the Risk Sharing Term only if the Authority:

## the Authority is satisfied that the data requested will be relevant to the calculation of an amount payable under Clause 4; and

## the Authority can legally and practicably obtain, and disclose to the Company, the data for that Drug.

## If the Authority becomes aware that there may be an error in the supporting information provided with an invoice under Clause 5 or that the amount of that invoice does not reflect the calculation of the relevant amount payable in accordance with Clause 4, then it must notify the Company in writing within 30 Business Days of becoming aware of the potential error.

## If the Company believes that an error exists in the supporting information provided with an invoice under Clause 5 or that the amount of that invoice does not reflect the calculation of the relevant amount payable in accordance with Clause 4, then it must notify the Authority in writing and provide details of the error within 30 Business Days of becoming aware of the error.

## Where the Authority issues a notice under Clause 6.4 or receives a notice under Clause 6.5 (“**Error Notice**”), the Authority shall promptly review the supporting information to determine whether there is an error and if so what, if any, impact the error has had on the operation of this Deed. Where the review is not completed within 30 Business Days of the Error Notice, the Authority shall notify the Company that the review is not completed and provide the Company with an estimate of the time it will take for the review to be completed. Once the review is completed, the Authority shall notify the Company of its determination which will be final.

## If as a result of the review the Authority determines that an error exists in the supporting information or that the amount of an invoice under Clause 5 does not reflect the calculation of the relevant amount payable in accordance with Clause 4 and as a result of the error an invoice has been issued under Clause 5 (“**Original Invoice**”) for the incorrect amount, where the Original Invoice has:

## not already been paid by the Company, the Authority shall cancel the Original Invoice and issue a replacement invoice for the correct amount; or

## already been paid by the Company and the error resulted in:

## an overpayment by the Company - the Authority shall (or shall ensure that another person will) refund the amount of the overpayment to the Company within 30 Business Days of the date on which the Authority gives notification of its determination or advise the Company that the Company may set off the amount of the overpayment against the next invoice issued under Clause 5; or

* 1. an underpayment by the Company - the Authority shall (or shall appoint another person to) issue an additional invoice to the Company for the amount of the underpayment.

## If the Authority or another person is required to pay an amount to the Company under Clause 6.7(b)(i) then no interest is payable by the Authority to the Company on the amount to be paid.

## If the Company is required to pay an underpayment under Clause 6.7(b)(ii) then, subject to Clause 7, no interest is payable by the Company to the Authority on the amount to be paid.

## The Company must pay the amount invoiced under Clause 5 to the Authority without any reduction, set-off (subject to Clause 6.7(b)(i)), or counterclaim, within 30 Business Days of the date of the invoice (“**Due Date**”), including any amount invoiced for which the Company has issued an Error Notice, unless the Authority issues a replacement invoice under Clause 6.7(a) prior to the Due Date. The Company must pay the amount set out in any replacement invoice issued under Clause 6.7(a) or additional invoice issued under Clause 6.7(b)(ii) within 30 Business Days of the date of the invoice.

## This Clause 6 shall survive the termination or expiry of this Deed.

# Late payment

## If the Company defaults in the payment when due of any amount payable under this Deed its liability shall be increased to include interest on such amount from the date when such payment is due until the date of actual payment (after as well as before judgment). The interest shall be calculated on a daily basis at a rate per annum of [*interest rate to be determined based on Ministry of Finance policy guidelines*]%. Any interest accruing under this Clause 7.1 shall be immediately payable by the Company on demand by the Authority.

## Any outstanding amount payable by the Company, including interest, which has not been paid by the Company when required to be paid constitutes a debt due to the Authority which is recoverable by it at any time without notice.

## The Authority shall have the right to direct the Company to pay all or any part of any amount (including interest) payable or owing to the Authority by the Company, to any person as the Authority may designate from time to time, and the Company shall comply with such direction.

# TRANSFER AND ASSIGNment

## The Company shall not assign any of its rights or transfer any of its rights or obligations under this Deed except with the prior written consent of the Authority.

1.

## If the Company:

1. is subject to a merger, takeover, re-organisation or any other arrangement which results in it ceasing to supply any Drug in Singapore; or
2. sells or otherwise disposes of its interest in any Drug to another person,

it must:

1. notify the Authority of that event prior to its occurrence; and
2. provide the Authority with enough detail of the event to allow the Authority to determine the action it requires.

## On a notice being given pursuant to Clause 8.2, the Authority may, in its absolute discretion, notify the Company that the Company is to, and the Company must:

1. procure the novation of this Deed to the relevant successor on terms acceptable to the Authority; or
2. procure the relevant successor to enter into a new deed with the Authority on terms acceptable to the Authority.

# CONFIDENTIALITY

## The Company shall continue to comply with the Confidentiality Agreement entered into between the Company and the Authority, relating to, among others, the Authority’s consideration of drugs for inclusion on one or more lists of drugs eligible for subsidy, as may be amended or supplemented from time to time.

## The Company shall not disclose any information relating to the existence or content of this Deed or any part thereof to any person, except with the prior consent in writing of the Authority.

## The Company hereby consents to Permitted Disclosures by the Authority.

## This Clause 9 shall survive the termination or expiry of this Deed.

# continued operation of THIS deed

## During the period commencing 6 months prior to the last day of the Risk Sharing Term (the“**Negotiation Period**”), the Authority and the Company agree to negotiate in good faith the terms of a new deed relating to sharing the costs of Government subsidy and MediShield Life claims for the supply of the Drugs following the end of the Risk Sharing Term.

## If the Authority and the Company are unable to agree the terms of a new deed relating to sharing the costs of Government subsidy and MediShield Life claims for the supply of the Drugs during the Negotiation Period, this Deed will continue to operate following the end of the Risk Sharing Term on the same terms and on the terms that the Expenditure Cap during the continuation of this Deed after the end of the Risk Sharing Term will be fixed at the Expenditure Cap for [insert final Year], until the Authority and the Company enter into a new deed relating to sharing the costs of Government subsidy and MediShield Life claims for the supply of the Drugs or this Deed is terminated in accordance with Clause 11 below.

# termination of This deed

## This Deed will terminate:

1. at the time agreed, upon mutual written agreement of the Parties; or
2. immediately, if all the Drugs:

## cease to be eligible for claims and benefits under the MediShield Life Scheme; and

## cease to be subsidised under the Choose an item. and all other subsidy schemes.

## The Authority shall, after giving seven (7) days prior written notice to the Company, have the right to suspend or terminate the Deed if the Authority is affected by any state of war, acts of God or other circumstances seriously disrupting public safety, peace or good order of the Republic of Singapore.

# REMEDIES

## The rights and remedies of the Authority under this Deed are cumulative and are without prejudice and in addition to any rights or remedies the Authority may have at law or in equity. No exercise by the Authority of any one right or remedy under this Deed, or at law or in equity shall operate so as to hinder or prevent the exercise by it of any other right or remedy under this Deed, at law or in equity.

# VARIATION

## Subject to Clause 13.2 below, no variation of this Deed shall be of any force unless agreed upon in writing and signed by the authorised signatories of both Parties.

## Notwithstanding Clause 13.1, the Authority shall have the right to unilaterally amend, supplement and/or add to the conditions or other provisions set out in this Deed by providing not less than 30 days’ written notice of the revision to the Company.

# WAIVER

## In no event shall any delay, failure or omission on the part of the Authority in enforcing any right, power, privilege, claim or remedy (“**Remedy**”), which is conferred under this Deed or at law or in equity, or arises from any breach by the Company, (a) be deemed to be or be construed as a waiver or variation thereof, or of any other such Remedy, in respect of the particular circumstances in question, or (b) operate so as to bar the enforcement or exercise thereof, or of any other such Remedy in any other instances at any time or times thereafter.

## No waiver by the Authority of any breach of this Deed shall be deemed to be a waiver of any other or of any subsequent breach.

## Any waiver granted by the Authority under this Deed must be in writing and may be given subject to conditions. Such waiver under this Deed shall be effective only in the instance and for the purpose for which it is given.

# entire and whole agreement

## This Deed contains the entire and whole agreement between the Parties relating to the subject matter of this Deed.

# severability

## In the event any provision in this Deed is determined to be illegal, invalid or unenforceable, in whole or in part, such provision or part of it shall, to the extent it is illegal, invalid or unenforceable, be deemed not to form part of this Deed and the legality, validity and enforceability of the remainder of this Deed shall not be affected.

# RIGHTS OF THIRD PARTIES

## A person who is not a Party shall have no right under the Contracts (Rights of Third Parties) Act 2001 to enforce any term of this Deed.

# Governing LAW

## This Deed shall be deemed to be made in Singapore and shall be governed by and construed in accordance with the laws of the Republic of Singapore.

# Dispute Resolution

## In the event of any dispute, claim, question or disagreement arising out of or relating to this Deed or its subject matter or formation (a **“Dispute”**), no Party shall proceed with mediation or any form of dispute resolution unless the Parties have complied with the procedure in this Clause 19.1:

1. the Parties shall negotiate in good faith with a view to resolution of such Dispute;
2. if a Dispute is not settled within thirty (30) days of negotiation, or such longer period as the Parties may agree in writing, the Parties shall refer the Dispute to a senior executive or senior officer of each Party respectively (each, a “**Senior Executive**”) and shall furnish to the Senior Executives the full particulars of the Dispute. Each Senior Executive shall promptly meet with his or her counterparts and shall use his or her best endeavours to settle the Dispute through consultation and negotiation in good faith and in a spirit of mutual cooperation. Any settlement of the Dispute by agreement between the Senior Executives shall be final and binding on the Parties; and
3. if the Dispute is not settled by agreement between the Senior Executives within 30 days after the date of referral of the Dispute to the Senior Executives, or such longer period as the Parties may agree in writing, any Party may proceed to give the other Party a written request for mediation as contemplated in Clauses 19.2 to 19.4.

## In the event of any Dispute and if no agreement is reached under Clause 19.1, no Party shall proceed to any form of dispute resolution unless the Parties have made reasonable efforts to settle the Dispute through mediation in accordance with the mediation procedure of the Singapore Mediation Centre. The Parties shall be deemed to have made reasonable efforts in accordance with this Clause 19.2 if they have gone through at least one mediation session at the Singapore Mediation Centre.

## A Party who receives a written notice for mediation from the other Party shall consent and participate in the mediation process.

## The mediation session is to commence no later than ninety (90) days from the date of the written notice of mediation failing which either Party may proceed to arbitration.

## Failure to comply with Clause 19.2 or 19.3 shall be deemed to be a breach of this Deed.

## In the event of any Dispute and if no agreement is reached under Clause 19.1 or 19.2, the Dispute shall be referred to and finally resolved by arbitration in Singapore in the English language by a sole arbitrator in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (“**SIAC**”) for the time being in force which rules are deemed to be incorporated by reference into this Clause. The seat of the arbitration shall be Singapore. The arbitrator shall be agreed upon between the Parties, or on failure to agree within thirty (30) days of a written proposal by one Party to the other Party, to be appointed by the SIAC acting in accordance with the SIAC Rules. This arbitration agreement shall be governed by and construed in accordance with the laws of the Republic of Singapore.

## This Clause 19 shall survive the termination or expiry of this Deed.

# CORRESPONDENCE

## Subject to Clause 20.2, any notice, request, waiver, consent or approval (“**Notice**”) shall be in writing and shall be deemed to have been duly given or made when it is delivered by hand or by prepaid registered post or fax to the Party as follows:

1. in the case of the Company, the following address:

[Insert Company’s address]; and

1. in the case of the Authority, the following address:

The Ministry of Health,

Agency for Care Effectiveness (ACE)

College of Medicine Building

16 College Road, Singapore 169854.

## Any Notice may be made by the Authority to the Company by electronic mail or other electronic means and shall be deemed to have been duly given or made when it is sent to the Company’s electronic mail address set out as follows:

## [ ]

## Either Party may change its address and (in the case of the Company) electronic mail address referred to above by giving the other Party written notice of the change.

# SURVIVING PROVISIONS

## Any provision of this Deed that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Deed, including Clauses 3.7 to 3.11, 4 (Undertaking to Pay), 5 (Payments), 6 (Supporting Information), 7 (Late Payment), 9 (Confidentiality), 12 (Remedies) to 20 (Correspondence) and this Clause 21, shall survive the termination or expiry of this Deed.

## Termination or expiry of this Deed does not affect:

1. the rights and obligations in Clauses 4 and 5 in relation to the Year in which this Deed is terminated or expires; or
2. any liability which accrues before the date of termination or expiry.

## **This Deed has been executed and delivered on the date stated at the beginning of this Deed.**

**ANNEX A**

**List of Public Healthcare Institutions**

|  |  |
| --- | --- |
| 1 | Alexandra Hospital |
| 2 | Ang Mo Kio – Thye Hua Kwan Hospital |
| 3 | Bright Vision Hospital |
| 4 | Changi General Hospital |
| 5 | Institute of Mental Health/Woodbridge Hospital |
| 6 | Jurong Community Hospital |
| 7 | Khoo Teck Puat Hospital |
| 8 | KK Women’s and Children’s Hospital |
| 9 | National Cancer Centre Singapore |
| 10 | National Centre for Infectious Diseases  |
| 11 | National Dental Centre Singapore |
| 12 | National Heart Centre Singapore |
| 13 | National Healthcare Group Pharmacy |
| 14 | National Healthcare Group Polyclinics |
| 15 | National Neuroscience Institute |
| 16 | National Skin Centre |
| 17 | National University Hospital |
| 18 | National University Polyclinics |
| 19 | Ng Teng Fong General Hospital |
| 20 | Outram Community Hospital |
| 21 | Ren Ci Community Hospital |
| 22 | St. Andrew’s Community Hospital |
| 23 | Singapore General Hospital |
| 24 | Sengkang General Hospital |
| 25 | Sengkang Community Hospital |
| 26 | St Luke’s Hospital |
| 27 | Singapore National Eye Centre |
| 28 | SingHealth Polyclinics |
| 29 | Tan Tock Seng Hospital |
| 30 | Woodlands General Hospital |
| 31 | Yishun Community Hospital |

**ANNEX B** [REDACTED]

For the Authority

EXECUTED AS A DEED

**SIGNED, SEALED AND DELIVERED** )

L.S.

L.S..S.

for and on behalf of )

**THE GOVERNMENT OF** )

**THE REPUBLIC OF SINGAPORE** )

by )

CHAN YENG KIT )

PERMANENT SECRETARY (HEALTH) )

in the presence of: )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness

Name:

Designation:

For **[insert name of drug company]**

**EXECUTED** and **DELIVERED** as a deed

For and on behalf of

[To insert exact legal name of the drug company]

By:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]

Director

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]

Director/Secretary