



MEMBER-REQUIRED PARTICIPATION AGREEMENT

MMS12016 – Amendment 1

This Member-requested Participation Agreement (MPA) is by and among:

**STATE OF MINNESOTA
ACTING THROUGH ITS COMMISSIONER OF ADMINISTRATION
ON BEHALF OF THE MINNESOTA MULTISTATE CONTRACTING ALLIANCE FOR
PHARMACY (MMCAP),**

MCKESSON MEDICAL-SURGICAL MINNESOTA SUPPLY INC.

and

**STATE OF NEW HAMPSHIRE
ACTING THROUGH THE DIVISION OF PLANT AND PROPERTY MANAGEMENT
(NH Contract Number 8001323)**

and amends the Agreement between MMCAP and McKesson Medical-Supply Minnesota Supply, Inc to include the following:

Term: The MPA is effective upon final signature, and expires upon the expiring of MMCAP's contract with McKesson Medical-Supply Minnesota Supply, Inc. (MMC12016) or by any party upon 30 days written notice to the other parties of this MPA listed below.

Scope: State of New Hampshire, desires to access the MMCAP agreement for medical supply distribution services with McKesson Medical-Supply Minnesota Supply, Inc. (MMS12016), which is incorporated into this MPA by reference.

Contacts:

State of New Hampshire
Melanie Carraher, Purchasing Agent
New Hampshire Bureau of Purchase & Property
25 Capitol Street, Room 102
Concord, NH 03301
603-271-2700

MMCAP:
MMCAP Managing Director
State of Minnesota, MMCAP Program
50 Shelburne Avenue, Suite 112
St. Paul, MN 55155
651-201-2420

McKesson Medical-Supply Minnesota Supply, Inc
8121 10th Avenue North
Golden Valley, MN 88427
800-328-8111



MEMBER-REQUIRED PARTICIPATION AGREEMENT

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This document includes all discussions and negotiations of the parties related to the State of New Hampshire and the parties agree to be bound.

1.) McKesson Medical-Supply Minnesota Supply, Inc

By: [Signature] Date: 12/14/12
Title: Vice President & COO

2.) State of New Hampshire

Submitted for Acceptance:
By: [Signature] Date: 12/14/12
Melanie Carraher, Purchasing Agent
Bureau of Purchase & Property

Recommended for Acceptance:
By: [Signature] Date: 12/17/12
Robert Stowell, Administrator
Bureau of Purchase & Property

Endorsed by: [Signature] Date: 12/19/12
Michael P. Connor, Director
Plant & Property Management

Acceptance for the State of New Hampshire under the authority granted to me by New Hampshire Statutes, annotated 21-1:14, XII.

[Signature] Date: 12/21/12
Linda M. Hodgdon, Commissioner
Department of Administrative Services

3.) State of Minnesota for MMCAP

In accordance with Minn. Stat. 16C.03, subd. 3

By: [Signature] Date: 12/21/2012

4.) Commissioner of Administration

In accordance with Minn. Stat. 16C.05, subd. 2

By: [Signature] Date: Dec. 21, 2012

**STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
MINNESOTA MULTISTATE CONTRACTING ALLIANCE FOR PHARMACY**

This contract is between the State of Minnesota, acting through its "Commissioner of Administration on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and **McKesson Medical-Surgical Minnesota Supply Inc.**, located at 8121 10th Avenue North, Golden Valley, MN 55427 (collectively, "Vendor" or "Contractor").

ARTICLE 1: RECITALS

1. Under Minn. Stat. § 16C.03, the Commissioner of Administration, on behalf of MMCAP, is empowered to engage such assistance as deemed necessary.
2. MMCAP is a group purchasing organization of government owned and/or operated health care facilities which contracts for pharmaceuticals, medical supplies and other non-pharmacy products for its members' use. Participation in MMCAP is limited to facilities within member states that are specifically permitted by the member state's statutes to purchase goods from the member state's contracts. Participation is generally available to facilities run by state agencies, counties, cities, townships, and school districts.
3. The Vendor wishes to contract with MMCAP to supply medical supplies, other non-pharmacy Products to the national MMCAP Participating Facilities.

ARTICLE 2: INCORPORATION

1. The parties agree that the recitals are true and correct, and are hereby incorporated into this Contract.
2. **Attachments, Exhibits, and Order of Precedent.**
 - 2.1. The following Attachments and Exhibits are attached and incorporated into this Contract. In the event of conflict, the following order of precedence applies.
 - a. Contract # MMS12016
 - b. Attachment A: Products and Pricing
 - c. Attachment B: Core Products
 - d. Attachment C: Statement of Work
 - e. Attachment D: MMCAP Member State Requirements
 - f. Attachment E: Service Area
 - g. Attachment F: Vendor's Contract Implementation and Transition Plan
 - h. Attachment G: MMCAP Contracted Manufacturer List
 - i. Attachment H: Vendor's Shipping Policy
 - j. Attachment I: Vendor's Stock Outage and Backorder Policy
 - k. Attachment J: Vendor's Product Return Policy
 - l. Attachment K: Vendor's Product Recall Policies/Procedures
 - m. Attachment L: Vendor's Business Interruption Plan
 - n. Attachment M: Government Sales Escalation Procedure

2.2. State Specific Requirements. For each state requiring state specific language, a further Exhibit shall be attached to Attachment D: MMCAP Member State Requirements.

2.2.1. Should any of the terms set forth in any Attachment conflict with any terms set forth in the Contract document, the terms of the Contract document shall prevail, except when such conflict arises from the state-specific terms set forth in Attachment D: MMCAP Member State Requirements, pursuant to the below.

2.2.2. Should any terms in the Contract document or other Attachments conflict with the state-specific terms set forth in Attachment D, the terms set forth in Attachment D shall take precedence over the terms of the Contract document, but only as between the Vendor and the MMCAP Member and/or MMCAP Participating Facility bound by said state-specific terms. No other State shall be bound by the terms set forth in any other State's, state specific language set forth in the Exhibit provided by an MMCAP Member State and attached to Attachment D.

2.2.3. MMCAP and the State of Minnesota shall not be bound by non-Minnesota state-specific terms set forth in any Exhibit included in Attachment D at any time, nor when bringing any enforcement action on behalf of MMCAP or the State of Minnesota.

2.3.4. During the term of this Contract other MMCAP Member States may request the MMCAP Office or the Vendor to amend this Contract to include terms and conditions specific to the requesting MMCAP Member State by attaching an Exhibit to Attachment D specific to that State. If a MMCAP Member State requests an amendment to this Contract to include their state specific requirements, the Vendor must work with the MMCAP Member State and the MMCAP Office to execute an amendment to this Contract in a reasonable period of time. No verbal or written instructions from the MMCAP Member States, MMCAP Participating Facilities, or any of their staff or state officials to change any provision of this Contract will be accepted by the Vendor without the prior written approval of the MMCAP Office. The Vendor will immediately report any such requests to the MMCAP Office.

ARTICLE 3: REPRESENTATIONS, WARRANTIES AND CERTIFICATIONS

1. GPO Representation. MMCAP represents and warrants that it is a "group purchasing organization" as that term is defined under 42 C.F.R. Section 1001.952(j) and that it shall comply with all applicable federal and state laws, rules and regulations, including, but not limited to, the provisions set forth in 42 U.S.C. Section 1320a-7b and the "safe harbor regulations" set forth in 42 C.F.R. Section 1001.952. MMCAP is an entity authorized to act as a purchasing agent for a group of entities who are furnishing services for which payment may be made in whole or in part under Medicare or a State health care program, and who are neither wholly-owned by MMCAP nor subsidiaries of a parent corporation that wholly owns MMCAP (either directly or through another wholly-owned entity), and the MMCAP program and this Contract do and will continue to fully comply with the safe harbor described therein. For the purpose of this clause the State of Minnesota shall not be deemed a parent corporation nor shall any state agency or public entity be deemed a subsidiary.

2. Federal Health Care Program Exclusion. Vendor represents that it, its directors, officers and employees (i) are not sanctioned individuals or companies and have not been listed by any federal agency as barred, excluded, or otherwise ineligible for participation in federally funded health care programs as defined in 42 U.S.C. Sec. 1320a-7b(f) (the "Federal healthcare programs"); (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services, and (iii) are not under investigation or otherwise aware of any circumstances which may result in such Vendor being excluded participation in Federal healthcare programs. Vendor agrees not to contract with any individuals or companies that have been sanctioned, debarred or excluded from participation in any federally funded health care programs to fulfill Vendor's obligations under this Contract. In the event of a breach of this provision, this Contract shall immediately terminate, in spite of any notice and cure provisions to the contrary. Vendor agrees to indemnify, hold harmless and defend the State of Minnesota, MMCAP and its Participating Facilities from any claims, demands or damages which the State of Minnesota, MMCAP and its Participating Facilities may suffer as a result of Vendor's breach of this Section 2.

3. Debarment by State, its Departments, Commissions, Agencies or Political Subdivisions. Vendor certifies that neither it nor its principles is presently debarred or suspended by the State, or any of its departments, commissions, agencies, or political subdivisions. Vendor's certification is a material representation upon which this Contract award is based. Vendor shall provide prompt written notice within

five (5) business days to the State's authorized representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

4. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion. Federal funding will be used or may potentially be used to pay for all or part of the work under the contract, therefore Vendor certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549. Vendor's certification is a material representation upon which the Contract award is based.

5. Warranties. Vendor has good title which is free and clear of all encumbrances. No applicable warranties, whether express or implied, are intended to be disclaimed or diminished by the terms of this Contract.

EXCEPT WITH RESPECT TO PRIVATE LABEL PRODUCTS, VENDOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY OF ANY PRODUCTS OR THEIR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. MMCAP AND EACH MMCAP PARTICIPATING FACILITY SHALL LOOK TO THE MANUFACTURER OF PRODUCTS AND THE PROVIDER OF SERVICES (IF OTHER THAN VENDOR) FOR ANY WARRANTY THEREON. NO AGENT, EMPLOYEE, OR REPRESENTATIVE OF VENDOR HAS ANY AUTHORITY TO MAKE ANY AFFIRMATION, REPRESENTATION, OR WARRANTY CONCERNING PRODUCTS NOT SET FORTH IN THIS CONTRACT. VENDOR AGREES TO USE COMMERCIALY REASONABLE EFFORTS TO PASS ON, ON A NON-EXCLUSIVE BASIS, FROM ANY MANUFACTURERS OR SUPPLIERS OF PRODUCTS, THE PRODUCT WARRANTIES PROVIDED BY THE MANUFACTURER OR SUPPLIER TO THE EXTENT SUCH WARRANTIES ARE TRANSFERABLE. MMCAP AND EACH MMCAP PARTICIPATING FACILITY ACKNOWLEDGE THAT AT ALL TIMES VENDOR SHALL BE ABLE TO RELY FOR ITS OWN BENEFIT ON SUCH WARRANTIES AND VENDOR SHALL NOT BE OBLIGATED TO PASS ON SUCH WARRANTIES IF SUCH ACTION SHALL RESULT IN VENDOR BEING UNABLE TO RELY ON THE WARRANTIES FOR ITS OWN BENEFIT.

VENDOR REPRESENTS AND WARRANTS TO CUSTOMER THAT PRIVATE LABEL PRODUCTS SHALL BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP FOR A PERIOD OF NINETY (90) CALENDAR DAYS FROM THE DATE OF SHIPMENT. VENDOR'S OBLIGATION UNDER THIS WARRANTY IS LIMITED TO THE REPAIR OR REPLACEMENT OF THE AFFECTED PRODUCT, AT MCKESSON'S OPTION. THIS WARRANTY WILL NOT APPLY (1) IF MMCAP OR MMCAP PARTICIPATING MEMBER MISUSES THE PRIVATE LABEL PRODUCT, (2) ALTERS OR MODIFIES THE PRIVATE LABEL PRODUCT IN ANY WAY, OR (3) RESELLS THE PRIVATE LABEL PRODUCT OR DOES NOT OTHERWISE USE OR ADMINISTER THE PRIVATE LABEL PRODUCT THROUGH ITS EMPLOYEES OR AUTHORIZED AGENTS.

NEITHER MMCAP NOR AN MMCAP PARTICIPATING FACILITY SHALL HOLD VENDOR LIABLE FOR ANY DEFECT IN PRODUCTS OR SERVICES, REGARDLESS OF KIND. CUSTOMER AND A FACILITY AGREE TO FILE SOLELY WITH MANUFACTURER OF THE PRODUCTS OR PROVIDER OF SERVICES (IF OTHER THAN VENDOR) ANY CLAIM OR LAWSUIT ALLEGING LOSS, INJURY, DAMAGE, OR DEATH ARISING OUT OF OR CAUSED BY THE USE, SALE, DISTRIBUTION, OR POSSESSION OF PRODUCTS OR SERVICES.

ARTICLE 4: CONTRACT TERMS AND CONDITIONS

1. Contract Effective Date: August 1, 2012 or the date the State obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later. The Vendor must not begin work under this contract, nor make its pricing, Products, Services, or any benefit available until this contract is fully executed and the Vendor has been notified by the State's Authorized Representative to begin the work.

2. Contract Expiration date: July 31, 2014. The Contract may be extended for up to three (3) additional one (1) year periods upon execution of a written amendment and acceptance of both parties, for a total term not to exceed five (5) years.

3. Contract Termination

3.1. Termination by MMCAP Without Cause. Either party may cancel this Contract at any time during the term of the Contract, without cause, upon no less than one hundred eighty (180) days written notice to the other party. Upon termination, Vendor will be entitled to payment for Services performed in accordance with the terms and conditions of this Contract.

3.2. Termination With Cause. Subject to immediate termination rights as set forth in Article 3, Section 2, either party may cancel this Contract at any time, with cause, upon no less than 30 days written notice to the other party. Except as provided for in Article 3: Section 2, upon notice of termination, the breaching party shall have thirty (30) days to cure any defects.

3.3. Termination for Insufficient Funding. MMCAP may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the Services covered here. Termination must be by written or fax notice to the Vendor. MMCAP is not obligated to pay for any Services that are provided after receipt of notice to Vendor from MMCAP and effective date of termination. However, the Vendor will be entitled to payment, determined on a pro rata basis, for services performed to the extent that funds are available. The State will not be assessed any penalty if the Contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Vendor notice of the lack of funding within a reasonable time of the State's receiving that notice.

3.4. Cancellation by Member States. Subject to MMCAP termination rights, MMCAP Member States and MMCAP Participating Facilities may cancel their participation in this Contract with the Vendor at any time upon no less than thirty (30) days written notice to the other party. Vendor shall be entitled to payment of Products delivered prior to the end of the thirty (30) day notice period.

4. Definitions. The definitions set forth in Attachment C: Statement of Work are applicable herein.

5. Vendor's Duties. The Vendor, who is not a state employee, will provide Products and Services, in accordance with the terms and conditions of this Contract, and as set forth in Attachments C: Statement of Work, as attached and incorporated herein.

6. Non-Exclusive Agreement. MMCAP and Vendor acknowledge that this Contract neither creates nor implies the creation of an exclusive agreement between the parties.

7. Eligible Purchasers. Commencing on the Effective Date, all MMCAP Participating Facilities located in the United States shall be eligible to purchase Products offered under this Contract. In addition, the Vendor must allow new MMCAP Participating Facilities to be added to the MMCAP Participating Facilities List (password protected and published online at www.mmcap.org), as incorporated herein by reference, and to access Contract Product prices throughout the term of this Contract. As new MMCAP Participating

Facilities are added to MMCAP, the Vendor will be given ten (10) business days from date of notification to implement contract pricing. MMCAP will provide Vendor with monthly e-mail notices announcing that a new MMCAP Participating Facilities List has been posted online. Vendor agrees to check the updated MMCAP Participating list within ten (10) business days following the MMCAP monthly email notice regarding the updated list. In the event that an MMCAP Participating Facility ceases to be a MMCAP Participating Facility of MMCAP, Vendor agrees not to allow such entity to purchase the Vendor's Products related to this Contract. Any MMCAP Participating Facility desiring to utilize the contractual options, terms and conditions described in this Contract may, at its option, and without penalty or liability, terminate any existing contract or other arrangement with Vendor for the sole purpose of participating in the group purchasing arrangement set forth in this Contract. MMCAP reserves the right to add and delete MMCAP Participating Facilities during the term of this Contract. Notwithstanding the foregoing, Vendor shall rely on the MMCAP membership listing electronic file which will be sent to Vendor as such list is updated from time to time during the term of this Contract. If such listing is incorrect, Vendor shall not be deemed in breach of this Section.

8. Separate Agreements. During the term of this Contract, Vendor will not solicit any MMCAP Participating Facilities or Prospective MMCAP Participating Facilities to enter into or negotiate a separate contract or agreement for the same or substantially equivalent Products offered in this Contract or any amendment, modification, or supplement to this Contract without MMCAP's prior written consent.

9. Products. The Vendor shall provide Products to MMCAP Participating Facilities listed on Attachment A: Products and Pricing. In addition, Vendor must at least offer Products under this Contract that are the same or substantially equivalent to the Products that are set forth on Attachment B: Core Products. The Vendor shall not distribute any pharmacy related products to MMCAP Participating Facilities through this Contract unless otherwise agreed to in writing by MMCAP.

10. Product Pricing.

10.1. Competitive Pricing. During the term of this Contract, Vendor will perform quarterly pricing reviews of MMCAP Participating Facilities' medical supply purchases and competitive pricing data supplied by MMCAP to Vendor. Subject to McKesson's confidentiality obligations with other GPOs, the pricing reviews will compare the MMCAP Contract Products pricing to other GPOs or government-owned buying groups whose members are a similar class of trade and size to MMCAP's Participating Facilities. Upon mutual consent between MMCAP and Vendor, such consent not to be unreasonably withheld by Vendor, that the pricing is not competitive, Vendor shall provide written notice to MMCAP within ten (10) business days following any adjustments, lowering prices and/or increasing any discounts applicable to the purchase of the MMCAP Contract Products by MMCAP Participating Facilities.

10.2. Vendor's Contracted Manufacturer/Supplier Percentage Discount. Vendor shall provide a percentage discount for each of Vendor's Contracted Suppliers categories of medical supplies and other non-pharmacy products not listed on Attachment A: Products and Pricing and Attachment B: Core Products. The list of the Vendor's Contracted Suppliers categories of medical supplies and other non-pharmacy products must include the percentage discount from the original manufacturer's/supplier's published list price of the product within a specific category and be submitted on a separate tab of Attachment A and Attachment B. For each of the Vendor's Contracted Suppliers categories of medical supplies and other non-pharmacy products listed, the specific discount shall apply to that category of products from the Vendor's Contracted Supplier or division within the Vendor's Contracted Supplier.

10.3. Non-Stocked Product Percentage Discount. If an MMCAP Participating Facility requests any non-stocked product that is not listed on Attachment A: Products and Pricing and Attachment B: Core Products then Vendor shall provide a percentage discount off the regular manufacturer's published list price for any non-stocked product requested by an MMCAP Participating Facility.

10.4. Fixed Pricing and Percentage Discounts. All Product prices and percentage discounts listed on Attachment A: Products and Pricing and Attachment B: Core Products, will be considered to be fixed during the term of this Contract and the price and/or percentage discounts set forth on Attachment A and Attachment B, may not be changed unless approved in writing by MMCAP. The fixed pricing and percentage discounts listed on Attachment A and Attachment B must be made available to all MMCAP Participating Facilities regardless of the size or location of the MMCAP Participating Facilities.

10.5. No Additional Fees. Unless otherwise stated in this Contract no fee, percentage, or other cost may be added to the Products purchased under this Contract unless the fee, percentage, or cost is defined, and a formal amendment to the Contract is executed by both parties reflecting the agreed upon fee, percentage, or cost.

10.6. Price Reductions and Increased Discounts. During the term of this Contract, if the Vendor offers to any of the Eligible Purchasers price reductions, promotional price offers, introductory pricing, or any other offers or promotions (the "Offer") that are announced by the manufacturers of the Products on an industry-wide basis and provide lower prices or larger discounts for Products other than those stated in the Contract for period of time as set forth in the Offer, Vendor agrees to i) notify the MMCAP Office of such lower Product prices or larger Product pricing discounts and ii) make the Offer available to all of the Eligible Purchasers for a period of time as set forth in the Offer. Notwithstanding the foregoing, if an Eligible Purchaser receives better pricing which is manufacturer driven based on certain criteria, such as volume, this Section 10.6 shall not apply and Vendor shall not be obligated to pass on such pricing to the any other Eligible Purchaser; provided, however, Vendor must report sales for these Eligible Purchasers as a sales type 2 in the monthly usage file report set forth in Section 20 of Attachment C: Statement of Work.

11. Discounts. If applicable to this Contract, the parties understand that the pricing for Products provided as part of this Contract may be considered a "discount" within the meaning of 42 U.S.C. Section 1320a-7b(b)(3)(A) of the Social Security Act and the regulations promulgated thereunder at 42 C.F.R. §1001.952(h). In accordance with 42 C.F.R. §1001.952(h), Vendor will comply with any applicable obligations of Vendor as "Seller" or "Offeror" of a discount, as applicable. If selling directly to an MMCAP Participating Facility, Vendor will fully and accurately report any discount on invoices, statements or reports submitted to MMCAP Participating Facilities. The parties will refrain from doing anything which would impede MMCAP Participating Facilities from meeting its obligations under the discount safe harbor regulations. In accordance with 42 C.F.R. §1001.952(h) MMCAP's Participating Facilities(as "Purchasers") shall disclose the discounts, or value of the Products under the state or federal program which provides cost or charge based reimbursement for the Products covered by this Contract, the net cost actually paid by the MMCAP Participating Facility. In the event a party determines that this discount program may not comply with such statutes, the parties agree to work together to establish a discount structure that meets the requirements of the discount safe harbor regulations set forth in 42 C.F.R. §1001.952(h).

12. Risk of Loss, Damage, and Shipping Terms. Shipments under this contract shall be FOB Destination, freight prepaid and allowed, to the MMCAP Participating Facility's receiving dock or if applicable, its pharmacy, unless otherwise agreed to by Vendor and Participating Facility. Title to and risk of loss of the Products covered by this Contract transfers to the MMCAP Participating Facility upon delivery to the MMCAP Participating Facility, as set forth above. During the term of this Contract Vendor shall not add any fuel surcharges to the purchase of any Products covered by this Contract. Notwithstanding the foregoing, emergency orders, rush orders, orders for Products not regularly stocked by Vendor's local servicing Distribution Center, Products dropped shipped from Vendor's Contracted Supplier, and orders not regularly scheduled are subject to an added shipping and handling charge determined by Vendor and disclosed to a MMCAP Participating Facility upon request. Vendor shall have the right to ship the Products at all times via its own vehicle or a carrier selected by Vendor

13. Compliance. Vendor shall be in accordance and comply with all applicable federal, state, and local laws, rules and regulations as applicable to each MMCAP Member State, in the performance of this Contract.

14. Failure to Supply MMCAP Core Products. Unless the result of a Manufacturer Backorder, if Vendor fails to maintain sufficient inventory of Core Products set forth on Attachment B to meet the anticipated needs of MMCAP Participating Facilities for Core Products, the ordering MMCAP Participating Facility may purchase an alternate equivalent product on the open market for the period of time in which the Vendor is unable to provide the Core Product. As set forth in Attachment C: Statement of Work, the Vendor will be liable for any excess cost over the MMCAP Contracted Product price and the alternate price of the product supplied by the alternate vendor for a period of ninety (90) days after notification of a failure to supply, or until the Core Product becomes available, whichever is earlier.

15. Purchase Orders and Payment.

15.1. No Minimum Purchase Order Requirement. There shall be no minimum order requirements or charges, regardless of order size or payment amount.

15.2. Eligible Purchase Orders. As a condition for purchasing under this Contract, orders must only be accepted if made by authorized individuals from MMCAP Participating Facilities who are Eligible Purchasers under this Contract as stated in this section and defined in 1.0 Definitions of Attachment C: Statement of Work. MMCAP Participating Facilities may use their own forms for Purchase Orders. To the extent that the terms of any form differ from the terms of this Contract, the terms of this Contract supersede such conflicting or contrary terms, except as applicable to the MMCAP Participating Facility issuing the Purchase Order. The Contract number and the purchase order number must appear on all documents (e.g., invoices, packing slips, etc.). The terms of this Contract shall apply to each Purchase Order issued by authorized individuals from MMCAP Participating Facilities whether such Purchase Order is communicated by the Purchase Order form, EDI, internet e-commerce, facsimile, orally, or any other method, or whether reference is made to this Contract.

15.3. Verification of Authorized Purchasers. Upon request by MMCAP, Vendor must verify that it provides Products pursuant to this Contract only to MMCAP Participating Facilities. Only MMCAP Participating Facilities may purchase Products under the terms of this Contract. Vendor shall rely on the MMCAP membership listing electronic file which will be sent to Vendor as such list is updated from time to time during the term of this Contract. If such listing is incorrect, Vendor shall not be deemed in breach of this Section.

15.4. Funds Available and Authorized/Non-Appropriation. Vendor will not be compensated for Products delivered under a Purchase Order by any entity other than the MMCAP Participating Facility that issued the Purchase Order. By submitting a Purchase Order the MMCAP Participating Facility represents it has sufficient funds currently available and authorized for expenditure to finance the costs of the Purchase Order.

15.5. Termination of Individual Purchase Orders. MMCAP Participating Facilities may terminate individual Purchase Orders (other than purchase orders for special orders and emergency preparedness), in whole or in part, immediately upon notice to Vendor, or at such later date as the MMCAP Participating Facility may establish in such notice, upon the occurrence of any of the following events:

- (a) The MMCAP Participating Facility 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;
- (b) 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 Participating Facility is prohibited from paying for such goods from the planned funding source; or
- (c) Vendor commits any material breach of this Contract or a Purchase Order.

Upon receipt of written notice of termination, Vendor shall stop performance under the Purchase Order as directed by the MMCAP Participating Facility. Termination of a Purchase Order does not extinguish or

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

15.6. Purchase Order Default. All Products furnished will be subject to inspection and acceptance by the MMCAP Participating Facility after delivery, in accordance with Vendor's Return Goods Policy as set forth in Attachment J. No product substitutions, shipments of non-conforming goods or Products, or cancellations are permitted without prior written approval of the MMCAP Participating Facility.

15.7. Payment of Purchase Orders. Each MMCAP Participating Facility will be responsible for payment of Products provided by Vendor. MMCAP will not be liable for an unpaid invoice of any MMCAP Member or MMCAP Participating Facility. Vendor agrees to invoice the MMCAP Participating Facility for all Products shipped. Vendor will accept payment of purchase orders via Electronic Funds Transfer (EFT), credit cards authorized by the ordering MMCAP Participating Facility and any other traditional means of payment.

15.8. Federal Funds. Payments to the Vendor for Products ordered by MMCAP Participating Facilities under this Contract may be made from federal funds. The Vendor must agree to accept as payment in full for the Products, the amount as determined by the federal agency or federal program administering the payments. Vendor shall comply with all applicable federal requirements imposed on these funds as may be identified by the ordering MMCAP Participating Facility.

15.9. Conditions of Payment. All Services provided by the Vendor under this Contract must be performed to MMCAP's satisfaction (directed by the MMCAP Participating Facility or MMCAP Member), as determined at the reasonable discretion of MMCAP's Authorized Representative, and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. Unless otherwise set forth in this Contract all Products provided under the terms of this Contract are subject to inspection and acceptance by the MMCAP Participating Facility in accordance with the Vendor's Return Goods Policy as set forth in Attachment J.

16. Vendor Fees.

16.1. Administrative Fee. In consideration for the administrative and other services provided by MMCAP in connection to this Contract, the Vendor agrees to pay an Administrative Fee of three percent (3%) on all MMCAP Participating Facilities' Net Purchases (as defined in Section 23 of Attachment C: Statement of Work) made directly with the Vendor by the MMCAP Participating Facilities. The payment of the Administrative Fees is intended to be in compliance with the Medicare and Medicaid Patient Protection Act of 1987 (Anti-Kickback Statute), as set forth at 42 USC§ 1320a-7b (b) (3) (C), and the "safe harbor regulation" set forth in 42 C.F. R. §1001.952(j) The Vendor will submit a check payable to "State of Minnesota, MMCAP Program" for an amount equal to three percent (3%) for all MMCAP Participating Facilities' Net Purchases covered under this Contract. Vendor must provide Administrative Fee data, including amount to be paid, to MMCAP within ten (10) calendar days after the end of each month. The Administrative Fee must be paid as soon as is reasonable after the end of each month, but no later than thirty (30) calendar days after the end of the month .

Vendor shall not be required to pay administrative fees on excise tax amounts or returns or other shipments for which Vendor did not collect the purchase price.

The parties shall comply with the requirements of 42 U.S.C. §1320a-7b(b)(3)(A) and the "Safe Harbor" regulations regarding discounts or other reductions in price set forth at 42 C.F.R. §1001.952(h) and GPOs set forth at 42 C.F.R. §1001.952(j). In this regard, the parties acknowledge that Vendor will satisfy any

and all requirements imposed on sellers by these safe harbors; and MMCAP and each MMCAP Participating Facility will satisfy any and all requirements imposed on buyers and GPOs., respectively

(1) Limitations.

a) Vendor will not pay an Administrative Fee on the same purchase to more than one (1) GPO, nor will Vendor split an Administrative Fee on any item between such groups.

b) Vendor shall have ten (10) business days from the date of notice by MMCAP that the MMCAP Participating Facility is an Eligible Purchaser under this Contract to qualify said new Facility's status and eligibility for inclusion of the purchases by said Facility in the calculation of the Administrative Fee. Vendor will not pay an Administrative Fee on purchases of Products ordered, but not yet delivered, on or prior to the date the Facility joins MMCAP.

17. Authorized Representatives. MMCAP's Authorized Representative is Alan Dahlgren, MMCAP Managing Director, or his/her successor, and has the responsibility to monitor the Vendor's performance.

The Vendor's Authorized Representative is Therese Mugge, Director of Government Sales, or her successor. If the Vendor's Authorized Representative changes at any time during this Contract, the Vendor must immediately notify MMCAP.

18. Notices. Notices under this Contract shall be in writing, effective upon receipt and shall be sent by any of the following methods (i) facsimile or e-mail with return facsimile or e-mail acknowledging receipt; (ii) United States Postal Service certified or registered mail with return receipt showing receipt; (iii) courier delivery service with proof of delivery; or (iv) personal delivery. Either party to this Contract may change the names and addresses for receipt.

To MMCAP:

MMCAP Medical Supplies And Non-Pharmacy Program Coordinator
50 Sherburne Avenue, Suite 112
St. Paul, MN 55155
Email: MMCAPContracts@state.mn.us
Fax: 651.297.3996

To the Vendor:

McKesson Medical-Surgical Minnesota Supply Inc.
Therese Mugge, Director Government Sales
8121 10th Avenue North
Golden Valley, MN 55427
Email: therese.mugge@mckesson.com
Fax: 800-237-9766

19. Indemnification. In the performance of this contract by Contractor, or Contractor's agents or employees, the contractor must indemnify, save, and hold harmless the State, MMCAP, MMCAP Participating Facilities and MMCAP Member States, their agents, and employees ("Customer Indemnified Parties"), from any claims or causes of action brought by third parties, including attorney's fees incurred, to the extent caused by Contractor's negligent, intentional, or willful misconduct of Contractor in the performance of this Contract. On a comparative negligence basis, the indemnification obligations of this section do not apply in the event the claim or cause of action is the result of a Customer Indemnified Party's negligence, intentional, or willful misconduct. This clause will not be construed to bar any legal remedies the Contractor may have for the State's failure to fulfill its obligation under this contract.

20. Liability Limitations. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO ANY OTHER PARTY FOR ANY SPECIAL, CONSEQUENTIAL (INCLUDING LOST PROFITS), PUNITIVE, INCIDENTAL OR INDIRECT DAMAGES INCURRED BY THE OTHER PARTY, HOWEVER CAUSED ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT THEY HAVE BEEN ADVISED OF THE POSSIBILITY, OF SUCH DAMAGES. ANY COSTS AND EXPENSES INCURRED BY A PARTY TO MITIGATE OR LESSEN ANY DAMAGES OR HARM CAUSED BY A PARTY'S NEGLIGENCE OR ANY FAILURE OF A PARTY TO COMPLY WITH THE WARRANTIES (OTHER THAN THE GPO REPRESENTATION IN ARTICLE 3, SECTION 1) REFERENCED IN THIS CONTRACT SHALL BE CONSIDERED DIRECT DAMAGES.

21. Audits. Under Minn. Stat. § 16C.05, subd. 5, the Vendor's books, records, documents, and accounting procedures and practices relevant to this contract are subject to examination by the State, MMCAP, and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this contract. MMCAP and any MMCAP Participating Facility served by the Vendor shall have the right to audit Vendor to determine the validity of invoice pricing. Audits may be conducted by representatives of MMCAP in collaboration with other state and federal authorities. Such audits may be conducted only during ordinary business hours and upon reasonable prior notice to Vendor. The Vendor and MMCAP and/or the MMCAP Participating Facility shall each be responsible for its own costs associated with any audit, including reasonable costs related to the production of records and/or other documents requested by the other party.

22. Government Data Practices. The Vendor and MMCAP must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 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 Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Vendor or MMCAP.

If the Vendor receives a request to release the data referred to in this Clause, the Vendor must immediately notify MMCAP. MMCAP will give the Vendor instructions concerning the release of the data to the requesting party before the data is released.

23. Intellectual Property and Data. MMCAP owns all rights, title, and interest in MMCAP customer data, sales transaction data, DEA/HIN information (subject to third-party rights), contract pricing, EDI transaction data, reverse distribution data, and payment data, including copyrights and trade secrets contained therein. MMCAP grants to Vendor a revocable, nontransferable, fully paid license, for the term of this Contract, to (i) release state specific data to an MMCAP Member's State Contact, MMCAP Participating Facilities; (ii) release any of the above data to product manufacturers, when necessary for the performance of this Contract or as required by Vendor's agreements with such product manufacturers; (iii) to release any of the above data to other MMCAP-approved third parties, when necessary for the performance of this Contract; (iv) provide MMCAP Participating Facility purchase data to third-party aggregators, subject to Vendor's reasonable efforts to require such data aggregators to protect any identifiable data from discovery by another third party and subject to written approval by MMCAP; (v) provide MMCAP Participating Facility purchase data to other GPOs of which the MMCAP Participating Facility is also a member, provided such data will not include MMCAP-identifiable data; and (vi) use any of the above data for its internal purposes. Any MMCAP identifiable data provided hereunder to a third party must identify the data as MMCAP data and subject to Minn. Stat. Ch. 13. Vendor hereby agrees that in the event that an MMCAP Member or MMCAP Participating Facility requests in writing that its purchase data be kept confidential, such data will not be provided to third party aggregators.

Vendor owns all rights, title, and interest to any aggregated data not identifiable as arising from this Contract and any other intellectual property created for or presented to MMCAP. Vendor grants to MMCAP an unlimited, non-revocable, non-transferable, fully paid license, for the term of this Contract, to use all intellectual property created for or presented to MMCAP under this Contract.

23.1. Pre-Existing Intellectual Property. Subject to the license rights set forth above, MMCAP and Vendor shall each retain ownership of, and all right and, title and interest in and to, their respective pre-existing intellectual property. Vendor grants to State an unlimited, royalty-free, paid up, perpetual, non-exclusive, irrevocable, non-transferable license to use and modify any pre-existing Vendor intellectual property, including marketing materials and materials contained in solicitation responses provided by Vendor to MMCAP, an MMCAP Member, or MMCAP Participating Facility. The aforementioned license is solely for use by MMCAP, an MMCAP Member, or MMCAP Participating Facility, and its agents related to an internal business purposes.

23.2. Private Label Products Indemnification. Vendor will defend, indemnify and hold the Customer Indemnified Parties harmless from any action or other proceeding brought against a Customer Indemnified Party by a third party to the extent that it is based on a claim that the use of the Private Label Products delivered under this Contract infringes any U.S. copyright, patent or trademark. Vendor will pay costs and damages finally awarded against a Customer Indemnified Party as a result thereof; provided, that a Customer Indemnified Party (i) notifies Vendor of the claim within ten (10) business days, (ii) provides Vendor with all reasonably requested cooperation, information and assistance, and (iii) gives Vendor sole authority to defend and settle the claim subject to applicable state law.

(i) Exclusions. Vendor will have no obligations under this Section 23.2 with respect to claims arising from: (1) modifications to Private Label Products that were not performed by Vendor; (2) misuse of the Private Label Products; (3) compliance with specifications provided by a Customer Indemnified Party; or (4) the use or integration of Private Label Products delivered under this Customer in combination with other products or other technologies not provided by Vendor, if the claim would not have arisen but for the particular combination. THE FOREGOING ARE VENDOR'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CUSTOMER INDEMNIFIED PARTIES' SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO OR ARISING OUT OF THE INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS WITH RESPECT TO PRIVATE LABEL PRODUCTS.

(ii) Injunctions. If a Customer Indemnified Party's use of any Private Label Products delivered under this Contract is, or in Vendor's opinion is likely to be, enjoined due to a claim of infringement or misappropriation as specified in Section 23.2 above then Vendor may, at its sole option and expense: (1) obtain for a Customer Indemnified Party the right to continue using such Private Label Products under this Contract; (2) replace or modify such Private Label Products to avoid such a claim, provided that the replaced or modified Private Label Products is substantially equivalent in function to the affected Private Label Products; or (3) if options (1) and (2) above are not practical in Vendor's reasonable opinion, then Vendor may take possession of the affected Private Label Products and terminate a Customer Indemnified Party's rights and Vendor's obligations under this Contract in respect of such Private Label Products, and upon any such termination Vendor will refund to a Customer Indemnified Party the purchase price of the affected Private Label Product net any discounts, rebates or other adjustments.

24. Workers' Compensation and Other Insurance. Vendor certifies that it is in compliance with all insurance requirements specified in the solicitation document relevant to this contract. Vendor shall not commence work under the contract until they have obtained all the insurance specified in the solicitation document. Vendor shall maintain such insurance in force and effect throughout the term of the contract.

Further, the Vendor certifies that it is in compliance with Minn. Stat. § 176.181, subd. 2, pertaining to workers' compensation insurance coverage. The Vendor's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way MMCAP's obligation or responsibility.

Vendor shall not commence work under the contract until they have obtained all the insurance described below and MMCAP has approved such insurance. Vendor shall maintain such insurance in force and effect throughout the term of the contract. Vendor is required to maintain and furnish satisfactory evidence of the following insurance policies:

24.1. Workers' Compensation Insurance. Except as provided below, Vendor must provide Workers' Compensation insurance for all its employees in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance **minimum** limits are as follows:

- \$100,000 – Bodily Injury by Disease per employee
- \$500,000 – Bodily Injury by Disease aggregate
- \$100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts Vendor from Workers' Compensation insurance or if the Vendor has no employees in the State of Minnesota, Vendor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Vendor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Vendor becomes eligible for Workers' Compensation, the Vendor must comply with the Workers' Compensation Insurance requirements herein and provide MMCAP with a certificate of insurance.

24.2. Commercial General Liability Insurance. Vendor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract. Insurance **minimum** limits are as follows:

- \$5,000,000 – per occurrence
- \$5,000,000 – annual aggregate

The following coverages shall be included:

- Premises and Operations Bodily Injury and Property Damage
- Personal and Advertising Injury
- Contractual Liability

Other; if applicable, please list _____

24.3. Commercial Automobile Liability Insurance. Vendor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this Contract. Insurance **minimum** limits are as follows:

- \$2,000,000 – each accident Combined Single limit for Bodily Injury and Property Damage
- In addition, the following coverages should be included: Owned, Hired, and Non-owned Automobile

24.4. Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability Insurance. This policy will provide coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under the contract.

Vendor is required to carry the following **minimum** limits:

- \$2,000,000 – per claim or event

\$2,000,000 – annual aggregate

Any deductible will be the sole responsibility of the Vendor.

The retroactive or prior acts date of such coverage shall not be after the effective date of this Contract and Vendor shall maintain such insurance for a period of at least three (3) years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by Vendor to fulfill this requirement.

24.5. Additional Insurance Conditions.

a. Vendor's General Liability and Automobile Liability policy(ies) shall 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, except to the extent such liability is caused by MMCAP; Vendor shall provide thirty (30) days advanced written notice to MMCAP in the event of policy cancellation;

b. Vendor is responsible for payment of Contract related insurance premiums and deductibles;

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

d. Vendor's policy(ies) shall include legal defense fees;

e. Vendor shall 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 (except if self-insured or via captive insurance); and

f. 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.

24.6. MMCAP reserves the right to terminate the Contract in accordance with Section 3.2 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.

24.7. The Vendor is required to submit Certificates of Insurance acceptable to MMCAP as evidence of insurance coverage requirements prior to commencing work under the contract.

25. Publicity and Endorsement

25.1. Publicity. Any publicity by Vendor regarding the content of this Contract must identify MMCAP as the sponsoring agency and must not be released without prior written approval from MMCAP's Authorized Representative. Any publicity by MMCAP regarding the subject matter of this Contract must not be released without the prior written notice of Vendor's Authorized Representative, except that either party may publicize non-trade secret or public information in the normal course of business in order to promote its services. 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.

25.2. Endorsement. The Vendor must not claim that MMCAP endorses its Products or services, nor may MMCAP claim that Vendor endorses its Products or services.

26. Direct Marketing, Advertising, and Offers with Participating Facilities. Any direct advertising, marketing, or direct offers the Vendor intends to distribute in any form to MMCAP Participating Facilities for Contract Products must be approved in writing by the MMCAP Office.

27. 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.

28. Data Disclosure. Under Minnesota Statute § 270C.65, Subdivision 3 and other applicable law, the Vendor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Vendor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

29. Payment to SubContractors. (If applicable) As required by Minnesota Statute § 16A.1245, the prime Vendor must pay all subcontractors, less any retainage, within 10 calendar days of the prime Vendor's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

30. Minnesota Statute § 181.59. The Vendor will comply with the provisions of Minnesota Statute § 181.59 which require:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the Vendor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no Vendor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no Vendor, material supplier, or Vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

31. Affirmative Action Requirements for Contracts in Excess of \$100,000 and if the Vendor has More than 40 Full-time Employees in Minnesota or its Principal Place of Business. MMCAP intends to carry out its responsibility for requiring affirmative action by its Vendors.

31.1. Covered Contracts and Vendors. If the Contract exceeds \$100,000 and the 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 principle place of business, then the Vendor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600. A vendor covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

31.2. Minn. Stat. § 363A.36. Minn. Stat. § 363A.36 requires the 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.

31.3. Minn. R. 5000.3400-5000.3600.

(A) *General.* Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a vendor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

(B) *Disabled Workers.* The Vendor must comply with the following affirmative action requirements for disabled workers.

(1) The Vendor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Vendor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(2) The Vendor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(3) In the event of the Vendor's noncompliance with the requirements of this clause, 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) The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Vendor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

(5) The Vendor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the vendor is bound by the terms of 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 the Vendor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or MMCAP.

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

32. Contingency Fees Prohibited. Pursuant to Minnesota Statutes Section 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

33. Force Majeure. Neither party hereto will be considered in default in the performance of its obligations hereunder to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot, fire, or raw material or transportation shortages that are beyond that party's reasonable control. A party

defaulting under this provision must provide the other party prompt written notice of the default and take all necessary steps to bring about performance as soon as practicable.

Except for provisions of this Contract relating to protection of Trade Secrets and the obligation of payment, neither party will be liable for non-performance caused by circumstances beyond their reasonable control, including, but not limited to (i) Acts of God, explosion, flood, lightning, tempest, fire or accident; (ii) war, hostilities (whether war is declared or not), invasion, acts of foreign enemies; (iii) rebellion, revolution, insurrection, military or usurped power or civil war; (iv) riot, civil commotion or disorder; (v) acts, restrictions, regulations, refusals to grant any licenses or permission, prohibitions or measures of any kind on the part of any local, state, national, governmental or supra-governmental authority; (vi) state government shutdown; (vii) import or export regulations or embargos; (viii) defaults of subcontractors where such default is itself caused by force majeure.

34. Severability. If any non-material provision of the Contract, including items incorporated by reference, or any application of the terms thereof, shall be found to be illegal, invalid, unenforceable, or void, then both MMCAP and the Vendor will be relieved of all obligations arising under such provisions. The remainder of the Contract, including all provisions and the application of such provisions, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

35. Escalation Procedures. If Vendor and an MMCAP Participating Facility (the "Parties") have disputes related to either Parties' performance under this Contract, then the Parties will first utilize the Vendor's Government Sales Escalation Procedure as set forth on Attachment M of this Contract. If the disputes cannot be resolved, the Parties will handle resolution of the unresolved disputes using the following procedure set forth below.

35.1. Notification. The Parties shall promptly notify each other of any known unresolved dispute and work in good faith to resolve such dispute within five (5) business days. Absent resolution after five (5) business days, parties shall proceed to Documentation and Escalation steps described below.

35.2. Documentation. The Parties will jointly develop a written summary of the unresolved dispute within five (5) business days that describes the issue(s), relevant impact, and positions of both parties. The summary must be sent by the Vendor to the MMCAP Office, the MMCAP Participating Facility, and the Vendor's MMCAP Primary Account Representative.

35.3. Escalation of Dispute. If the Parties are unable to resolve the issue in a timely manner, as specified above, either the MMCAP Participating Facility or Vendor may escalate the resolution of the issue to a higher level of management. Where escalation of the issue proves ineffective, either Party may contact the MMCAP Office and/or the Vendor's MMCAP Representative for further resolution. When escalated to MMCAP, a teleconference will be scheduled with the MMCAP Office and the Vendor's MMCAP Primary Account Representative to review the briefing document and develop a proposed resolution and plan of action. The plan and timeline must be agreed to by all relevant parties to the dispute including; the MMCAP Office, the MMCAP Participating Facility, and Vendor.

35.4. Resolution Plan. Upon development of a plan and timeline for resolution, a Party will have a reasonable amount of time to cure the issue, but in no event longer than thirty (30) business days, except by express written agreement of the Parties. Failure to cure any defect within thirty (30) business days shall give the non-breaching Party cause to declare a material breach, subject to the termination rights set forth herein.

35.5. Mandatory Resolution Plan. without need for prior Escalation. A mandatory resolution plan and timeline shall be created by the Parties, without the prior need for Escalation of Dispute, when any of the following circumstances occur. Failure to correct identified defects, as set forth below, within the agreed upon time, not to exceed thirty (30) business days, or the reoccurrence of any event under Section 35.5 within ninety (90) days of initial resolution, shall give MMCAP cause to declare a material breach, subject

to the termination rights set forth herein. Failure to correct identified defects, as described below, shall grant cause for any affected MMCAP Member or MMCAP Participating Facility to terminate this Contract in accordance with Section 3.

- 35.5.1 Reports.** Vendor submits any such required report or data in a manner that materially fails to comply with the applicable provisions set forth in this Contract.
 - 35.5.2 Invoices.** If an MMCAP Participating Facility places an order for Product and receives a separate invoice for any fee not directly related to the cost of the Product from the Vendor without providing a separate invoice that references the same invoice number or purchase order number that is indicated on the Product invoice or purchase order.
 - 35.5.3 Unauthorized Fees.** Vendor charges an MMCAP Participating Facility any fee not authorized by this Contract or any Attachment hereto.
 - 35.5.4 Inventory Management.** MMCAP Contract Products which also include Products resulting from MMCAP's direct contracts with manufacturers are not loaded, stocked (based upon usage, request, notice of usage or due to barriers created by Vendor to avoid stocking the Product), and viewable by all MMCAP Participating Facilities, as required pursuant to this Contract and within the timelines set forth herein.
 - 35.5.5 Delivery Delays.** Deliveries made by the Vendor are not in accordance with the time schedules specified in Attachment C or as otherwise agreed upon by the Vendor and MMCAP Participating Facility.
 - 35.5.6 Ordering Information.** Products and pricing are not loaded correctly into the Vendor's product ordering system and an MMCAP Participating Facility must order alternatives to the MMCAP Contracted Products due to the Vendor's error.
 - 35.5.7 Business Interruption Plan.** Vendor experiences a systemic business interruption that materially affects Vendor's ability to perform its obligations under this Contract, excluding those systemic business interruptions caused by an event of force majeure; change in applicable laws, rules or regulations or interpretation or application thereof; changes in manufacturer policies or procedures; or any other event outside the reasonable control of Vendor.
 - 35.5.8 Required Licenses, Permits, and Registration.** Vendor fails to maintain all necessary licenses, permits and registrations required by state, local and federal agencies. Vendors must make such documentation available upon request by the MMCAP Office.
- 35.6. Performance while Dispute is Pending.** Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of their responsibilities under the Contract. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by MMCAP and/or MMCAP Participating Facilities as a result of such failure to proceed shall be borne by the Vendor.
- 35.7 No Waiver.** This clause shall in no way limit or waive either party's right to seek available legal or equitable remedies.
- 36. Required Licenses, Permits, and Registration.** Vendor shall have in place prior to the start of the Contract, and must maintain for the term of the Contract, all applicable current licenses, permits and registrations required by state, local and federal agencies in order to fulfill the obligations under this

Contract. Vendors must make such documentation available upon reasonable request by the MMCAP Office.

37. DEA License/HIN. The Vendor shall not require an MMCAP Participating Facility to have a DEA number in order to obtain Products unless the MMCAP Participating Facility places orders for controlled substances. MMCAP Participating Facilities will have HIN numbers assigned by the MMCAP Office, or proof of applicable state licensure from MMCAP Participating Facilities.

38. Administrative Personnel Changes. The Vendor shall notify the MMCAP Office of changes in the Vendor's key administrative personnel, in advance and in writing. Any employee of Vendor, who, in the opinion of the MMCAP Office, the MMCAP Participating Facilities or the MMCAP Participating Member State Contacts is unacceptable, will be removed from the project upon written notice to the Vendor; provided, however, any such removal must be for lawful reasons. In the event that an employee is removed pursuant to a written request from MMCAP's authorized representative, the Vendor will have ten (10) business days in which to fill the vacancy with an employee, in Vendor's sole discretion.

39. Assignment, Amendments, Waiver, and Entire Contract.

39.1. Assignment. Neither party may neither assign nor transfer any rights or obligations under this Contract without the prior written consent of the other party and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Contract, or their successors in office.

39.2. 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.

39.3. Waiver. If a party fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.

39.4. Entire Contract. This Contract constitutes the entire Contract between MMCAP and the Vendor. This Contract shall exclusively govern the purchases of Products that occur during the Term. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

40. Survival of Terms. The following clauses survive the expiration, termination or cancellation of this Contract: Indemnification; 19. Liability Limitations; 20; Audits; 21. Government Data Practices; 22. Intellectual Property; 23. Publicity and Endorsement; 25.. Governing Law Jurisdiction, and Venue; 27. Data Disclosure 28.

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

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**1. MCKESSON MEDICAL-SURGICAL
MINNESOTA SUPPLY INC.**

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: [Signature]
Title: President
Date: 9/4/12

By: _____
Title: _____
Date: _____

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

By: J. J. A. Vondra, ChPT
Title: SPT-D
Date: 9-5-2012

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

By: Lai Hoang, PharmD, MBA
Title: Pharmacist Senior
Date: September 5, 2012

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ATTACHMENT C: STATEMENT OF WORK

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1. Definitions.

Throughout this Contract, the following terms are used as defined.

Alternate Contracts Alternate Contracts are contracts that are entered into by either the MMCAP Participating Facilities or the MMCAP Member State with a third party.

Alternate Contract Sales: Alternate Contract Sales consist of Products purchased from Alternate Contracts.

Automatic Product Substitution: An order fulfillment process whereby Products that are not available at the time of order placement may be automatically substituted with another equivalent (brand, generic or private label) product substitute contingent upon written consent by the ordering MMCAP Participating Facility.

Adequate Supply: A supply of Products made available to the MMCAP Participating Facilities that conforms with the parameters of the Service Level Requirements and historical purchase patterns.

Best Value Products: Products offered by the Vendor under the MMCAP Contract that is determined by the end user MMCAP Participating Facility to represent the optimal combination of lowest cost, highest quality and suitability.

Commencement Date: The date at which the Vendor's Product pricing is loaded, Products are stocked and the Vendor's ordering system is ready to accept Product orders from the national MMCAP Participating Facilities.

Confirmation Printback/Order Confirmation: An electronic confirmation report generated from the Vendor's ordering system and sent electronically back to the ordering facility indicating that the requested Products are available, on Manufacturer Backorder, out of stock, or deleted, etc.

Core Products: Products determined by MMCAP that produced the highest volume in sales and highest quantity shipped during a given one (1) calendar year period and listed in Attachment B attached hereto.

Distribution Center: Vendor's facility used for receipt, temporary storage, and distribution of Products.

Drop Shipment(s): Products ordered by the MMCAP Participating Facilities through the Vendor and shipped directly to the MMCAP Participating Facilities from the original manufacturer/product supplier. The manufacturer/product supplier notifies and bills the Vendor, who then invoices and receives payment from the MMCAP Participating Facility.

EDI: Electronic Data Interchange: Inter-process (computer to computer application) communication of business information in a standardized electronic form.

Eligible Purchasers: MMCAP Participating Facilities that are deemed by the MMCAP Office to have met the requirements to be active an MMCAP Participating Facility and as set forth in Section 7 of this Contract.

Emergency Product Delivery: As set forth in Section 9.10. of Attachment C of this Contract.

Group Purchasing Organization: A group purchasing organization (GPO) is defined under 42 C.F.R. Section 1001.952(j). A GPO is an entity that helps healthcare providers – such as hospitals, nursing homes, and home health agencies – realize savings and efficiencies by aggregating purchasing volume and using that leverage to negotiate discounts with manufacturers, distributors, and other vendors.

Manufacturer Backorder(s) (MBO): An order placed by the Vendor to a manufacturer or supplier which is not shipped to the Vendor due to industry wide shortages or other supply issues.

Medical Supplies and Non-Pharmacy Products Vendor: A business that functions as a purchaser's source of distribution for a wide array of medical supplies, medical equipment and other non-pharmacy products which are the distributor's primary and sole business focus.

MMCAP Contract: Also referred to as the "Contract". The Contract executed by the Vendor and MMCAP for the distribution and sale of medical supplies, medical equipment, medical supplies and other non-pharmacy products. The MMCAP Contract shall mean the integrated Contract consisting of the executed Contract and any attachments that are attached and made part of the MMCAP Contract.

MMCAP Contract File Updates: Electronic files sent by the MMCAP Office to the Vendor which provide batched MMCAP Contract Products and MMCAP Contract pricing information. The first file (titled "Update [sequential number]") details the MMCAP Contract changes that have occurred since the last weekly communication from the MMCAP Office. The second file (titled "[sequential number] Contract [8-digit date]") is a listing of the entire MMCAP Contract as of the date provided in the title. The third file (titled "[sequential number] pending [8-digit date]") is a listing of the MMCAP Contract Products with future effective dates.

MMCAP Contract Products or Contract Products: Any Product that is covered under the MMCAP Contract and included on Attachment A: Products and Pricing and Attachment B: Core Products.

MMCAP Contract Product Cost: The applicable MMCAP Contract Product price agreed upon by the Vendor and MMCAP, and if applicable to this Contract, the Product price agreed upon by the MMCAP Contracted Manufacturer and MMCAP for which Vendor has loaded the Contract Product price associated with such contract between the Contracted Manufacturer and MMCAP.

MMCAP Contracted Manufacturer: A contract individually negotiated by MMCAP and a manufacturer/supplier of medical equipment, medical supplies and other non-pharmacy products.

MMCAP Member States(s): Any of the currently 46 MMCAP Member States plus the Cities of Chicago and Los Angeles who have executed a Joint Powers Agreement and any other MMCAP Member States added during the term of the MMCAP Contract.

MMCAP Office: The administrative staff of the MMCAP Program responsible for initiating and administering all MMCAP Contracts. The MMCAP Office may be referred to synonymously as MMCAP. Located at:

MMCAP
Minnesota Department of Administration
Materials Management Division
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

MMCAP Participating Facility: Any facility, purchasing through the Contract of an MMCAP Member, and listed by the MMCAP Office as an active participant in good standing in the MMCAP Membership. A current listing of MMCAP Participating Facilities is made available to all MMCAP vendors monthly.

MMCAP State Contacts: Purchasing and pharmacy professionals designated by MMCAP Member States to serve as liaisons between the MMCAP Office and the MMCAP Participating Facilities in each State. A list of MMCAP State Contacts is available at: http://www.mmd.admin.state.mn.us/mmcap/background_current_states.htm.

Net Purchase: All purchases of Products made through Vendor by any eligible MMCAP Participating Facility including Products drop shipped from an affiliate of Vendor in the normal course of business reduced by: (i) any credits, discounts, rebates, returns, allowances and other adjustments provided to such MMCAP Participating Facility; (ii) the total dollar volume of purchases from Vendor by such MMCAP

Participating Facility during any calendar month that such MMCAP Participating Facility is not in full compliance with all terms and conditions of this Contract; and (iii) any purchases from Vendor by an MMCAP Participating Facility for which such MMCAP Participating Facility has not paid its undisputed account balance in full on or before the date due agreed to by the Vendor and the ordering MMCAP Participating Facility.

Next Day Delivery: As set forth in Attachment H: Vendor's Shipping Policy.

Next Scheduled Delivery Day: The day agreed upon by the Vendor and the MMCAP Participating Facility for delivery of Products. For some MMCAP Participating Facilities, the Next Scheduled Delivery Day may not necessarily denote that the delivery will be made within 24 hours.

Non-Contract Product: Any product that does not appear on a current MMCAP Contract.

Non-contract product cost: The price of the product on a supplier's price list that is not a Product covered by the MMCAP Contract.

Non-Filled Orders: An order or a portion of a Core Product order cancelled due to non-shipment of Core Products from the Vendor to the MMCAP Participating Facility by the required Core Product delivery date, unless the ordering facility has previously approved the delivery of a Substitute Product. Non-filled items shall count against the Service Level calculation.

Non-Recurring Products: Products ordered less than once a month by MMCAP Participating Facilities. Non-recurring Products will not count in the Service Level Requirements calculation.

Order. "Order" shall mean any purchase order, contract, or other authorized agreement used to order User Equipment or Services under this Contract. An Order amended consistent with the requirements of any MMCAP Participating Facility and accepted by the Vendor shall be governed by the terms and conditions of the original Order, except as amended.

Order Originator. The MMCAP Participating Facility that places the Product order with the Vendor.

Private Label Products. Vendor's private label products shall mean those products labeled with Vendor's owned or licensed proprietary label.

Product(s): Includes all MMCAP Contracted Products covered by this Contract that are set forth on Attachment A: Products and Pricing, Attachment B: Core Products, non-conforming goods accepted by the ordering MMCAP Participating Facility and product substitutes that are agreed upon by the ordering MMCAP Participating Facility to be substantially similar to the Products. Also, if applicable, to this Contract, Products that are added to this Contract as a result of executed contracts between MMCAP and MMCAP Contracted Manufacturers.

Product Backorder: A Product order that is not fulfilled in the time frame set forth in this Contract due to the Product unavailability resulting from the Vendor's or the Manufacturer's inability to supply the Product.

Product Substitutes: Equivalent (brand, generic or private label) products that the ordering MMCAP Participating Facility has consented in writing to accept as a substitute to the ordered MMCAP Contract Products.

Replacement Products: In the event a Product is removed or recalled by the Vendor or a manufacturer of any Product covered by this Contract the Vendor must replace the Product with an acceptable product substitute. In the event the Vendor cannot obtain a suitable product substitute then the affected MMCAP Participating Facility may purchase the Product from a non-contract source. Vendor must agree to reimburse

the MMCAP Participating Facility for the replacement cost of the product substitute not to exceed 10% of the MMCAP Contract Product price.

Services: Any related service provided by the Vendor related to the Products covered by this Contract, and which can be ordered by MMCAP Participating Facilities. Services may include but are not limited to the following: customer service, product ordering systems, clinical education, product training, and product marketing, etc.

Service Level Requirement: A service level of ninety-seven percent 97% for Core Products, as set forth on Attachment B: Core Products for each MMCAP Participating Facility. A service level is calculated as the Number of Lines Delivered /Number of Lines Ordered.

Special Products: If applicable to this Contract, includes all MMCAP Contract Products that require special temperatures and environmental conditions in accordance with manufacturer requirements for delivery to the MMCAP Participating Facilities. All refrigerated Special Products will be shipped in disposable coolers with appropriate packaging to maintain the required temperature range. Special Products requiring refrigeration will be clearly marked as such. Temperature monitors will be used if they are required by the manufacturer.

State Fiscal Year: Defined using the State of Minnesota's Fiscal Year period of July 1- June 30 of each calendar year.

Vendor: MMCAP's Contracted Vendor that distributes Products and provides Services pursuant to the terms of this Contract.

Vendor's Contracted Supplier: Any supplier, manufacturer, or distributor of medical equipment, medical supplies and other non-pharmacy products that supplies and has a contract to supply the Vendor with products purchased under this Contract.

Vendor Performance Report: A written report prepared by the MMCAP Office detailing the exceptional or unsatisfactory performance of the Vendor.

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2. Vendor Service Area. As of the Contract Effective Date, Vendor will provide all Product and related Services covered under this Contract to all of the national MMCAP Participating Facilities within the cities and states listed on Attachment E: Service Area of this Contract MMCAP reserves the right to add or delete MMCAP Member States/Cities and/or MMCAP Participating Facilities at any time during the Contract term.

3. Required Vendor Personnel. Vendor must maintain an adequate number of personnel, including but not limited, to the personnel listed below that can provide Service and support to the national MMCAP Participating Facilities and the MMCAP Office. The personnel must have adequate professional qualifications, training and continuing education to provide Services related to the Products covered by this Contract. Upon request, Vendor will provide written documentation to the MMCAP Office and/or the MMCAP Participating Facility and/ or MMCAP Member State Contact that substantiates its personnel have validated licenses, certifications or educational requirements that are in accordance with all applicable law and regulatory agencies for the Services it provides in connection to the Products covered by this Contract.

Vendor Customer Support includes but is not limited to the following:

- Sales Representatives
- Customer Service Representatives
- Clinical Representatives
- Manufacturer Service Technicians
- Distribution Center Representatives
- MMCAP Contract Representatives for the MMCAP Office
- MMCAP Contract Representatives for the MMCAP Participating Facilities
- MMCAP Account Representatives
- Product Marketing Specialists
- Manufacturer Product Training and Education Specialists
- Government Supply Chain Specialists
- Product Ordering System Technical Support and Training Specialists
- Contract Implementation and Transition Team
- Account Payable/Receivable Specialists who are capable of addressing invoice/credit rebill inquiries

4. Customer Service.

4.1. Customer Service to MMCAP Office. The Vendor will provide its customer service function to the MMCAP Office by assigning a Primary Account representative to the MMCAP Office to discuss at a minimum but not limited to the following topics:

- Customer satisfaction
- Vendor performance
- Specific account performance (COGs, payment terms, etc.)
- Required Reports (e.g., adjusted fill-rates, contract compliance)
- Other Contract related issues

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- a. The Vendor's designated Primary Account Representative for the MMCAP Office will be as follows (or the Vendor's named successors):

Sales Contact Therese Muggle	Director, Government Sales	8121 10 th Ave N Golden Valley, MN 55427	Phone: Mobile Phone: Fax: 800-237-9766 Email: government.sales@mckesson.com
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- b. Additional functional contacts are:

Customer Service		8121 10 th Ave N Golden Valley, MN 55427	Phone: 800-328-8111 #70180 Mobile Phone: Fax: 800-237-9766 Email: government.sales@mckesson.com
Cindy Ince Non order related contract questions	Proposal Manager	8121 10 th Ave N Golden Valley, MN 55427	Phone: 800-328-8111 ext 56960 Mobile Phone: Fax: 800-237-9766 Email: cindy.ince@mckesson.com

- c. The Vendor must provide sixty (60) days prior written notification to the MMCAP Office, MMCAP Member State Contact and the MMCAP Participating Facilities, of changes in the Vendor's key personnel assigned to this MMCAP Contract, and/or the MMCAP Member State and/or the MMCAP Participating Facilities. Upon written request by the MMCAP Office and notice to the Vendor, Vendor must remove immediately and replace any employee of Vendor as set forth in Section 38. Administrative Personnel Changes, of the Contract, who, in the sole opinion of the MMCAP Office, and/or the MMCAP Member State Contact and/or the MMCAP Participating Facilities is providing unacceptable service under this Contract. There will be no charge to the MMCAP Office, MMCAP Member States or the MMCAP Participating Facilities for assigning replacement personnel. Vendor agrees that each such replacement personnel have the necessary orientation, background, knowledge, skills, and abilities to perform in the position replaced.

4.2. Customer Service to the MMCAP Participating Facility

4.2.1. Customer Service Department. Vendor must maintain through the term of this Contract a toll-free customer service call center. The call center operational hours must cover all the U.S. time zones, including Alaska and Hawaii, during normal business hours and have a system to respond to inquiries during its non-operational hours.

The call center representatives must be capable of responding to telephone or electronic message inquiries (e.g. email, blackberry or similar hand-held messaging devices) from the national MMCAP Participating Facilities and the MMCAP Office. The call center representatives must also have the corporate authority, experience and training to respond to any inquiry related to the MMCAP Contract.

Vendor shall provide the MMCAP Participating Facilities access to the Vendor's customer service department, which at a minimum, consists of the following:

- a. Customer support center located at: [Golden Valley, MN].
- b. Access to customer service representatives with principal responsibilities in the areas of but not limited to: order entry, shipping, delivery, ordering, stocking issues, and other general customer service requests.
- c. Customer service hours of operation are: [7:00 AM – 5:00 PM Central Time Monday – Friday] (excluding the following national holidays: [New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and day after Thanksgiving, Christmas Day, Martin Luther King Day].
- d. Vendor’s customer service can be reached toll free at: [800-328-8111 ext #70180] by fax at: [800-237-9766], or by e-mail at [government.sales@mckesson.com] Technical support is available [7:00 AM – 7:00PM Central Time, Monday – Friday, excluding holidays. Technical support can be reached toll free by calling [800-328-8111 #70190 or by email at [Customer.system@mckesson.]
- e. **Emergency Call Procedures:** To be used for life critical emergency situations only that requires Product before the Next Scheduled Delivery Day.
 - i. During normal business hours (Monday-Friday [7:00 AM – 5:00 PM Central Time excluding holidays.], call customer service at: [800-328-8111 #70180; government.sales@mckesson.com
 - ii. Outside normal business hours, Vendor’s internet ordering solution, SupplyManagerSM, is available for order placement.

4.3. MMCAP Participating Facility Customer Account Representatives. Vendor will have a designated account representative appointed by the Vendor’s Primary Account Manager who can address contract related issues. Upon request, the representatives will meet with the MMCAP Office, MMCAP Member State/City Representatives and the MMCAP Participating Facilities to discuss at a minimum, but not limited to the following:

- Customer Satisfaction
- Vendor Performance
- State Account Performance (COGs, payment terms, etc.)
- Reports (e.g., contract compliance)
- Other Contract Related Issues

5. Vendor Performance Requirements. Vendor will be required to meet the performance requirements set forth in this Contract. Vendor’s performance will be reviewed at the quarterly business reviews with the MMCAP Office. If Vendor’s performance is unsatisfactory as measured against the performance requirements described in this Contract then the Vendor will be put on a corrective action plan. The corrective action plan will detail the MMCAP Office’s expectations and timeline for bringing the Vendor up to a satisfactory level of performance as described in this Contract. Vendor’s failure to perform at a satisfactory level as set forth in this Contract for two (2) consecutive calendar quarters may result in the termination of this Contract as described in section Article 4: Section 3. Contract Termination.

5.1. MMCAP Business Reviews. Vendor’s Primary Account Representative assigned to the MMCAP account must participate in business reviews at the MMCAP Office at least quarterly, (every three consecutive calendar months) during the term of the MMCAP Contract. The business reviews will be conducted jointly between the MMCAP Office and the Vendor’s Primary Account Representative and if deemed necessary, or by request, any MMCAP Participating Facilities may attend the quarterly business review meeting. The business review will be conducted at the MMCAP Office and include, but not be limited to the topics covered below.

5.1.1. Meeting Structure and Topics.

- a. The business review meeting agenda must be finalized a week in advance with significant MMCAP input.
- b. All data, backup reports and slides pertaining to the meeting should be sent to the MMCAP Office at least three (3) business days in advance
- c. The quarterly business review meetings held at the MMCAP Office with the Vendor's Primary Account Representative and others at the Vendor's Corporate Office should address at a minimum the following:
 - Medical Supply Industry News/Updates
 - Service Levels
 - Contract Activity Reporting
 - Success Stories and Ongoing Opportunities.
 - Product Information (recalls, innovations, new products etc.)
 - Contract Performance
 - Purchase Activity Reporting
 - EDI Setup
 - Pricing Audits
 - Customer Satisfaction
 - Member Issues
 - Conversion Activities
 - Contract Implementation/Transition Issue
 - Core Product Sales Activity Review
 - Provide a briefing on Vendor's efforts to refer the MMCAP Members to Products that represent the "Best Value".

6. MMCAP Contract Implementation and Transition. In completing the transition of this Contract, Vendor shall work with the MMCAP Office, MMCAP Member State Contacts and MMCAP Participating Facilities to determine the appropriate steps and schedule for the transition. Vendor acknowledges that the transition may be dependent upon the terms of the MMCAP Participating Facilities' existing contracts with manufacturers and distributors. Vendor's procedure for implementing and transitioning MMCAP Participating Facilities to this Contract is set forth on Attachment F: Vendor's Contract Implementation and Transition Plan.

6.1. Contract Implementation Plan. Beginning on the Effective Date through the first ninety (90) days of this Contract the Vendor shall implement its Contract Implementation Plan set forth on Attachment F of this Contract. The MMCAP Office will provide the Vendor with the current MMCAP Participating Facilities list and product usage information sixty (60) calendar days prior to the Commencement Date of this Contract.

6.2. Contract Transition.

6.2.1. Commencement Date. Vendor will transition Eligible Purchasers to MMCAP Contract No. [XXX] within ten (10) business days of receipt of written approval from the Eligible Purchaser unless an alternative time period for transition is agreed upon in writing between Vendor and the Eligible Purchaser .

6.2.2. MMCAP Participating Facility Eligibility. Vendor shall inform any prospective new MMCAP business accounts that it must enter into a MMCAP Participating Facility Membership Agreement and complete the MMCAP Participating Facility Membership Application form before it is eligible to purchase Products covered by this Contract. Vendor also agrees to refer any prospective new MMCAP

business accounts that need further assistance regarding the MMCAP Participating Facility Membership application process to the MMCAP Office and to the MMCAP Participating State Contact.

6.2.3. Vendor Required Documentation. Vendors shall be responsible for notifying both new and existing MMCAP Participating Facilities and the MMCAP Participating State Contact in writing specifying the Vendor's required documentation and instructions to enable the MMCAP Participating Facilities to transition to the new Contract. Vendor shall promptly notify the MMCAP Participating Facilities and the MMCAP Member State Contact at least thirty (30) calendar days prior to the Commencement Date of the MMCAP Contract and throughout the Contract Term of any missing or incomplete documentation required for account set-up.

6.2.4. Start-Up Inventory. At least thirty (30) calendar days prior to the Commencement Date of the MMCAP Contract, Vendor will provide an inventory of MMCAP Core Products sufficient to meet the needs of the national MMCAP Participating Facilities. Historical Product usage data will be provided by the MMCAP Office to the Vendor at least sixty (60) calendar days prior to the Commencement Date of the Contract. Vendor must have all MMCAP Contract Products loaded in its ordering system and have a sufficient Core Product supply available to order prior to the Commencement Date of the MMCAP Contract.

6.2.5. Product Samples and/or Demonstration Models. Upon request from the MMCAP Participating Facilities and upon authorization by the product manufacturers, the Vendor agrees to provide Product samples and/or demonstration models to the requesting MMCAP Participating Facilities for evaluation purposes. The product samples and/or demonstration models must be provided at no charge throughout the term of the MMCAP Contract; provided, however, Vendor shall not be obligated to provide such samples if in non-compliance with federal or state laws and regulations, or if such laws and regulations require Vendor to make reporting disclosures to federal or state agencies. In addition, during the term of the MMCAP Contract and upon request by the MMCAP Participating Facility, Vendor shall work with the manufacturers of the Products to arrange full facility trials as may be requested.

6.2.6. MMCAP Office Contacts. The following individuals will be the primary MMCAP Office Contacts during the Contract implementation and transition period.

- Jim Losinski, MMCAP Medical Supplies and Non-Pharmacy Products Program Coordinator. Email: james.losinski@state.mn.us; Phone: 651-201-2440
- Alan Dahlgren, MMCAP Managing Director. Email: Alan.Dahlgren@state.mn.us Phone: 651-201-2410.
- Sara Turnbow, MMCAP Manager of Contracting and Business Opportunities. Email: sara.turnbow@state.mn.us ; Phone: 651-201-2411.
-

7. Inventory Management. Described below are the Product inventory management requirements for MMCAP Contract Products that are set forth on Attachment A: Products and Pricing and Attachment B: Core Products. Also, if applicable to this Contract, Products may be added to this Contract through MMCAP Contracted Manufacturers. In the event such contracts for specific products are executed between MMCAP and a manufacturer, the Vendor will agree to distribute the product under the same terms and conditions as set forth in this Contract.

7.1. Inventory Management at an MMCAP Participating Facility. Upon request by an MMCAP Participating Facility, Vendor will provide, to the MMCAP Participating Facility, Vendor's inventory management system, ScanManagerSM, for an additional fee and subject to a separate agreement between Vendor and each MMCAP Participating Facility.

7.2. Vendor Contacts. Vendor's designated contact for all usage, inventory, and special order questions for the MMCAP Office is:

Customer Service		8121 10 th Ave N Golden Valley, MN 55427	Phone: 800-328-8111 #70180 Mobile Phone: Fax:800-237-9766 Email:government.sales@mckesson.com
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7.3. MMCAP Contract Products.

- a. Vendor will stock all MMCAP Core Products set forth on Attachment B and make all reasonable efforts to stock non-Core Products set forth on Attachment A.
- b. Vendor acknowledges and agrees to maintain MMCAP Contract Product utilization history data of the MMCAP Contract Products for a minimum of sixty (60) calendar days. If any MMCAP Contract Product has not been ordered after sixty (60) calendar days, such Contract Product utilization history data can be adjusted accordingly in Vendor’s product inventory management system to reflect the non-usage of such Contract Product.
- c. Vendor will bring in a thirty (30) calendar days’ supply of MMCAP Contract Products for initial account set-up based on sales usage data from the MMCAP Office. Thereafter, Vendor’s buying system will acknowledge the created demand and purchase inventory to meet said demand. Inventory will be maintained according to Vendor’s Service Level Requirements and inventory parameters. See also Section 6.2.3. Start-Up Inventory.
- d. Vendor is responsible for providing an inventory forecasting report to the MMCAP Office as requested. This report will monitor and forecast ordering, usage patterns, as well as, identify significant trends, including increases and decreases in purchases. Monthly contract compliance reports to monitor purchases of MMCAP Contract and non-contract products must also be available to the MMCAP Office upon request.
- e. Vendor cannot discontinue stocking an MMCAP Contract Product unless there is mutual written agreement between the MMCAP Office and the Vendor.
- f. **MMCAP Contract Product Additions.** For newly added MMCAP Contract Products, Vendor will make good faith efforts to have such Contract Products loaded, stocked, and viewable in its system and ready for delivery no later than fifteen (15) business days from the time Vendor receives notification that such Contract Product has been added to the MMCAP Contract.
- g. **Non-Stocked MMCAP Contract Products.** For MMCAP Contract Products that are not stocked, an MMCAP Participating Facility may request Vendor to add a Contract Product to inventory at the applicable Distribution Center by contacting customer service or its account representative. MMCAP Contract Products will be available for delivery no later than three (3) business days from request receipt for such Contract Products stocked at Vendor’s Distribution Center unless the MMCAP Contract Product is delayed due to manufacturer unavailability or a force majeure event as set forth in Section 33 Force Majeure of the Contract. In the event the fulfillment of any of the requests will take longer than what is specified in this section, Vendor will provide prior written notice of the delay and the reason for the delay to the requesting MMCAP Participating Facility and the MMCAP Office.

7.4. MMCAP Contracted Manufacturers.

- a. Vendor must agree to stock and distribute the MMCAP Contracted Manufacturers’ products as they become available to MMCAP Participating Facilities at the contract prices agreed to by MMCAP and the MMCAP Contracted Manufacturers.

- b. The MMCAP Office reserves the right to modify the MMCAP Contracted Manufacturers List, as set forth in Attachment G, at any time during the Contract term.
- c. **New Product Additions.** If MMCAP contracts directly with a manufacturer(s) with whom Vendor has an existing contractual relationship for distribution of its Products, the MMCAP Contracted Manufacturer's Products will be loaded, stocked, viewable, and ready for delivery in fifteen (15) business days from the Effective Date of the MMCAP Contract with the manufacturer unless a longer term is approved in writing by the MMCAP Office. .

7.5. Vendor Created Stock Outages. Vendor shall include its Stock Outage and Backorder Policy attached to this Contract as Attachment I. Vendor Stock Outages due to cancellations/backorders that are not created by the Vendor's Contracted Supplier or are due to Vendor's negligence will be considered a failure to perform by the Vendor and may be considered grounds for termination of this Contract in accordance with Article 4, Section 3 of the Contract. Vendor shall use the following process in the event of a backorder situation due to a Vendor-created stock outage.

7.5.1. Immediate Notification. Vendor will notify the MMCAP Participating Facilities, MMCAP Member States and the MMCAP Office promptly of any Products covered by this Contract that the Vendor has placed on backorder. Vendor's backorder notification will include:

- a. The Products placed on backorder status.
- b. The expected timeline of the backorder from the time the Products are added to the backorder status to time the Products will be removed.
- c. The reason for the Vendor created stock outage that caused the Product backorder and how the Vendor intends to resolve the backorder situation.

7.5.2. Delivery Timeframe. Vendor will have three (3) to seven (7) business days from the date the Product is available to have the Product delivered at no charge and subject to Section 15.1 of the Contract, with no additional fees to the ordering MMCAP Participating Facility, barring any manufacturer production issues; provided, however, orders for metropolitan locations in Hawaii generally arrive within three (3) business days from the date the order ships but could be longer than three (3) days, and orders for locations in Alaska generally arrive within three (3) to seven (7) business days from the date the order ships.

7.5.3. Manufacturer Direct Shipment. If the Product subject to the backorder is deemed critical by the MMCAP Participating Facility, and the Product is available from the Vendor's Contracted Supplier, then the Vendor will have the Vendor's Contracted Supplier of the Product ship directly (drop shipped) to the MMCAP Participating Facility via expedited delivery unless otherwise approved by the MMCAP Participating Facility. Any Products that are drop shipped to MMCAP Participating Facilities from the Vendor's Contracted Supplier may be charged any additional fees or shipping charges. Upon request Vendor shall provide shipping options and costs to the MMCAP Participating Facility.

7.5.4. Product Substitutes. The ordering MMCAP Participating Facility may purchase Product Substitutes on the open market for the period in which the Vendor is unable to provide the backordered Product. The Product Substitutes must be an equivalent (brand, generic or private label) product that is approved by the ordering MMCAP Participating Facility. Notwithstanding any other term or condition of this Contract, Vendor shall not be liable hereunder or under any applicable law for "cover" or other damages relating to failure to supply, except for (a) the penalty provided in Attachment C, Section 7.6.5, if applicable, and (b) in the event (i) Vendor is unable to provide the Product or a reasonable substitute for the Product, and (ii) a MMCAP Participating Facility requires such Product during the period of unavailability, then Vendor shall be liable for any additional cost of acquiring a substitute Product from another vendor, provided that Vendor's liability for such payments shall be capped at 10% of the price of

the Product hereunder, and shall only apply for ordinary course orders submitted during the first sixty (60) days of unavailability/failure to deliver during the term of this Contract.

7.5.5. Auto-Backorder. Vendor will have an auto-backorder function that is part of its existing product ordering system that will allow MMCAP Participating Facilities to receive backordered Product due to Vendor created Stock Outages immediately upon availability of the Product.

7.5.6. Manufacturer Created Backorders. The Vendor shall use the following process in the event of a backorder situation due to a Manufacturer Backorder or a manufacturer created stock outage.

7.5.6.1. Immediate Notification. Vendor will provide immediate notification to the ordering MMCAP Participating Facilities through Vendor's online ordering system of any Products covered by this Contract that the Vendor has placed on backorder due to **a Manufacturer Backorder or a manufacturer created stock outage**. Vendor's backorder notification will include but is not limited to:

- a. The Products placed on backorder status.
- b. The expected timeline of the backorder from the time the Products are added to the backorder status to time the Products will be removed.
- c. The reason for the manufacturer created stock outage that caused the Product backorder and how the manufacturer intends to resolve the backorder situation.

7.6. Service Level Requirements. Vendor agrees to maintain a monthly service level of ninety-seven percent 97% for Core Products, as set forth on Attachment B: Core Products. A service level is calculated as set forth in Section 7.6.2 below for each MMCAP Participating Facility account. Vendor acknowledges and agrees that its policy is to fill all orders at the time of order placement unless the MMCAP Participating Facility is set up to receive backorders. Service Levels for MMCAP Participating Facilities allowing backorders shall be calculated on the first partial shipment made on the order. Incorrect or non-conforming Products shipped to MMCAP Participating Facilities due to Vendor's fault shall count against the service level. Non-Filled Core Products, Product Substitutes, and split shipments for Core Products shall count against the service level calculation, except as set forth below in Section 7.6.4.

7.6.1. Service Level Reports. Upon request by the MMCAP Office, MMCAP Participating Facility or the MMCAP Member State, Vendor will calculate the Service Level Requirements and upon request, issue reports regarding such Service Level Requirements as set for in Section 20 of this Contract. Reports shall provide calculations for the following:

- a. Each of the MMCAP Participating Facility account(s) serviced by Vendor.
- b. An aggregate report of all of the MMCAP Participating Facility accounts serviced by Vendor.
- c. Each Distribution Center that services MMCAP Participating Facility accounts.

7.6.2. Service Level Calculations. The Vendor will calculate the Service Level as follows:

a. Service Level = Number of Lines Delivered /Number of Lines Ordered

7.6.3. Manufacturer Backorder Units will include the following:

- a. Orders for Core Products made but not shipped because of a Manufacturer Backorder, industry wide shortages or other issues beyond the control of Vendor, as demonstrated by Vendor to the reasonable satisfaction of the MMCAP Office (e.g., manufacturer unable to supply, manufacturer allocations, Manufacturer Backorders, manufacturer recalls, and manufacturer discontinued).
- b. Purchases of Core Products which exceed 150% of the previous month activity.

- c. Core Products ordered which are filled and delivered within twenty-four (24) hours of the original order.
- d. Partial shipments of Core Products if 75% or more of the order can be completely filled within 48 hours.
- e. Special orders requiring shipment from the manufacturer.
- f. Non-stock products that are not under contract with MMCAP

7.6.4. Service Level Calculation Exclusions. Exclusions to the Service Level Requirements calculations are listed below:

- a. Non-recurring Product orders of non-Core Products (Products ordered less than once a month).
- b. Manufacturer Backorders as defined above in Section 7.6.3

7.6.5. Service Level Non-Compliance Fees. In the event Vendor's Service Level Requirement for a specific MMCAP Participating Facility falls below ninety-seven percent (97%) for any calendar month, Vendor will be assessed the fees outlined below on all MMCAP Core Products purchased during that month in which the Service Level falls below the required level. Vendor will credit the amount back to the MMCAP Participating Facility by the last day of the first month of the next fiscal quarter (e.g., payment for default in January will be due on April 30). Failure to meet the Service Level Requirement will not itself constitute a default as long as Vendor is current in crediting of such amounts. Failure to meet Service Level for any MMCAP Participating Facility will be officially recorded as part of the Vendor contract performance, which is available for public review and may be used as a past performance record in deciding any future MMCAP Contract awards.

96.0% to 96.99%	5 basis points fee assessed (0.05%) on all MMCAP Core Products purchased during such month for a specific MMCAP Participating Facility
95.99% to 95.0%	10 basis points fee assessed (0.10%) on all MMCAP Core Products purchased during such month for a specific MMCAP Participating Facility
Less than 95%	25 basis points fee assessed (0.25%) on all MMCAP Core Products purchased during such month for a specific MMCAP Participating Facility

8. Management of MMCAP Contract Products

8.1. Price Loading Requirements.

- a. Vendor will be responsible for processing the MMCAP Contract File Updates, or the files sent to the Vendor by the MMCAP Office which specify the Products and pricing covered under this Contract.
- b. If applicable to this Contract, this may also include the Product pricing that the MMCAP Office has negotiated with MMCAP Contracted Manufacturers. Vendor will load and make viewable in its ordering system all data lines from MMCAP's Contract File Update notifications within fifteen (15) business days from the date of receipt or by the MMCAP Contract File Update Effective Date (the date upon which MMCAP and the manufacturer executed the contract), whichever is later. When manufacturer verification is needed in order to load an MMCAP Contracted Manufacturer's Product and the MMCAP-Contracted Manufacturer has not responded or provides data that is inconsistent with the MMCAP Contract File Updates, Vendor will make a good faith effort to notify the MMCAP Office in writing no later than two (2) business days (after the five (5) business days allowed for Vendor processing).
- c. Vendor agrees that any notice received from an MMCAP-Contracted Manufacturer or the Vendor's Product supplier for a price or Product change on an MMCAP Contract Product will be forwarded to the MMCAP Office Contacts referenced in Section 6.2.5 of this Attachment C.

- d. Provided that Vendor has received all requested account set-up information, Vendor will have all MMCAP Contract and individual MMCAP Contracted Manufacturer contracts loaded prior to the MMCAP Participating Facility's first order. This includes all tiered contracts, if applicable to this Contract.

8.2. Product Additions/Deletions. Vendor may not add or remove any MMCAP Contract Products from its database without the prior written consent of the MMCAP Office.

8.3. Adequate Supply. Vendor agrees to maintain an Adequate Supply of any Product that is added to the MMCAP Contract.

8.4. Convenience and Individual Contracts. Upon request of an MMCAP Participating Facility and or MMCAP Member State, and after prior approval by the MMCAP Office in writing, Vendor will supply and distribute Products which have been contracted for by an MMCAP Participating Facility under contracts individually negotiated with manufacturers of medical supplies, equipment and other non-pharmacy products.

8.5. Product Expiration Dating.

- a. At a minimum, expiration dating for all MMCAP Contract Products and non-Contract Products delivered to MMCAP Participating Facilities must have a minimum shelf life of three (3) months expiration dating remaining upon delivery to the MMCAP Participating Facilities.

9. Product Ordering. Vendor will implement its ordering system, which also includes its emergency ordering system regardless of the technological capacity of the MMCAP Participating Facility. Vendor will provide ordering procedure training to staff identified by the MMCAP Participating Facility at no charge within a timeframe that is mutually agreeable to the Vendor and the MMCAP Participating Facility after establishing a new MMCAP business account. In addition, Vendor will provide ongoing technical and training support to the MMCAP Participating Facilities who use its product ordering system during the term of the MMCAP Contract. Vendor will also provide its Product catalog in the format requested by and within technological capabilities of the MMCAP Participating Facility which may include an online, or other electronic based catalog, and also Microsoft Office compatible electronic files or other paper-based format.

9.1. Ordering System.

- a. Vendor will provide to each MMCAP Participating Facility a product ordering method that allows the facility to quickly and accurately order MMCAP Contract Products and non-Contract products, within the technological capabilities of the MMCAP Participating Facility. At a minimum, Vendor's product ordering system(s) must provide the following functionalities:
 - i. Clearly identify all Manufacturer Product ID Numbers and whether these Products are in stock
 - ii. Build and place electronic orders
 - iii. Review pending orders for correctness and contract compliance
 - iv. Receive Order Confirmation reports
- b. Vendor will offer its product ordering system(s) to MMCAP Participating Facilities. Vendor will support the following ordering methods: Internet, EDI, phone orders via interactive voice response, direct call to customer service, handheld device ordering, and fax orders.
- c. Vendor will offer multiple methods of order processing to accommodate the unique needs of each MMCAP Participating Facility.
 - i. Vendor's web-based ordering platform, SupplyManagerSM, is available to MMCAP Participating Facilities who prefer an online ordering option. This option is available at no additional charge. If this is the designated method of ordering, the MMCAP Participating Facility will receive assistance in receiving the necessary login in information and training. This system provides real-time information on the availability of Products and the status of an order is also accessible by MMCAP

Participating Facilities. SupplyManagerSM includes features, such as, creating custom order lists, determine product usage and track 12-month trends and the ability to access reports with a click of a button.

ii. McKesson DirectSM is unique in that MMCAP Participating Facilities can configure their interfaces to Vendor's web-based ordering platforms, which helps to eliminate expensive and time-consuming programming costs associated with EDI. McKesson DirectSM creates seamless integration between software systems, elevating the supply management process by improving efficiencies, maximizing transactions and maintaining data integrity.

iii. If an MMCAP Participating Facility prefers a non-technology solution for ordering, an MMCAP Participating Facility can place an order by phone (800-328-8111) or fax (800-237-9766) via the toll-free numbers to Vendor's Government Sales Department. There is also a Faxed Re-Order Guide, FROGTM. This program simplifies the process if faxing orders is the preferred method.

9.2. Training. Training for Vendor's ordering system may be provided on-site at the MMCAP Participating Facility, through webinars or other online training systems that must be approved in writing by the MMCAP Participating Facility department or agency lead.

a. Training will include but is not limited to the following:

- i. Proper use of product order entry devices including computer and hand held units
- ii. How to access and interpret Vendor's inventory status
- iii. Order placement process (Product inquiry, placement, order edit, print back confirmation, etc.)
- iv. Any required product ordering system maintenance
- v. Downloading price changes
- vi. Performing file maintenance
- vii. Requesting or printing bar code labels
- viii. Download/Run/Print/Export contractually required reports
- ix. Operation of Inventory Management program
- x. Identifying MMCAP Contract Products (e.g., contract ranking)
- xi. Any other commercially available training in use of the equipment or ancillary items
- xii. Contact information in case of questions regarding ordering
- xiii. Training guides or manuals and system operating manuals, accessible on line (including all updates), for all equipment and software furnished by the Vendor to each individual ordering facility
- xiv. Assigning of account login IDs and passwords
- xv. Item Return Processing Training
- xvi. Technical support to interface hand held devices with each facility's PC/network infrastructure.

b. Vendor will provide each MMCAP Participating Facility with a product ordering instruction manual that outlines all of the functions on the online ordering. Vendor will work with the MMCAP Office to develop other training processes as needed.

9.3. Ordering System(s) Back-up Service, Maintenance and Repair

If Vendor's ordering system is internet based Vendor agrees that routine site maintenance will generally occur on weekends and MMCAP Participating Facilities and Participating State Contacts will be notified via a posting on the website if the scheduled maintenance occurs during regular business hours or for an extended period of time during the weekend. Routine maintenance generally occurs Saturday evenings or Sunday morning with an estimated outage of less than ten minutes. Vendor reserves a maintenance window during weekends. During the routine maintenance customer service is available to place orders via, phone or email and will serve as back-ups for Vendor's product ordering systems.

9.4. Order Placement. Vendor's product ordering system will display at least but is not limited to the following information:

- MMCAP Participating Facility's name
- Vendor assigned account number
- Product Name
- Vendor's Product Number
- Generic Name or Private Label Name
- Product Description
- Packaging
- Manufacturer Name
- Unit dose indicator (if applicable to the Products ordered under this Contract)
- Form of product (if applicable; e.g., tablet, capsule, etc.)
- When available during the term of the Contract, Vendor will provide United Nations Standard Products and Services Code® (UNSPSC®)
- Type of contract – contract identification or code that identifies product as an MMCAP Contract Product, non-contract, or if applicable, Product Substitute
- Contract price (specific to the pricing and contract eligibility of each MMCAP Participating Facility).
- Product denoted as available as a Drop Shipment
- Product inventory status (e.g., stocked, unavailable due to MBO, Vendor Out of Stock, or allocation situations)
- Real-time Product inventory quantity available (Product in stock minus those allocated to orders)
- Product Substitute search option
- Product inquiry search option
- Automatic Substitution information option
- Auto-backordering function
- A photographic picture of the Product(s) being ordered when available

9.4.1. Default Set-Up. Vendor agrees that all new MMCAP Participating Facilities will be started with a standard default ordering set-up to ensure MMCAP contract compliance This default set-up will be approved by the MMCAP Office prior to being deployed.

9.5. Confirmation Printback/Order Confirmation. Vendor's product ordering system will allow for the input of an individual purchase order number assigned by the MMCAP Participating Facility for each order submitted. Vendor will provide a purchase order confirmation report to the Order Originator the same day the order is placed by the MMCAP Participating Facility. The order status report will reference the purchase order number of the original order and include any related Product order information including but not limited to, the turn-around time from the placement of the MMCAP Participating Facility's order to the expected delivery of the Product.

9.6. Local Agreements. Vendor's ordering system will clearly identify both MMCAP Contract Products and the MMCAP Participating Facilities' Alternate Contracts. If the MMCAP Participating Facilities permit the Alternate Contracts to be loaded onto Vendor's ordering system, MMCAP shall be listed as the primary GPO for all MMCAP Participating Facilities and Vendor shall credit all sales to MMCAP.

9.7. Automatic Product Substitution. The intent of this Contract is to provide Products included on Attachment A: Products and Pricing and Attachment B: Core Products, to MMCAP Participating Facilities and **not product substitutes**. During the implementation period, the Vendor shall assist MMCAP Participating Facilities with the identification of acceptable products for Automatic Product Substitution in the event the Products covered by this Contract are not available at the time of order placement. Automatic Product Substitution will only be permitted upon the written consent of the MMCAP Participating Facility, and a record of the Vendor's Automatic Product Substitutions shall be provided to the MMCAP Office at

the quarterly business review meetings at the MMCAP Office. In instances where the Vendor uses the Automatic Product Substitution process, the MMCAP Participating Facility must be notified of the product substitution and the substituted product must be annotated as such on the MMCAP Participating Facility's Order Confirmation. Automatic Product Substitution by the Vendor without the MMCAP Participating Facility's prior written consent is prohibited. Upon request, and at any time during the term of this Contract, Vendor will supply the MMCAP Office with a list of MMCAP Participating Facilities using Automatic Product Substitution and a report of the products substituted. In the absence of Automatic Product Substitution, if the Vendor cannot fill an order for a Product included in Attachment A: Products and Pricing and/or the Attachment B: Core Products then the Vendor shall notify the MMCAP Participating Facility and inform the Order Originator as to the reason the requested Product is not available and the Vendor shall suggest possible suitable product substitutes from the established product substitute list. The Vendor shall not suggest its self-manufactured or its Private Label Products or products manufactured by its subsidiaries without also suggesting at least one competitor's or national brand product. The MMCAP Participating Facility will decide whether to accept a product substitute or to cancel the unavailable Product from the order. Product substitutes shall count against the Service Level Requirement, except as set forth above in Section 7.6.

9.8. Technical Support for Product Ordering. Vendor will provide a dedicated team of IT customer service representatives available 7:00 a.m. to 7:00 p.m. CT, Monday through Friday, to answer questions regarding any McKesson technology, SupplyManagerSM, McKesson DirectSM, and EDI. Vendor's telephone number is 800-422-0280 option 1.

9.9. Special Orders. Vendor agrees to provide a turn-around time from the placement of an MMCAP Participating Facility's order to the expected delivery date of the Product.

9.10. Emergency Ordering and Delivery. Vendor agrees to offer an emergency Product ordering system during the term of this Contract. An emergency Product order is defined as one necessary for immediate and specific patient care which falls outside the normal order and delivery parameters. For emergencies that occur after normal working hours, the ordering MMCAP Participating Facility must call **800-328-8111 press option 1 and Vendor's Customer Service representative will respond to the ordering MMCAP Participating Facility's call within twelve (12) hours.** The MMCAP Office agrees to work with Vendor if abusive situations related to emergency orders arise.

9.10.1. Emergency Order Delivery. If Vendor receives the MMCAP Participating Facility's call before 7 pm CST the order can be processed the same day if shipment is to be expedited; additional shipping charges shall apply to such order.

10. Product Delivery. Vendor must distribute and deliver the Products covered under this Contract to the nationwide MMCAP Participating Facilities including the states of Alaska and Hawaii. The Vendor must deliver to sites identified by the ordering MMCAP Participating Facilities and if necessary, add other delivery sites as identified by the MMCAP Participating Facilities during the term of the MMCAP Contract. The Vendor will at no time refuse to deliver to any MMCAP Participating Facility, unless in violation of any federal or state law or regulation, without the prior written approval by the MMCAP Participating Facility and the MMCAP Office. Vendor must agree to deliver the Products that accommodate the business model or the specific delivery needs of the ordering MMCAP Participating Facility. The Vendor's delivery method for patient specific supplies must supply sufficient Product to last until the next scheduled delivery and must not rely on an emergency reserve stock left at the facility.

10.1. Routine Delivery Requirements.

a. **No Additional Fees.** Vendor will not charge any additional fees for routine service to Alaska or Hawaii.

b. **Shipping Terms.** All routine scheduled order shipments will be F.O.B. destination, freight prepaid.

c. **No Fuel Surcharges.** Vendor agrees that it will not charge a fuel surcharge for the term of this Contract.

d. **Delivery Schedule.** Vendor will provide a daily order and delivery schedule for each MMCAP Participating Facility. All deliveries will be made next day or on the Next Scheduled Delivery Day (excluding Alaska and Hawaii), unless communicated otherwise. MMCAP Participating Facilities will provide the Vendor with a Holiday Schedule throughout the term of this Contract and Vendor will provide the MMCAP Participating Facilities a Holiday Delivery Schedule which accommodates the delivery needs of the MMCAP Participating Facilities.

e. **Delivery Time.** Vendor's daily order cut off time will be 1:00 p.m. local Distribution Center time. Vendor does not guarantee delivery time. Standard deliveries can be made Monday through Friday excluding designated holidays. In terms of the delivery schedule, Vendor will offer options, contingent on the carrier, logistical, and the needs of the MMCAP Participating Facility. Vendor can schedule deliveries on one or more days, which simplifies the shipment and receiving of Products for the ordering MMCAP Participating Facility. If Vendor's delivery vehicle is desired and available, then the delivery schedule may be contingent on the availability of a vehicle in the delivery area. Vendor's Distribution Centers typically provide one day ground delivery to 80% of US zip codes and one to two day ground delivery to 98% of US zip codes. Stocked items for orders shipping to an ordering MMCAP Participating Facility received before 1 p.m. local Distribution Center time will ship the same day. The specific time a delivery is made cannot be guaranteed; however, most orders are delivered during normal business hours.

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

g. **Damaged Products.** All damaged Products must be reported to Vendor's customer service department as set forth in Section 18: Products Returned to the Vendor and applicable credits will be issued in accordance with Vendor's Product Return Policy set forth on Attachment J.

h. **Lost Products.** All lost Products must be reported to Vendor's customer service department as set forth in Section 18: Products Returned to the Vendor. Upon reconciliation, Vendor will apply credit for lost items as set forth in Attachment J: Vendor's Product Return Policy.

i. **Large Size Orders.** Vendor must have the ability to ship palletized deliveries via freight companies and must be able to use large companies for dock deliveries instead of small couriers. Orders should be shipped as ordered (by case or by pallet) to the facility so they can be properly unloaded and stored. Upon receipt of accurate monthly Product usage data from the ordering MMCAP Participating Facility Vendor will ship palletized and case quantity orders on a weekly or twice monthly basis for all distribution centers, or as mutually agreed upon between the Vendor and the ordering MMCAP Participating Facility.

j. **No Minimum Order Requirements.** During the term of this Contract there shall be no minimum order requirements or extra charges assessed to orders regardless of order size or payment amount.

10.2. Drop Shipments.

a. All fees associated with Drop Shipments are listed in Attachment H: Vendor's Shipping Policy.

b. The Vendor will act as a conduit to expedite and simplify the ordering and payment of drop shipped Products.

- c. Unless approved by the MMCAP Participating Facility, Drop Shipments directly from Product suppliers (not shipped by Vendor) for recurring orders are prohibited.
- d. Products requiring Drop Shipment must be easily identified in Vendor's product ordering system. Vendor's Drop Shipment Products are denoted in its product ordering system.
- e. Vendor will make every reasonable effort to meet the ordering MMCAP Participating Facilities' timelines for the delivery of Drop Shipment Products. Vendor will place Drop Shipment requests with manufacturers or Product suppliers within two (2) business days of receiving the request from the MMCAP Participating Facility.
- f. In the event that Vendor is unable to fill an MMCAP Participating Facility's order for an MMCAP Contract Product, Vendor will ship the Product from its alternate warehouse locations and/or to the MMCAP Participating Facility and such ordering facility will not be assessed a fee for this shipment.

10.3. Delivery for Special Products.

- a. If applicable to the Products offered under this Contract, Vendor will maintain appropriate temperatures and environmental conditions in accordance with manufacturer requirements for delivery of Special Products to the MMCAP Participating Facilities. All refrigerated Special Products will be shipped in disposable coolers with appropriate packaging to maintain the required temperature range. Special Products requiring refrigeration will be clearly marked as such. Temperature monitors will be used if they are required by the manufacturer.
- b. All Special Products will be adequately packaged by Vendor. If an MMCAP Participating Facility refuses Special Product that has been inadequately packaged, the MMCAP Participating Facility must notify Vendor's customer service department to log the complaint. Any costs associated with the return of Special Product due to improper packaging or transport will be at the expense of the Vendor.
- c. Vendor must not distribute MMCAP Contract Products through associated specialty distributors without the prior written approval of the MMCAP Office or without the manufacturer requiring the Vendor to do so.
- d. In the event a manufacturer charges Vendor for shipping due to an expedited request by an MMCAP Participating Facility, Vendor will provide advance notice to the MMCAP Participating Facility and invoice the MMCAP Participating Facility by line item for the same shipping cost charged by the manufacturer. Backup documentation will be available upon request for any shipping fees that are charged to the MMCAP Participating Facility for Products supplied by Vendor.

11. Contract Compliance.

11.1. On-Contract Purchasing. Vendor agrees to encourage MMCAP Participating Facilities to purchase MMCAP Contract Products. Vendor must not condone or encourage in any way the Product substitution of an MMCAP Contract Product with that of a non-Contract product. In order to ensure overall MMCAP Participating Facility contract compliance, Vendor may be asked to provide at no charge to the MMCAP State Contacts in each state served by Vendor, a monthly report containing the following fields:

- MMCAP Participating Facility name
- Agency account numbers (MMCAP Participating Facility ID Number and Vendor account number)
- Contract volume (in dollars) by facility
- Not-on-contract volume (in dollars) by facility
- Total volume(in dollars) amounts by facility

11.2. Compliance Data Discussions. Vendor agrees to report any knowledge of products being purchased through Alternate Contract Sales outside of the MMCAP Contracts by any given MMCAP Participating Facility who is coded to MMCAP in Vendor's ordering system. Vendor further agrees to encourage their sales force to actively seek and report back to the Vendor's main office information that has a significant impact on MMCAP Contract Product purchases for the purposes of presenting any such information to the MMCAP Office at the quarterly business meetings.

12. Invoicing.

12.1. Order Invoice.

- a. Vendor will submit an invoice with each order. Invoices must be only for the amount of Product delivered, not the amount ordered. Quantity ordered and quantity shipped must be based on the packaging associated with the Vendor's Product ID number.
- b. All additional fees (e.g., expedited shipping charges) previously agreed upon by Vendor and MMCAP will be in line item detail separated from the Product's cost and will be tied back to an original invoice number.
- c. **At a minimum, the Vendor's invoice will contain the following fields:**
 - Facility Name
 - Vendor-assigned account number for the MMCAP Participating Facility
 - Invoice Product listing MMCAP Participating Facility's purchase order number, if provided during order entry
 - Invoice date
 - Vendor's SKU item number
 - Product Name/Description
 - Packaging
 - Unit price
 - Quantity ordered
 - Quantity shipped
 - Extension (unit price multiplied by the quantity shipped)
 - Total invoice price
 - Bill to address
 - Ship to address

12.2. Invoice Rounding. Vendor agrees to round down if the third digit after the decimal is 4 or less. Vendor agrees that any rounding will occur at the MMCAP Participating Facility invoice unit price.

13. Credits and Rebills. Vendor will process credits and rebills pursuant to Vendor's Product Return Policy set forth on Attachment J of this Contract.

14. Price Audits and Corrections

- a. In the event of a Product pricing error (e.g., late pricing load, etc.) that is solely attributable to the Vendor, Vendor agrees to process credit/rebills for ninety (90) calendar days.
- b. When an MMCAP Participating Facility or the MMCAP Office discovers an error in pricing for an MMCAP Contract Product that favors an MMCAP Participating Facility, the MMCAP Participating Facility or the MMCAP Office will notify Vendor. Upon mutual agreement by the MMCAP Office and Vendor of the error in pricing, Vendor will issue credits/rebills to all MMCAP Participating Facilities for the time period from the date the error began to the date it is corrected subject to timeframe described in this Section 14(a).
- c. The foregoing provisions of this Section 14 shall be subject to Section 21 of the Contract ("Audits").
- d. Vendor will research price discrepancies reported and if Vendor priced incorrectly, the affected MMCAP Participating Facility will receive a credit for the price difference.

15. Chargebacks. Vendor will provide the MMCAP Office notification within five (5) business days of any discrepancies between MMCAP Contract Product pricing and the Product pricing loaded by the Vendor in its product ordering system. It will be the responsibility of the Vendor to coordinate correction of Product pricing discrepancies after Vendor has provided such notice.

16. Invoice Disputes. In the event that applicable state law mandates set-off by an MMCAP Member or MMCAP Participating Facility, such set-off rights shall be exercised only to the extent expressly set forth in the applicable statute.

Except to the extent expressly mandated by applicable state law, the MMCAP Participating Facility will notify Vendor of any known dispute with an invoice within thirty (30) calendar days of receipt of the invoice.

If upon resolution of a disputed invoice, all or a portion of the disputed invoice was found to be in error, Vendor shall credit the original amount of the invoice that was incorrect..

Where the above is prohibited by an MMCAP Member State's applicable law(s), Vendor shall comply with requirements of that state's law(s) related to disputed invoices.

Vendor will make a good faith effort to resolve known disputes related to contract pricing within thirty (30) calendar days of notice of the dispute. This clause will in no way be deemed a limitation on the Parties as it relates to the future auditing and/or correction of invoices.

17. 810 EDI Invoices and Auditing. Upon request and at any time during the term of this Contract Vendor must provide 810 EDI invoices to the MMCAP Office, and/or MMCAP Participating Facilities. All fees associated with receiving 810 EDI invoices will be the responsibility of, as applicable, the MMCAP Office or the MMCAP Participating Facilities. If applicable to this Contract, Vendor agrees to transmit, at no charge, 810 EDI invoices to MMCAP's contracted invoice auditing vendor. Any other fees imposed by the contracted invoice auditing vendor will not be the responsibility of the Vendor. Vendor will research Product pricing discrepancies provided by the MMCAP Office to the Vendor provided that data supporting the pricing discrepancies is provided by the MMCAP Office. Vendor will make a good faith effort to resolve invoice disputes and issue credits within ten (10) business days of resolution.

18. Products Returned to the Vendor. Vendor will maintain a returned goods policy set forth on Attachment J: Vendor's Product Return Policy for accepting returns from the MMCAP Participating Facilities in accordance with applicable laws, regulations, and normal business practices.

19. Product Recalls. Vendor's Recall Procedures/Policies are set forth in Attachment K: Vendor's Product Recall Procedures/Policies. If any Product covered by this Contract requires modification, is removed or recalled by the Vendor, then Vendor shall promptly notify MMCAP and the affected MMCAP Participating Facilities as follows:

19.1. Recall Notification. Vendor agrees to notify MMCAP and the affected MMCAP Participating Facilities after being notified by the manufacturer of the affected Product or the FDA that any of the Products covered by this Contract and distributed to MMCAP Participating Facilities requires modification, is removed or recalled as stated above. Notices to **MMCAP** shall be sent by e-mail to: mmcap.contracts@state.mn.us

Vendor agrees that it will comply with any process mandated by the FDA or a manufacturer of the Product, if applicable, to address such recall with each MMCAP Participating Facility. Unless otherwise required by the applicable manufacturer of the Product distributed by the Vendor to the MMCAP Participating Facility, the MMCAP Participating Facility shall have the right to return to Vendor any Products where the Products or any components included are subject to a recall, regardless of whether actual return of the Products or components to Vendor is required, recommended, or suggested by the recall, in which case

Vendor shall pay all freight costs incurred or the return of each affected Product and shall reimburse each MMCAP Participating Facility for the MMCAP Participating Facility's original costs, including freight, in acquiring each affected Product. In the event the Vendor is unable to acquire Replacement Products for the recalled Product, and an MMCAP Participating Facility purchases Replacement Products from a source other than the Vendor, such purchases shall count against the Service Level- requirements set forth in Section 7.6. Service Level Requirements.

20. Reporting Requirements. All reports must be available in both paper copy and in an electronic Microsoft Excel file format and contain the required information fields. Vendor will work with the MMCAP Office during the transition and implementation period of this Contract to ensure the Vendor submits the required reports whose format and content meet the reporting requirements of this Contract. If requested by an MMCAP Participating Facility, MMCAP Participating Member State or the MMCAP Office, the requested report must be customized to report data specific to the requesting entity.

20.1. Reporting Tools.

a. Vendor must provide online electronic access to all purchasing data relating to the Products that are purchased by each MMCAP Participating Facility to the MMCAP Office, MMCAP Participating Member State Contacts and MMCAP Participating Facilities. Electronic access will provide a system for reporting each individual MMCAP Participating Facility's purchases, as well as be capable of running reports on select groups of facilities. Users must be able to manipulate the data to build reports based on each MMCAP Participating Facility's or MMCAP Participating Member State's individual needs/requirements directly through the system or through the ability to transfer data into spreadsheets in a Microsoft Office compatible format.

- b. At a minimum, Vendor will provide the following on-line reporting tools:
- i. Purchase Summary Report: ranks items by sales value over a designated period of time
 - ii. Manufacturer backorder reporting
 - iii. Fill-Rate Reports
 - iv. Contract compliance Reports

c. Vendor will set up a user login on Vendor's online reporting system for each MMCAP Member State and the MMCAP Office with all MMCAP Participating Facility accounts for the purpose of reporting at no cost.

Vendor will work with MMCAP to provide the technology to allow one user to run reports for several MMCAP Participating Facilities' accounts at one time.

20.2. Monthly Sales Data Usage Reports for the MMCAP Office.

Vendor will supply to the MMCAP Office accurate monthly sales data on or before the 10th day of the subsequent calendar month (e.g., June's data will be due on July 10th). The report must include Product and dollar spend amount sorted in descending order and grouped by Product category. Also, the report MUST include the following for every transaction between the Vendor and the MMCAP Participating Facility:

- a. The first table details the required fields for the sales data report.
- b. The second table details the required record layout in fixed record format.

MMCAP Participating Facilities that utilize SupplyManagerSM can also access reports as needed for their account(s) in SupplyManager under the Reports tab (*examples below*):

Product Usage

Material Usage: 24 months of usage by manufacturer and item, with quantity shipped by account, ship to, and total sales.

Item History 12 Month Trend: View item history total dollars by ship to and item number.

Inventory Management Report: Product usage for 12 months with summary by HCPCS, location and reference number

Product Usage by Manufacturer: Product usage report for a specific date range sorted and sub-totals by manufacturer

General Ledger

G/L Reference Numbers: Customer level general ledger report with assigned reference number for each product by category

Order History

Drill to Invoice: Logical drill-down to invoice line detail during selected month and year (of last 24 months).

View Invoice: View a specific invoice by purchase order number or invoice number.

Invoice Line Detail: View invoice line detail during selected time period in last 24 months.

Purchase Order Detail: View purchase order detail during selected time period in last 24 months.

Accounts Receivable Balances: A/R balance, aging, date of last sale, date of last payment, and last payment amount with access to open invoices and credits not taken.

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Required Data Fields for the Sales Data Report
MMCAP-assigned facility ID
MMCAP Facility Name
Vendor Distribution Center Code
Vendor-assigned Account number for the MMCAP Facility
Customer Invoice Number
Customer Invoice Line Number
Customer Purchase Order Number
Invoice date (mmddccyy)
Buyer name or equivalent of buyer ID for person submitting the invoices (May be left blank)
Vendor's (distributor) SKU item number
NDC of purchased product in 5-4-2 format as stored in First DataBank, Inc. (may be left blank if not pharmaceutical)
Label Name (product description)
Unit Dose (may be left blank if not pharmaceutical)
Pack Size (may be left blank if not pharmaceutical)
Unit (selling unit of measure)
Case Size (case packaging size)
Dose (may be left blank if not pharmaceutical)
Strength (may be left blank if not pharmaceutical)
Route (may be left blank if not pharmaceutical)
Unit Price (99999.9999) (selling unit price)
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)
Type of transaction (MMCAP contract purchase, other contract purchase (340B,PHS), not on contract purchase) 1=contract item, 2=other contract, 3=not on contract
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) (if providing negotiated service fee discounts)
MMCAP Contract Number (MMSxxxxx)
Admin fee for non-contract items (9999.9999)
Credit Indicator (C for credit)
MMCAP Assigned Wholesaler Code (AmeriSource-Bergen=0401, Cardinal Health=0301, Morris-Dickson=0701, Bergen=0201, (New codes will be assigned to PPV's during implementation period of the contract)
Manufacturer Name (MFG Name)
Class of Trade (if offering volume or tiered discounts)
340B Purchase (1=True, 0=False)
Manufacturer Part Number
Product Category
Manufacturer Part Number
Product Category

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
MMCAP-assigned facility ID	MMCAP_id	Alpha Numeric		7	1	1
MMCAP Facility Name	MMCAP_Name	Alpha Numeric		30	1	8
Vendor Distribution Center Code	DistributionCenter	Alpha Numeric		3	1	38
Vendor-assigned Account number for the MMCAP Facility	VendAccountNo	Alpha Numeric		10	1	41
Customer Invoice Number	InvoiceNumber	Alpha Numeric		15	1	51
Customer Invoice Line Number	InvoiceLineNo	Alpha Numeric		4	1	66
Customer Purchase Order Number	poNumber	Alpha Numeric		15	1	70
Invoice date (mmddccyy)	InvoiceDate	numeric	mmddccyy	8	1	85
Buyer name or equivalent of buyer ID for person submitting the invoices	BuyerName	Alpha Numeric		20	1	93
Vendor's (distributor) SKU item number	SKU	Alpha Numeric		13	1	113
NDC of purchased product in 5-4-2 format as stored in First DataBank, Inc.	NDC	Alpha Numeric	999999999	11	1	126
Label Name	LabelName	Alpha Numeric		40	1	137
Unit Dose	UD	numeric	9	1	1	177
Pack Size	Pack_Size	numeric	99999.999	9	1	178
Unit	Unit	Alpha Numeric		2	1	187
Case Size	Case_Size	numeric	9999	4	1	189
Dose	D	Alpha Numeric		10	1	193
Strength	STR	Alpha Numeric		10	1	203
Route	RT	Alpha Numeric		10	1	213
Unit Price (99999.9999)	UnitPrice	numeric	99999.9999	10	1	223
Quantity ordered (not Vendor repackaged or re-bundled quantity)(999999.9999)	QuantityOrdered	numeric	999999.9999	11	1	233
Quantity shipped (not Vendor repackaged or re-bundled quantity) (999999.9999)	QuantityShipped	numeric	999999.9999	11	1	244
Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999999.999)	ExtendedPrice	numeric	99999999.999	13	1	255
Type of transaction (MMCAP contract purchase, other contract purchase (340B,PHS), not on contract purchase) 1=contract item, 2=other contract, 3=not on contract	SaleType	Alpha Numeric		1	1	260
Bill to Address 1	billtoaddress1	Alpha Numeric		30	1	269
Bill to City	billtocity	Alpha Numeric		20	1	299
Bill to State (2 alpha postal code)	billtostate	Alpha Numeric		2	1	319
Bill to Zip (standard 5-4 format, no dash necessary)	billtozip	Alpha Numeric		9	1	321
Ship to Address 1	shiptoaddress1	Alpha Numeric		30	1	330
Ship to City	shiptocity	Alpha Numeric		20	1	360
Ship to State (2 alpha postal code)	shiptostate	Alpha Numeric		2	1	380
Ship to Zip (standard 5-4 format, no dash necessary)	shiptozip	Alpha Numeric		9	1	382
Service Fee (9999.9999)	ServiceFee	numeric	9999.9999	9	1	391
MMCAP Contract Number (MMSxxxxx)	contractnumber	Alpha Numeric		10	1	400
Admin fee for not-on-contract items (9999.9999)	AdminFee	numeric	9999.9999	9	1	410
Credit Indicator (C for credit)	CreditIndicator	Alpha Numeric		1	1	419
MMCAP Assigned Wholesaler Code (AmeriSource-Bergen=0401, Cardinal Health=0301, Morris-Dickson=0701, Bergen=0201, (New codes will be assigned to PPV's during implementation period of the contract)	WholeCode	Alpha Numeric		4	0	420
Manufacturer Name (MFG Name)	MfgName	Alpha Numeric		40	1	424
Class of Trade	ClassofTrade	Alpha Numeric		4	1	464
340b Purchase	340b	Alpha Numeric		1	1	468
Manufacturer Part Number	MfgPartNumb	Alpha Numeric		20	0	469
Product Category	ProdCat	Alpha Numeric		40	0	489

20.3. Sales Data Usage Report for the MMCAP Participating Facilities and MMCAP Participating Member State Contacts. Upon request from an MMCAP Participating Facility or MMCAP Participating Member State Contacts, Vendor will provide a Sales Data Usage Report within ten (10) business days from the date of the request. The report data will provide a summary of a particular MMCAP Participating Facility's total usage by Product and dollar spend amount sorted in descending order and grouped by product category for a specified date range.

20.4. Monthly Summary Usage Report for the MMCAP Office. A monthly summary usage report by Product and dollar spend amount sorted in descending order and grouped by Product category will be provided to the MMCAP Office data on or before the 10th day of the subsequent calendar month (e.g., June's data will be due on July 10th) of each reportable calendar month during the term of the MMCAP Contract. **(Note: "monthly" is a calendar month).** The monthly report data provided to the MMCAP Office must include all the monthly usage for all of MMCAP Participating Facilities serviced by the Vendor.

20.5. Annual State Fiscal Year Summary Usage Report for the MMCAP Office. An annual State Fiscal Year (based on the State of Minnesota's fiscal year of July 1- June 30) summary usage report by Product and dollar spend amount sorted in descending order and grouped by Product category will be provided to the MMCAP Office for each Fiscal Year (consecutive twelve (12) calendar month period July 1 – June 30) of the MMCAP Contract. The summary usage report must be provided to the MMCAP Office on or before the 10th day of the subsequent calendar month (e.g., the report will be due on July 10th). The annual report data provided to the MMCAP Office must include all the monthly usage for every MMCAP Participating Facility serviced by the Vendor. During the first year of the MMCAP Contract, Vendor will provide a partial summary usage report for the Fiscal Year which includes the period of the Effective Date through June 30 of the first year of the MMCAP Contract.

20.6. Price Change Report. Upon request by the MMCAP Office, a monthly price change report will be provided to the MMCAP Office on or before the 10th day of the subsequent calendar month of each reportable calendar month during the term of the MMCAP Contract (e.g., June's data will be due on July 10th). In addition to the monthly report, and upon request by the MMCAP Office, any additional price change reports must be provided to the MMCAP Office within ten (10) business days of the date of the request.

20.7. Discontinued and New Product Report. Upon request by the MMCAP Office, a monthly discontinued and new Product report will be provided to the MMCAP Office on or before the 10th day of the subsequent calendar month of each reportable calendar month during the term of the resulting MMCAP Contract (e.g., June's data will be due on July 10th).

20.8. Monthly Payment Report. Upon request by the MMCAP Office, Vendor will provide to the MMCAP Office accurate monthly payment data on or before the 10th day of the second subsequent month (e.g., June's data will be due July 10th). The table details the required fields for the monthly payment report.

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MMCAP Monthly Payment Data Fields
MMCAP-assigned facility ID

MMCAP Participating Facility Name
Vendor-assigned Account number for the MMCAP Participating Facility
Invoice Number
Invoice Line Number
Purchase Order Number
Manufacturer
Product Brand Name
Product Generic or Private Label Name
Manufacturer's Product or Part ID Number
Vendor's Product or Part ID Number
Payment Due Date (mmddccyy)
Label Name
Packaging as associated with NDC Number(if applicable to this Contract)
Date Payment Credited to Account (mmddccyy)
Quantity Purchased-must be expressed in terms of the packaging associated with the NDC(if applicable to this Contract) not Vendor repackaged or re-bundled quantity
Dollar Amount of Transaction-to the third decimal. The dollar amount must be the actual acquisition cost, after Service Fees
Credit Indicator (C for credit)
ID for person making the payment (May be left blank)

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20.10. Contract Change Report. Upon request by the MMCAP Office, Vendor will provide to the MMCAP Office Contract Change data on a monthly basis within ten (10) business days from the end of each reportable calendar month during the term of the MMCAP Contract(e.g., June’s data will be due on July 10th). This report must be provided in an Excel format (may be zipped) and will be submitted electronically to mn.multistate@state.mn.us. The table below details the required fields for the Contract Change Report. This report must include the following for every Product added to, changed, or deleted from the MMCAP Contract.

Long Field Description Name – Contract Change Report
MMCAP Office Assigned Vendor Number
Contract Start Date
Contract End Date
(If applicable) Manufacturer Contract Number
Manufacturer
Product Brand Name
Product Generic or Private Label Name
Manufacturer’s Product or Part ID Number
Vendor’s Product or Part ID Number
Description
Packaging
Current Price
Previous Price
Effective Date
Change Type

20.11. Contract Audit Report. Upon request by the MMCAP Office, Vendor will provide to the MMCAP Office a monthly contract audit report within ten (10) business days from the end of each reportable calendar month during the term of the MMCAP Contract(e.g., June’s data will be due on July 10th). This report must be provided in an Excel format (may be zipped) and will be submitted electronically to mn.multistate@state.mn.us. The table details the required fields for the Contract Audit Report. This report MUST include the following for every Product loaded and attached to the MMCAP Contract:

Long Field Description Name – Contract Audit Report
Vendor Name
MMCAP Contract Number
Manufacturer
Product Brand Name
Product Generic or Private Label Name
Vendor’s Product or Part ID Number
Manufacturer’s Product or Part ID Number
Item Description
Vendor Reference Contract Number
Size
Form
Unit of Measure
MMCAP Contract Cost
Contract Start Date
Contract End Date

20.12. Service Level Requirements Report. Upon request by the MMCAP Office, Vendor will provide to the MMCAP Office a Service Level Requirements Report. The Service Level Report must be received on or before the 10th day of the subsequent month (e.g., June’s data will be due on July 10th). The table details the required fields for the Report. This report must be provided in an Excel format and be delivered electronically to mn.multistate@state.mn.us. This report MUST include the following fields:

Field Long Name – Raw and Service Level Requirements Report
MMCAP ID (May be left blank)
Customer Name
Vendor Customer DC Number
Customer Distribution Center (May be left blank)
Vendor Customer Number
Address
City
State
Service Level

20.13. Vendor Member Listing. Vendor will provide a monthly listing to the MMCAP Office of the MMCAP Participating Facilities attached to the MMCAP Contract on or before the 10th day of the subsequent calendar month (e.g., June’s data will be due on July 10th). The report must be submitted electronically to mn.multistate@state.mn.us.

20.14. Manufacturer Backorders. Upon request by the MMCAP Office, Vendor will provide to the MMCAP Office, at a minimum, **biweekly** a listing of all MMCAP Contract Products backordered due to a Manufacturer Backorder. The Excel report must be delivered electronically to mn.mmcap@state.mn.us and any other sources MMCAP designates. (e.g., current vendor hosting MMCAP’s web catalog.)

Required MBO Report Fields and Record Layout
Product Description
Manufacturer (spelled out, no abbreviations)
Product Brand Name
Product Generic or Private Label Name
Manufacturer’s Product or Part ID Number
Vendor’s Product or Part ID Number
Backorder Status
Information (short term, long term)
Due Date

20.15. Vendor Reports Available to MMCAP Participating Member Facilities and MMCAP Participating Member State Contacts. Upon request by the MMCAP Participating Facility and/or MMCAP Participating Member State Contacts the following reports must be made available through Vendor’s custom reporting tools. Vendor must be able to supply to the MMCAP Participating Facilities accurate reports with the following information:

- a. Monthly, quarterly, and annual reports detailing total purchases (payment amount and units) by individual product (clearly identified via SKU, vendor, and label name) sorted in both label name and descending dollar order. Units must correspond to the packaging.
- b. Velocity report (fastest moving and high dollar) containing forecasted velocity codes with order points and order quantities.
- c. Price change report (twice a month), indicating MMCAP Contract and non-Contract products with price changes.

- d. Physical inventory reports. These reports must show the Product label name, quantity, cost per unit and the extended cost of the Product units on hand.
- e. Monthly list of discontinued products and new products.
- f. Any other reports required by law.

20.16. Administrative Fee Data Report. The Vendor must submit a monthly Administrative Fee Data Report with each Administrative Fee payment that includes sales made directly from Vendor to the MMCAP Participating Facility.

The monthly Administrative Fee Data Report must contain the fields included in Section 20.2(b) above as those fields apply to this Contract. 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 on or before the 10th day of the second subsequent month (e.g., June's data will be due July 10th). Failure to comply with this provision may constitute breach of this Contract. In the event the Vendor is delinquent in any undisputed Administrative Fees, MMCAP reserves the right to terminate this Contract as set forth in Section 3. Contract Termination and to reject any proposal submitted by the Vendor in any subsequent solicitations for medical supplies and non-pharmacy products.

21. Business Interruption Plan. Vendor must have in place during the term of this Contract an emergency preparedness and business continuity plan. During implementation and transition phase of this Contract, Vendor will work with each requesting MMCAP Participating Facility to develop a pre-selected list of Products to be shipped in the event of a national or regional emergency. Vendor's detailed Business Interruption Plan is set forth on Attachment L.

22. Shareback Credits. Vendor will manage, at no additional charge to the MMCAP Office, the MMCAP Members, or the MMCAP Participating Facilities, the MMCAP annual shareback credit according to the schedule below:

- a. The MMCAP Office will provide Vendor with (i) an accurate list of MMCAP Participating Facilities receiving a credit, (ii) the Vendor account number, facility name, facility address, facility city, facility state, and the credit amount for each facility, and (iii) a check for the total amount of all credits to be provided.
- b. Vendor must apply the credit to all listed MMCAP Participating Facilities within fifteen (15) business days of the receipt of the funds and an accurate listing of the MMCAP Participating Facilities entitled to receive a credit.
- c. Within thirty (30) business days of the receipt of the funds, Vendor must provide to the MMCAP Office an Excel Spreadsheet detailing the credit memo information. This Excel listing must include the following fields: account number, facility name, facility address, facility city, facility state, date of credit memo, credit memo number, and credit memo amount.
- d. Within sixty (60) business days of the receipt of the funds, Vendor will refund to the MMCAP Office any remaining dollars for which it was unable to issue credit; this may be for any MMCAP Participating Facilities that were determined to no longer be valid members or that were not able to be located for any variety of reasons. Vendor will work with the MMCAP Office to identify all MMCAP Participating Facilities to the best of its ability in an effort to issue all necessary credits before refunding dollars back to the MMCAP Office.
- e. Upon initiating the refund to the MMCAP Office, Vendor will provide a copy of the original Shareback Credit spreadsheet detailing the credit information (received from the MMCAP Office), the reason for non-application of funds, and the dollar amount of the funds being returned to the MMCAP Office.

23. Administrative Fee. In consideration for Services provided by MMCAP, the Vendor will pay an Administrative Fee on all MMCAP Participating Facility "Net Purchases" (which term, for purposes of the Contract, excludes returns, credits, rebates, late charges and other similar fees) made directly with the Vendor by the MMCAP Participating Facilities. The payment of the Administrative Fees is intended to be in compliance with the Medicare and Medicaid Patient Protection Act of 1987 (Anti-Kickback Statute), as set forth at 42 USC§ 1320a-7b (b) (3) (C), and the "safe harbor regulation" set forth in 42 C.F. R. §1001.952(j). The Vendor will submit a check payable to "State of Minnesota, MMCAP Program" for an amount equal to three percent (3%) for all MMCAP Participating Facilities' Net Purchases covered under this Contract. The Administrative Fee shall be paid as soon as is reasonable after the end of each month based on eligible Net Purchases made during such month by the MMCAP Participating Facilities, but no later than 30

calendar days after the end of the month. MMCAP reserves the right to collect interest on payments thirty (30) calendar days past due at a rate of 18% annually, consistent with Minn. Stat. § 16A.124. Vendor will submit monthly Administrative Fee data for all sales made through Vendor. A detailed data file format will be provided upon execution of this Contract. All required Administrative Fee data files shall be sent to: Mn.MMCAP@state.mn.us at the end of each month, but no later than 30 calendar days after the end of the month. Failure to comply with this provision may constitute breach of this Contract.

24. Payment. Each MMCAP Participating Facility will be responsible for payment of goods and services provided by Vendor. MMCAP will have no liability for an unpaid invoice of any MMCAP Member or MMCAP Participating Facility. Vendor agrees to invoice the MMCAP Participating Facility for all Products shipped. Vendor agrees to accept purchase orders. Vendor will accept payment in the form of check or Automated Clearing House/Electronic Funds Transfer (ACH/EFT Vendor will accept for payment of purchase orders, Electronic Funds Transfer (EFT) and credit cards authorized by the ordering MMCAP Participating Facility. Initial selection of, and changes to, a MMCAP Participating Facility's choice of payment terms are subject to Vendor's reasonable credit requirements. If not otherwise provided, payments are due within ten (10) days from Vendor's invoice date.

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ATTACHMENT D: MMCAP MEMBER STATE REQUIREMENTS

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ATTACHMENT E: SERVICE AREA

Alabama	Alaska	Arizona	Arkansas	California
Colorado	Delaware	Florida	Georgia	Hawaii
Idaho	Indiana	Iowa	Kansas	Kentucky
Louisiana	Maine	Maryland	Michigan	Minnesota
Mississippi	Missouri	Montana	Nebraska	Nevada
New Hampshire	New Mexico	New York	North Carolina	North Dakota
Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island
South Carolina	South Dakota	Tennessee	Texas	Utah
Vermont	Virginia	Washington	West Virginia	Wisconsin
Wyoming	City of Chicago	City of Los Angeles		

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**ATTACHMENT F:
VENDOR'S MMCAP CONTRACT IMPLEMENTATION AND TRANSITION PLAN**

Vendor has a specific on-boarding team that reports progress, concerns and obstacles to the Director of Government Sales on a daily basis throughout the implementation. Coordinated meetings are scheduled between numerous departments within our organization, such as, Sales, Operations, Transportation, Inventory, etc. The purpose of this team is to make the implementation process smooth for the customer.

In order to properly implement your business, we typically require 30-90 days from the time of award. This allows time to set up account numbers, load pricing and contracts, increase inventory in our Distribution Centers and implement the desired technology approach. At time of award, we will work with MMCAP to create a detailed, mutually agreed upon timeline for implementation including major milestones and the resources necessary. Vendor has previous experience on-boarding large providers. We have resources dedicated to the on-boarding process to assist in a seamless integration.

Example of tasks included in the implementation process:

Combined effort – MMCAP / Vendor

- Technology discussions with technical teams on both sides
- Discussions related to business rules
- Formulary review and creation
- Meeting to review formulary with clinical team (*vendors to be determined*)
- Extended Care Account Manager introductions with MMCAP members and site visits, as required
- Training on new systems
- Execute on stockroom set-ups

Vendor Tasks:

- Warehouse, Account Manager and Transportation assignments
- Create Extended Care account numbers (process includes: license validation, tax verification, load pricing, credit management, invoice billing, reporting)
- Internal operations call with Six Sigma to plot out order days, consolidated shipments, transportation options, etc.
- Inventory reconciliation

MMCAP Tasks:

- Submit completed credit applications and other documentation for account set up, such as license necessary for drug and vaccine orders
- Provide any updated usage by location

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**ATTACHMENT G: MMCAP CONTRACTED MANUFACTURERS LIST
(IF APPLICABLE TO THIS CONTRACT)**

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ATTACHMENT H: VENDOR'S SHIPPING POLICY

Vendor distribution centers are available to ship orders Monday through Friday, excluding designated holidays. Stocked items for orders shipping to a MMCAP customer received before 1 p.m. local distribution center time will ship the same day (excluding designated holidays).

Vendor can also schedule deliveries which simplifies the shipment and receiving of product into the facility. Stocked items for orders shipping to a MMCAP customer will ship on your scheduled shipping day when received before 1 p.m. local distribution center time (excluding designated holidays).

Vendor uses a variety of carriers depending on the unique needs of each order, including, UPS, Vendor Truck and other common carriers. Whenever possible, the location can receive deliveries via Vendor Truck using a dedicated driver.

Vendor has 13 distribution centers strategically located across the United States. This allows most orders of stocked Products in the continental United States to arrive within one to two business days from the day the order ships (*Our distribution centers typically provide one day ground delivery to 80% of US zip codes and one to two day ground delivery to 98% of US zip codes*). Orders for metropolitan locations in Hawaii usually arrive within 3 business days from the day the order ships. Orders for locations in Alaska usually arrive within 3 to 5 business days from the day the order ships.

Standard deliveries can be made Monday through Friday excluding designated holidays. In terms of the delivery schedule, Vendor offers options, contingent on the carrier, logistical, and the needs of the facility. Vendor can schedule deliveries on one or more days, which simplifies the shipment and receiving of Product into the facility. If a Vendor vehicle is desired and available, then the delivery schedule may be contingent on the availability of a vehicle in the delivery area.

Vendor's distribution centers typically provide one day ground delivery to 80% of US zip codes and one to two day ground delivery to 98% of US zip codes.

Stocked items for orders shipping to a MMCAP customer received before 1 p.m. local distribution center time will ship the same day.

The specific time a delivery is made cannot be guaranteed; however, most orders are delivered during normal business hours.]

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ATTACHMENT I: VENDOR'S STOCK OUTAGE AND BACKORDER POLICY

Vendor minimizes backorders through the utilization of an inventory management system designed to maintain inventory levels based on unit and order demand. The assigned Vendor Account Manager is responsible for obtaining usage levels from MMCAP locations and providing this to our Inventory Management department. This information is added to the system and inventory levels can be increased to meet the new demand.

When using SupplyManagerSM to place orders, the system will indicate if a product is in stock, on backorder, has limited quantities in stock or if the product is shipping from another distribution center. If a product is on backorder, the individual placing the order will be asked if they would like to order a recommended substitute (if Vendor has been made aware of a substitute) or leave the item on back order.

If the item back orders, our Inventory Management team monitors the situation to reduce delays in delivery. When possible, the item generally is routed to the next available distribution center and will ship from this alternate location.

Customer service is also available to assist with back order situations.

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ATTACHMENT J: VENDOR'S PRODUCT RETURN POLICY

- i. If a return is needed, our Government Sales Department can assist MMCAP members with the pick up process. A member of the Government Sales Department issues a return authorization which selects the best carrier to pick up the product. Although a specific timeframe is not guaranteed, many carriers respond to the pick up request within 3 business days from the initial request.
- ii. Because we want our customers to be completely satisfied with your purchase from McKesson Medical-Surgical, we offer a no hassle return policy for your convenience. Credit will be given upon return of locally stocked products which are in saleable condition. Locally stocked products returned within 60 days will not be assessed a restocking fee. Locally stocked products returned after 60 days, and up to one year, may be assessed a 20% restocking fee. Except in the case of Seller error, return freight costs will be deducted from the credit total. Products that are not returnable to the vendor (including, but not limited to, Products not in their original unit of measure or packaging, Products with defaced packaging and Products with less than 6 months dating) will not receive credit. Special order products, custom products or products not available for general or unrestricted distribution are not returnable.
- iii. If a return for recalled product is needed, our Government Sales Department can assist MMCAP members with the pick up process. A member of the Government Sales Department issues a return authorization which selects the best carrier to pick up the product. Although a specific timeframe is not guaranteed, many carriers respond to the pick up request within 3 business days from the initial request.
- iv. If a return for defective product is needed, our Government Sales Department can assist MMCAP members with the pick up process. A member of the Government Sales Department issues a return authorization which selects the best carrier to pick up the product. Although a specific timeframe is not guaranteed, many carriers respond to the pick up request within 3 business days from the initial request.
- v. If a replacement is needed for damaged product, our Government Sales Department can assist MMCAP members with the re-order process. Although a specific timeframe is not guaranteed, typically the re-order ships within one business day from the initial request.
- vi. Once the product is returned to our distribution center, credit is given based on the return policy stated in ii. Again, a specific timeframe is not guaranteed; however, typically credits for returns are issued within the 10 business days requested.

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ATTACHMENT K: VENDOR'S PRODUCT RECALL PROCEDURES/POLICIES

Recall. If a McKesson Product (meaning those Products labeled with Vendor's owned or licensed proprietary label) covered by this Contract is the subject of a recall, Vendor will notify MMCAP as soon as practicable of any such McKesson Product recalls. Vendor will monitor the recall status of all Products. Recall notices will include instructions and information regarding the Product recall and appropriate action to be taken by MMCAP and its Participating Facilities (if and as provided and communicated to Vendor by the applicable Supplier). Vendor will not charge MMCAP or Participating Facilities for any costs associated with the correction of the recall and actions by MMCAP or Participating Facilities taken in response to the recall. MMCAP shall, and shall cause each Participating Facility to, cooperate with Vendor and comply with all applicable laws with respect to the tracking of certain medical devices that may be purchased by MMCAP and/or such Participating Facility hereunder. MMCAP shall, and shall cause each Participating Facility to, also cooperate with Vendor in the event of any recall of any Products purchased hereunder.

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ATTACHMENT L: VENDOR'S BUSINESS INTERRUPTION PLAN

In the event of an officially declared state of emergency based on a natural disaster, Vendor will attempt to continue to supply each facility, or its nearby evacuation facilities with the medical supplies that it normally provides to the facility. Vendor's services may be delayed and reasonable and substitute goods and services may be supplied, due to the disaster and other forces beyond Vendor's control. But, Vendor will work diligently to provide its goods and services as close to normal delivery as is possible during the term of the emergency. Vendor may require that any extraordinary costs incurred to ship supplies during a state of emergency be borne by each facility. Vendor will contact the facility at the time of the emergency to coordinate arrangements for extraordinary shipping and to review options and costs before such shipments are made.

Vendor has a comprehensive written disaster recovery plan. Our technology systems are fully redundant between two separate data centers. These systems are tested semi-annually. In addition, each of Vendor's distribution centers has a Business Continuity Plan (BCP). Each BCP is tailored to respond to both natural and man-made events. Every BCP is reviewed and updated annually by the Vendor Corporate Compliance Team. Vendor has a nation-wide distribution system. In the case of a local disaster, each BCP designates alternate distribution centers and directs the notification of customers of a change in support. Local customers will be supported out of the alternate distribution center until the local distribution center's service capability has been restored.

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ATTACHMENT M: GOVERNMENT SALES ESCALATION PROCEDURE

Purpose: To clarify the escalation process for issue resolution.

Procedure: Government Sales escalation of issue resolution will fall to the Departments and people filling the following positions in the order below:

Customer Service (Customer Service issues i.e. orders, returns, pricing errors)

- ✦ Government Sales Customer Service (issue resolution within 2 days)
- ✦ Team Lead, Government Sales Customer Service (Issue resolution within 3-5 days)
- ✦ Manager, Government Sales Customer Service (Issue resolution within 6-10 days)
- ✦ Director, EC Customer Service and Government Sales (Issue resolution within 10-15 days)
- ✦ Vice-President, EC Sales Operations (Issue resolution within 15 or > days)

Accounts Receivable (define)

- ✦ Credit Account Manager, Accounts Receivable (issue resolution within 1-3 days)
- ✦ Supervisor, Credit & Collections (Issue resolution within 4-10 days)
- ✦ Manager, Credit & Collections (Issue resolution within 11-30 days)
- ✦ Assistant Director, Credit & Collections (Issue resolution within 31-44 days)
- ✦ Director, Credit & Collections (Issue resolution within 45 or > days)

Contract (define)

- ✦ Proposal Analyst (issue resolution within 1-10 days)
- ✦ Proposal Manager (Issue resolution within 11-30 days)

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