

Schedule 8

Service Levels

1. The Supplier agrees to conform to the following KPIs during the Term of this Framework Agreement:

<p>On time Deliveries on time subject to a tolerance of +/- thirty (30) minutes (for the avoidance of doubt, deliveries which arrive on time but are not unloaded due to the driver's decision, deliveries which do not arrive and deliveries which arrive at the wrong delivery location shall also be considered late)</p>	98%
<p>Quantity Quantity of delivery correct against the relevant Order (including deliveries in excess and shortfall of the Order quantity)</p>	98%
<p>Quality Quality of delivery in accordance with the Framework Agreement and Contracts (including delivery presentation in accordance with the Framework Agreement and Contracts (the delivery must be presented in such a way that it can be unloaded safely and in a ready for use condition taking into consideration the Framework Agreement and Contract requirements) and damaged Goods (the Goods must be in a condition that is new and ready to use))</p>	95%
<p>Administration Timely and accurate administration (including booking/amending delivery times and Orders and invoices, delivery advice notes and labels being in accordance with the requirements of the Framework Agreement and Contracts)</p>	99%

2. Any KPI discrepancy attributable to an act or omission of NHS Supply Chain (or another Participating Authority) shall not be used to calculate the Supplier's sub-standard performance level.
3. A service level shall be generated for each of the KPIs in relation all Orders placed on the Supplier within each calendar month during the Term of the Framework Agreement and a monthly average service level for each KPI shall be calculated ("**Monthly Service Level**").
4. The Supplier's performance shall be measured:
 - 4.1. in relation to Orders placed pursuant to a Non-direct Route of Supply by NHS Supply Chain; and
 - 4.2. in relation to Orders placed pursuant to a Direct Route of Supply by the Authority and the Supplier.
5. In relation to Orders placed pursuant to a Direct Route of Supply the Supplier shall submit monthly reports to NHS Supply Chain outlining its performance in relation to the KPIs for the preceding month. Such report shall be submitted to NHS Supply Chain not later than the 14th day of the month following the month to which the report relates. NHS Supply Chain may verify the information provided by the Supplier with the Authority and reserves

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the right to amend the Supplier's monthly service level report in accordance with the findings of such verification exercise.

6. Should the Monthly Service Level of the Supplier fall below the relevant KPI:
 - 6.1. on two (2) or more occasions in any six (6) month period in relation to On time and/or Quantity; and
 - 6.2. on three (3) or more occasions in any six (6) month period in relation to Quality and/or Administration,

NHS Supply Chain may serve a performance notice on the Supplier. The Supplier shall present to NHS Supply Chain within thirty (30) days of receipt of such performance notice an action plan to improve the Supplier's Monthly Service Level ("**Action Plan**"). The Parties shall, within ten (10) Business Days of NHS Supply Chain receiving the Action Plan meet to discuss and agree the Action Plan. NHS Supply Chain may make reasonable amendments to the Action Plan to improve the Supplier's performance. The Action Plan must include a timetable for improvement of the Supplier's performance to, as a minimum, the level required by Clause 1 of this Schedule 8 in relation to the relevant KPI. Such timetable shall be agreed by the Parties but shall in any event be no longer than six (6) months.

7. In the event that the Supplier:
 - 7.1. fails to produce an Action Plan in accordance with Clause 6 of this Schedule 8; or
 - 7.2. fails to improve its Monthly Service Level to the minimum level required by Clause 1 of this Schedule 8 within the timetable set out in the Action Plan in accordance with Clause 6 of this Schedule 8,

the Supplier shall be considered to have committed a material breach capable of remedy for the purpose of Clause 16.3 of Schedule 2.

8. Notwithstanding Clauses 6 and 7 of this Schedule 8, where the Monthly Service Level in relation to Quantity, Quality or On time of Goods delivered against the relevant Order(s) falls below the relevant KPI, NHS Supply Chain shall (without prejudice to its rights to claim for any other categories of loss arising from such failure to meet the relevant KPI) be entitled to raise a debit note to the Supplier for a sum equal to the loss NHS Supply Chain has incurred or suffered in relation to lost margin and the cost, if any, of purchasing alternative goods and/or services (and any related administrative costs) as a result of the shortfall in ready to use delivery quantity against the relevant Orders. The Parties agree this is a true and fair assessment of loss suffered through lost margin and the cost of purchasing alternative goods and/or services (and any related administrative costs). Where NHS Supply Chain does not elect to raise a debit note in the manner detailed in this paragraph, then it shall remain entitled to claim damages.
9. If the Supplier disputes NHS Supply Chain's Monthly Service Level as applicable to the Supplier, the Supplier shall provide evidence to NHS Supply Chain that the Monthly Service Level is incorrect within seven (7) days of disputing such Monthly Service Level and the Parties shall meet to discuss any necessary amendment to the Monthly Service Level. If the Parties cannot agree the Monthly Service Level the matter shall be referred to the dispute resolution procedure set out in Clause 23 of Schedule 2.

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10. For the avoidance of doubt, nothing in this Schedule 8 shall limit in any way either Party's rights and remedies, including the right to claim damages and or termination rights which may arise, under this Framework Agreement or any Contract.

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