



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: September 20, 2018

Staff Contact: Nicki Aaker (naaker@carson.org);

Agenda Title: For Possible Action: To approve the purchase of prescription medications for persons detained in the Carson City Jail through a Joinder Contract with Diamond Pharmacy, a correctional pharmacy services provider through December 31, 2019 for a not to exceed amount of \$156,250 for a 15-month period, October 1, 2018 - December 31, 2019, to be funded from the Inmate Medical Care accounts in the Supplemental Indigent Fund, Commissary Fund and the General Fund.

Staff Summary: According to NRS 211.140, counties are responsible for medical care of persons detained in the county jail. Therefore, Carson City is responsible for providing prescription medications for persons who are detained in the Carson City Jail. Carson City Health and Human Services would like to utilize Diamond Pharmacy's joinder contract through Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP) to purchase the prescription medications. If approved, this contract will be funded from the Inmate Medical Care accounts in the Supplemental Indigent Fund, Commissary Fund and the General Fund.

Agenda Action: Formal Action/Motion

Time Requested: Consent

Proposed Motion

I move to approve the purchase of prescription medications through the joinder contract with Diamond Pharmacy for a not to exceed amount of \$156,250, beginning October 1, 2018 through December 31, 2019.

Board's Strategic Goal

Efficient Government

Previous Action

June 21, 2018 - Board of Supervisors approved Amendment No. 2 to Contract No. 1415-158 between Carson City and Diamond Pharmacy for an extension of the contract until September 30, 2018 for an amount not to exceed \$27,500 within the extension period. Motion approved 5-0.

June 7, 2018 - Board of Supervisors approved Amendment No. 1 to Contract No. 1415-158 between Carson City and Diamond Pharmacy for an additional \$35,000 for a total not to exceed the annual amount of \$110,000. Motion approved 5-0.

June 4, 2015 - Board of Supervisors approved the contract # 1415-158 between Carson City and Diamond Pharmacy for one year, with a two year option to renew. Motion approved 5-0.

Background/Issues & Analysis

An analysis was conducted for the past three fiscal years in regards to the cost of prescription medications and utilizing the MMCAP/Diamond Pharmacy Joinder contract is the best option.

Pharmacy services are professional services that may legally be performed only pursuant to a license, certificate of registration, or other legal authorization. Therefore, NRS 332.115(1)(b), exempts this type of service from the public bidding process. See NRS 332.115(1)(b) & NRS 89.020(10).

Applicable Statute, Code, Policy, Rule or Regulation

NRS 332.115(1)(b)& NRS 89.020(10)

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number: Public Assistance/Inmate Medical Care - 208-000-444-10-25, 101-0764-444-10-25 and 280-2020-421.10-25.

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: Funding is provided in the Public Assistance/Inmate Medical Care accounts in the Supplemental Indigent Fund, Commissary Fund and General Fund. If approved the above accounts will be reduced up to \$156,250 for the 15-month period.

Alternatives

Not approve purchase and provide other direction.

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

**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 Minnesota Multistate Contracting Alliance for Pharmacy (“MMCAP”) for its member facilities (“Facility”) and **Diamond Drugs, Inc.**, 645 Kolter Drive, Indiana, PA 15701 “Vendor”).

Under Minnesota Statutes Sections 16C.03 and 16C.11, the Commissioner of Administration on behalf of MMCAP is empowered to engage such assistance as deemed necessary.

MMCAP is a group purchasing organization as defined in 42 U.S.C. § 1320a-7b(b)(3)(c) and maintains that it is structured to comply with the requirements of the Safe Harbor regulations regarding payments to group purchasing organizations set forth in 42 C.F.R. § 1001.952(j). MMCAP consists of government-run health care facilities and contracts for pharmaceuticals and certain health care 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.

The Vendor wishes to contract with MMCAP to supply products to MMCAP Member Facilities.

1 Term of Contract

1.1 Effective date: February 1, 2014, or the date MMCAP obtains all required signatures under Minnesota Statutes Section 16C.05, subdivision 2, whichever is later.

1.2 Expiration date: December 31, 2019, or as cancelled pursuant to Article 21.

1.3 Survival of Terms. The following clauses survive the expiration or cancellation of this Contract: 7. Liability; 8. State Audits; 9. Government Data Practices and Intellectual Property; 10. Publicity and Endorsement; 11. Governing Law, Jurisdiction, and Venue; and 16. Data Disclosure.

2 Contracted Services

2.1 Service Area

- A. Correctional Facilities. Vendor will provide pharmacy services to correctional facilities in all 50 states where FedEx, UPS, or the U.S. Postal Service provide delivery services. Correctional facilities include large and small state departments of corrections, county jails, privately owned correctional facilities, city jails, juvenile facilities, female facilities, intake centers, forensic treatment centers, and alcohol and drug detox centers.
- B. Long-term Care Facilities. Vendor also will provide services to long-term care, assisted living, MHMR and other healthcare facilities in Pennsylvania, Maryland, Ohio, New Jersey, New York, and Delaware based on their locations.

2.2 Services—Vendor will dispense prescriptions and distribute stock medications written by authorized medical staff at designated member facilities. Vendor will provide professional comprehensive pharmaceutical services for all prescription, non-prescription, and intravenous (IV) solutions, as ordered by all prescribers, as well as clinical management and technology solutions that meet facilities’ requirements. All medications and OTC items that the facility purchases must be purchased from the Vendor. Most prescriptions will be dispensed from Vendor’s mail-order pharmacy and will be delivered by commercial package delivery services. Facilities within driving distance (approximately 2.5 hour one-way drive) of Vendor’s pharmacies will receive deliveries by courier service. On-site emergency kits, which contain life-saving medications, injections for pain control, antibiotics, and medications to control behavior will also be available, if permitted with proper licensing by Vendor. Vendor will provide facilities with starter kits containing first-dose medications for STAT administration. Emergency prescriptions not available in the emergency kits or starter kits will be provided by Vendor-contracted local backup pharmacies and billed to Facility as a pass-through charge.

Solid, orally administered medications will be provided in true unit-dose blister cards, in which medications eligible for credit will have each bubble of the blister card labeled with the medication's name and strength, lot number, NDC, manufacturer's name, and expiration date. Prescription labels are customizable with Facility-specific information and are barcoded to allow for inventory management as well as quality assurance during med pass. Each prescription label will contain a two-part peel-off tab to allow easy refill processing. For MMCAP correctional facilities, unused blister card medications (both full and partial) will be returnable for credit, where permitted by law, and in accordance with Vendor's return policy.

Vendor will provide 24 hour a day/7 day a week/365 day a year (24/7/365) consulting with a regularly scheduled pharmacist accessible using a toll-free telephone number.

Formulary development and management, at no charge to the Facility, will be available to provide cost control and to ensure that the most appropriate medications are safely prescribed in accordance with manufacturer's recommendations and as written by the Facility's medical staff.

Vendor will provide on-site medication room inspections and reviews, if requested and for the hourly rate set forth in Article 7 Audits, to ensure proper storage and security of pharmaceuticals, when requested. The frequency of inspections will be determined by accreditation requirements, department of health regulations, and state law.

Vendor will offer only correctional facilities Sapphire eMAR—a proprietary web-based electronic ordering, reconciliation, inventory and eMAR software. Vendor will provide the pharmacy portion of the software free-of-charge, on the condition that the member Facility uses it to order and purchase all of its non-emergency medications from Vendor. Vendor will also provide facilities access to a free electronic reconciliation system. Vendor will also provide Online Reporting Program (ORP) is a web-based program that is accessible 24/7/365 that allows staff at member facilities the ability to access patient data and to generate standard and custom reports. Vendor will also work with other vendors to establish an interface with providers of other electronic health records and comprehensive medication management programs for correctional, long-term care, and assisted living facility clients. Vendor will cover the costs on a case by case basis within reason, up to \$2,500 to develop the Vendor's portion of the interface and discuss any possible charges that will be required by the Facility prior to any interface or programming work being initiated. Facility will be responsible for any fees charged from the EHR or JMS system or switch company. Vendor may offer an Electronic Health Record to facilities for a charge to be determined by the Vendor for each individual Facility.

Vendor will offer to loan to the facilities medication carts and a fax machine to each Facility throughout the duration of this contract. Fax machine replacement toner/cartridges can be purchased through Vendor at Vendor's actual acquisition cost plus dispensing fee. Number of carts supplied will be based on the average number of blister cards utilized and cart capacity. Vendor will also provide basic manufacturer supplied reference materials/video library, in-service training when requested for a fee, commissary supplies, and an information exchange from other facilities serviced by the Vendor. Reference books and publications, such as Physicians' Desk Reference (PDR), Nursing Drug Handbooks, etc., can be purchased through the Vendor at Vendor's actual acquisition cost plus dispensing fee plus shipping.

Vendor will offer to provide third party billing services for federal inmates housed in MMCAP member Facilities (U.S. Immigration and Customs Enforcement, U.S. Marshals Service, Bureau of Prisons), Medicare, and Medicaid recipients, and holders of private insurance where eligible and when the information is made available from the Facility to the Vendor at the time of order transmission.

Vendor will provide a 30-45 day transition plan (including orientation) and 60-day follow-up period for questions that may arise and troubleshooting.

Monographs—Patient medication information monographs are available through Sapphire 24/7/365 and can be printed at Facility level from Vendor's web based Sapphire eMAR Program.

Consulting—Licensed pharmacists will be available by toll free phone 24 hours a day, 7 days a week, and 365 days a year (24/7/365) to provide routine and emergency consultations regarding all phases of a Facility's pharmacy operation and to prescribing physicians and nurses regarding pharmaceutical therapy and cost recommendations. Pharmacists will be experienced in correctional medicine, long-term care, assisted living, and mental health management, and understand the complexities associated with these settings.

Pharmacy and Therapeutics (P&T)—Vendor will provide access to a clinical consulting department that will be staffed with personnel such as doctors of pharmacy, registered pharmacists, AAHIVP HIV Pharmacists,TM a certified diabetes educator, a registered nurse practitioner, and a certified anticoagulation specialist.

For each Facility, Vendor will provide a lead pharmacist account manager who will serve as an active member of (and chair, upon request) a Facility's pharmacy and therapeutics (P&T), pharmacy, quality assurance (QA), continuous quality improvement (CQI), medical leadership, and other committees, as required and when requested. Consulting will be provided free of charge if via video- or teleconference or billable at \$75.00 per hour plus travel expenses, if on site.

Vendor will have videoconferencing available for facilities with those capabilities for face-to-face meetings with Vendor staff any time.

Protocols and Reports—Upon request, Vendor will provide disease state management protocols for chronic illnesses such as diabetes, hypertension, psychiatric, cardiovascular disease, asthma, chronic obstructive pulmonary disease (COPD), and HIV upon request. The protocols will include approved therapies and cost-effective pharmaceutical guidelines.

Recalls—When Vendor is notified of recalls, Vendor will review current inventory at their pharmacy(ies), remove items identified in the recall, and then Vendor will notify all relevant facilities that may have received the particular lot by fax or email.

Medication Destruction— Non-controlled substances that are outdated can be returned to Vendor for destruction regardless of their source, if permitted by state and local regulations. Unused medication must conform to Vendor's credit policy or the item will be properly discarded by Vendor without credit. Recalled product will be addressed on a case by case basis and Vendor will follow the guidelines provided by the manufacturer for the return of product as well as provision of credit in accordance with the manufacturer guidelines. In the event Facility needs reverse distributor services the Facility will be responsible for those charges.

Credit on Returns (For MMCAP Correctional Member Facilities)—Vendor provides credit on unused medications, where permitted by law or regulation. Vendor will provide credit on both full and partial cards of medications.

Credit is offered on full and partial cards at 100% of the amount billed to a Facility less a \$0.60 processing fee per card, but not to exceed the current market value of the medication per dose of medication eligible for return. Non-creditable medications or medications that inmates brought into the Facility also can be returned for disposal or destruction at no charge.

Vendor will provide credit, where permitted by the State Board of Pharmacy and the FDA, on full and partial blister card medications returned, provided they:

- ◇ Remain in their original sealed blister packs

- ◆ Have been stored under proper conditions
- ◆ Have not been adulterated or defaced
- ◆ Are not within 3 months of expiration
- ◆ Have not been released to the inmate population or labeled/dispensed as “keep on person”
- ◆ Are not controlled substances
- ◆ Have a minimum value of \$1.50 per returned card
- ◆ Have not been billed to a private insurance or Medicaid

Vendor will comply with the Pennsylvania State Board of Pharmacy regulations and in accordance to Facility’s home state regulations for returning medications for credit. Medications that are packaged with multiple units per bubble in a blister card or in multi-dose strip packaging must be destroyed upon return; thus, they do not qualify for credit.

Vendor will be responsible for the shipping costs for all returned medications back to Vendor when utilizing the Vendor provided prepaid preaddressed FedEx Package Returns Program (PRP) or UPS Authorized Return Service (ARS) labels. These labels will be simply affixed to the return box when full, which is handed to express delivery personnel during their normal pickup/delivery to a Facility.

Controlled medication and open partial stock medication cannot be credited per federal regulations. Credits are issued on medications based upon the professional judgment of the Vendor pharmacist.

Returns received by Vendor by the 15th of each month will be credited on the next invoice. Credit memos will be deducted from payment of the oldest outstanding invoice.

Upon contract termination, any desired returns must be received by Vendor within fifteen (15) days of contract termination. Vendor will destroy and not return to the Facility items not eligible for credit.

Third Party Billing Capabilities

- a. Vendor will directly invoice medical assistance, private health insurances, AIDS Drug Assistance Programs (ADAPs), the federal government, U.S. Immigrations and Customs Enforcement (ICE), the U.S. Marshals Service (USMS), and other sources of payment whenever the patient is eligible and when the billing information is provided to the Vendor by the Facility with the medication order at the time of dispensing and when permitted.
- b. Medications invoiced to other payers will be billed at the Pennsylvania Medicaid rate. If these invoices are not paid within 90 days, the Facility will be responsible for all charges at the agreed upon Facility’s rate, and Vendor will cease billing the alternate payers.
- c. Invoices for residents of long-term care or assisted living facilities are billed in the same itemized manner. Vendor will bill Medicaid and third party insurance providers in Delaware, Maryland, New York, New Jersey, Ohio, and Pennsylvania when permitted to bill and when patient is eligible.
- d. U.S. Marshals Service - Vendor is a Heritage Health Solutions participating pharmacy. Prescriptions submitted by these sites for U.S. Marshals Service (USMS) inmates are noted as such by the site, and Vendor routes these appropriately for online adjudication and reimbursement. Vendor’s third party billing department will monitor these claims daily for any rejections or outstanding non-formulary medications; and will handle these claims directly with the Heritage Health Solutions customer service department.
- e. Medicaid—Vendor is a Medicaid provider in most states that permit out of state billing and where patients can be billed. Vendor will use local backup pharmacies where available to fill and bill orders if patients are eligible for Medicaid benefits and when Vendor does not have a Medicaid provider number for the state.

Dispensing Controlled Substances—Prescriptions for CII (C2) controlled substances must be written on a hard copy prescription blank and forwarded to Vendor within 72 hours of being written. Some states permit Vendor to

fill the prescription using a faxed image of the prescription, and upon verification, the Facility will mail the original. Other states require the prescription to be “in hand” prior to Vendor’s dispensing medication. Vendor follows guidance established by each appropriate state and the U.S. Drug Enforcement Administration (DEA).

Prescriptions for CIII-IV (C3-5) controlled substances can be filled using a faxed image of the prescription as long as the order faxed to Vendor has a quantity, clear directions, and prescriber’s signature. If an electronic order is submitted for a controlled substance, that image must be printed to hard copy, signed by the provider, and then faxed to Vendor in compliance with DEA rules and regulations.

Vendor and Facility will strictly adhere to rules and guidance established by the DEA regarding prescription requirements to ensure that a Facility and Vendor remain in full compliance. DEA restrictions apply to the electronic transmission of controlled substance orders, and Vendor follows all DEA rules and regulations on this subject.

2.3 Compliance

All medications will be labeled, packaged, and dispensed/distributed for stock or patient specific in complete compliance with all current, anticipated and future local, state, federal and department laws, rules, regulations, and provisions, or in their absence, the best practices of the trade and industry standards.

- A. **State Boards of Pharmacy Licensure**—Vendor will be licensed in good standing with the State Boards of Pharmacy in accordance with the standards of the Commonwealth of Pennsylvania and as a non-resident pharmacy in the states needed where MMCAP Facilities are located.
- B. **DEA Registration**—Vendor is registered with the U.S. Drug Enforcement Administration to dispense controlled substances in Schedules II–V.
- C. **Licensed Wholesaler/FDA Registered Repacker**— Vendor will be a licensed wholesaler in the state of Pennsylvania and states where the participating Facilities are located in when needed and will provide repackaged stock medications in 30-count blister cards using the services of an FDA Certified Repacker.
- D. **Joint Commission**—Vendor will remain accredited by The Joint Commission, for pharmacy for the term of this agreement. Failure to do so may result in immediate cancelation of this agreement.
- E. **VAWD**— Vendor will remain accredited as a Verified-Accredited Wholesale Distributor (VAWD) by the National Association of Boards of Pharmacy (NABP) for the term of this agreement.
- F. **On-Site AAHIVM HIV Pharmacists™**—Vendor currently has on staff and available to facilities two expert pharmacists who have earned the designation of American Academy of HIV Medicine (AAHIVM) HIV Pharmacist™ (AAHIVP). These experts are available to answer questions related to the treatment of human immunodeficiency virus (HIV), Hepatitis B virus (HBV), Hepatitis C virus (HCV), and HIV/HBV/HCV co-infected patients as well as questions relating to drug–drug and drug–disease state interactions. Vendor will maintain an AAHIVP certified Pharmacist for the term of this agreement.
- G. **FDA Risk Evaluation Mitigation Strategies**—Vendor will follow all appropriate regulations, guidelines, and procedures established by federal and state laws including those of the U.S. Food and Drug Administration (FDA) for operating in compliance with FDA-approved Risk Evaluation and Mitigation Strategies (REMS).
- H. **HIPAA**—Vendor will comply with current Health Insurance Portability and Accountability Act (HIPAA) and all applicable regulations promulgated thereunder. In accordance with HIPAA, Vendor will keep secure and private all information that may be considered Individually Identifiable Health Information (IIHI).

2.4. Orders/Returns

- A. Products** -- When available, Vendor will use A and/or AB rated generic pharmaceuticals and OTC products when available except when the prescription is required to be dispensed as written.
- B. Hours of Operation**—Vendor will provide operational and clinical consulting service 24 hours a day, 7 days a week, and 365 days a year (24/7/365). A pharmacist will be able to be reached directly by phone or with Vendor's after-hours answering service by calling: 1.800.882.6337.
- C. Medication Ordering Process**—Orders may be placed by phone or fax 24 hours a day, 7 days a week, and 365 days a year (24/7/365). Physician's orders may be faxed directly by designated cut off time for shipment without transcribing as long as they are complete and legible. Correctional Facilities may order electronically using Sapphire eMAR, a web-based medication management system. Vendor will work with MMCAP member facilities that are long-term care or assisted living providers to encourage their electronic ordering software systems currently in place at those locations to interface with Vendor's third party Pharmacy Information System software. Vendor will assign one primary and one backup technician to process a Facility's orders which enables Facilities to talk to the same people every day as a main point of contact.
- D. Emergency Orders** -- Emergency orders will be submitted directly to Vendor's toll-free stat fax line or electronically through Sapphire, which connects to a dedicated server that is staffed 24/7/365. Emergency orders will be handled on a priority basis and, depending on account-specific policies and procedures, will be delivered directly by courier and will be billed from the Vendor to the Facility as a pass through.

1. STAT & Emergency Medications—Emergency prescriptions for STAT orders will be provided through the emergency kit/starter packs or by a pre-arranged, subcontracted local backup pharmacy of the Facility's preference.

Emergency medications not found in either the emergency medication kit or the starter packs and unavailable from Vendor in sufficient time will be provided to the Facility when available in a minimum quantity by a local backup pharmacy in the immediate area.

2. Local Backup Pharmacies—When Facility needs an emergency prescription, the Facility staff faxes or electronically transmits the prescription using Vendor's STAT FAX LINE, which is staffed and available 24/7/365. Upon order receipt, Vendor contacts the backup pharmacy and arranges for the emergency prescription.

Emergency prescriptions also can be delivered directly to the Facility using the local pharmacy's delivery service or a taxi or courier service that has been pre-arranged by Vendor, at the Facility's request.

If phoning Vendor with emergency orders, the Facility will be immediately transferred to a dedicated customer service technician or a pharmacist who can expedite the emergency/STAT need. If called in after hours, Vendor's answering service will patch the call through to an on-site pharmacist at the Vendor's pharmacy, on duty 24 hours a day.

The backup pharmacy will invoice Vendor, and Vendor will invoice Facility. The amount of the charge will include the normal Vendor-contracted rate plus any additional charges from the local pharmacy. These additional charges will be passed through at Vendor's cost, without any margin or mark-up. Charges may include, but are not limited to, the cost of the local pharmacy's prescription, if above Vendor's contract price, plus any delivery or on-call charges: taxi or courier charges; etc. Detailed reports of all emergency prescriptions will be provided with Vendor's invoice each month.

3. Emergency Kits—Vendor will provide lockable emergency medication kits that contain injectable medications used for immediate administration to alleviate pain, treat infections, modify dangerous behavior, and preserve life if permitted by licensing and state regulations.

Medications and stock quantities will be determined in conjunction with the facilities' medical director. All contents will be listed on the sealed, lockable kit.

Accountability sheets in each kit or cabinet will be used to document inventory, administered doses, and destruction.

Medications utilized will be replenished by the Vendor and billed to the Facility.

4. Stock Cards for STAT/Emergency Administrations—Prior to Facility initiation Vendor will establish a sufficient stock inventory based on the Facility's current products and the amounts used if permitted by licensing and state regulations.

Appropriate stock quantities will be maintained using the following process:
Vendor will develop a customized order form that lists all stock items used by the Facility. Each form will contain a list of the items with complete descriptions and package sizes. To order, the Facility will indicate the quantity needed next to each item on the form and submit the order to Vendor.

Access to medications must be limited to authorized personnel, and medications must be kept secure at all times.

Vendor will provide stock cards for medications that are needed for immediate administration. Stock-card doses are packaged in tamper-proof blister packs. Over the counter and legend items will be packaged in blue blister cards, and controlled substances dispensed as stock will be packaged in red blister cards to differentiate the drugs and prevent diversion.

Inventory flow sheets will be provided to record and document each dose administered from the stock card to reconcile all doses. When stock is depleted, completed accountability sheets must be faxed to Vendor to reconcile doses. Medication can be reordered as needed by submitting by fax or electronically the peel-off reorder label to Vendor or by using stock order forms. Vendor's system of accountability complies with all National Commission on Correctional Health Care (NCCHC) and American Correctional Association (ACA) guidelines.

To help minimize diversion, Vendor will require the prescriber and a member of the nursing department to sign order forms for controlled substance stock items before they are dispensed.

- E. Fax Machine**— Vendor will offer to provide each Facility with a plain paper fax machine for the transmission and receipt of information between the Facility and Vendor. Fax machine replacement toner/cartridges may be purchased through Vendor at Vendor's actual acquisition cost plus dispensing fee.
- F. Electronic Ordering through Sapphire eMAR (For MMCAP-Member Correctional Facilities Only)**— Vendor will provide access to Sapphire eMAR free of charge to eligible Facilities purchasing all non-emergency medications from the Vendor and using the system to transmit all orders to Vendor. Vendor will take full responsibility of deploying the product and its support.
- G.** Vendor will be responsible for the shipping costs for provided medications as part of the dispensing fee for facilities in the lower 48 states. For facilities in Alaska and Hawaii, shipping will be billed.

2.5 Packaging

A. Medication Packaging Options—Prescription and non-prescription solid, orally administered medications will be dispensed in the Facility's choice of several packaging methods.

1. Tamper-proof USP Class B unit-dose blister cards. Blister cards provide a specialized filling system for safe, efficient, and cost-effective medication distribution.
2. Original manufacturer's pill bottles
3. Conventional prescription bottles
4. Stock cards (where allowable)
5. Multi dose packaging (at a separately negotiated rate)
6. Strip packaging (at a separately negotiated rate)
7. Other systems, upon request (and at a separately negotiated rate).

Contract pricing is based on 30 day single dose blister card packaging. Pricing for other packaging methods will be determined on a case-by-case basis and a quotation is available from Vendor upon request.

B. True Unit-Dose Blister Cards—Maintenance medications will be dispensed in a 30-day supply unless otherwise requested. Solid medications will be dispensed in 30-count blister cards with one unit per bubble.

C. Discharge medications will be dispensed to the Facility in the quantity requested. All discharge medications will be dispensed in childproof containers, unless otherwise requested. These medications will be labeled appropriately with all directions and auxiliary warning labels, in compliance with applicable regulations.

D. OTC medications will be sent in 30 day blister cards or bulk original manufacturer's packaging, except when ordered by the prescriber for individual patients or when prohibited by law or Pharmacy Board regulations.

E. Liquid medications will be provided in unit-of-use containers, as written.

F. Eardrops and liquids will be provided in original manufacturer containers or are repackaged from their original glass containers into plastic, if requested and when permitted by FDA.

G. Creams and ointments will be provided in original manufacturers' containers or in plastic jars, if requested and when permitted by FDA.

H. IV mixtures will be dispensed compounded, labeled, and ready to administer or will be dispensed in Mini-Bag Plus packaging for easy self-mixing on site, upon request by the Facility.

I. Medication Labeling—Each prescription will be properly dispensed and labeled as patient-specific or stock in full compliance with all federal and state laws, rules, regulations, and provisions. Each label will include the following information:

- ◆ Pharmacy name and address
- ◆ Patient name
- ◆ Patient identification number (upon request)
- ◆ Cell block (if applicable)
- ◆ Medication name and strength
- ◆ Medication imprint, shape, and color for proper identification
- ◆ Dosage form
- ◆ Generic interchange information

- ◆ Quantity dispensed
- ◆ Manufacturer's name
- ◆ Lot number
- ◆ Medication expiration date
- ◆ Date on refill label, indicating when medications may be refilled
- ◆ Route and times of administration
- ◆ Directions for use (Spanish available upon request)
- ◆ Prescription number
- ◆ Prescriber name
- ◆ Original date
- ◆ Dispense date
- ◆ Discontinue date (stop date) and/or refill information
- ◆ Dispensing pharmacist's initials
- ◆ Cautions and alerts

For safe and effective medication use, warning/auxiliary labels will be provided as appropriate on prescription labels. The labeling describes cautions, warnings, potential interactions and reactions, and dietary instructions. Examples of warning/auxiliary labels include "take with food," "may cause drowsiness," and "shake well."

J. Labels for Controlled Substances—Controlled substances, which are packaged in red blister cards for easy identification, will be marked with a large red letter "C" if in Schedules III-V (C3-5) and with two red letter "C"s if Schedule II (C-2) to allow Facility staff to differentiate the schedules.

K. Peel-off Refill Tabs—Part of the medication label will be a thermal barcode label with a peel-off refill tab, printed in clear, large type. The tabbed refill labels will be supplied on every labeled medication order. Each refill tab will contain the patient's name and number, medication name, quantity, number of refills, prescriber, prescription number, unique card identification, and date the next refill is due. The form can then be faxed to Vendor or scanned into the Sapphire eMAR system for electronic refill submission.

L. Customizable Barcodes—Each correctional Facility label's barcode will be recognizable by Vendor's ePrescribing and Sapphire eMAR software or by any in-house computer software. The barcode also can be accommodated, as space permits, to include specific prescription-related information requested by facilities.

M. True Unit-dose Labeling—Vendor's blister cards will be true unit-dose packaging for medications eligible for credit. While the label itself contains detailed information, the back of each pill bubble in the blister card is labeled with the medication name and strength, lot number, expiration date, and manufacturer ID. Only true unit-dose packaging allows for credit on returned medications. This will apply to medications eligible for the Credit Upon Returns Policy, described above.

2.6 Delivery

A. Routine Order Cutoff Times (For MMCAP Correctional Facilities)—New, routine orders can be submitted electronically before 2:00 p.m. EST/EDT Monday through Friday and 12:00 noon EST/EDT Saturdays (Facility routine order cutoff times). Late orders can be submitted by telephone directly to Facility technicians before 6:00 p.m. EST/EDT Monday-Friday.

Vendor is willing to discuss later cutoff times for non-Eastern Time Zones, if needed.

Emergency or STAT orders that cannot be filled using on-site medications in starter stock or emergency kits are provided the same day through a predetermined local backup pharmacy.

B. Delivery Times—The following table lists the cutoff times by which Facility must submit new orders for them to be filled by Vendor for next-business day delivery.

Order Deadlines and Guaranteed Next-Day Delivery Times for MMCAP Facilities			
Order Day/Cutoff Time		Delivery Day/ Guaranteed Delivery Time	
Monday	2:00 p.m. EST/EDT	Tuesday	Dependent on FedEx and UPS
Tuesday	2:00 p.m. EST/EDT	Wednesday	Dependent on FedEx and UPS
Wednesday	2:00 p.m. EST/EDT	Thursday	Dependent on FedEx and UPS
Thursday	2:00 p.m. EST/EDT	Friday	Dependent on FedEx and UPS
Friday	2:00 p.m. EST/EDT	Saturday, if available	Dependent on FedEx and UPS
Saturday	12:00 noon EST/EDT	Monday	Dependent on FedEx and UPS
Sunday	All Day	Tuesday	Dependent on FedEx and UPS
Shipments to Alaska and Hawaii will typically take one additional business day.			
Emergency/STAT orders can:			
Be placed any time, 24/7/365.			
Usually be obtained using on-site emergency kits or emergency starter stock provided by Vendor.			
Be provided by a local backup pharmacy, when available, if not available on site.			
Vendor is willing to discuss later cutoff times for non-Eastern Time Zones, if needed.			

C. Refill Orders—Normal turnaround on medication refill orders will be 2 business days from order placement to delivery. For facilities located in Alaska and Hawaii, add an additional business day. Facility staff should order medication refills 5-7 days prior to the current supply running out.

If a situation arises that causes the Facility to need a refill the next day, Vendor will accommodate the request and provide medication with the next shipment.

Delivery and cutoff times for long-term care and assisted living facilities are highly variable and depend on the needs of each Facility. Vendor will negotiate the times in good faith following the best trades and practices of the industry while exceeding the needs of member facilities. Vendor couriers deliver to long-term care and assisted living facilities at least once daily.

D. Shipments—Orders will be shipped for next-day delivery where available 6 days a week—Monday through Saturday, excluding Sundays and some nationally recognized holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas).

E. Guaranteed Delivery Times—All new medication orders have a next-day guaranteed delivery time as

published by FedEx or UPS. A contracted local backup pharmacy will process emergency orders.

All medications ordered will be shipped to be delivered by the carrier's guaranteed delivery time the following day unless a medication is on national backorder or in the event that Vendor is out-of-stock. In that event, the medications usually are delivered the following day or a backup source will be used. All notifications of a medication on national backorder or out-of-stock will be communicated to the Facility on the delivery manifest, or if using electronic reconciliation, will be provided online *prior* to the shipment being delivered.

F. Shipment Packaging—Vendor's shipment packaging maintains medications at the manufacturers' recommended specifications. All medications that require refrigeration will be shipped in either insulated expander packs or Styrofoam® coolers with a cold pack to ensure proper temperatures. Outer boxes containing refrigerated items are labeled with a fluorescent orange sticker that states, "Refrigerated Items Enclosed." Refrigerated items will not be shipped for weekend delivery unless requested.

G. Shipping Manifest—Every medication shipment will contain a detailed computerized delivery manifest containing Vendor's name, patient name and identification number, prescription number, medication name and strength, manufacturer, quantity dispensed, date dispensed, Facility name, and price. If a Facility needs additional information on the delivery manifest, Vendor will make every effort to accommodate the request. Controlled substances will be packaged in a separate bag containing its own delivery manifest. In addition to a paper delivery manifest, facilities that want to electronically reconcile their orders can review pending deliveries before they arrive on site. Delivery reports will be sorted per Facility request by patient name, patient identification number, patient location, or medication.

If an ordered item is not part of the current shipment, the item and the reason for its absence (i.e., ordered too soon to fill, ordered past cut date, non-formulary medication, etc.) will be clearly indicated on the exception report section of the delivery sheets. For sites reconciling their orders electronically, this information will be automatically included in Vendor's reconciliation program and can be reviewed daily. Items that need action by a nurse or medical provider prior to shipment can be reviewed before the order ships from Vendor, allowing facilities to be proactive and prevent medication delays. Any shortages will be corrected within 24 hours.

H. Delivery Tracking—All orders will be tracked to ensure the timeliness and accuracy of deliveries. Vendor's shipping software will track packages at every destination point. The software will provide estimates and confirmations of scheduled and actual delivery times as well as the names and signatures of delivery recipients.

Upon request, Vendor will automatically email the facilities the FedEx or UPS tracking information, including the tracking number and a link to the shipping company's website. Vendor can establish a special FedEx account for facilities, enabling staff to view the delivery status of all packages scheduled for the Facility. In addition, upon request, Vendor can provide reference numbers with Facility codes and dates, enabling the Facility to track packages over the telephone rather than online.

If an order is not delivered by its guaranteed delivery time, Vendor's shipping department will begin the process of tracking the shipment. If Vendor determines the package is lost in shipment, Vendor will immediately contact the Facility and provide a copy of the missing delivery manifest so each item can be reviewed and it can be determined if Vendor needs to supply the medication(s) using local backup sources. Those medication orders will immediately be sent to the backup by Vendor customer service technicians. The balance of the order will then be shipped for next-day delivery to the Facility.

I. Reconciliation and Inventory Management (For MMCAP Correctional Member Facilities)—Vendor's reconciliation and inventory-management software will allow a Facility's staff to quickly reconcile medication order shipments using barcode technologies, request/track refills, and managing returns online. Vendor's system will export order information in various file formats such as Excel, Word, or PDF.

Once scanning is completed, the software automatically notifies Facility staff of any missing items.

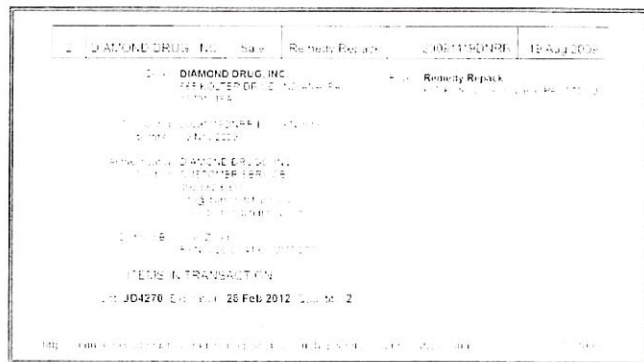
Facilities will be able to review shipments as they build each day. Regarding items that could not be shipped, Vendor's system will provide the Facility with information such as refills sent past the cut date, medications need a non-formulary approval, refills ordered too early, medications need a controlled substance hard copy, etc.

J. Recalls and Backorders—Vendor will have dedicated staff pharmacists to address manufacturer recalls, shortages, and medication backorders. When Vendor is notified of recalls, the team will immediately review Vendor's current inventory and remove items identified in the recall. Vendor's software will provide reports that list patients who received recalled medications. Vendor will notify all relevant prescribers and other personnel according to pre-established protocols and procedures. Vendor will notify all Facilities by fax and email.

K. Stock Drug Pedigree Requirements—

Vendor will fully comply with all pedigree requirements and offer electronic pedigrees. Pedigrees can be viewed by logging in to a secure password-protected site using Vendor's web-based software from any web-based computer. Paper copies can be provided upon request.

Legal and regulatory requirements dictate that medications dispensed as stock must be distributed by a licensed drug wholesaler. Vendor is a Licensed Wholesaler in Pennsylvania and in all states in which it operates and distributes medications. Vendor will fully comply with all wholesale and repackaging requirements.



Vendor's wholly owned subsidiary, RemedyRepack is an FDA Registered Repacker, which permits it to legally distribute stock medications in 30 count blister packs as opposed to bulk bottles.

Vendor will maintain Verified-Accredited Wholesale Distributor (VAWD) designation.

2.7 Invoicing

Vendor will invoice a minimum of once a month or more frequently upon request. Each invoice will detail all charges for the current month, any unpaid balances, and any credits issued in the current month. Payment terms will be net 30 days.

Invoices will be provided in Excel, in the format of Facility choice including FTP-site download, hard copy, or CD-ROM. Invoices will include the contract number and/or purchase order number. Each line item will contain a prescription number, patient name and identification number, medication name and strength, quantity dispensed, price, NDC number, date the prescription was dispensed, prescriber name, and credits.

Invoices will be individually printed and billed directly for each patient or other jurisdiction such as for federal government agencies including U.S. Bureau of Prisons (BOP), U.S. Immigration and Customs Enforcement (ICE), U.S. Marshals Service (USMS), and for counties other than the one in which the inmate is housed. Vendor will bill compensation orders, medical assistance, health insurance, AIDS drug assistance programs (ADAP), or other payment sources if the patient is eligible, if permitted to bill, and if Vendor receives billing information at the time of dispensing. Medications invoiced to other payers will be billed at the Pennsylvania Medicaid rate. If these invoices are not paid within 90 days, the contracted Facility will be responsible for all charges at the agreed upon

Facility's rate, and Vendor will cease billing the alternate payers. Invoices for residents of long-term care or assisted living facilities will be billed in the same itemized manner.

Credits (for correctional accounts) will be individually listed, showing the amount of credit for each item. Vendor will provide a printout of all issued credits, alphabetized by patient name and including prescription number, date, medication name, quantity returned, and amount of credit issued.

Vendor will invoice facilities for any backup and delivery charges in an itemized format.

Customized invoice reports will be available. Data in the invoices will be sorted according to the Facility's such as by inmate/patient name, medication name, medication category (psychotropic, HIV, etc.), dispense date, physician, or cost.

2.8 Value Added Services

A. Independent Auditing of Vendor's Invoices

By January 30, 2014, Vendor will contract with eAudit Solutions, Inc.(eAudit) to provide independent auditing of Vendor's invoices to Member Facilities. Vendor will provide eAudit a monthly electronic file of all of its invoices to Member Facilities. At a minimum, the file will contain:

- Customer Name
- Diamond's Customer Number
- Order/Invoice Number (if applicable)
- Bill to Address
- Bill to City
- Bill to State
- DEA
- HIN
- NDC
- Product Name
- Quantity Dispensed
- Wholesaler Acquisition Cost (WAC (as supplied by Cardinal Distribution). if applicable)
- Actual Acquisition Cost (AAC, if applicable)
- Price of drug (Quantity dispensed * WAC or AAC price per unit)
- Discount Applied to the Prescribed Pharmaceuticals (WAC -5% for single source products, WAC -80% for multisource products, or \$0 for AAC products)
- Invoiced Price (Quantity Dispensed * (Price of drug - Discount Applied) or AAC+\$2.50)
- Average Daily Population (as reported by the Member Facility)
- Dispensing Fee Charged

eAudit will audit the file within two business days and provide to Vendor and MMCAP a copy of its findings. In the event eAudit discovers a discrepancy in either the cost of the prescription or dispensing fee, Vendor will work with MMCAP to resolve the discrepancy, however payment will still be made from Facility to Vendor when due. In the event Vendor and eAudit do not come to an agreement to provide these services Vendor will find a mutually acceptable independent auditing service. If the parties to this Agreement cannot agree upon an independent auditor the administrative fee paid to MMCAP will be increased to 3% of the dispensing fee.

B. Overview of Online Reporting Program (For MMCAP Correctional Member Facilities)—Vendor will provide an Online Reporting Program (ORP) that is a robust web-based patient profile-reporting tool. Users will have various reporting options as well as multiple ways to view, sort, and print the dispensed data based on specified parameters.

C. Management Reports

Vendor's statistical reports are a modular combination of Excel charts, graphs, figures, and reports that help illustrate monthly expenditures and usage, as well as prescribing habits and trends. The system currently contains over 300 available reports and charts, as well as over 400 yearly trending figures. Vendor customizes and creates reports to meet the needs of each Facility.

D. Vendor's standard reports:

Patient Census—Graphically presents the number of inmates in the Facility receiving medical care (Report is provided monthly and includes trends.)

Total Monthly Cost—This report provides the gross total cumulative amount of Vendor's invoices to the Facility by month. The total includes all stock and prescription medications, formulary and non-formulary drugs, health-care supplies and the costs of any STAT deliveries. (The report includes trend information.)

Total Monthly Costs Less Credits—This report uses the data compiled for the Facility's gross cumulative total by month and deducts any credits that were issued for returned medications, healthcare supplies, etc. (The report includes trend information.)

Total Monthly Cost per Patient Less Credits—This report is the Facility's net invoiced cumulative total costs per month divided by the number of patients receiving care that month (This report includes trend information.)

Total Non-Formulary Prescription Orders—On a monthly basis, the site is provided the number of non-formulary orders shipped to the Facility (This report includes trend information.)

Non-Formulary Costs—Not only will the Facility know how many non-formulary prescriptions it is receiving, it also will know how much it is spending on a cumulative basis, each month for these medications (This report includes trend information.)

E. Medication Carts.

Vendor will offer to provide locking medication carts on loan based on average prescriptions dispensed and cart capacity for the secure storage, transportation, and administration of all medications and supplies based on the Facility's size and number of patients serviced.

Vendor's carts are top-of-the-line, durable, lightweight, and narrow for easy maneuverability throughout correctional facilities and contain:

- ◆ Three blister card drawers
- ◆ A 3-inch high drawer (for storage of topicals, ophthalmics, etc.)
- ◆ A separate, locked narcotic box
- ◆ Convenient features such as an extension table, an attached cup holder, an attached MAR holder, and a trash receptacle

Vendor's locked narcotic box meets all Drug Enforcement Administration (DEA), State Board of Pharmacy, and State Board of Nursing requirements related to the provision of a double-locked storage area.

Medication carts vary in size, style, and options based on availability at the beginning of or throughout the agreement. Medication carts are provided on loan for the duration of the agreement when the Facility orders all medications from Vendor. Vendor will provide maintenance and parts for the carts and will replace the carts when necessary.

F. Reference Materials-Vendor will provide medication information and educational materials to prescribers, nurses, officers, and patients on topics such as medication therapeutics, side effects, and proper administration of medications. Vendor provides most of the following items free of charge:

G. Video Library—Vendor has an extensive healthcare video lending library containing over 300 videos on

various medical-related topics. These videos are available for the Facility's use. Available videos are at various educational levels and contain information appropriate for inmates, security, nurses, and prescribers. Some of the most popular topics include IV infusion, medication information, nursing skills, respiratory issues, universal precautions, HIV, and diabetes. Videos can be borrowed, viewed by the Facility personnel, and returned to Vendor when finished, free of charge.

H. Newsletters—Quarterly company newsletters, written by Vendor pharmacists and guest industry experts, include articles and reviews on new medications, current disease strategies and therapies, operational procedures, formulary management, disease state reviews, and Vendor company news.

Vendor's Quarterly HIV and Hepatitis Newsletter is written by a Vendor Certified AAHIVM Pharmacists Experts. This newsletter provides a wealth of knowledge and information specific to HIV and Hepatitis therapy.

I. Product and Regulation Announcements—Vendor provides information on new medications, generic medications, therapies, side effects, proper administration of medications, etc. In addition, Vendor automatically sends memos to the Facilities when a medication's color or imprint changes or when new generics are released. Regulatory information is sent to facilities as soon as it is issued.

J. Monographs—Prescription monographs are available and can be printed at Facility level from Vendor's web based Sapphire eMAR software in English or Spanish, if requested. These monographs outline the medications' classification, usage, administration, and side effects. They provide the most accurate and timely information regarding medication classifications, usage, administration and side effects in an easy to read format.

K. Reference Manuals—As needed, Vendor provides facilities with medication reference materials that are available for free from manufacture or governmental sources such as controlled substance lists, list of medications that should not be crushed, metric conversions, poison antidotes, medications that cause heat sensitivity, medications that cause photosensitivity, and poison prevention hotline information. . Reference books and publications, such as Physicians Desk Reference (PDR), Nursing Drug Handbooks, etc., can be purchased through the Vendor at Vendor's actual acquisition cost plus dispensing fee plus shipping.

L. 340B (For MMCAP Correctional Member Facilities That Are Eligible)—Vendor currently provides 340B services to correctional facilities and will work with Facility to discuss if it is a viable option for the member Facility. 340B dispensing and service fees will be negotiated on a case by case basis. MMCAP will be informed of all final pricing.

M. Commissary—Vendor will dispense/distribute over-the-counter (OTC) commissary items. Each package is labeled with medication directions, side effects, ingredients, and all required information that are to be contained on OTC packaging.

N. Electronic Reconciliation System (For MMCAP Correctional Member Facilities)—Electronically tracking the reconciliation of orders (as well as credits) using individualized, secure user IDs and passwords will minimize the diversion of medications both received and returned, as each session is captured electronically. Access to the Vendor's reconciliation program allows the Facility to see its order as it builds each day, with the items due to ship and the items that cannot be shipped. Reasons for an item not shipping include the refill is too soon, order does not have a refill, medication is on manufacture backorder, and order needs non-formulary approval. The Facility can proactively manage Facility medication orders by viewing its daily order.

O. Inspections—Vendor's fully credentialed licensed pharmacist or a locally credentialed licensed pharmacist will conduct inspections of Facility's medication rooms, per the fee outlined in Section 9, that are required by contract or local regulations, or are needed to maintain accreditation, if requested at a rate of \$75.00 per hour. The inspection helps to ensure that the Facility complies with all relevant federal, state, local, and pharmacy laws and

regulations; the Controlled Substance Act; the respective State Board of Pharmacy; state statutes; and National Commission on Correctional Health Care (NCCCHC), American Correctional Association (ACA), Verified-Accredited Wholesale Distributor (VAWD), and the Joint Commission requirements and standards.

Vendor's two-page inspection sheet is based on NCCCHC, ACA, and Joint Commission standards and Vendor's experience in the correctional industry. Vendor abides by all recommendations set forth by these organizations, as well as all applicable federal, state, and local rules and regulations.

During the inspection, a Licensed Pharmacist reviews the following:

- ◆ The cleanliness and organization of the medication rooms
- ◆ Medication ordering, charting, documentation, inventory, and record keeping
- ◆ Narcotic and sharps record keeping and counts
- ◆ The presence or absence of outdated, discontinued, or recalled medication
- ◆ Medication distribution and med pass procedures
- ◆ The contents of the emergency (ER) kit and/or crash cart
- ◆ Refrigerator temperature and contents
- ◆ Stock levels
- ◆ The pharmaceutical care of patients
- ◆ Medication utilization and individual therapies
- ◆ Appropriate storage and security of medications and supplies
- ◆ Periodic reviews/stop dates of controlled substances and commonly abused drugs
- ◆ Presence and appropriate use of formulary
- ◆ Existence of and compliance with appropriate policies and procedures for medications
- ◆ Current reference materials such as the Physicians' Desk Reference (PDR), Nursing Drug Handbook (NDH), poison control center information, do-not-crush lists, etc.

Upon completion of the inspection report, which includes recommendations, corrective actions, and observations, the pharmacist and nurse, or nurse designee, sign and date the report and file it in the medical room for reference. A copy is also maintained at Vendor.

The results of the audit are discussed with the nursing supervisor, designee, or site administration following the inspection. Summaries of the inspections are reported during pharmacy and therapeutics (P&T) meetings. On subsequent inspections, Vendor reviews all previous recommendations to ensure compliance and to ensure that corrective action was taken.

Vendor further assists the Facility with the accounting, reconciliation, disposal, and removal of unused medications, including controlled substances, as defined by federal, state, and local rules and regulations. Count sheets are provided for strict accountability and all documentation is enforced as required by law.

Long-term care and assisted living Facility guidelines established by state boards of pharmacy, departments of health, and the Center for Medicare & Medicaid Services (CMS) are followed when providing Facility chart reviews and consulting requirements. Individual Facility needs are specific to their location and the level of medical care provided, and Vendor has the extensive knowledge and experience required to ensure all rules and regulations regarding inspections and consulting requirements are followed.

P. Orientation—When Vendor begins servicing a new Facility, it will implement an off-site competency based

training schedule and orientation program for Vendor's Pharmacists as well as any other Vendor personnel that will be involved with Facility contract management. Prior to implementation, Vendor will have several internal staff meetings to fully review Facility requirements and how they best apply to Facility specific facilities' needs.

Vendor's startup manual has detailed explanations of all medication management procedures and Vendor's electronic programs are supported by program specific user manuals that are reviewed during the initial training. During these orientation meetings, Vendor will review all of the policies and procedures that are detailed in Vendor start-up manuals regarding medication management.

Q. Transition—The goal is to facilitate a smooth transition from a Facility's current provider to Vendor. Vendor will establish the following (with a preference of 30-45 days' notice):

- Ensure a seamless transition in medication delivery services.
- Ensure prompt delivery of all manuals, forms, and start-up material/equipment.
- Train Facility pharmacy staff in the use and implementation of all aspects of the medication receiving, distribution, and tracking systems.
- Maintain a 24-hour helpline for troubleshooting issues that arise and will actively follow-up with staff. For MMCAP correctional member facilities using Sapphire, Vendor will assist Facility staff in verifying technical requirements, coordinating data population, and training Facility staff in the use of the system.
- Facilities will be required to complete the following document to complete initial set up:
 - Sapphire Operational Guidelines, which is attached and incorporated.

Vendor's transition plan will provide a telephone or on-site start-up schedule to each Facility.

R. Additional Products and Services—Vendor offers a complete line of competitively priced services including the following:

Healthcare Products—Aspirin, Tylenol, shampoo, soap, hand lotions, disinfectant cream, toothpaste, individual unit-dose packets, etc.

Respiratory Therapy Services—Access to Vendor's on-staff respiratory therapists and technicians and a complete line of products and equipment.

2.9 Pricing

A. Products. Correctional accounts will be based on a discount from the published Cardinal Distribution wholesale acquisition cost (WAC) plus a dispensing fee per prescription and stock piece. Cardinal utilizes manufacturer's data as a primary source, in the event there is no WAC pricing available from manufacturer's data Cardinal will develop its own WAC pricing.

- ◊ Brand name and single-source products will be dispensed at a price per unit rate of WAC minus 5% plus a dispensing fee per prescription and stock piece. Single-source medications are defined as brand name or generic entities that are provided from a single manufacture source.
- ◊ Generic multi-source products will be dispensed at a price per unit rate of WAC minus 80% plus a dispensing fee per prescription and stock piece.
- ◊ Prescriptions will not be sold below cost. In the event that the discount to WAC causes the medications to fall below cost, those medications will be billed at Vendor's Actual Acquisition Cost (AAC) plus \$2.50

plus the dispensing fee per prescription and stock piece as determined by the Facility's ADP. AAC is defined as Vendor's upfront medication cost at the time of dispensing.

- ◆ Intravenous (IV) medications will have an additional dispensing fee of \$7.00 per bag.
- ◆ Total Parenteral Nutrition (TPN) medications will be billed at AWP of each ingredient plus \$75 per bag.
- ◆ Compounded IV medications, specialized vaccines, chemotherapy, blood products, special compounds, dropped shipped items and certain other specialty items, etc. are billed at Average Wholesale Price (AWP) plus \$4.00 per piece.
- ◆ Long Term Care and Assisted Living Facility rates will be negotiated on an individual basis.
- ◆ Medications dispensed under a 340B program are not covered under this agreement, but will be billed under a separately negotiated rate (to be determined) if Vendor is able to successfully establish a program with Facility and a covered entity.
- ◆ Any costs for M/W/DBE (Minority-Women's-Disadvantaged Business Entity) program management are not covered under this agreement, but can be separately negotiated.
- ◆ Dispensing through automated dispensing units/cabinets are not covered under this agreement, but can be negotiated separately.
- ◆ Backup pharmacy services will be billed as a pass-through cost at the contracted backup pharmacy's negotiated rate—as billed through a pharmacy benefit management (PBM) company—plus the backup pharmacy's delivery charge or on-call charge, or the taxi or courier charge, if applicable. As each backup Facility negotiates its own rate, Vendor cannot quote an exact cost until a direct negotiation occurs on behalf of the member Facility with the backup pharmacy provider. No backup agreements will be entered into until the member Facility reviews and approves the negotiated rate for backup services.
- ◆ Payment by credit card or purchase card will be assessed a 3% convenience fee.
- ◆ The Facility is responsible for all applicable sales, use, lease, ad valorem, and any other tax that may be levied or assessed by reason of this transaction, unless the Facility provides a tax exemption certificate (blanket or transaction specific) to Vendor in a timely manner.

The above rates include the following services at no additional charge:

- ◆ Start-up in-service and ongoing training
- ◆ A pharmacist account manager serving as the primary contact
- ◆ A registered pharmacist for on-site inspections where required by contract, law or accreditation—Any on-site inspections, consultations, or participation in committee meetings will be billed as a pass-through cost for time spent at the Facility at a rate of \$75.00 per hour.
- ◆ A dedicated pharmacy technician in-house at Vendor's pharmacy.
- ◆ Medication carts on loan for the duration of the contract
- ◆ Fax machines for the duration of the contract on loan—Facility may purchase fax cartridges/toner cartridges from Vendor at AAC plus dispensing fee per cartridge/toner or the Facility can procure these items on their own.
- ◆ Sapphire Pharmacy Software program including computerized physician order entry (CPOE), electronic medication administration records (eMAR), inventory and order reconciliation module. Hardware and internet connection will be the responsibility of the Facility.
- ◆ Access to Vendor's web file manager financial reporting
- ◆ Startup in-service on Sapphire and ongoing training

- ◆ Access to Vendor's web-based reconciliation program
- ◆ Access to Vendor's web file manager financial reporting
- ◆ Access to Vendor's Online Reporting Program (ORP)
- ◆ Access to Vendor's industry-leading clinical pharmacists and specialists
- ◆ 24/7/365 telephone consulting
- ◆ Monthly and ad hoc reports
- ◆ Traditional and electronic MARs
- ◆ Labeling, packaging, and delivery of medication to a member Facility. Shipping and delivery fees are outlined specifically within this Agreement and are included as part of the dispensing fee for facilities in the lower 48 United States. For facilities located in Alaska and Hawaii, shipping charges invoiced to Vendor by a common carrier such as UPS, FedEx, and the USPS will be billed at list pricing.

Any information technology (IT) costs associated with EHR/EMR software interfaces and hardware will be billed as a pass-through charge.

In LTC and assisted living facilities, eMAR, MARs, treatment sheets, and other paperwork will be billed as a pass-through charge.

Stock will be provided for correctional facilities in 30-count blister card packaging. If a Facility uses a large volume of stock, Vendor may exercise the option to ship stock items via ground shipping.

Backup pharmacy costs, along with any courier fees, will be billed as a pass through charge, generally at its average PBM rate, with no additional markups. Backup pharmacy services will be billed at the contracted backup pharmacy's rate—as billed through a pharmacy benefit management (PBM) company—assuring a competitive rate, plus the backup pharmacy's delivery charge or on-call charge, or the taxi or courier charge, if applicable.

Facilities in Alaska and Hawaii will pay list-shipping costs from either UPS or FedEx, based on the carrier selected.

As required by the Center for Medicare and Medicaid Services (CMS), any inspections and chart reviews conducted at a long-term care or assisted living Facility will be billed for time consulted as a pass-through charge.

Routine maintenance medications will be dispensed in a quantity not to exceed a 30-day supply per dispensing. Solid medications typically are dispensed in 30-count blister cards with one unit per bubble.

Vendor will retain and reserves all rights, title, use, control, interest in and ownership of its assets including, but not limited to, its software, reporting, packages, and user documentation; operations, procedures, and strategies; formulary and clinical services; manufacturer, wholesaler, group purchase, and Vendor contracts and resultant data and information; patient, claims, benefits management and drug utilization information; trademarks and service marks.

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B. Dispensing Fee—Dispensing fee per prescription and stock piece will be based on the Average Daily Population (ADP) of each individual Facility which Vendor ships to, according to the following table:

Correctional Facility/Clinic Dispensing Fees as Related to Facility ADP	
Facility Average Daily Population (ADP)	Dispensing Fee per Prescription and Stock Piece
1-500	\$4.50
501-2,500	\$3.50
2,501–50,000	\$3.00
50,0001+	\$2.50

ADP is to be determined by adding up the daily inmate census per day for each calendar day of a respective month and divide that total by the number of calendar days in that respective month.

3 Administrative Fee. In consideration for the reports and services provided by MMCAP, the Vendor will pay an administrative fee in the amount of 1.5% on all dispensing fees of orders placed by Member Facilities and dispensed by Vendor. The Vendor will submit a check payable to “State of Minnesota, MMCAP Program” as soon as is reasonable after the end of each month, but no later than 30 calendar days after Facility is invoiced. Payments must be sent to MMCAP, 50 Sherburne Avenue, Suite 112, St. Paul, MN 55155. The Vendor must submit a monthly Administrative Fee Data Report. The monthly Administrative Fee Data Report must contain the fields detailed below. All Administrative Fee Data Reports must be sent to: Min.MMCAP@state.mn.us at the end of each month, but no later than 30 days after the end of the month. Failure to comply with this provision may constitute breach of this Contract. MMCAP reserves the right to collect interest on payments 30 days past due at a rate consistent with Minn. Stat. § 16D.13.

Administrative Fee Data Report fields:

- Invoice Date (Point of Sale Date)
- Invoice Number
- MMCAP Participating Facility Name
- Vendor’s Account Number for the MMCAP Facility
- MMCAP Participating Facility DEA Number, if applicable
- MMCAP Participating Facility HIN Number, if applicable
- MMCAP Participating Facility Address
- MMCAP Participating Facility City
- MMCAP Participating Facility State
- Number of Prescriptions Dispensed for the Invoice
- Dispensing Fee
- Administrative Fee Decimal Percentage Report as a decimal (0.015)
- Administrative Fee Payment Amount (Administrative Fee Decimal Percentage * Dispensing Fee. Report in dollars)

Under no circumstances will Vendor provide patient-level data to MMCAP.

In the event the Vendor is delinquent in any undisputed administrative fees, MMCAP reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event the contract is cancelled by either party prior to the contract’s expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

4 Customer Service.

4.1 Primary Account Representative. Vendor will assign a Primary Account Representative to MMCAP for this

Contract and must provide a minimum of 72 hours advanced notice to MMCAP if that person is reassigned. The Primary Account Representative will be responsible for:

- Proper maintenance and management of the MMCAP Contract, including timely execution of all amendments
- Timely response to all MMCAP inquiries
- Performance of the business review

In the event that the Primary Account Representative is unresponsive and does not meet MMCAP's needs, the Vendor will assign another Primary Account Representative upon MMCAP's request.

4.2. Business Reviews. Vendor will perform a bi-annual business review with MMCAP staff per contract year. The review will be at a time that is mutually agreeable to Vendor and MMCAP and at a minimum address: a review of sales to members, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

4.3 Dispute Resolution Vendor and MMCAP will handle dispute resolution for unresolved contract eligibility issues using the following procedure:

4.3.1 *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. And if necessary, MMCAP and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.

4.3.2 *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either MMCAP or Vendor may escalate the resolution of the issue to a higher level of management. A meeting will be scheduled with MMCAP and the Vendor's MMCAP Primary Account Representative to review the briefing document and develop a proposed resolution and plan of action. The Non-complaining Party will have 30 calendar days to cure the issue.

4.3.3 *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Complaining Party must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If either Party fails to continue without delay to perform its responsibilities under the contract, in the accomplishment of all undisputed work, any additional costs incurred by the Other Party and/or MMCAP members as a result of such failure to proceed will be borne by the Party Failing to Perform non-disputed obligations.

4.3.4 *MMCAP Rights.* In the event MMCAP cannot resolve a dispute with the Vendor, MMCAP may cancel this Contract upon 60 days' written notice to the other party.

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

5 Authorized Agent

MMCAP's Authorized Representative is the MMCAP Managing Director, Materials Management Division, Department of Administration, 50 Sherburne Avenue, St. Paul, MN 55155.

The Vendor's Authorized Agent is Mark Zilner.

6 Assignment, Amendments, Waiver, and Contract Complete

6.1 Assignment. Neither the Vendor nor MMCAP may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed Assignment Agreement. Consent of Assignment shall not be unreasonable withheld. If the Vendor assigns a Product during the term of this Contract, Vendor must provide written notice to MMCAP at least 30 days prior to the assignment.

6.2 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.

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

6.4 Contract Complete. This Contract contains all negotiations and agreements between MMCAP and the Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

7 Liability

The Vendor must indemnify, save, and hold MMCAP, MMCAP Participating Facilities, including their agents, and employees harmless from any claims or causes of action, including attorneys' fees incurred by MMCAP, arising out of the performance of this Contract by the Vendor or the Vendor's agents or employees; or injury or death to person(s) or property, alleged to have been caused by some defect in Products under this Contract, when the Product has been supplied by and dispensed strictly in accordance with federal, state, and local regulations and the applicable provisions of the package insert. This clause will not be construed to bar any legal remedies the Vendor may have for MMCAP's failure to fulfill its obligations under this Contract. Pursuant to the Minnesota Constitution Article XI Section 1, MMCAP is not permitted to indemnify the Vendor.

8 State Audits

Minnesota Statutes Section 16C.05, subdivision 5, requires that the books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract are subject to examination by MMCAP and either the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Contract.

9 Government Data Practices and Intellectual Property

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

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

9.2. Intellectual Property. MMCAP acknowledges and agrees that Vendor, and its affiliated company SapphireHealth, LLC retain all rights, title, use, control, interest in and ownership, and reserves the right to use and control the use of its intellectual property rights in its assets including, but not limited to, its software, reporting packages and user documentation; operations, procedures and strategies; formulary and clinical services; manufacturer, wholesaler, group purchase, vendor contracts and resultant data and information; patient, prescription claim and drug utilization submission; trademarks and service marks. This contract creates no express or implied license for MMCAP to use such intellectual property for any purpose other than carrying out its responsibilities under this contract. The Vendor warrants that any materials or products provided or produced by the Vendor or utilized in the performance of this Contract will not infringe or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any such claim by any third party against MMCAP, MMCAP will promptly notify the Vendor.

If such a claim of infringement has occurred, or in the Vendor's opinion is likely to occur, the Vendor must either procure for MMCAP the right to continue using the material or product or replace or modify materials or products. If an option satisfactory to MMCAP is not reasonably available, MMCAP will return the materials or products to the Vendor, upon written request of the Vendor, and at the Vendor's expense.

10 Publicity and Endorsement

10.1 Publicity. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

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

11 Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal

proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota. Except to the extent that the provisions of this Contract are clearly inconsistent therewith, this Contract will be governed by the Uniform Commercial Code (UCC) as adopted by the State of Minnesota. To the extent this Contract entails delivery or performance of services, such services will be deemed "goods" within the meaning of the UCC except when to do so is unreasonable.

12 Antitrust

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

13 Force Majeure

Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war, or raw material shortages that are beyond that party's reasonable control.

14 Severability

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

15 Default and Remedies

Either of the following constitutes cause to declare the Contract or any order under this Contract in default:

- (a) Nonperformance of contractual requirements, or
- (b) A material breach of any term or condition of this Contract.

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

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

- (a) Exercise any remedy provided by law or equity; or
- (b) Terminate the Contract or any portion thereof, including any orders issued against the Contract.

16 Data Disclosure

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

17 Insurance Requirements

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

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

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

Insurance **minimum** limits are as follows:

\$5,000,000 – per occurrence

\$5,000,000 – annual aggregate

\$5,000,000 – annual aggregate – Products/Completed Operations

The following coverages must be included:

Premises and Operations Bodily Injury and Property Damage

Personal and Advertising Injury

Blanket Contractual Liability

Products and Completed Operations Liability

MMCAP named as an Additional Insured

2. **Commercial Automobile Liability Insurance (If Applicable):**

Auto Liability insurance is not necessary unless the Vendor, Vendor's employees, or subcontractors will be driving on state property or on the property of MMCAP Members or MMCAP Participating Facilities or will be using, owned, hired, or non-owned vehicles to conduct business on behalf of MMCAP.

Vendor will 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, and in case any work is subcontracted the Vendor will require the subcontractor to maintain Commercial Automobile Liability insurance.

Insurance **minimum** limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile

17.3 Additional Insurance Conditions:

- Vendor's policy(ies) must be primary insurance to any other valid and collectible insurance available to MMCAP with respect to any claim arising out of Vendor's performance under this Contract;
- If Vendor receives a cancellation notice from an insurance carrier affording coverage herein, Vendor will notify MMCAP within 5 business days with a copy of the cancellation notice, unless Vendor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least 30 days' advance written notice to MMCAP;
- Vendor is responsible for payment of Contract related insurance premiums and deductibles;
- If Vendor is self-insured, a Certificate of Self-Insurance must be attached;
- Vendor's policy(ies) will include legal defense fees in addition to its liability policy limits;
- Vendor will obtain insurance policy(ies) from insurance company(ies) having an "AM BEST" rating of A- (minus); Financial Size Category (FSC) VII or better, and authorized to do business in the State of Minnesota; and
- An Umbrella or Excess Liability insurance policy may be used to supplement the Vendor's policy limits to satisfy the full policy limits required by the Contract.

17.4. MMCAP reserves the right to immediately terminate the Contract if the Vendor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Vendor. All insurance policies must be open to inspection by MMCAP, and copies of policies must be submitted to MMCAP's authorized representative upon written request.

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18 Minnesota Statutes Section 181.59. The Vendor will comply with the provisions of Minnesota Statutes Section 181.59 which requires:

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 will contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, will, 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 contractor, material supplier, or vendor, will, 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.

19. Affirmative action requirements for contracts in excess of \$100,000 and if the Contractor has more than 40 full-time employees in Minnesota or its principal place of business

The State intends to carry out its responsibility for requiring affirmative action by its contractors.

19.1 Covered contracts and contractors. If the Contract exceeds \$100,000 and the Contractor 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 Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600. A contractor 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.

19.2 Minn. Stat. § 363A.36. Minn. Stat. § 363A.36 requires the Contractor 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.

19.3 Minn. R. 5000.3400-5000.3600.

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

(b) Disabled Workers. The Contractor must comply with the following affirmative action requirements for disabled workers.

(1) The Contractor 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 Contractor 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 Contractor 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 Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 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 Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the Contractor'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 Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

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

(d) Certification. The Contractor 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.

20. Confidential Information.

During the term of this agreement and for a period of three (3) years following the date of expiration or termination of this agreement, MMCAP agrees to use reasonable efforts to keep the pricing of this Agreement non-public. If the situation arises where disclosure is requested, notification of a request to release would be sent immediately to the Vendor's Authorized Representative. Vendor will acknowledge receipt of the notification within five business days or MMCAP will be free to release the information. Upon notification to MMCAP, Vendor, at its own expense, may pursue an action to enjoin the disclosure of information considered by the Vendor to be "confidential information."

Without prior notice, MMCAP may release the following information:

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

Vendor agrees to comply with the Health Insurance Portability and Accountability Act of 1996 with respect to the privacy and security of "protected health information" (as defined by HIPAA) created, transmitted, maintained or received pursuant to, or in connection with, the performance of Vendor obligations under this CONTRACT.

Vendor acknowledge that federal regulations relating to the confidentiality of individually identifiable health information require covered entities to comply with the privacy standards adopted by the U.S. Department of Health and Human Services as they may be amended from time to time (codified at 45 C.F.R. Parts 160 and 164) ("Privacy Standards"). The Privacy Standards require covered entities to ensure that business associates who receive confidential information in the course of providing services comply with certain obligations regarding the confidentiality of health information.

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21 Cancellation. MMCAP or the Vendor may cancel this Contract at any time, with or without cause, upon 90days' written notice to the other party. In the event of such a cancellation, the Vendor will be entitled to payment, determined in a pro rata basis, for work or services satisfactorily performed or Products supplied through the Contract cancellation date.

1. DIAMOND DRUGS, 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: Chief Operating Officer
Date: 1/22/14

2. STATE OF MINNESOTA FOR MMCAP

In accordance with Minn. Stat. * 16C.03, Subd. 3

By: [Signature]
Title: SPA-P
Date: 1/24/2014

3. COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. * 16C.05, Subd. 2

By: [Signature]
Title: President
Date: 1/22/2014

By: [Signature]
Title: _____
Date: Jan. 24, 2014

OPERATIONAL GUIDELINES

This SOFTWARE LICENSING AND OPERATIONAL SUPPORT GUIDELINES ("GUIDELINES"), made and entered into this _____ day of _____, 20____ (the "Effective Date") is between _____, a _____ with its principal place of business at _____, hereinafter known as (USER) and Diamond Drugs, Inc. d/b/a Diamond Pharmacy Services, with its principal place of business at 645 Kolter Drive, Indiana PA. 15701, hereinafter known as DIAMOND.

DIAMOND will provide proprietary Software owned by Sapphire Health LLC, entitled Sapphire eMAR hereinafter known as SOFTWARE. This authorizes USER, its employees and contractors to utilize the Sapphire eMAR software hereinafter known as SAPPHIRE which specifically consists of e-prescribing, eMAR, and pharmacy reporting and prescription reconciliation; hereinafter known as SOFTWARE. All USER facilities are listed on Exhibit A (the "Facility or Facilities"). Additional Facilities will be added upon written request from USER. This is a License and GUIDELINE for end user rights and is not a sale. SAPPHIRE will continue to own all rights and title to the SOFTWARE subject to the rights permitted pursuant to these GUIDELINES. USER AGREES AND ACKNOWLEDGES THAT USER HAS READ AND UNDERSTANDS THESE GUIDELINES AND AGREES TO BE BOUND BY ALL THE TERMS AND CONDITIONS CONTAINED HEREIN.

SCOPE - These GUIDELINES shall apply to the facilities serviced by USER identified in Attachment A, which may be amended from time to time with the written consent of both parties.

RECITALS - DIAMOND desires to provide SAPPHIRE Transition Specialists to implement this SOFTWARE in the specific capacity to implement initial programming and training necessary to incorporate this SOFTWARE in the USER's facilities. Now, therefore; in consideration of the mutual promises and the covenants made herein and the consideration as hereinafter stated, DIAMOND and USER, intending to be legally bound, agree as follows:

SECTION 1 DEFINITIONS -Unless the context requires otherwise, as used herein, the following terms shall have the following meanings:

ADMINISTRATIVE USER -Facility personnel identified by USER that have full permission for all aspects of SOFTWARE having the ability to enable, disable and assign specific permissions to users.

CERTIFICATION OF IDENTITY- A notarized form that authenticates a prescriber's identity and, further, gives notice that they are authorized to prescribe medications for the inmates housed at the facility(ies). Notarized forms must be faxed and the originals mailed to Diamond Pharmacy.

DIAMOND STAFF - Including but not limited to management, technicians, billing representatives, pharmacists and account executives of Diamond Drugs, Inc., not specifically designated as SAPPHIRE staff.

JAIL MANAGEMENT SYSTEM- Facility's Jail Management System (JMS) or Offender Management System (OMS); which GUIDELINES refer to demographic information including basic patient demographics, patient admission, location, movement, photos, interfacing information and other items outlined in SAPPHIRE'S written Initial Setup Packet. Data enhancements beyond the above referenced list will be reviewed on a case by case basis and may warrant interfacing and programming fees.

POWER USER - Facility staff member(s) who will be the assigned facility SOFTWARE expert to assume all responsibility of the SOFTWARE for its staff and be trained based on the SOFTWARE training modules. Power Users will be the primary SAPPHIRE contact for any SOFTWARE questions or issues from their staff and will be the direct liaison between facility and SAPPHIRE; this person may also be an Administrative User. Power and/or Administrative Users will be responsible for training all remaining medical staff once the initial SAPPHIRE Transition Specialist(s) training is complete. There may be multiple Power Users for each facility based upon inmate population. DIAMOND recommends that each shift be represented by at least one (1) power user.

SAPPHIRE STAFF - Staff employed by SAPPHIRE involved in project management, development, support, training, sales and other tasks specific to the SOFTWARE, totally independent of DIAMOND staff.

SET-UP PACK – Paperwork associated with the implementation of SOFTWARE including but not limited to: Operational Guidelines, Implementation Workflow, Implementation Questionnaire, Hardware/Software Requirements and JMS/OMS Interface Specifications.

SOFTWARE - Means, collectively: (i) SOFTWARE identified above; including the Source Code form of the SOFTWARE located on SAPPHIRE'S website or other medium; (ii) design, format, digital images, stock photographs, clip art, fonts or other artistic work ("Stock Files"); (iii) related explanatory written or electronic materials and any other possible documentation related thereto ("DOCUMENTATION"); (iv) upgrades, updates, additions or modified versions provided by SAPPHIRE and licensed to USER under these GUIDELINES

SOURCE CODE - Language used to define actions for all SOFTWARE. It is the force that drives the action and is the building block of programming.

TRANSITION SPECIALISTS- SAPPHIRE Staff responsible for coordinating initial SOFTWARE training and setup.

WEB TRAINING MODULE- Series of interactive internet modules featuring pertinent SOFTWARE components utilized to train users on the most common SOFTWARE applications.

SECTION 2 RESPONSIBILITIES

SECTION 2.1- SCOPE OF DUTIES

DIAMOND DUTIES -Provide SAPPHIRE Transition Specialists to perform, or arrange to have performed, on behalf of DIAMOND, at no cost to USER, services described in this section for SOFTWARE implementation.

- (a) Provide, implement and train administrative and power users on the SOFTWARE.
- (b) Present initial web demonstrations and project timelines of SOFTWARE.
- (c) Assign a central project manager to aide in streamlining SOFTWARE installation and compliance.
- (d) Provide "Sapphire User Manual" online or via CD.
- (e) Provide "User Duties" and "Hardware/Software Requirements."
- (f) Provide "Implementation Questionnaire" and "Implementation Workflow" chart for completion to ensure startup compliance.
- (g) Provide "Certification of Identity" form to be signed.
- (h) Provide JMS interface specifications.
- (i) Merge and test JMS interface prior to implementation.
- (j) Provide web training modules for all appropriate users.
- (k) Train at no charge the following: Number of Power Users per site under the following parameters:
Inmate population up to 500: = 4 users, 501-1000 = 5 users, every additional 500 inmates add 1 additional user.
- (l) Provide either web or onsite setup to Power and Administrative Users not to exceed 2.5 days during a normal eight hour business day, as determined by SAPPHIRE. Additional dates exceeding the above initial training are permissible on a case by case basis with the USER responsible for all additional travel expenses and employee wages for that period.
- (m) Training does not include accompanying staff on a Medication Pass in the interest of safety. If there is a significant Medication Pass issue that cannot be resolved, SAPPHIRE staff will join the Medication Pass accompanied by a Corrections Officer and return to nursing station when issue is resolved.
- (n) Provide ongoing SOFTWARE updates.
- (o) Provide help desk support to administrative and power users.
- (p) Store and back up facility prescription data.

USER DUTIES-Prior to SOFTWARE setup USER's staff will perform the following services and provide to SAPPHIRE, including any other duties SAPPHIRE may require.

- (a) Prepare facility for setup.
- (b) Participate in web demonstration to review the SOFTWARE, if necessary.
- (c) Follow the "Implementation Workflow" flowchart requirements.
- (d) Complete the "Implementation Questionnaire."
- (e) Submit notarized copies of prescribers' Certification of Identity along with prescriber's medical license.
- (f) Compare all patient and medication data complying with SAPPHIRE specifications.
- (g) Provide a direct facility (and corporate) contact.
- (h) Provide a listing of all USERS who will have permission to access any or all portions of the SOFTWARE.

- (i) Provide a listing of two (2) Administrators and Power Users to oversee SOFTWARE at each site where SOFTWARE is implemented.
- (j) Acknowledge that Power Users will be the facility's first line of SOFTWARE support and will train any new facility employees.
- (k) Prepare required staff and manage their schedules to comply with agreed setup dates and times.
- (l) Provide staff to perform tasks including but not limited to, facility SOFTWARE preferences, assigning Hours of Administration schedules to medication orders, adjusting stock and patient inventory and patient profile comparisons and merging patient charts.
- (m) Provide all information to ensure signature authentication for all individuals having access to SOFTWARE and that it complies with the electronic prescription transmission rules and regulations established by the USER'S and Pennsylvania's State Boards of Pharmacy, Nursing and Medicine.
- (n) Comply with and install all required Hardware and Software.
- (o) Review "Sapphire User Manual."
- (p) Utilize Web Training Modules to include 85% compliance of all facility users prior to SOFTWARE set-up.
- (q) Utilize SAPPHIRE SOFTWARE to order all prescribed medications.
- (r) Exclusively utilize Diamond Drugs, Inc., Indiana PA for pharmacy dispensing services, except for emergency prescriptions.
- (s) Arrange to provide safety for SAPPHIRE Transition Specialists while on site at facility.
- (t) Provide SAPPHIRE Transition Specialists access to phone and email to enable contact with SAPPHIRE's home office during onsite set-up.
- (u) If JMS interface established, provide regular accurate JMS data exports to maintain data accuracy and update SAPPHIRE prior to making any JMS programming changes that will affect the interface.
- (v) USER will verify in writing that all the above USER duties are met prior to requesting an onsite training date with SAPPHIRE. In the event USER duties are not met by scheduled visit and it requires SAPPHIRE to change booked travel plans or requires a follow-up visit, USER will be responsible for the difference for all travel expenses and employee wages for that period.

SECTION 2.2 MINIMUM SPECIFICATIONS

SOFTWARE

- (a) Internet access to SAPPHIRE website for each system USER, <https://www.sapphireemr.com>
- (b) Microsoft Internet Explorer 8+Browser, <http://www.microsoft.com/windows/internet-explorer/default.aspx>
- (c) Microsoft Silverlight Runtime application <http://www.microsoft.com/silverlight/get-started/install/default.aspx>
- (d) Adobe Flash Player 10 or higher <http://adobe.com/flashplayer>
- (e) Adobe Reader <http://adobe.com/reader>
- (f) As requirements change, SAPPHIRE will notify USER when the above software requires updates.

HARDWARE

- (a) Computer for each ordering or medication pass area with 1.6 GHz CPU (Intel Pentium, AMD), multi-core CPU (recommended), 2 GB free hard disk space, graphics resolution of 1024x 768, 512 MB RAM, Windows XP SP2 (or most current updated version).
- (b) Rugged laptop or notebook computers, extended life battery (recommended), if medication pass is remote recommend one laptop per medication cart, not needed for pill window medication pass.
- (c) High speed internet connectivity (minimum 512 Kbps recommended).
- (d) Barcode Scanners (optional, but recommended) Motorola LS 2208 (tethered) or Motorola LS 4278 (wireless) **required models** utilizing SAPPHIRE'S programming specifications, recommend one (1) scanner per laptop if intending to scan patient or medication barcodes during Medication Pass.
- (e) As requirements change, SAPPHIRE will notify USER when above hardware requires updates.

ASSIGNMENT - USER may not assign, sublicense or transfer any rights or obligations under these GUIDELINES, the SOFTWARE or any SOFTWARE enhancements, updates, upgrades, modifications or amendments. DIAMOND may assign or transfer its rights and obligations hereunder at its discretion to any third person or legal entity without USER'S prior written permission.

CONFIDENTIALITY OF INFORMATION - Except as expressly necessary to maintain DIAMOND's and SAPPHIRE's interests, USER agrees to keep confidential and not to use or to disclose any information related to DIAMOND'S AND SAPPHIRE'S business. USER further agrees that, upon termination it will neither take nor retain, without prior written

Sapphire Operational Guidelines Attachment

authorization from DIAMOND, any records, files or other documents or copies thereof or other information of any kind belonging to DIAMOND or SAPPHIRE including but not limited to their business, SOFTWARE, sales, except to the extent required by law. To the extent any DIAMOND or SAPPHIRE information disclosed to another party including material subject to attorney-client privilege, work product doctrine or any other applicable privilege, such information shall remain entitled to all protection under these privileges. All information disclosed shall remain DIAMOND'S and SAPPHIRE'S property and USER agrees that DIAMOND is entitled to seek injunctive or other equitable relief without the necessity of posting bond, cash or otherwise. USER shall be responsible for any breach of the terms of these GUIDELINES by its representatives or affiliates. This Section will survive the termination or expiration of use. USER hereby acknowledges that the SOFTWARE including any DOCUMENTATION, Source Code, translations, compilations, partial copies and derivative works contains Confidential and Proprietary information belonging exclusively to DIAMOND and SAPPHIRE or their designated third party suppliers. Confidential and Proprietary Information does not include: (i) information already known or independently developed by the User outside the scope of this relationship by personnel not having access to any Confidential and Proprietary Information; (ii) information in the public domain through no wrongful act of the USER, or (iii) information received by the USER from a third party who was free to disclose it.

APPLICABLE LAW AND GENERAL PROVISIONS - These GUIDELINES are governed by and interpreted in accordance with the laws of the Commonwealth of Pennsylvania. All disputes arising from or relating to these GUIDELINES shall be given prompt and serious efforts to be resolved internally. If the dispute cannot be resolved between both parties internally in a timely manner, within 60-days, the parties agree to arbitrate the dispute using the American Arbitration Associations rules and procedures. The arbitration procedures shall take place in Indiana, Pennsylvania, in the English language, and the decision of the Arbitration panel is final and un-appealable. If any parts of these GUIDELINES are found void and unenforceable, it will not affect the validity of the balance of the GUIDELINES, which shall remain valid and enforceable according to these terms.

NOTICES - All notices and return of SOFTWARE documentation and printouts must be delivered return receipt to Diamond Drugs, Inc., 645 Kolter Drive, Indiana, PA 15701.

ENTIRE UNDERSTANDING - THESE OPERATIONAL GUIDELINES SET FORTH THE ENTIRE UNDERSTANDING BETWEEN THE PARTIES RELATING TO THIS SUBJECT MATTER AND MAY BE AMENDED ONLY BY DIAMOND. ANY TERMS AND CONDITIONS OF ANY PURCHASE ORDER OR OTHER DOCUMENT SUBMITTED BY USER IN CONNECTION WITH OPERATIONS AND SUPPORT OF SOFTWARE THAT ARE IN ADDITION TO, DIFFERENT FROM OR INCONSISTENT WITH THE TERMS AND CONDITIONS OF THIS OPERATIONS SUPPORT GUIDELINES ARE NOT BINDING ON DIAMOND AND ARE INEFFECTIVE. ONLY AUTHORIZED OFFICERS (NOT SALES PERSONS OR OTHER STAFF) OF DIAMOND HAVE AUTHORITY, ON BEHALF OF DIAMOND, TO MODIFY THIS OPERATIONAL SUPPORT GUIDELINES OR TO MAKE ANY WARRANTY, REPRESENTATION OR PROMISE THAT IS DIFFERENT THAN OR IN ADDITION TO THE WARRANTIES, REPRESENTATIONS OR PROMISES EXPRESSLY SET FORTH HEREIN.

Diamond Drugs, Inc.
645 Kolter Drive
Indiana, PA 15701

User: _____
Address: _____

SIGNATURES AND COUNTERPARTS - This may be signed in counterparts or any number of counterparts including facsimile or PDF copies; therefore and when so signed, such counterparts shall be effective and binding to the same extent as original signatures and all counterparts shall be deemed to constitute one instrument.

EXECUTION AUTHORITY - By signing below, each individual certifies that they are the properly authorized agent or officer of the applicable party hereto and has the requisite authority necessary to execute these GUIDELINES on behalf of such party, and each party hereby certifies to the other that any resolutions necessary to create such authority have been duly passed and are now in full force and effect.

APPROVAL

Accepted by: Diamond Drugs, Inc.
Name: Mark J. Zilner, R.Ph.
Title: Director of Operations
Signature: _____
Date: _____

Accepted by: _____
Name: _____
Title: _____
Signature: _____
Date: _____

AMENDMENT NO. 1 TO MMCAP CONTRACT NO. MMS14004

THIS AMENDMENT is by and between the State of Minnesota, acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Diamond Drugs, Inc., 645 Kolter Drive, Indiana, PA 15701 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS14004 (Original Contract). MMCAP and the Vendor are willing to amend the Original Contract as stated below.

Contract Amendment
(HP)

Effective when signed Article 2.9 B, is amended to delete the matrix entitled "**Correctional Facility/Clinic Dispensing Fees as Related to Facility ADP**" in its entirety and replace it with the following:

Correctional Facility/Clinic Dispensing Fees as Related to Facility ADP	
Facility Average Daily Population (ADP)	Dispensing Fee per Prescription and Stock Piece
1-500	\$4.50
501-2,500	\$3.50
2,501-15,000	\$3.00
15,001-24,999	\$1.90
25,000+	\$0.65

The top two tier pricing fees will be in effect until July 1, 2016, after this date and every subsequent July fees will increase by \$0.05. The ADP will be calculated using the total population of a Member's department of corrections, or similar title.

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

1. DIAMOND DRUGS, 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: Chief Operating Officer
Date: 6/9/2014

2. STATE OF MINNESOTA FOR MMCAP

In accordance with Minn. Stat. § 16C.03, Subd. 3

By: [Signature]
Title: Pharmacy Analyst
Date: 6-11-14

3. COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. § 16C.05, Subd. 2

By: [Signature]
Title: Resident
Date: 6/9/2014

By: [Signature]
Title: _____
Date: June 11, 2014

THIS AMENDMENT is by and between the State of Minnesota, acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and **Diamond Drugs, Inc.**, 645 Kolter Drive, Indiana, PA 15701 ("Vendor"). MMCAP has a contract with the Vendor identified as Contract No. MMS14004 (Original Contract). MMCAP and the Vendor are willing to amend the Original Contract as stated below.

Contract Amendment

Effective when signed the following modifications are made to the Contract:

Modification 1: Article 8 is amended by adding the last sentence to the article.

8 State 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 for the end of this Contract. This clause extends to MMCAP Member Facilities as it relates to business conducted with and sales to that Member Facility.

Modification 2: Article 2.9B will remain in effect in its entirety. Effective when executed, member facilities will have an additional pricing option available to select from at their discretion which is based on medication acquisition cost plus a dispensing fee per prescription and stock piece:

Each prescription and stock piece will be billed at Vendor's Actual Acquisition Cost (AAC) of the medication plus the dispensing fee in Chart 1 below that is based on the Member Facility Average Daily Population (ADP) for the month billed when receiving all non-emergency medications from Vendor. AAC is defined as Vendor's direct upfront medication cost charged from its wholesaler or manufacturer at the time of dispensing. Within the attached grid, the dispensing fees quoted are the fees that will not be exceeded for a particular Member Facility. The dispensing fee listed on Chart 1 is the ceiling price available to Member Facilities. Vendor and individual Member Facilities may negotiate lower pricing. Upon finalization, the negotiated rates will be reported to the MMCAP Office not later than 30 days after they go into effect.

Chart 1

Facility Average Daily Population (ADP)*	Each Prescription and stock piece is billed at AAC Plus the following Fee per Prescription and Stock Piece
1-200	\$5.95 plus shipping
201-300	\$4.95 plus shipping
301-400	\$3.95
401-500	\$3.55
501-750	\$3.45
751-1000	\$3.35
1001-2500	\$3.25
2501-5000	\$3.15
5001-10000	\$3.05
10000 – 20000	\$2.95
20001 and above	\$2.85

*ADP is to be determined by adding up the daily inmate census per day for each calendar day of a respective month and divide that total by the number of calendar days in that respective month.

Modification 3: Vendor has not complied with the terms of Article 2.8A and effective August 1, 2015, Vendor's administrative fee paid to MMCAP will increase to 3% of the dispensing fee per prescription and stock piece as outlined above. Article 3 is amended to increase the Administrative Fee paid to MMCAP to 3%.

To facilitate auditing of invoices under the AAC option, Vendor will make its wholesaler invoices or wholesaler price verification available to any Member Facility upon request. Each Member Facility may request invoices or wholesaler price verification for up to 50 random medications of its choosing per calendar month. Vendor will send the invoices to the Member Facility for the requested items and the Member Facility will compare them to what they were billed. Invoices can show the AAC billed and the separate dispensing fee for easy auditing on a line by line basis, if requested. Vendor will provide MMCAP and MMCAP Member Facilities routine access to their wholesaler invoices with 10 business days' written notification for medication items they request to audit.

Modification 4: Vendor will utilize its preferred shipping carrier, which is currently FedEx, to ship all orders. In the event that the Member Facility requests a different shipping carrier, the Member Facility will be charged on a monthly basis for the difference in Vendor's cost between that of the requested shipping carrier and the Vendor's preferred shipping carrier, unless other arrangements are mutually agreed upon between the Vendor and Member Facility.

Modification 5: The following term is required by Minnesota law and is added to the Original Contract: **22 Affirmative action requirements for contracts in excess of \$100,000 and if Vendor has more than 40 full-time employees in Minnesota or its principal place of business.** The State of Minnesota intends to carry out its responsibility for requiring affirmative action by its vendors.

22.1 Covered contracts and Vendors. If the Contract exceeds \$100,000 and Vendor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then Vendor must comply with the requirements of Minnesota Statutes Section 363A.36 and Minnesota Rules 5000.3400-5000.3600. If Vendor is covered by Minnesota Statutes Section 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, it must certify that it is in compliance with federal affirmative action requirements.

22.2 Minnesota Statutes Section 363A.36. Minnesota Statutes Section 363A.36 requires Vendor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

22.3 Minnesota Rules 5000.3400-5000.3600.

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

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

(1) Vendor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for

employment is qualified. Vendor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

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

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

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

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


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

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

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


1. DIAMOND DRUGS, 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: 
Title: Mark J. Zilner
Date: 8/11/2015


2. STATE OF MINNESOTA FOR MMCP

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

By: 
Title: Pharmacy Analyst
Date: 08-11-15

3. COMMISSIONER OF ADMINISTRATION

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

By: 
Title: Pharmacist Senior
Date: August 11, 2015