Agenda Item No: 10.K

STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** July 1, 2021

Staff Contact: Carol Akers, Purchasing & Contracts Administrator and Nicki Aaker, Health & Human Services Director

Agenda Title: For Possible Action: Discussion and possible action regarding authorization to purchase vaccines utilizing the Minnesota Multistate Contract Alliance for Pharmacy ("MMCAP") joinder contract with GlaxoSmithKline ("GSK") for a not to exceed amount of $102,100 through June 30, 2022. (Carol Akers, CAkers@carson.org and Nicki Aaker, naaker@carson.org)

Staff Summary: The Carson City Health and Human Services Department utilizes MMCAP Contract # MMS17016 to purchase vaccinations and immunization supplies from Sanofi for vaccination through Clinical Services and Public Health Preparedness Community Vaccination efforts. This will be funded from the Health and Human Services Private Vaccine and Community Vaccine & Outreach revenue accounts through June 30, 2022.

Agenda Action: Formal Action / Motion **Time Requested:** Consent

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Proposed Motion
I move to approve the purchase authority as requested.

Board's Strategic Goal
Efficient Government

Previous Action
None

Background/Issues & Analysis
This is an annual request. The purchase amount exceeds $50,000 and therefore requires Board of Supervisors approval pursuant to City policy.

Contract being utilized: (Joinder) MMCAP Contract# MMS17016 (expires 12/31/22).

Applicable Statute, Code, Policy, Rule or Regulation
NRS 332.115 and 332.195

Financial Information
Is there a fiscal impact? Yes

If yes, account name/number: Grant Fund, Operating Supplies - 2756800-501225 Private Vaccine Program - G680020004|G-SUPPLIES|

Grant Fund, Operating Supplies - 2756800-501225 Community Vaccine & Outreach Program - G680020027|G-SUPPLIES|

Is it currently budgeted? Yes

Explanation of Fiscal Impact: Funding is provided by the Private Vaccine and Community Vaccine & Outreach program income accounts which is revenue from patients and insurance reimbursements. If approved the account will be reduced by $102,100. The available budget for FY 22 is $739,035, see Vaccines Funding Worksheet attached.

Alternatives
Do not approve purchases and provide alternative direction to staff.

Attachments:
10 k scan.pdf

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____
		_____

_____
(Vote Recorded By)

		Joinder Contract Amounts	Current Available Funding
Program Revenue - Health Restricted Funds			
G680020004 G-SUPPLIES	Private Vaccine	$ 168,000	$ 262,990
G680020027 G-SUPPLIES	Community Vaccine &	$ 70,375	$ 476,045
TOTAL		**$ 238,375**	**$ 739,035**

FY22 EXPENDITURES BY VENDOR	
GlaxoSmithKline	$ 102,100
Merck	$ 65,000
Sanofi Pasteur Inc.	$ 71,275
TOTAL	**$ 238,375**

Revenue Account Fund Availability	
2756080-445970 - Private Vaccine Revenue	
FY21 Budget (carry forward)	$ 151,437
FY21 YTD expenses	($ 163,423)
FY21 encumbrances	($ 36,139)
FY21 YTD revenue	$ 161,115
FY22 est revenue	$ 150,000
Total	**$ 262,990**

2756080-465166 - Comm Vaccine & Oureach Rev	
FY21 Budget (carry forward)	$ 463,711
FY21 YTD expenses	($ 146,710)
FY21 encumbrances	($ 57,924)
FY21 YTD revenue	$ 116,968
FY22 est revenue	$ 100,000
Total	**$ 476,045**

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MMCAP

Minnesota Multistate Contracting Alliance for Pharmacy
Minnesota Department of Administration
50 Sherburne Avenue, Suite 112 Administration Building, St. Paul, MN 55155

Attention Confidentiality Protections in this Contract:

Re: GlaxoSmithKline MMS17016

The following contract contains language that protects the terms and pricing found in this contract. Please review Article 6.3 to ensure your compliance.

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

2.1.2 Substitutions. Vendor must not substitute any product contained in the contract without an amendment to this agreement and agreement from the MMCAP Participating Facilities.

2.2 Product Availability

2.2.1 It is the responsibility of the Vendor to maintain sufficient inventory levels for all Products to meet the needs of the MMCAP Participating Facilities.

2.2.2 Vendor will post supply updates for vaccines products on the GSK vaccine-direct website.

2.2.3 If the Vendor assigns, discontinues, or deletes a Product during the term of this Contract, Vendor must use reasonable commercial efforts to give prior notice of the assignment, discontinuance, or deletion of such product(s) based on the circumstances therein, and where possible should provide written notice to MMCAP at least 30 days' prior to the assignment, discontinuance, or deletion. If the Vendor discontinues or deletes a Product during the term of this Contract, Vendor will honor contract pricing until the inventory of the Product is depleted.

2.2.4 Prebooking, Order Minimums, Delivery, and Payment Terms.

2.2.4.1 Prebooking. MMCAP Participating Facilities purchasing vaccine listed in Table 1 at the contracted price must place prebook orders directly from Vendor through www.gskvaccinesdirect.com (the "GSK Direct Website").

2.2.4.2 Order Minimums. See Exhibit A. Vendor at its discretion can accept or refuse any order.

2.2.4.3 Order Confirmation. MMCAP Participating Facilities may modify or cancel any pre-booked order(s) any time prior to shipment subject to availability. Vendor will send an email confirmation to each MMCAP Participating Facility once their order(s) have been processed and respective prebook doses are available.

2.2.4.4 Delivery. See the attached Exhibit A, which is attached and incorporated, for details.

2.2.4.5 Claims. The MMCAP Participating Facility must immediately report to Vendor any in-transit loss or shortage of Vendor products. The MMCAP Participating Facility must report all claims within 14 days of the receiving date. Proper documentation must accompany all claims. If appropriate, Vendor will issue credit to the MMCAP Participating Facility for the claim. Vendor reserves the right to change this policy.

2.2.4.6 Purchase Orders.

MMCAP Members may use their own forms for Purchase Orders. To the extent that the terms of any form conflict with the terms of this Contract, the terms of this Contract supersede. Each MMCAP Member will be responsible for payment of goods and services provided by Vendor; and the MMCAP Office will have no liability for any unpaid invoice of any MMCAP Facility. Vendor agrees to invoice the MMCAP Member for all products shipped or services provided. Vendor will accept Electronic Funds Transfer (EFT) for payment. At time of new account set up, the MMCAP Member will initiate this process with its bank.

2.2.4.6 a. Funds available and authorized/non-appropriation.

By submitting a Purchase Order the MMCAP Member represents it has sufficient funds currently available and authorized for expenditure to finance the costs of the Purchase Order.

2.2.4.6 b. Termination of Individual Purchase Orders.

MMCAP Members may terminate individual Purchase Orders, in whole or in part, immediately upon notice to Vendor, or at such later date as the MMCAP Member may establish in such notice, upon the occurrence of any of the following events:

(i) The MMCAP Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the goods to be purchased under the Purchase Order;

(ii) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under the Purchase Order is prohibited or the MMCAP Member is prohibited from paying for such goods from the planned funding source; or

(iii) Vendor commits any material breach of this Contract or a Purchase Order.

Upon receipt of written notice of termination, Vendor will stop performance under the Purchase Order as directed by the MMCAP Member.

(iv) Termination of a standing Purchase Order does not extinguish or prejudice the MMCAP Member's right to enforce such Purchase Order with respect to Vendor's breach of any warranty or any defect in or default of Vendor's performance under such Purchase Order that has not been cured, including any right of the MMCAP Member to indemnification by Vendor or enforcement of a warranty. If a standing Purchase Order is terminated, the MMCAP Member must pay Vendor in accordance with the terms of this Contract for goods delivered and accepted by the MMCAP Member.

2.2.4.6 c. Jurisdiction and Venue of Purchase Orders.

Upon completion of the Dispute Resolution process outlined in this Contract, and solely with the prior written consent of MMCAP and the State of Minnesota Attorney General's Office, the MMCAP Member may bring a claim, action, suit

or proceeding against Vendor. The MMCAP Member's request to MMCAP to bring the claim, action, suit, or proceeding must state the initiating party's desired jurisdiction, venue and governing law.

Upon completion of the Dispute Resolution process outlined in this Contract, the Vendor may bring a claim, action, suit or proceeding against MMCAP Member, in Vendor's sole discretion.

As it applies to purchases made by a MMCAP Member, nothing in the Contract will be construed to deprive the MMCAP Member of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions or limitations of liability applying to this Contract or afforded by the MMCAP Member's law.

2.2.4.7 Payment. MMCAP Participating Facilities must pay for all orders using cash, check, or EFT payments, with payment to be received by Vendor no later than 30 days for cash payments or EFT payments from the date of the invoice. Unauthorized deductions are not permitted and may result in delayed shipments. Payment must be sent to the following address:

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

If Vendor does not receive payment within 30 days from the date of invoice, Vendor may elect to withhold shipment of Vendor products. For further information on EFT, contact GSK Customer Financial Services at 866-334-7111.

2.3 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 on file and accepts the liability with which such application confers. The Vendor guarantees to furnish no Product under this Contract that is 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.

2.4 Pricing. For Vendor Influenza vaccines, the contract prices to be offered to MMCAP Eligible Members will be those set forth in Table 1. Such prices shall remain fixed, Vendor may adjust such prices once each year via amendment. Notice of any change in Contract Price for any Vendor Product will be sent to MMCAP thirty (30) days prior to the effective date of the price change. Price decreases will be accepted at any time and will be applied to any products under contract for that applicable influenza season. 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.

2.5 Failure to Supply Contracted Product.

2.5.1 If Vendor fails to maintain sufficient inventory to meet the anticipated needs of MMCAP Participating Facilities for any Products, the ordering MMCAP Participating Facility may purchase an alternate equivalent product on the open market for the period in which the Vendor is unable to provide the Product.

2.5.2 If Vendor cannot supply in sufficient quantities, MMCAP may at its discretion add an additional vendor(s) as needed to meet the needs of its members.

2.6 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 an MMCAP Authorized Representative.

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).

2.7 Amendments. All Amendments to this contract must be in writing and will not be effective until fully agreed to and executed by both parties. Amendments will be processed as needed and for subsequent influenza seasons. All amendments must clearly identify, by section, what is being amended.

2.8 MMCAP Participating Facilities.

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

City/County/State hospitals.
City/County/State clinics.
City/County/State non-health related offices; City Jails, Detention Centers, Fire Departments, etc.
County or State Correctional facilities.
City/County/State residential school, college/university without a hospital.

2.8.1 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.

i) Must dispense to Participating Member's patients only;
ii) Must have physician dispensing unit;
iii) Must have dispensations limited to prescriptions by physicians employed by or on the professional staff of the Participating Member;
iv) Must report all discounts received pursuant to this Agreement as may be required under 42 CFR § 1001.952 (h); and
v) Participating Members certify on GSK's MMCAP Declaration Form (Exhibit 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 section, 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).

2.8.2 Participating Membership Changes. MMCAP and Vendor must mutually agree upon which of MMCAP's current Participating Facilities identified on MMCAP's Membership List (password protected and published online at www.mmcap.org) are eligible for pricing and terms of this Contract. New eligible MMCAP Participating Facilities will only become eligible for the Contract Prices under this Contract upon the mutual agreement of MMCAP and Vendor. In order to add members to this Contract, MMCAP must notify Vendor in writing or electronically, of its request to add members to this Contract which notice must include the name, HIN numbers, name of department, telephone number of department and address of the institution. Vendor will notify MMCAP within 30 days of its receipt of the request whether it agrees to extend the terms of this Contract to such proposed members and the effective date of such addition.

2.9 Administrative Fee. In consideration for the reports and services provided by MMCAP, the Vendor will pay an administrative fee on all contract purchases of products (minus any credits). The Vendor will submit a check payable to "State of Minnesota, MMCAP Program" 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. The check will be remitted to the following address:

MMCAP-State of Minnesota
Attn: Administrative Fee Coordinator
50 Sherburne Ave, Suite 309
St. Paul, MN 55155

With the first payment, Vendor must submit an Administrative Fee Data Report. A detailed data file in Microsoft Excel format will be provided upon request. All required Administrative Fee Data Reports must be sent to: Mn.MMCAP@state.mn.us Failure to comply with this provision may constitute breach of this Contract.

2.10 Reports.

2.10.1 Prebooking Reports. Vendor must supply MMCAP with automatic monthly updates during prebooking and delivery. The report will be sent on the 15th of each month during the influenza prebooking and delivery season, if the 15th falls on a weekend/holiday the report is due the next business day. The monthly reports must include the following data and be sorted by state, city and customer name (in that order):

Customer Name
Customer Number
Order Number
Bill to Address
Bill to City
Bill to State
NDC
Product Name
Pack Size
Contract Price
Quantity Ordered (in packs)
Quantity Shipped
Extended Price (Quantity * Price)
Ship Date
Tracking Number

Vendor will be provided a template of the expected report upon request.

2.10.2 Final Sales Report. Vendor must supply to the MMCAP Office an accurate final sales report of the applicable influenza season within 30 days of Vendor's final shipment. Vendor must submit to MMCAP a final sales report to **Mn.MMCAP@state.mn.us**. This data MUST include the following for every transaction between Vendor and the MMCAP Participating Facility:

Required Data Field Full Name
MMCAP-assigned facility ID
MMCAP Facility Name
Blank Field
Vendor-assigned Account number for the MMCAP Facility
Invoice Number
Invoice Line Number
Purchase Order Number
Invoice date (mmddccyy)
Buyer name or equivalent of buyer ID for person submitting the invoices
Vendor's (distributor) SKU item number
NDC of purchased product in 5-4-2 format as stored in First DataBank, Inc.
Label Name
Unit Dose
Pack Size
Unit
Case Size
Dose
Strength
Route
Unit Price (99999.9999)
Quantity ordered (not Vendor repackaged or re-bundled quantity)(999999.9999)
Quantity shipped (not Vendor repackaged or re-bundled quantity) (999999.9999)
Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999999.999)
Blank Field
Bill to Address 1
Bill to City
Bill to State (2 alpha postal code)
Bill to Zip (standard 5-4 format, no dash necessary)
Ship to Address 1
Ship to City
Ship to State (2 alpha postal code)
Ship to Zip (standard 5-4 format, no dash necessary)
Service Fee (9999.9999)
MMCAP Contract Number (MMSxxxxx)
Blank Field
Credit Indicator (C for credit)

Blank Field
Manufacture Name (MFG Name)
Blank Field
Blank Field

Balance of Page Intentionally Left Blank

Monthly Usage Report - Fixed Length Fields

Required Data Field Full Name	Field Name	Data Type	Format (note decimals are to be included)	Size	Nulls	Begin Column	End Column
MMCAP-assigned facility ID	MMCAP_Id	Alpha Numeric		7	1	1	7
MMCAP Facility Name	MMCAP_Name	Alpha Numeric		30	1	8	37
Blank Field	DistributionCenter	Alpha Numeric		3	1	38	40
Vendor-assigned Account number for the MMCAP Facility	VendAccountNo	Alpha Numeric		10	1	41	50
Invoice Number	InvoiceNumber	Alpha Numeric		15	1	51	65
Invoice Line Number	InvoiceLineNo	Alpha Numeric		4	1	66	69
Purchase Order Number	poNumber	Alpha Numeric		15	1	70	84
Invoice date (mmddccyy)	InvoiceDate	numeric	mmddccyy	8	1	85	92
Buyer name or equivalent of buyer ID for person submitting the invoices	BuyerName	Alpha Numeric		20	1	93	112
Vendor's (distributor) SKU item number	SKU	Alpha Numeric		13	1	113	125
NDC of purchased product in 5-4-2 format as stored in First DataBank, Inc.	NDC	Alpha Numeric	999999999	11	1	126	136
Label Name	LabelName	Alpha Numeric		40	1	137	176
Unit Dose	UD	numeric	9	1	1	177	177
Pack Size	Pack_Size	numeric	99999.999	9	1	178	186
Unit	Unit	Alpha Numeric		2	1	187	188
Case Size	Case_Size	numeric	9999	4	1	189	192
Dose	D	Alpha Numeric		10	1	193	202
Strength	STR	Alpha Numeric		10	1	203	212
Route	RT	Alpha Numeric		10	1	213	222
Unit Price (99999.9999)	UnitPrice	numeric	99999.9999	10	1	223	232
Quantity ordered (not Vendor repackaged or re-bundled quantity)(999999.9999)	QuantityOrdered	numeric	999999.9999	11	1	233	243
Quantity shipped (not Vendor repackaged or re-bundled quantity) (999999.9999)	QuantityShipped	numeric	999999.9999	11	1	244	254
Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999999.999)	ExtendedPrice	numeric	99999999.999	13	1	255	267
Blank Field	SaleType	Alpha Numeric		1	1	268	268
Bill to Address 1	billtoaddress1	Alpha Numeric		30	1	269	298
Bill to City	billtocity	Alpha Numeric		20	1	299	318
Bill to State (2 alpha postal code)	billtostate	Alpha Numeric		2	1	319	320
Bill to Zip (standard 5-4 format, no dash necessary)	billtozip	Alpha Numeric		9	1	321	329
Ship to Address 1	shiptoaddress1	Alpha Numeric		30	1	330	359
Ship to City	shiptocity	Alpha Numeric		20	1	360	379
Ship to State (2 alpha postal code)	shiptostate	Alpha Numeric		2	1	380	381
Ship to Zip (standard 5-4 format, no dash necessary)	shiptozip	Alpha Numeric		9	1	382	390
Service Fee (9999.9999)	ServiceFee	numeric	9999.9999	9	1	391	399
MMCAP Contract Number (MMSxxxxx)	contractnumber	Alpha Numeric		10	1	400	409
Blank Field	AdminFee	numeric	9999.9999	9	1	410	418
Credit Indicator (C for credit)	CreditIndicator	Alpha Numeric		1	1	419	419
Blank Field				4	0	420	423
Manufacture Name (MFG Name)	MfgName	Alpha Numeric		40	1	424	463
Blank Field		Alpha Numeric		4	1	464	467
Blank Field		Alpha Numeric		1	1	468	468

2.10.3 In the event the Vendor is delinquent in any undisputed administrative fees, MMCAP reserves the right to cancel this Contract and to reject any proposal submitted by the Vendor in any subsequent solicitations for pharmaceutical and related products.

2.10.4 ASF Warranty and Representation. MMCAP represents and warrants that it (a) meets the definition of a group purchasing organization as set forth in 42 C.F.R. Section 1001.952 (j)(2) and (b) has a written Agreement with each Participating Member which states that MMCAP's participating vendors will pay a fee to MMCAP of three percent (3%) or less of the purchase price of the goods provided by participating vendors or otherwise complies with 42 C.F.R. Section 1001.952(j)(l). MMCAP agrees that it will disclose in writing to each Participating Member at least annually, and to the Secretary of Health and Human Services, U.S. Department of Health and Human Services, upon request, the amount it receives from Vendor with respect to purchases made by or on behalf of the Participating Member.

2.11 Returned Goods/Credits. See the attached Exhibit A for details.

2.12 Value-Added Programs. MMCAP Participating Facilities must be offered any programs normally offered to the Vendor's Cities/Counties/States customer base (e.g., continuing education courses, marketing information, etc.) at the same or lower cost as that offered to the general customer base.

2.13 DEA Number and HIN Numbers. Vendor may not require that an MMCAP Participating Facility have a Drug Enforcement Administration number assigned to it in order to be eligible for contracted prices. The Vendor may require a Health Industry Number from MMCAP Participating Facilities.

2.14 Own Use. All items acquired by MMCAP Participating Facilities under this Contract are purchased for consumption in traditional governmental functions and not for the purpose of competing against private enterprise. For purposes of this section, 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).

2.15 Product Dating. All Products supplied directly to MMCAP Participating Facilities must have an expiration date of at least six months later than the delivery date unless the unique stability characteristics of the product require a shorter dating period. However, all Products supplied must still be usable on the date received by the MMCAP Participating Facility.

2.16 Direct Marketing, Advertising, and Offers with Member Facilities. Any direct advertising, marketing, or direct offers with MMCAP Participating Facilities for on- or off- contract products must be approved by MMCAP. Violation of this Article may be cause for immediate cancellation of this Contract and/or MMCAP may reject any proposal submitted by the Vendor in any subsequent solicitations for pharmaceutical and related products.

2.17 Storage and Handling Requirements. Vendor expects that MMCAP Participating Facilities will take such precautions as are necessary to prevent the Vendor Products MMCAP Participating Facilities 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.

MMCAP Participating Facilities must maintain all federal, state and local licensure or registration necessary for the lawful handling and use of all Vaccines and must immediately notify Vendor of any denial, revocation or suspension of any such licensure or registration or any changes in the Vaccines which MMCAP Participating Facilities are authorized to handle and use.

MMCAP Participating Facilities must handle and store Vendor 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. MMCAP Participating Facilities shall comply with Vendor criteria on storing and shipping Vendor products that require special handling. MMCAP Participating Facilities shall allow physical inspection of storage facility at any time Vendor requests.

2.18 Business Reviews. An annual business review with the Vendor and MMCAP managing director or designee at the MMCAP office or a mutually agreed upon location is required.

2.19 Member-required Participation Agreement (MPA). In order to access this Contract some members require jurisdiction-specific additional paperwork or contract language. Vendor must not sign any member documents without prior MMCAP review and approval. If needed, MMCAP will issue a Member-requested Participation Agreement (MPA) that will be amended into to this Contract. No other mechanism of modifying or "attaching to" MMCAP contracts is authorized. The MPA, which will only apply to the requesting Member and must be signed

in the following order: Member, Vendor, then MMCAP. 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 Member. In the event a Member requires a fee be added to the Contract price (e.g., member levied procurement fee or system use fee), that fee must be added on top of the MMCAP-contracted pricing. Vendor may not absorb the fee. Vendor must not pay a member levied fee without first collecting the fee through increased product costs. The fees will be set aside and paid to the member as would be detailed in an MPA.
This Contract cannot be used as a vehicle by which the Vendor and MMCAP member enter in to their own stand-alone agreement..

3 Authorized Representatives. MMCAP's Authorized Representative is the MMCAP Managing Director, Materials Management Division, Department of Administration, 50 Sherburne Avenue, St. Paul, MN 55155. The Vendor's Authorized Representative is Babatunde Adedeji – Contract Development Manager – 5 Crescent Drive, Philadelphia PA 19112.

4 Assignment, Amendments, Waiver, and Contract Complete
4.1 *Assignment.*
The right and/or obligations of 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; such consent will not be unreasonably withheld.
4.2 *Amendments.* Any amendment to this Contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Contract, or their successors in office. Vendor agrees to use the amendment process set forth in Article 2.7 above.
4.3 *Waiver.* If MMCAP or Vendor fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.
4.4 *Contract Complete.* This Contract contains all negotiations and agreements between MMCAP and the Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

5 Indemnification.
5.1 Failure to Manufacture in Compliance with cGMP. Vendor hereby agrees to indemnify and hold MMCAP and its Participating Facilities harmless from and against any and all liability, losses, damages, claims or causes of action, and expenses connected therewith, including reasonable attorneys' fees, caused solely by or as a direct result of Vendor's failure to manufacture such products in compliance with FDA current Good Manufacturing Practices ("cGMP"), provided that purchaser provides notice and cooperation as set forth below.
5.2 *Infringement.* Vendor agrees that it will indemnify and MMCAP and its Participating Facilities harmless from and against any and all liabilities, demands, claims, actions, or causes of action, assessments, judgments, losses, costs, damages or expenses, including but not limited to reasonable attorneys' fees, which may hereafter be asserted against or incurred by MMCAP and its Participating Facilities, employees, agents' representatives, successors and assigns for the infringement by Vendor of any patent, copyright, trademark or service mark.
5.3 *Notice*, Cooperation and Conduct of Litigation. MMCAP and its Participating Facilities must promptly notify Vendor of any claim asserted against it for which indemnification is sought, and shall promptly deliver to Vendor 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. Vendor 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 Vendor with all available information concerning the claim.
5.4 Limitation of Damages. In no event will Vendor be liable for loss of profit or use, incidental or consequential damages in any claim asserted by MMCAP eligible members under this Agreement.

6 Audits

6.1 MMCAP Audits Rights. Minnesota Statutes Section 16C.05, subdivision 5, requires that the books, records, documents, and accounting procedures and practices of the vendor relevant to this Contract are subject to examination by MMCAP and either the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Contract. This clause extends to MMCAP Member Facilities as it relates to business conducted with and sales to the Member Facility.

6.2 GSK Audit/Records Rights.

6.2.1 GSK Audit Rights. During the Term of this Agreement and for two (2) years thereafter, Vendor has the right to or the right to engage an independent firm to audit MMCAP and its Participating Members to verify their performance and compliance with their obligations under the Agreement. Vendor or such independent auditing firm will be authorized to have complete and unrestricted access to any and all information including all systems and processes reasonably necessary to perform procedures pursuant to this section of the Agreement, including the right upon reasonable prior written notice to MMCAP, to audit, or to engage an independent firm to audit, all Documentation at MMCAP business locations during normal working hours. MMCAP and its Participating Members have the right to specify certain confidential or proprietary information that should not be disclosed to GSK; provided, however, that information must 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 section of the Agreement. Any and all information required will be requested by Vendor and/or the independent auditing firm from MMCAP and its Participating Members, and MMCAP and its Participating 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 Vendor and MMCAP and its Participating Members.

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

6.3 Confidential Information. During the term of this Contract and for a period of three (3) years following the date of expiration or termination of this Contract, MMCAP 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 Representative. Vendor will acknowledge receipt of the notification within five business days or MMCAP will be free to release the information. Upon notification to MMCAP, 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 may release the following information:

a. Contract Release and contract documents to MMCAP Members and Participating Facilities;
b. Contract pricing to other third parties under non-disclosure agreement or contract with MMCAP to perform specific tasks such as auditing and data analysis; and
c. Member State Attorneys General or auditors requiring contract or pricing data to perform their duties.

7 Government Data Practices

The Vendor and MMCAP must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by MMCAP under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minnesota Statutes Chapter 13, by either the Vendor or MMCAP.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify MMCAP, and consult with MMCAP as to how the Vendor should respond to the request. The Vendor's response to the request will comply with applicable law.

The Vendor agrees to indemnify, save, and hold the State of 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 Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision of the Contract. In the event that the Vendor subcontracts any or all of the work to be performed under the Contract, the Vendor shall retain responsibility under the terms of this paragraph for such work.

8 Publicity and Endorsement

8.1 Publicity. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. 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 Contract.

8.2 Endorsement. The Vendor must not claim that MMCAP endorses its products or services.

9 Governing Law, Jurisdiction, and Venue. Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota. Except to the extent that the provisions of this Contract are clearly inconsistent therewith, this Contract will be governed by the Uniform Commercial Code (UCC) as adopted by the State of Minnesota. To the extent this Contract entails delivery or performance of services, such services will be deemed "goods" within the meaning of the UCC except when to do so is unreasonable.

10 Antitrust. The Vendor hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with this Contract resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

11 Force Majeure. The obligation of either party to perform under this Agreement will be excused during each period of delay caused by acts of God and other extraordinary events ("Force Majeure Event"), such as war, riot, insurrection, civil commotion, sabotage, strike or other labor disturbances, fire, flood, earthquake, accidents, explosions that damage plants or facilities. Shortages of power or materials, acts or orders of governmental authorities, or any other cause reasonably unavoidable, unforeseeable, and beyond the control of the affected party. In the event that either party ceases to perform its obligations under this Agreement due to the occurrences of a Force Majeure Event and its expected duration is thirty (30) days or less, the non-performing party shall take all reasonable steps to recommence performance of its obligations under this Agreement as soon as possible. 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.

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

13 Default and Remedies. Either of the following constitutes cause to declare the Contract or any order under this Contract in default:

(a) Nonperformance of contractual requirements, or

(b) A material breach of any term or condition of this Contract.

Written notice of default, and a reasonable opportunity to cure, must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages.

If the default remains after the opportunity for cure, the nondefaulting party may:

(a) Exercise any remedy provided by law or equity; or

(b) Terminate the Contract or any portion thereof, including any orders issued against the Contract.

14 Certifications.

14.1 cGMP Vendor certifies that it is in compliance with the Food and Drug Administration's current "Good Manufacturing Practices" (cGMP) (as codified in 21 C.F.R. § 201-211) and the current United States Food, Drug, and Cosmetic Act.

14.2 Debarment and Suspension Certification 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 MMCAP Member Facility; and has not been convicted of a criminal offense related to the subject of this Contract. Vendor further warrants that it will provide immediate written notice to the MMCAP Authorized Representative if this certification changes at any time.

15 Data Disclosure. In the event MMCAP obtains the Vendor's Federal Tax Identification Number, the Vendor consents to disclosure of its federal employer tax identification number to federal and State of Minnesota agencies and personnel involved in the payment of State of Minnesota obligations. These identification numbers may be used in the enforcement of federal and State of Minnesota laws that could result in action requiring the Vendor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

16 Insurance Requirements. Vendor must maintain the following insurance (or a comparable program of self-insurance) in force and effect throughout the term of the Contract.

A. Vendor is required to maintain and furnish satisfactory evidence of the following insurance policies (or of their program of self-insurance):

Commercial General Liability Insurance: Vendor will 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 Contract whether the operations are by the Vendor or by a subcontractor or by anyone directly or indirectly employed by the Vendor under the Contract.

Insurance **minimum** limits are as follows:
$5,000,000 – per occurrence
$5,000,000 – annual aggregate
$5,000,000 – annual aggregate – Products/Completed Operations

The following coverages must be included:
Premises and Operations Bodily Injury and Property Damage
Personal and Advertising Injury
Blanket Contractual Liability
Products and Completed Operations Liability
MMCAP named as an Additional Insured

B. **Additional Insurance Conditions:**

- Vendor's policy(ies) must be primary insurance to any other valid and collectible insurance available to MMCAP with respect to any claim arising out of Vendor's performance under this Contract;
- If Vendor receives a cancellation notice from an insurance carrier affording coverage herein, Vendor will notify MMCAP within 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 30 days' advance written notice to MMCAP;
- Vendor is responsible for payment of Contract related insurance premiums and deductibles;
- If Vendor is self-insured, a Certificate of Self-Insurance must be attached;
- Vendor's policy(ies) will include legal defense fees in addition to its liability policy limits, with the exception of B.4 above;

- Vendor will obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and
- 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 Contract.

C. MMCAP reserves the right to immediately terminate the Contract 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, and copies of policies must be submitted to MMCAP's authorized representative upon written request. Policies will be made available subject to MMCAP executing a confidentiality agreement satisfactory to Vendor.

17 Laws and Regulations

17.1 Any and all services, articles or equipment offered and furnished shall comply fully with all State and federal laws and regulations, including Minnesota Statutes Section 181.59 and Minnesota Statutes Chapter 363A prohibiting discrimination and business registration requirements of the Minnesota Secretary of State's Office.
17.2 Vendor is in compliance with all currently applicable sections of the Drug Quality and Security Act Title II.

18 Human Rights/Affirmative Action requirements for contracts in excess of $100,000 and if Vendor has more than 40 full-time employees in Minnesota or its principal place of business. The State of Minnesota intends to carry out its responsibility for requiring affirmative action by its vendors.
18.1 Covered contracts and Vendors. If the Contract exceeds $100,000 and Vendor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then Vendor must comply with the requirements of Minnesota Statutes Section 363A.36 and Minnesota Rules 5000.3400-5000.3600. If Vendor is covered by Minnesota Statutes Section 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, it must certify that it is in compliance with federal affirmative action requirements.
18.2 Minnesota Statutes Section 363A.36. Minnesota Statutes Section 363A.36 requires Vendor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.
18.3 Minnesota Rules 5000.3400-5000.3600.
(a) General. Minnesota Rules 5000.3400-5000.3600 implements Minnesota Statutes Section 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 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 Minnesota Rules 5000.3400-5000.3600 including, but not limited to, Minnesota Rules 5000.3420-5000.3500 and 5000.3552-5000.3559.
(b) Disabled Workers. Vendor must comply with the following affirmative action requirements for disabled workers.

(1) 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. 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.
(2) 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.
(3) In the event of Vendor's noncompliance with the requirements of this article, actions for noncompliance may be taken in accordance with Minnesota Statutes Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(4) 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 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.

(5) Vendor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that Vendor is bound by the terms of Minnesota Statutes Section 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.

(c) Consequences. The consequences for 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 Contract by the Commissioner or the State of Minnesota.

(d) Certification. Vendor hereby certifies that it is in compliance with the requirements of Minnesota Statute Section 363A.36 and Minnesota Rules 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

19 Certification of Nondiscrimination (In accordance with Minn. Stat. § 16C.053)

The following term applies to any contract for which the value, including all amendments, 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 article, "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.

20 Best Price. If GSK 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 establishment of a Best Price Impact and to eliminate and correct such effect.

21 Regulatory Reporting Requirements.

21.1 Compliance with Anti-Kickback Provisions. MMCAP and Eligible 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 or such Eligible 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 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.

21.2 Group Purchasing Organization. MMCAP represents and warrants that it is a "Group Purchasing Organization" as defined in 42 C.F.R. § 1001.952(j) and agrees that it shall comply with the conditions set forth therein to ensure that any payment of administrative or other fees by GSK to MMCAP qualifies within the MMCAP safe harbor for purposes of 42 U.S.C. § 1320a-7b.

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

21.4 Compliance with State Laws. MMCAP will 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 Minnesota Statutes Secion 62J.23

The terms of this Agreement apply only to those eligible Members located in the Continental United States, Alaska and Hawaii provided that the terms of this Agreement do not apply to Products dispensed in any state if the state (or state agency) has in force or enacts, implements or modifies a law, rule or regulation (such as a state unitary pricing, anti-discount or pricing, rebate or other law intended to impact the pricing, discounts or reimbursement of prescription drugs or penalize GSK for such pricing, discounts or reimbursement) or interpretation thereof and which law (1) prohibits or restricts in any material way the pricing, discounts and/or rebates described in this Agreement, (2) requires GSK to provide the same or similar pricing, discounts and/or rebates to other parties, including purchasers, users or otherwise of GSK's Products, to which GSK would not normally provide such pricing, discounts and/or rebates, or (3) otherwise results in a potentially adverse impact on GSK. In such case, GSK shall provide reasonable notice of its intent to exercise its rights under this clause, it being understood that the failure to give such notice does not waive any rights under this clause.

22 Anti-Bribery and Corruption. Vendor is committed to the highest ethical standards and requires that all Vendor employees and third parties acting for or on behalf of Vendor conduct their activities in compliance with all anti-corruption laws and regulations. MMCAP and Vendor agree that MMCAP is not a third party acting for or on behalf of Vendor. Notwithstanding the foregoing, MMCAP agrees that nothing in this Contract requires that MMCAP 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 Vendor in obtaining or retaining business.

23 Cancellation. MMCAP or the Vendor may cancel this Contract at any time, with or without cause, upon 30 days' written notice to the other party. In the event of such a cancellation, the Vendor will be entitled to payment, determined in a pro rata basis, for work or services satisfactorily performed or Products supplied through the Contract cancellation date.

1. **GlaxoSmithKline LLC**
The Vendor certifies that the appropriate person(s) have executed this Agreement on behalf of the Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____
Title: VP National Accounts
Date: 12/8/17

By: _____
Title: _____
Date: _____

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

By: _____
Title: SPA-C
Date: 12/8/2017

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

By: Sara Turnbow, PharmD, BCPS
Title: Pharmacist Sr.
Date: 12-8-17

Exhibit A
2018-2019 Influenza Program

NDC No.	Product Description	Contract Price[1, 2]	Minimum Order Requirement
19515-0900-11	FLULAVAL QUADRIVALENT 5ML Multi-Dose Vials (MDV) 10s (≥6 months of age)	$145.69	100 Doses = 10 packs of 10 Dose Vials
19515-0909-52	FLULAVAL QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (≥6 months of age)	$155.88	100 Doses = 10 Boxes of 10
58160-0898-52	FLUARIX QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (≥3 years of age)	$155.88	100 Doses = 10 Boxes of 10

[1] *Price for Fluarix® Quadrivalent (QIV)/FluLaval® QIV 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.
Once minimum order is achieved for Fluarix QIV & FluLaval QIV Tip Lok, additional doses can be ordered by the box (10 doses).
Once minimum order is achieved for FluLaval QIV MDV, additional doses can be ordered by the vial/pack (10 doses).

Ordering Process

Direct Purchases:

Participating Members may purchase GSK Influenza Vaccines directly from GSK by placing a pre-book reservation directly with GSK at www.gskdirect.com. GSK online terms and conditions shall apply and will be defined for the Participating Member on website at time of reservation. GSK's online terms and conditions are subject to change without notice to MMCAP or its Participating Members.

Once the Participating Member places their pre-book reservation, confirmation of 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. All GSK Influenza Vaccine pre-book reservations will 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 (April 2, 2018), 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. GSK online terms and conditions are subject to change. Please check www.gskdirect.com for the most up to date terms & conditions.

The payment term is 0% net 30 days.

Indirect Purchases:

Participating Members may also purchase GSK Influenza Vaccines through authorized GSK Influenza Vaccine distributors. GSK Influenza Vaccines purchased through authorized 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 for any GSK delivery guarantees and such purchases are not eligible for return.

Shipment of FLUARIX/FLULAVAL Orders

Subject to availability, GSK anticipates shipments of GSK Influenza Vaccines to begin in August 2018 with delivery of the total number of GSK Influenza Vaccine doses prebooked by Participating Member completed by September 30, 2018, provided Participating Members prebook flu vaccine doses on or before April 2, 2018. GSK reserves the right to make partial deliveries based on availability and approval of each GSK Influenza Vaccine. 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 federal 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 prorate such product quantities among Participating Members and other GSK customers in such a manner as it, 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.

Delivery Guarantee

GSK will provide an additional 10% discount on GSK Influenza Vaccine doses, which were pre-booked on or prior to April 2, 2018, and are shipped and invoiced after September 30, 2018. 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 prior to September 30, 2018. The guarantee will not apply if Participating Member chooses to delay shipment past September 30, 2018. **This delivery guarantee is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com.**

Early Reservation Discount:

Participating Members will earn an Early Reservation Discount of 2% on their 2018 GSK Influenza Vaccines by confirming a recurring reservation or pre-booking influenza doses through www.gskdirect.com on or prior to April 2, 2018. **This discount is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com.**

Returns:

Direct Purchases:
Eligible participating members may return up to 30% (unless otherwise specified by applicable state law) of each branded presentation of GSK Flu doses purchased via GSKDirect for full credit (the 30% eligibility is applied per product NDC). 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 (Inmar) 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.

- Partial product returns of Flulaval multi-dose vials are ineligible for reimbursement with the exception of the Federal Excise Tax which will be calculated to the nearest quarter vial, unless otherwise specified by state law.

- [1]**GSK issued Return Goods Authorization (RGA)** – GSK will provide customer with a document in the form of a debit memo authorizing the return of eligible Flu doses. Please note: the creation of a Return Box Label through the GSK Return Goods Vendor (Inmar) 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 Contract terms (in which case the Contract 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, to increase the percentage of each branded presentation which is eligible for return.

GlaxoSmithKline

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. "Blanket" declaration forms are not accepted.)

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

FACILITY NAME _____

DEA # (must be current) _____ STATE LICENSE #_____ STATE LICENSE # EXPIRATION DATE _____

FACILITY STATE LICENSE NAME OR AUTHORIZED HCP STATE LICENSE NAME _____

PHYSICAL ADDRESS _____ SUITE # _____

CITY _____ STATE _____ ZIP _____

TELEPHONE _____ FAX # _____

MUST DESIGNATE SOLE GROUP PURCHASING ORGANIZATION: MMCAP

PRIMARY WHOLESALER (NAME, CITY, STATE) _____

TYPE OF BUSINESS:

- ☐ On-site inpatient hospital pharmacy
- ☐ On-site outpatient hospital pharmacy
- ☐ On-site hospital clinic
- ☐ Off-site satellite clinic (affiliated with _____ (Hospital
- ☐ State CCS funded health clinic
- ☐ Oncology clinic / pharmacy
- ☐ Student health center
- ☐ Surgery Center
- ☐ Nursing Home Provider/Long Term Care
- ☐ Home health care/home infusion
- ☐ HMO/Managed health care
- ☐ Other (please describe: _____)

Is this facility owned, leased, or managed by a hospital or hospital system? If so, name and location of hospital or hospital system _____	YES	NO
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 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 MEMBERSHIP SERVICES AT 215-933-3947
dana.x.latimer@gsk.com

AMENDMENT NO. 1 TO MMCAP CONTRACT NO. MMS17016

THIS AMENDMENT is by and between the State of Minnesota acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and GlaxoSmithKline LLC, a Delaware corporation having places of business at One Franklin Plaza – 3F0605, 1600 Vine Street, Philadelphia, PA 19102 and Five Moore Drive, Research Triangle Park, NC 27709 5 Crescent Drive Philadelphia PA 19112, Philadelphia, PA 19102 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS17016 (Original Contract). MMCAP and the Vendor are willing to amend the Original Contract as stated below.

Contract Amendment
(1875JV)

Effective when signed, Attachment B GSK MMCAP Declaration form is deleted and replaced with the attached revised Attachment B, GSK MMCAP Declaration form.

Except as herein amended, the provisions of the Original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

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

By: B. A. [signature]
Title: Contract Dev't/Manager
Date: 10/1/18

By: _____
Title: _____
Date: _____

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

By: [signature]
Title: SPA-C
Date: 10/1/2018

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

By: Sara Turnbaw, PharmD, BCPS
Title: Pharmacist Sr.
Date: 10-1-18

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. "Blanket" declaration forms are not accepted.)

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 # EXPIRATION DATE _____

FACILITY STATE LICENSE NAME OR AUTHORIZED HCP 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 In Patient
- ☐ 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? If so, name and location of hospital or hospital system _____	YES	NO
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 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

MMS 1 1016
Amendment # 2
pg. 1 of 4

do more feel better live longer

November 1, 2018

Jennifer VanderPlaats
Vaccine and Emergency Preparedness Coordinator
Minnesota Multistate Contracting Alliance for Pharmacy
Materials Management Division
Room 112, Administration Building
50 Shelburne Ave
Saint Paul, MN 55155

Subject: Amendment to Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP) Contract # 519070

Dear Ms. VanderPlaats,

Effective January 15 2019, the parties hereto agree to amend Contract # 519070 between GlaxoSmithKline LLC and Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP). The contract shall be amended by adding, deleting and/or replacing the following contract terms and/or Exhibits as follows:

Influenza Vaccines Contract #519070:

- Replace Exhibit A - 2018/2019 with Exhibit A – 2019/2020 Influenza Program

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

Please confirm your acceptance by signing both originals and return to:

GlaxoSmithKline
Attention: Babatunde Adedeji
Mailstop NY0300
5 Crescent Drive
Philadelphia, PA 19112

Once the Agreement has been fully executed by both parties we will send an original to you for your files.

We thank you for your interest in GlaxoSmithKline and for the opportunity to be of service to you

Accepted on behalf of **GlaxoSmithKline LLC**

Thomas Scales
Vice President – National Accounts

11-29-2018
Date

Accepted on behalf of **Minnesota Multistate Contracting Alliance for Pharmacy**

Title

Date

STATE OF MINNESOTA FOR MMCAP
In accordance with Minn. Stat. § 16C.03, subd. 3
By:
Title: SPA-C
Date: 12/10/2018

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. § 16C.05, subd. 2
By: Sara Thurbow, Pharm.D, BCPS
Date: 12-12-18

Please return all pages with the signed Agreement.

MMS 17016 Amendment # 2

Product Pricing Exhibit A
Influenza Vaccine Contract # 519070

NDC No.	Product Description	Contract Price (per vial/box)[1, 2]	Minimum Order Requirement
19515-0897-11	FLULAVAL QUADRIVALENT 5ML Multi-Dose Vials 10s (Age: 6 months and older)	$145.69	100 Doses = 10 packs of 10 Dose Vials
19515-0906-52	FLULAVAL QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$155.88	100 Doses = 10 Boxes of 10
58160-0896-52	FLUARIX QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$155.88	100 Doses = 10 Boxes of 10

[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
Once minimum order is achieved for Fluarix QIV & FluLaval QIV Tip Lok, additional doses can be ordered by the box (10 doses).
Once minimum order is achieved for FluLaval MDV, additional doses can be ordered by Vial/pack (10 doses).

Ordering Process

Direct Purchases:

Participating Members may purchase GSK Influenza Vaccines directly from GSK by placing a pre-book reservation with GSK at www.gskdirect.com. GSK's online terms and conditions shall apply and will be defined for the Participating Member on website at time of reservation. GSK's online terms and conditions are subject to change without notice to Company or its Participating Members.

Once the Participating Member places their pre-book reservation, confirmation of their reservation 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. 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 (April 1, 2019), 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. ***GSK online terms and conditions are subject to change. Please check www.gskdirect.com for the most up to date terms & conditions.*** Payment term is 0% net 30 days.

Indirect Purchases:

Participating Members may also purchase GSK Influenza Vaccines through authorized GSK Influenza Vaccine distributors. GSK Influenza Vaccines purchased through authorized 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 for any GSK delivery guarantees and such purchases are not eligible for return.

Shipment of FLUARIX/FLULAVAL Orders

Subject to product availability, GSK anticipates shipments of GSK Influenza Vaccines to begin in August 2019, with delivery of the total number of GSK Influenza Vaccine doses prebooked by Participating Member completed by September 30, 2019, provided Participating Members prebook their flu doses on or before April 1, 2019. GSK reserves the right to make partial deliveries based on availability and approval of each GSK Influenza Vaccine. 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.

Delivery Guarantee

GSK will provide an additional 10% discount on GSK Influenza Vaccine doses, which were pre-booked on or prior to April 1, 2019, and are shipped and invoiced after September 30, 2019. 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 prior to September 30, 2019. The guarantee will not apply if Participating Member chooses to delay shipment past September 30, 2019. **This delivery guarantee is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com.**

Early Reservation Discount:

Participating Members will earn an Early Reservation Discount of 2% on their 2019 GSK Influenza Vaccines by confirming a recurring reservation or pre-booking influenza doses through www.gskdirect.com on or prior to **April 1, 2019. This discount is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com.**

Returns:

Unless otherwise specified by applicable state law, Participating Members may return up to 30% of each branded presentation of GSK Flu doses purchased via GSKDirect for full credit (the 30% eligibility is applied per product NDC). 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 (Inmar) 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.

- Unless otherwise specified by state law, partial product returns of Flulaval multi-dose vials are ineligible for reimbursement with the exception of the Federal Excise Tax which will be calculated to the nearest quarter vial.

- [1]**GSK issued Return Goods Authorization (RGA)** – GSK will provide customer with a document in the form of a debit memo authorizing the return of eligible Flu doses. Please note: the creation of a Return Box Label through the GSK Return Goods Vendor (Inmar) 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 Company, to increase the percentage of each branded presentation which is eligible for return.

Amendment # 2

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

AMENDENT NO 3 TO MMCAP CONTRACT NO. MMS17016

THIS AMENDMENT 3 is entered into as of 1/22/2019 or the date MMCAP obtains all required signatures within this document, whichever is later ("**Effective Date**") by and between the State of Minnesota acting through its Commissioner of Administration ("**Minnesota**") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("**MMCAP**") and GlaxoSmithKline LLC, limited liability company with an address, a Delaware corporation having places of business at One Franklin Plaza – 3F0605, 1600 Vine Street, Philadelphia, PA 19102 and Five Moore Drive, Research Triangle Park, NC 27709 5 Crescent Drive Philadelphia PA 19112 ("**Vendor**").

RECITALS

WHEREAS, MMCAP and Vendor entered into a Contract MMS17016 on 1/1/2018("**Original Contract**");

WHEREAS, MMCAP and Vendor amended certain terms and conditions of the Original Contract by the way of the MMS17016 Amendment 1 on 10/1/2018 and Amendment 2 on 12/12/2018; together, Original Contract and Amendment 1and 2 will be referred to as "**Agreement**";

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 Original Contract amended in this Amendment, the Agreement remains in full force and effect; and

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

Capitalized Terms; Definitions; Conditions. The Agreement and Amendment shall be read together as one document. Any capitalized terms used in Amendment which 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.

Article and Clause Addendums

REVISION 1:

Effective when signed, the following section ***2.2.4.8 Invoicing*** is added to Contract MMS17016.

2.2.4.8 Invoicing. Vendor agrees that MMCAP Participating Facilities will be invoiced at the MMCAP Contract price for MMCAP Contract products throughout the term of this Agreement. Invoices are subject to Terms of Net 30. Vendor will submit an invoice with each order. Invoices must be only for the amount of product delivered. Federal Excise Tax will be a separate line item on the invoice. At a minimum, the Vendor's invoice will contain the following fields:

Facility Name
Vendor-assigned account number for the MMCAP Participating Facility
Invoice number
MMCAP Participating Facility's purchase order number
Invoice date
Invoice due date
Product ID or NDC
Product Name/Description
Packaging as associated with Product ID or NDC number
Unit price
Quantity shipped

Extension (unit price multiplied by the quantity shipped)
Total invoice price
Bill to address
Ship to address
Applicable tax

Except as herein amended, the provisions of the agreement between the parties are hereby expressly reaffirmed and remain in full force and effect.

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

Name: Thomas Scalcs
Signature: [signature]
Title: VP, National Accounts
Date: 2/4/2019

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

Name: [illegible] VandePlaats
Signature: Jennifer VandePlaats
Date: 2/6/2019

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

Name: Sara Turnbow
Signature: Sara Turnbow, PharmD, BCPS
Date: 2-6-19

GlaxoSmithKline, LLC

MMS17016

Amendment 4

Is not

Posted for Viewing

MMS 7016
Amendment # 5

do more feel better live longer

November 15, 2019

Jennifer VanderPlaats,
Pharmacy Program Coordinator
Minnesota Multistate Contracting Alliance for Pharmacy Infuse
Materials Management Division
Room 112, Administration Building
50 Sherburne Ave.
St. Paul, MN 55155-1402

Subject: Amendment to Minnesota Multistate Contracting Alliance for Pharmacy Infuse (MMCAP) Contract # 519070

Dear Ms. VanderPlaats,

Effective January 15, 2020, the parties hereto agree to amend Contract # 519070 between GlaxoSmithKline LLC and Minnesota Multistate Contracting Alliance for Pharmacy Infuse (MMCAP). The contract shall be amended by adding, deleting and/or replacing the following contract terms and/or Exhibits as follows:

Influenza Vaccines Contract #519070:

- Replace Exhibit A - 2019/2020 with Exhibit A – 2020/2021 Influenza Program

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

Please confirm your acceptance by signing both originals and return to:

GlaxoSmithKline
Attention: Babatunde Adedeji
Mailstop NY0300
5 Crescent Drive
Philadelphia, PA 19112

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

We thank you for your interest in GlaxoSmithKline and for the opportunity to be of service to you

Accepted on behalf of **GlaxoSmithKline LLC**

Thomas Scales
Vice President – National Accounts
01/06/2020
Date

Accepted on behalf of **Minnesota Multistate Contracting Alliance for Pharmacy Infuse**

Title SIA-C
11/20/2019
Date

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. 16C, Subd. 2

Name: Sara Turnbow
Signature: Sara Turnbow, Manager, DCBS
Date: 12-3-19

Please return all pages with the signed Agreement.

MMS/7016 Amendment # 5

Product Pricing Exhibit A
Influenza Vaccine Contract # 519070

NDC No.	Product Description	Contract Price (per box) [1,2]	Minimum Order Requirement
19515-0816-52	FLULAVAL QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$160.56	100 Doses = 10 Boxes of 10
58160-0885-52	FLUARIX QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$160.56	100 Doses = 10 Boxes of 10

[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
Once minimum order is achieved for Fluarix QIV & FluLaval QIV Tip Lok, additional doses can be ordered by the box (10 doses).

Ordering Process

Direct Purchases:
Participating Members may purchase GSK Influenza Vaccines directly from GSK by placing a pre-book reservation with GSK at www.gskdirect.com. GSK's online terms and conditions shall apply and will be defined for the Participating Member on website at time of reservation. GSK's online terms and conditions are subject to change without notice to Company or its Participating Members.

Once the Participating Member places their pre-book reservation, confirmation of their reservation 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, 2020), 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. ***GSK online terms and conditions are subject to change. Please check www.gskdirect.com for the most up to date terms & conditions.*** Payment term is 0% net 30 days.

Indirect Purchases:
Participating Members may also purchase GSK Influenza Vaccines through authorized GSK Influenza Vaccine distributors. GSK Influenza Vaccines purchased through authorized 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 for any GSK delivery guarantees and such purchases are not eligible for return.

Shipment of FLUARIX/FLULAVAL Orders
Subject to product availability, GSK anticipates shipments of GSK Influenza Vaccines to begin in August 2020, with delivery of the total number of GSK Influenza Vaccine doses prebooked by Participating Member completed by October 2, 2020, provided Participating Members prebook their flu doses on or before March 31, 2020. GSK reserves the right to make partial deliveries based on availability and approval of each GSK Influenza Vaccine. 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.

MM5/7/16
Amendment 5

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.

Delivery Guarantee
GSK will provide an additional 10% discount on GSK Influenza Vaccine doses, which were pre-booked on or prior to March 31, 2020, and are shipped and invoiced after October 2, 2020. 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 October 2, 2020. The guarantee will not apply if Participating Member chooses to delay shipment past October 2, 2020. **This delivery guarantee is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com.**

Early Reservation Discount:
Participating Members will earn an Early Reservation Discount of 2% on their 2020 GSK Influenza Vaccines by confirming a recurring reservation or pre-booking influenza doses through www.gskdirect.com on or prior to **March 31, 2020. This discount is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com.**

Returns:
Unless otherwise specified by applicable state law, Participating Members may return up to 30% of each branded presentation of GSK Flu doses purchased via GSKDirect for full credit (the 30% eligibility is applied per product NDC). 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 (Inmar) 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 authorizing the return of eligible Flu doses. Please note: the creation of a Return Box Label through the GSK Return Goods Vendor (Inmar) 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 Company, to increase the percentage of each branded presentation which is eligible for return.

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

gsk do more feel better live longer

November 6, 2019

Jennifer VanderPlaats,
Pharmacy Program Coordinator
Minnesota Multistate Contracting Alliance for Pharmacy Infuse
Materials Management Division
Room 112, Administration Building
50 Sherburne Ave.
St. Paul, MN 55155-1402

Subject: Amendment to Minnesota Multistate Contracting Alliance for Pharmacy Infuse (MMCAP) Contract # 519070

Dear Ms. VanderPlaats,

Effective January 15, 2021, the parties hereto agree to amend Contract # 519070 between GlaxoSmithKline LLC and Minnesota Multistate Contracting Alliance for Pharmacy Infuse (MMCAP). The contract shall be amended by adding, deleting and/or replacing the following contract terms and/or Exhibits as follows:

Influenza Vaccines Contract #519070:

- Replace Exhibit A - 2020/2021 with Exhibit A – 2021/2022 Influenza Program

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 Manager's email by December 15, 2020:

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

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

We thank you for your interest in GlaxoSmithKline and for the opportunity to be of service to you

Accepted on behalf of **GlaxoSmithKline LLC**

DocuSigned by:
Jennifer Costello
65FF9B8B79D040C...

Jennifer Costello
Vice President – Purchaser Accounts

11/12/2020
Date

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

Name: DocuSigned by: Jennifer Vanderplaats
Signature: Jennifer VanderPlaats
Date: CD83E8166C064D1... 11/9/2020

Accepted on behalf of **Minnesota Multistate Contracting Alliance for Pharmacy Infuse**

X
Title

X
Date

COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. 16C, Subd.2

Name: DocuSigned by: Sara Turnbow
Signature: Sara Turnbow
Date: 694A6F1D2CF6... 11/9/2020

Please return all pages with the signed Agreement.

Product Pricing Exhibit A
Influenza Vaccine Contract # 519070

NDC No.	Product Description	Contract Price (per box) [1, 2]
19515-0818-52	FLULAVAL QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$165.38
58160-0887-52	FLUARIX QUADRIVALENT 0.5ML Tip-Lok No Needle Syringes 10s (Age: 6 months and older)	$165.38

[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
Once minimum order is achieved for Fluarix QIV & FluLaval QIV Tip Lok, additional doses can be ordered by the box (10 doses).

Ordering Process

Direct Purchases:

Participating Members may purchase GSK Influenza Vaccines directly from GSK by placing a pre-book reservation with GSK at www.gskdirect.com. GSK's online terms and conditions shall apply and will be defined for the Participating Member on website at time of reservation. GSK's online terms and conditions are subject to change without notice to Company or its Participating Members.

Once the Participating Member places their pre-book reservation, confirmation of their reservation 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, 2021), 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. ***GSK online terms and conditions are subject to change. Please check www.gskdirect.com for the most up to date terms & conditions.*** The payment term is 0% net 30 days.

Indirect Purchases:

Participating Members may also purchase GSK Influenza Vaccines through authorized GSK Influenza Vaccine distributors. GSK Influenza Vaccines purchased through authorized 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 for any GSK delivery guarantees and such purchases are not eligible for return.

Early Reservation Discount:

Participating Members will earn an Early Reservation Discount of 2% on their 2021 GSK Influenza Vaccines by confirming a recurring reservation or pre-booking influenza doses through www.gskdirect.com on or prior to **March 31, 2021**. **This discount is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com.**

Shipment of FLUARIX/FLULAVAL Orders

Subject to product availability, GSK anticipates shipments of GSK Influenza Vaccines pre-booked by Participating Member to begin in early September 2021. GSK reserves the right to make partial deliveries based on availability and approval of each GSK Influenza Vaccine. 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.

Delivery Guarantee

GSK will provide an additional 10% discount on GSK Influenza Vaccine doses, which were pre-booked on or prior to March 31, 2021, and are shipped and invoiced after October 15, 2021. 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 October 15, 2021. The guarantee will not apply if Participating Member chooses to delay shipment past October 15, 2021. **This delivery guarantee is only available on doses pre-booked and purchased directly from GSK via www.gskdirect.com.**

Returns:
Unless otherwise specified by applicable state law, Participating Members may return up to 30% of GSK Flu doses purchased via GSKDirect for full credit (the 30% 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 (Inmar) 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 authorizing the return of eligible Flu doses. Please note: the creation of a Return Box Label through the GSK Return Goods Vendor (Inmar) 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 Company, to increase the percentage of each branded presentation which is eligible for return.