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Minnesota Department of Administration
Office of State Procurement
50 Sherburne Avenue, Suite 112 Administration Building, St. Paul, MN 55155
Phone: 651.201.2420

Concordance Healthcare Solutions, LLC

MMCAP Infuse Agreement: MMS2200731

Prepared on February 3, 2023

Membership Note: Alaska and Hawaii are ineligible to use this Agreement except Alaska can access Pyxis Products that are drop-shipped.

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PREFIX A
Definitions and Acronyms
Are attached and incorporated into the Agreement

Definitions

1. **Administrative Fee**: Means fee calculated upon Member purchases. The application of this can be found at *Paragraph 9.1*. The structure of such will be as followed: three percent (3%) if Member purchase is less than five-hundred thousand dollars ($500,000.00), one and a half percent (1.5%) if Member purchase is greater than five-hundred thousand dollars ($500,000.00) and less than one million dollars ($1,000,000.00), or one percent (1%) if Member purchase is greater than one million dollars ($1,000,000.00).
2. **Authorized Subcontractors**: Becton, Dickson, and Company (**BD**).
3. **Class of Trade**: All Members are eligible for Contract Pricing, with the exclusion of emergency management service (EMS) Government Units subject to Vendor's non-compete until July 15, 2024.
4. **Contract(ed) Items**:
   A. **Products**: Means all products offered by the Vendor in this Agreement, which are identified in the collective ***Attachment A's***.
      i. **Core**: Means the group of products offered by the Vendor identified in ***Attachment A-1***.
      ii. **Non-Core**: Means all other products (not otherwise excluded under this Agreement) offered by Vendor.
      iii. **MMCAP Infuse Products**: Means the product categories and/or products offered by the MMCAP Infuse Manufacturers.
      iv. **Vendor Exclusive Products**: Means Products solely distributed by Vendor to Members as identified on ***Attachment A-4***.
   B. **Services**: Means all services offered by Vendor or its Authorized Subcontractors identified on ***Attachment C***.
5. **Days**: (Not required to be capitalized) Unless otherwise specified in this Agreement, all references to days will be calendar days.
6. **Government Unit**: Any entity as defined by Minnesota Statute 471.59.
7. **Holidays**: No Day shall be considered a holiday unless it is listed here:
   A. New Year's Day
   B. Memorial Day
   C. Independence Day
   D. Labor Day
   E. Thanksgiving Day
   F. Day after Thanksgiving
   G. Christmas Day
8. **Mark-Up**: Means the agreed upon percentage to be added to MMCAP Infuse Products in accordance with ***Attachment A-3***.
9. **Member**: Means an approved MMCAP Infuse State or other Government Unit that has executed a membership application and Member agreement with MMCAP Infuse.
10. **Membership**: Means the joint power cooperative comprised of the MMCAP Infuse authorized States, Members, and other Government Units.
11. **MMCAP Infuse Manufacturer**: Means manufacturers and suppliers, identified on ***Attachment A-3***, who have a separate arrangement with MMCAP Infuse for specific Products at arranged Pricing.
12. **Onboarding Date**: Means the Vendor must allow new Members to access to the Agreement within seven (7) days of notice by MMCAP Infuse and/or the completion of the required paperwork on ***Attachment D.***
13. **Onboarding Forms**: Means all forms the Member is required to complete before purchasing from the Vendor. Examples are set forth on ***Attachment D***.
14. **Order(ing) System**: Means the document or electronic platform Member utilizes to obtain Contracted Items.
15. **Price/Pricing**: Means the price that the Vendor has agreed to provide the Products to MMCAP Infuse and its Membership as set forth on the ***Attachment A's*** and any subsequent amendment to this Agreement.
16. **Purchase Order**: Means any document formalizing the selection of and scope of Services selected by a Member. Additionally, this means any form submitted by the Vendor for a Bulk Order (see *Paragraph 3.8*).
17. **State**: Means one of the recognized fifty (50) states of the United States of America.

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AGREEMENT FOR MMCAP INFUSE NO. MMS2200731

THIS Agreement ("**Agreement**") is entered into as of the Effective Date by and between the State of Minnesota acting through its Commissioner of Administration ("**Minnesota**") on behalf of MMCAP Infuse ("**MMCAP Infuse**") and Concordance Healthcare Solutions LLC, a limited liability company with an address of 3901 West 34th Street North, Sioux Falls, South Dakota 57107 ("**Vendor**").

Agreement Term:

1. **Effective Date**: April 1, 2023 or the date MMCAP Infuse obtains all required signatures as required under Minnesota Statute, whichever is later.
2. **Expiration Date**: March 1, 2025.
3. The Agreement Term may be extended upon mutual agreement of MMCAP Infuse and Vendor.
4. The agreement between MMCAP Infuse and Vendor, MMS18008, will terminate on March 31, 2023.

AGREEMENT COMPONENTS

The following components are the Agreement; all referenced Prefix and Attachments, are attached and incorporated into this Agreement.

1. **Prefix A**: Definitions
2. **Attachment A**: Products and Pricing
   - **A-1:** Core
   - **A-2:** Discounts and other Cost Saving Opportunities
   - **A-3:** MMCAP Infuse Loaded Product Categories and Markups
   - **A-4:** Vendor Exclusive Brands
   - **A-5:** Additional Exceptions to Prohibited Products
3. **Attachment B**: Alternative Product Categories
4. **Attachment C**: Services and Pricing
   - **C-1**: 3PL Pricing
5. **Attachment D**: Member Onboarding Forms
   - **D-1**: BD Pyxis Customer Terms
6. **Attachment E**: Reporting Requirements
7. **Attachment F**: MN Statutory Language
8. **Attachment G**: Customer Service Points of Contact
9. **Attachment H**: Vendor's Recall Policy
10. **Attachment I**: Point of Contact for Emergency Orders

ARTICLE I
PRODUCTS

1.1 **Product Categories.** The four to eight (4-8) digit United Nations Standard Products and Services Code (**UNSPSC**) for a Product will establish the default classifications. The parties may establish alterative classifications or provide clarifications in ***Attachment B***.

1.2 **Core**. These are Products that are specifically identified on a "line-item" basis on ***Attachment A-1***. The Vendor may add Products to this at any time, however, removals can only occur on an annual basis, unless Products are discontinued and no longer active within Vendor's offering under this or any other agreement due to a manufacturer/supplier. The Vendor must provide written notice to MMCAP Infuse; the notice must have (A) verifiable evidence of the discontinuation; or (B) contact information for the manufacturer/supplier to allow MMCAP Infuse to verify the discontinuation. Once verified, MMCAP Infuse and the Vendor will issue an amendment to remove the Products from Core. Once an addition has occurred, the Vendor must wait one (1) year from each addition date to make further adjustments, unless adjustment is made during the Annual Refresh.

A. Package Size: All package size offerings for that Product will be considered part of the Core list.

B. "Annual Refresh": Annually, at a minimum, it is expected that the top fifty percent (50%) (in both unit and dollar volume) of collective Core and Non-Core Products from the previous year will be classified as Core for the applicable upcoming year. MMCAP Infuse will provide Vendor a proposed Core list sixty (60) days in advance. The Vendor may review and appeal items on the list, however the Vendor must provide (i) written justification and supporting evidence; and (ii) alternative product to replace the item on the Core list. MMCAP Infuse will then review and consider the appeal. A final Core list must be approved by both parties within the sixty (60) days, otherwise the previous year's Core list will automatically renew until the parties agree to an updated Core list.

   i. Historical Sale History. If the Vendor has a historical sale history with MMCAP Infuse and/or the Membership, that will be used to create the initial Core list.

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C. Off-cycle Product Additions: The Vendor may add Products to the Core list at any time with three (3) days' written notice to MMCAP Infuse.

D. MMCAP Infuse Products: The Vendor will be prohibited from selling MMCAP Infuse Products and competing equivalent items under the Core category.

1.3 **Non-Core**. These are all other *approved* Products in the Vendor's catalog sold to the Membership. These offerings will receive a discount off the disclosed catalog price at the time of the Member's purchase in accordance with ***Attachment A-2***. The Vendor may fluctuate the Pricing and Product offerings as displayed in the Vendor's catalog without notice to MMCAP Infuse.

A. MMCAP Infuse Products: The Vendor may compete with the MMCAP Infuse Products by offering competing items (made by a MMCAP Infuse Manufacturer or competitor) under Non-Core, but must still make MMCAP Infuse Products visible with the lowest cost item being listed first in the catalog. If the Products are linked as interchangeable in the ordering platform, the Vendor's ordering system must make them interchangeable both ways.

B. Over the Counter Pharmaceuticals: With MMCAP Infuse's prior review and approval of each Product, the Vendor may sell over-the-counter pharmaceuticals to the Membership under this category. A list can be found on ***Attachment A-5***. However, at any time, MMCAP Infuse may require the Vendor to classify a Product as a MMCAP Infuse Product. The Vendor may be required to remove Product from Non-Core or the catalog entirely if the Vendor cannot follow the requirements for MMCAP Infuse Products.

C. Drug and Alcohol Testing Products: With MMCAP Infuse's prior review and approval of each Product, the Vendor may sell drug and alcohol testing items to the Membership under this category. However, at any time, MMCAP Infuse may require the Vendor to classify a Product as a MMCAP Infuse Product the Vendor may be required to remove from Non-Core or the catalog entirely if the Vendor cannot follow the requirements for MMCAP Infuse Products.

D. Prohibited Products (see *Paragraph 1.6*): Unless stated otherwise, the Vendor cannot to sell any Prohibited Products under Non-Core offerings.

1.4 **MMCAP Infuse Products**. MMCAP Infuse and/or MMCAP Infuse Manufacturer will provide a Product listing (and applicable Pricing) to the Vendor. The Vendor must be listed as an Authorized Distributor in the MMCAP Infuse Manufacturer agreement in order to have Products added to the MMCAP Infuse Product listing to ensure the Vendor will be able to honor chargebacks. If Vendor conducts business with MMCAP Infuse Manufacturer at time of Product listing receipt, Vendor will maintain reasonable efforts to load the Products in the Ordering System within ten (10) business days of the notice. If Vendor does not conduct business with MMCAP Infuse Manufacturer at time of Product listing receipt, Vendor will notify MMCAP Infuse and will have thirty (30) days to gain access to inventory before *Paragraph 4.1* will be applied. Vendor maintains the right to select MMCAP Infuse Manufacturers to incorporate in its offering and will notify MMCAP Infuse of any disapprovals. If the Vendor does not work with MMCAP Infuse Manufacturers or end the relationship(s) during the term of the Agreement, MMCAP Infuse may adjust Contracted Items that are prohibited (*Paragraph 1.6*). The Vendor will be required to sufficiently carry and stock MMCAP Infuse Products at a threshold to satisfy Member orders and prevent Product Outages (*Paragraph 4.1*). Vendor will be required to make all MMCAP Infuse Products searchable within the Vendor's online Ordering System. If the Vendor cannot sell the MMCAP Infuse Products, the Vendor must: (A) provide written justification to MMCAP Infuse; and (B) obtain the written approval of MMCAP Infuse.

A. Eligibility Requirements: If a MMCAP Infuse Manufacturer requires a form to be signed by a Member for certain specialty pricing eligibility based on the MMCAP Infuse Manufacturer guidelines, the Vendor will obtain the document from the Member and submit it to the MMCAP Infuse Manufacturer before providing the applicable specialty pricing to the Member.

B. MMCAP Infuse Manufacturer Special Pricing: Vendor will ensure only eligible Members see MMCAP Infuse Manufacturer driven special pricing in the Vendor's ordering platform and only eligible Members will have access to that special pricing. It is the responsibility for the Vendor to bill Members at the correct tier by working with the MMCAP Infuse Manufacturer.

C. Changes: MMCAP Infuse reserves the right to modify the MMCAP Infuse Products at any time during the Agreement Term and the Vendor will maintain reasonable efforts to adjust catalog within ten (10) business days of notice. It is understood that Vendor is subject to terms and processes of both MMCAP Infuse and the MMCAP Infuse Manufacturer. Vendor will notify MMCAP Infuse of discrepant Product modifications.

D. Monitoring: Upon request, the Vendor will provide an inventory forecasting report to MMCAP Infuse.

E. Chargeback Denials: Within two (2) days of an occurrence, the Vendor will provide notice to MMCAP Infuse of a chargeback denial from an MMCAP Infuse Manufacturer. Upon the guidance and request from MMCAP Infuse, the Vendor agrees to resubmit chargebacks.

F. Contract File: Vendor will provide an accurate monthly file of the MMCAP Infuse Products loaded before the first day of the month. The file may be zipped and should be submitted to MMCAP_infuse.hpscontracts@state.mn.us.

1.5 **Vendor Exclusive Brands**: The Vendor understands that a key aspect of their award was the exclusive brands listed in their response. Thus, the Vendor will be required to include all available products from those brands with this Agreement. Failure to do so or the sale of those brands under non-core will be considered a violation of this

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Agreement. A list is located on ***Attachment A-4***. The Vendor may change the Pricing twice per Agreement year term.

1.6 **Prohibitions**. Unless otherwise stated under this Agreement (***Attachment A-2*** through ***Attachment A-5***) or if MMCAP Infuse provides written approval by an amendment to this Agreement, the Vendor will be prohibited from selling the following Product categories to the Membership (**Prohibited Products**). MMCAP Infuse may amend this list with ninety (90) days' notice on Core Products and thirty (30) days-notice on Non-Core Products. The Vendor will provide the supplier a ninety (90) day notice with the intent to remove affected Products from the Agreement. The following categories are prohibited under this Agreement:

A. All influenza and general vaccines: All; MMCAP Infuse has awarded separate agreements through a different request for proposal. (Generally, UNSPSC 512016)
B. Pharmaceuticals: Except for those authorized under MMCAP Infuse Products and Non-Core. (Generally, UNSPSC 5110-5125).
C. Diabetic supplies: Except for those authorized under MMCAP Infuse Products (Varies but can fall under the following UNSPSC: 421425; 421426; 4222; 411220). Lancets are an approved Product under this Agreement.
D. Incontinence: Except for those authorized under MMCAP Infuse Products and Non-Core. (Generally, UNSPSC 42142700; 42443800; 42143900).
E. Nutritionals: Except for those authorized under MMCAP Infuse Products. (Generally, UNSPSC 422318; 5119; 8515)
F. Drug and alcohol testing: Can be sold under Non-Core. (Generally, UNSPSC 8512810)
G. Condoms: Except for those authorized under MMCAP Infuse Products. (Generally, UNSPSC 53131622)
H. Dental Supplies: None; MMCAP Infuse has awarded separate agreements through a different request for proposal. (Generally, UNSPSC 4215)

1.7 **Product Preference**. The Vendor agrees to prioritize MMCAP Infuse and Core Products. Unless there is an unavailability of a Product, the Vendor will not encourage the purchases of Non-Core Products over a MMCAP Infuse or Core Product. Additionally, the Vendor will promote and prioritize MMCAP Infuse and Core Products in the Ordering System. On a quarterly basis or as requested by MMCAP Infuse, the Vendor will provide contract compliance reports to monitor purchases of Non-Core products compared to their MMCAP Infuse and Core Products equivalents in the Product category. Unless the Vendor can show evidence that there is a lack of availability, at no point should the Non-Core Products exceed fifty percent (50%) of a purchase makeup for Product category for any three (3) month period when there are MMCAP Infuse Product and Core Product equivalents. The compliance formula is found on ***Attachment E*** and data received from the Vendor via *Table 1, Sales Data Report* will be used to review compliance.

1.8 **Product Dating**. All Products supplied to Members, must have at least a six (6) month shelf life from the date of acceptance of the Product by the Member.: Products that have UNSPSC codes 42132200, 42131600, 42182200, and 41116100 are exempt from this timeline. Nutritionals will have a shelf life of at least three (3) months. For Products that have an expiration date less than six (6) months (three (3) months for Nutritionals), Vendor will notify Member and provide written consent before delivery. Products must be usable for at least fifteen (15) days on the date received by Member.

A. Bulk Order: For purchases that fall under *Paragraph 3.8*, the expiration date of the Products must have a shelf life of at least five (5) years remaining. If a Product does not have an expiration date, the lot number cannot be older than one (1) year from the date of production/shipment. If Products do not meet these standards, Vendor will provide Member notice prior to shipment.

ARTICLE II
PRICING AND CHANGES

2.1 **Notices**. All notices under this Article must be sent to: MMCAP_infuse.hpscontracts@state.mn.us.

2.2 **Core Pricing Structure**. Pricing for Core Products are listed on ***Attachment A***. Vendor must hold pricing for Core Products firm for at least one (1) year from the Effective Date. Each time pricing is changed, the Vendor must wait one (1) year from each effective change date to amend the pricing again, unless modified during the Annual Refresh.

A. Required Format: All changes must be done in MMCAP Infuse's required format; an example can be found on ***Attachment E, Table 4***.
B. Package Variations: Per *Paragraph 1.2(A)*, all package sizes for applicable manufacturer and/or Vendor part number will be under the terms of Core Pricing. The Vendor can sell the package sizes at different Pricing, however, "per item" basis must remain consistent.
C. Price Reductions: After the Effective Date, Vendor may submit to MMCAP Infuse price reductions but must provide at least three (3) days' notice to MMCAP Infuse before they can take effect.
D. Annual Refresh: During the Annual Refresh (see *Paragraph1.2(B)*), Vendor may propose price increases for products remaining on Core or being added to Core. The Vendor must provide at least sixty (60) days' written notice for any change to take effect.
E. Price Increases: Outside the Annual Refresh, price increases will only be accepted with (i) at least ninety (90) days' written notice; (ii) a force majeure condition can be established; and (iii) and is approved by

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MMCAP Infuse. Except as provided for in this Agreement, no fee, percentage, or other cost may be added to the Products purchased under this Agreement unless it has been approved in writing by MMCAP Infuse. In the event Vendor does not notify MMCAP Infuse of an increase, Vendor must honor chargebacks for the most recent previous Price until such time as MMCAP Infuse receives notice of and approves the increase.

2.3 **Non-Core Pricing**. Pricing for Non-Core Products will be fluid at Vendor's discretion. However, all Members (at no cost to Member) will be able to view the current Non-Core prices and catalog/list price in Vendor's electronic catalog in order to easily calculate if the Non-Core discount and price adjustments are being applied properly. If the Vendor is unable to display the full list price in the Vendor's electronic catalog, the Vendor will provide the Member with a non-ordering full list price account upon request for auditing purposes. Once Member makes a purchase of the Non-Core product, Vendor will create an invoice disclosing the price to Member and the Non-Core discount applied (more invoice requirements are found in at **Article IV**).

2.4 **MMCAP Infuse Pricing**. MMCAP Infuse has (or will provide) Vendor a list of MMCAP Infuse Products and Pricing ("**MMCAP Infuse Base Price**"). MMCAP Infuse and the Vendor have agreed to Mark-Up, which will be added to the MMCAP Infuse Base Price for each applicable Product; the sum of the MMCAP Infuse Base Price and Mark-Up will be the Price the Vendor discloses to the Member.

A. Price Loading. Vendor will be responsible for processing the MMCAP Infuse Products and Pricing sent to them by a manufacturer or MMCAP Infuse itself by the earlier of either the effective date of the Pricing or within five (5) days of receipt. If the Vendor decides to offer a different case/package size than what MMCAP Infuse negotiated with the manufacturer, the price must match the MMCAP Infuse Pricing on a "per-item" basis.

i. Manufacturer Verification (if applicable). If a manufacturer requires verification or provides data that is inconsistent with MMCAP Infuse, the Vendor will notify MMCAP Infuse in writing within twenty-four (24) hours of the impasse occurring.

ii. Notice. If a Vendor receives a notice of a change from a MMCAP Infuse Manufacturer but did not receive the same notice from MMCAP Infuse, the Vendor will forward the information to MMCAP Infuse within three (3) days.

iii. Disagreements. The Vendor agrees to provide credits/rebills at no charge to correct pricing in the event that MMCAP Infuse and the MMCAP Infuse Manufacturers have a disagreement regarding a Product or Pricing.

iv. Failure to Negotiate. The Vendor must notify MMCAP Infuse immediately of any issues with MMCAP Infuse Manufacturers that could affect the Vendor's ability to stock, sell, or perform chargebacks on these Products. Notices must be sent to: mmcap_infuse.hpscontracts@state.mn.us.

B. Auditing. Vendor will perform Pricing audits, matching Pricing information provided by MMCAP Infuse against the Pricing provided by MMCAP Infuse Manufacturers. If Vendor discovers discrepancies, the Vendor will notify the MMCAP Infuse Manufacturer and MMCAP Infuse of the discrepancy in order to reach resolution. Upon resolution, Vendor will correct the errors, will create a sales history report, and enter credit(s)/rebill(s) for each Member connected to the contracts within five (5) days. Vendor is expected to continue to provide the process, which was the outcome of the collaboration between the Vendor and MMCAP Infuse, to deliver comprehensive and efficient means to provide continuous Price audit data.

2.5 **Service Pricing**. Pricing for Services can be found on ***Attachment C***; unless the Attachment states otherwise, the Pricing will be treated as the same as Core Pricing (*Paragraph 2.2*).

2.6 **Competitive Pricing**. If MMCAP Infuse is made aware and determines during the Agreement Term that the Vendor is offering better Core Pricing and/or Products to a Member or Government Unit, excluding the federal government, Vendor will have thirty (30) days to work with MMCAP Infuse to amend this Agreement to provide MMCAP Infuse the same. One-off transactions such as one-time bulk purchases and non-replicable special orders will not be used by MMCAP Infuse as a benchmark for transactions made under the normal course of business.

2.7 **Member Fees**. In the event a Member requires a fee, assessment, and/or additional costs in addition to the Pricing; the fee, assessment, and/or additional costs must be added on top of the Pricing and/or an adjustment to the discounts must be made so Vendor does not absorb the fee. Vendor must not pay a Member levied fee without first collecting the fee through increased Pricing for the applicable Member. The fees will be set aside and paid to the Member as detailed in a form provided and approved by MMCAP Infuse.

ARTICLE III
ORDERS, DELIVERY, AND PAYMENT; SELECTION OF SERVICES

3.1 **Orders**. As a condition for purchasing under this Agreement, purchasers must be Members in good standing with MMCAP Infuse. Vendor may use their own Ordering Systems and Purchase Order Forms. Except for Services and Bulk Orders (see *Paragraph 3.8*), to the extent that the terms of any Ordering System(s) and Purchase Order conflict with the terms of this Agreement, the terms of this Agreement supersede. Each Member will be responsible for payment for Contracted Items to the Vendor and MMCAP Infuse will not be liable for any unpaid invoice of any Member. Vendor agrees to invoice the Members as established in this Agreement.

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A. The use of obtaining a Contracted Item from the Ordering System or Purchase Order constitutes a binding contract. All Products furnished will be subject to inspection and acceptance by the ordering entity after delivery. Back orders, failure to meet delivery requirements, or failures to meet specifications in the Ordering System, Purchase Order, and/or the Agreement authorizes the ordering entity to cancel the order, or any portion of it, purchase elsewhere, and charge the full increase in cost and administrative handling to the Vendor.

B. Order System minimum requirements. At a minimum, the Order System must (i) have the outlined capability and (ii) display the following for each Product in the catalog offerings to the Membership.

i. *Capability*:

a. Secure login/user name and payment processing;
b. Provide a PDF invoice to the Member within twenty-four (24) hours of a confirmed order;
c. Product substitution search option;
d. Product inquiry search option;
e. Auto-backordering; and
f. Show cost-saving opportunities/alternatives.

ii. *Display*:

a. Product name and picture;
b. Manufacturer product number;
c. UNSPSC;
d. Product description;
e. NDC/UPC;
f. Manufacturer name;
g. Packaging size;
h. Price for package/dose size and per item basis;
i. Inventory Status and Quantity Available; and
j. If only available by "drop-shipment" (if applicable).

C. Vendor will provide MMCAP Infuse with at least one login and password to access and view Vendor's Ordering System and/or online catalog it displays to the Membership. During the Agreement, if MMCAP Infuse requests the Vendor to provide live catalog Pricing electronically to MMCAP Infuse's technology infrastructure, Vendor will do so without any cost assessed to MMCAP Infuse.

3.2 **Product Substitution**. In the event the Products covered by this Agreement are not available at the time of order placement, Product substitution will only be permitted upon the written consent of the Member. In the notification, the Vendor will inform the Member the reason the requested Product is not available and suggest possible substitutes. Unless the Product is cheaper or listed on the Core list, the Vendor shall not suggest any self-manufactured or its private label Products, without also suggesting at least one brand label Product.

A. Reporting: By the tenth (10th) day of the month, the Vendor will provide a report to MMCAP Infuse covering all orders that had an item replaced or not fulfilled during the previous month, the reporting requirements are on ***Attachment E, Table 2*** and must be delivered to: mmcap_infuse.hpscontracts@state.mn.us.

3.3 **Termination of Individual Orders**. Members may terminate, immediately or as identified by Member, individual orders in whole or in part, upon written notice to Vendor upon the occurrence of any of the following events:

A. The Member fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Contracted Items to be purchased;

B. Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the purchase of the Contract Items are prohibited, or the Member is prohibited from paying for the Contracted Items from the planned funding source; or

C. Vendor commits any material breach of this Agreement.

Upon receipt of written notice of termination, Vendor will stop performance under the Agreement as directed by the Member. If a standing order is terminated, the Member must pay Vendor in accordance with the terms of this Agreement for goods delivered and accepted by the Member.

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

3.5 **Shipment for Products**. Vendor must distribute and deliver the Products covered under this Agreement to all Members. If the Member account is in good standing, the Vendor will at no time, refuse to deliver to any Member without the prior written approval by the Member and MMCAP Infuse. Delivery for Products under this Agreement shall be FOB Destination unless otherwise agreed to by Vendor and Member in a Purchase Order. Unless otherwise stated within this Agreement, Vendor will not add any fuel, shipping, or handling surcharges to the purchase under this Agreement. Notwithstanding the foregoing, emergency orders, rush orders, and products dropped shipped from Vendor's contracted supplier, are subject to an added shipping and handling charge determined by Vendor and disclosed to in writing Member before a purchase is made.

A. Fees: All Members receive up to seven (7) free deliveries a week with no order minimum.

B. Delivery Schedule: Upon request from Member, Vendor will work with Member to establish a routine delivery schedule. Delivery for stock items will occur within three (3) days, from the date the Product is

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ordered; this includes the Vendor's processing window. All expedited deliveries will be made next day, or on the next scheduled delivery day, unless communicated otherwise. If there is a Holiday during the ordering process, the Vendor shall have one additional day per Holiday day.

i. *Cut-off Time*. Vendor's daily order cut off time will be 2:00PM CST.

C. Damaged Products: All damaged Products will be reported to Vendor's customer service department and applicable credits will be issued within ten (10) days from date of notification of the damaged item.

D. Lost Products: All lost Products will be reported to Vendor's customer service department. Vendor will issue credit within ten (10) days of notification of lost Product; alternatively re-shipment of missing Product will occur immediately after notification.

E. Special Conditions for Products: If applicable to the Products offered under this Agreement, Vendor will maintain appropriate temperatures and environmental conditions in accordance with manufacturer requirements for delivery of the Products to the Members. All refrigerated Products will be shipped in returnable coolers or disposable coolers with appropriate packaging to maintain the required temperature range. Products requiring refrigeration will be clearly marked as such. Temperature monitors will be used if they are required by the manufacturer. If Member refuses Products that have been inadequately packaged, the Member will notify Vendor's customer service department to log the complaint. Any costs associated with the return of Product due to improper packaging or transport, will be at the expense of the Vendor.

3.6 **Emergency Orders**. Vendor agrees to offer and accept all emergency orders under this Agreement. Vendor's emergency Ordering System must be available twenty-four (24) hours a day, seven (7) days a week. An emergency order is defined as one necessary for immediate and specific patient care which falls outside the normal order and delivery parameters. Using air and ground options, Vendor will exhaust all resources in delivering emergency Product in the most timely and efficient method. Wholesaler will make a good faith effort to make emergency deliveries within four (4) hours following receipt of the order.

A. Contact/Ordering Initiation: Members can make emergency orders via by contacting the applicable number on ***Attachment G.***

B. Costs: Vendor may pass through all shipping costs to the Member, however it will not assess any "handling" fees or assessments. The Vendor should but is not required to disclose the costs before processing this type of order. However, after shipped, the Vendor will provide documentation to the Member, verifying the actual shipping costs.

C. Delivery: Order must be processed and shipped the same day. If the Product is not delivered to the Member within twenty-four (24) hours, the Member will not have to reimburse the Vendor for shipping; Holidays do not exempt this time requirement. If the delay is due to the carrier, the Vendor will seek remedies from the carrier, not the Member.

3.7 **Drop Shipment**. The Vendor will act as a conduit to expedite and simplify the ordering and payment of drop shipped Products directly from a manufacturer. All fees associated with drop shipments are listed in ***Attachment C***. Prohibited Products (*Paragraph 1.6*) cannot be drop shipped under this Agreement without MMCAP Infuse's prior written approval.

3.8 **Bulk Orders/Price Inquiries**. A "**Bulk Order**" is an order that will exceed one-hundred and fifty (150) percent of Member's average monthly usage within the recent three (3) month period. Bulk Order stipulations exclude manufacturer promotions and are manufacturer specific. Order details will be communicated from Vendor to Member prior to order placement. It is expected that the Vendor will provide a "volume" discount on Bulk Orders; however, the Vendor may negotiate with the Member a reasonable shipping fee as part of the proposal. Once a Bulk Order request is submitted to the Vendor, the Vendor must respond with a proposal within five (5) days.

A. The proposal from the Vendor will hold firm for thirty (30) days.

B. A Member will be required to provide the Vendor its MMCAP Infuse ID and billing address for the Vendor to process the request.

C. **Delivery for Services**. Delivery for Services will be in accordance with the ***Attachment C*** *and Purchase Order*.

3.9 **Invoicing.** Vendor will submit an invoice with each order.

A. Invoice Fields: At a minimum, Vendor's invoice will contain the following fields:

i. Member name and Vendor-assigned account number for the Member;
ii. Invoice line number and Member's order number (Member must provide an order number at the time of order for this to appear on Vendor's invoice);
iii. Bill to and ship to address;
iv. Invoice date;
v. Vendor's SKU item number, Contracted Item name/description and packaging as associated with NDC/UNSPSC number (if applicable to this Agreement);
vi. Unit price, quantity ordered, quantity shipped, extension (unit price multiplied by the quantity shipped), and total invoice price; and
vii. Applicable omit codes (e.g., manufacturer backorder, manufacturer discontinued, etc.).

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B. Invoice Rounding: All Pricing should be to the second decimal spot. Vendor agrees to round down if the third digit after the decimal is four (4) or less. Vendor agrees that any rounding will occur at the Member invoice unit price.

C. Invoice Disputes: Member will notify Vendor of any known dispute with an invoice within fifteen (15) days from receipt of the invoice. If all or a portion of the disputed invoice is found to be in error, Vendor shall issue a credit and/or adjust the original invoice to the Member appropriately and provide a corrected invoice. Where the above is prohibited by a Member state's applicable law(s), the Vendor shall comply with requirements of that state's law(s) related to disputed invoices. Vendor will make a good faith effort to resolve known disputes related to Agreement pricing within thirty (30) days of notice of the dispute. This clause will in no way be deemed a limitation on the parties, as it relates to the future auditing and/or correction of invoices.

i. In the event that applicable state law mandates set-off by a Member, such set-off rights shall be exercised only to the extent expressly set forth in the applicable statute.

3.10 **Payment Terms**. The Member will make payment to the Vendor within thirty (30) days of receipt of the invoice.

3.11 **Conditions of Payment**. All Contract Items provided by the Vendor under this Agreement must be performed to the satisfaction of MMCAP Infuse and the Member, and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Vendor will not receive payment for work found by MMCAP Infuse to be unsatisfactory or performed in violation of federal, state, or local law.

3.12 **Payment Method**. Vendor will accept Electronic Funds Transfer (EFT), credit card, or P-Card as a payment method and Member will start this process with its financial institution.

3.13 **Federal Funds**. Payments under this Agreement may be made from federal funds. The Vendor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Vendor's failure to comply with federal requirements.

3.14 **Credits and Rebills.** Vendor will process credits and rebills as notifications are received from a Member. In the case of an invoice dispute, Vendor will promptly issue credits/rebills, after the Dispute Resolution process set forth in this Agreement.

A. Vendor credits are valid until they are refunded or the account has used payment.

B. In the event of a facility closure, or other extreme event where the Member will not be making another purchase through Vendor, the Member may cash out its credit(s).

C. If directed by a Member, a credit can be transferred from one account to another Member-affiliated account (i.e. parent or sibling account).

D. The Vendor will take all commercially reasonable steps to ensure that credits that become available close to the end of the Member's fiscal year are activated for use by the Member no later than five (5) days before the end of the fiscal year.

E. Vendor's credit memo will contain, but is not limited to the following information:

i. original order number and invoice number;
ii. itemized listing of the Contract Items affected;
iii. any new invoices associated with the credit; and
iv. Net credit amount available to the Member.

F. Vendor's rebill memo will contain, but not limited to the following information:

i. Original purchase order
ii. Original Vendor invoice number
iii. Itemized listing of the Product(s) affected
iv. Credit memo associated with the rebill
v. Reason(s) for the rebill (e.g., manufacturer chargeback denial, pricing error, etc.)

3.15 **Price Audits and Corrections**. In the event of a Pricing error that is attributable to the Vendor, Vendor agrees to process credit/rebills for the past twelve (12) calendar months in the Member's favor. Vendor will have ten (10) days to process credit/rebills that would result in the Member paying more than originally charged. When a Member or MMCAP Infuse discovers an error in pricing, they will notify Vendor. Vendor will research all Members affected by the error and will process credit/rebills to ALL Members for the time period of the error until it is resolved.

3.16 **Shareback Credits**. Vendor will manage, at no additional cost to MMCAP Infuse or Members, the MMCAP Infuse disbursement of shareback credits, according to the process below:

A. MMCAP Infuse will provide Vendor with: (i) an accurate list of Members receiving a credit; (ii) the MMCAP Infuse ID numbers, facility names, facility addresses, facility's city, facility's state, and the credit amount for each facility; and (iii) a check for the total amount of all credits to be provided;

B. Vendor must apply the credit to all listed Members within fifteen (15) days of the receipt of the funds;

C. Within thirty (30) days of the receipt of the funds, Vendor must provide to MMCAP Infuse, an Excel Spreadsheet detailing the credit memo information. This Excel listing must include the following fields: distribution center, account number, Member ID, name, address, city, state, DEA (if applicable), HIN (if applicable), date of credit memo, credit memo number, and credit memo amount.

D. Within sixty (60) days of the receipt of the funds, Vendor will refund to MMCAP Infuse, any remaining dollars for which it was unable to issue credit; this may be for any Member determined to no longer be valid Member, or that were not able to be located for any variety of reasons. Vendor will work with MMCAP

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Infuse, in order to identify all Members to the best of its ability, in an effort to issue all necessary credits, before refunding dollars back to MMCAP Infuse. Upon initiating the refund to MMCAP Infuse, Vendor will provide a copy of the original shareback credit spreadsheet, detailing the credit information (received from MMCAP Infuse), the reason for non-application of funds, and the dollar amount of the funds being returned to MMCAP Infuse.

3.17 **Member Punchout Systems**: Members may submit a request to a Vendor to connect their ordering system through an electronic data interchange, also referred to as a "**Punch-out System**." The Vendor may consider connecting to said system and load information related to this Agreement. However, all costs associated with setting up the system will be paid by the request Member(s). The Vendor will not pass along any direct or indirect costs relating to the system directly or indirectly (i.e., reflected in increased Pricing) by the rest of the Membership. If there is a conflict between this Agreement and a Punch-out System, specifically highlighting Product Offerings and Pricing, this Agreement will supersede. Prohibited Items may not be loaded into the system without MMCAP Infuse's prior written approval.

A. Attachment: Unless otherwise agreed in writing by all parties, the default presumption that all users of the Punch-Out System will be attached to this Agreement and purchases reported to MMCAP Infuse. By the tenth (10) day of the month, both the Vendor and Member will send reports to MMCAP Infuse regarding the usage of the Punch Out System. The reporting requirements are on ***Attachment E, Table 3***. If through those reports, it is found that a user has not completed an MMCAP Infuse Membership Agreement and does not have an MMCAP Infuse ID, both the Member and Vendor will assist MMCAP Infuse in completing the registration process. If the user fails to complete the registration process with MMCAP Infuse within thirty (30) days, the Member and Vendor will cut off the user from receiving the MMCAP Infuse benefits received under this Agreement, such as Pricing and access to Contracted Items.

B. Shareback: The State and/or Member owner understands that until an end user of the Punch-Out System is attached to MMCAP Infuse, there will not be any credit attributed for those purchases with respect to the annual shareback calculations.

3.18 **Individual Member Selection of Services**. Due to the individuality and customization each Member requires for Services, the Vendor and Member will document the selection of Services and the Pricing through a Purchase Order (type of form is dependent Vendor's and Member's mutual selection or as dictated by ***Attachment C***) by referencing the options on ***Attachment C***. Pricing and Contracted Items that are outside the scope of this Agreement must go through MMCAP Infuse's review and approval process to determine if it's appropriate to add to ***Attachment C*** for the entire Membership. The final agreed upon costs and Services will be reported to MMCAP Infuse at mmcap_infuse.hpscontracts@state.mn.us. If the Vendor (or its Subcontractors) need to perform work outside the agreed upon parameters in the Purchase Order, the Vendor must obtain prior written approval from the Member. The Vendor will be responsible for fixing and covering the costs for any damage and contingencies not addressed and described in the Purchase Order.

ARTICLE IV
SUPPLYING AND AVAILABILITY

4.1 **Product Outages**. For Core and MMCAP Infuse Products, it is the responsibility of the Vendor to maintain sufficient inventory levels for all Products to meet the foreseeable needs of the Members. It is expected that the Vendor will be able to fulfill purchase volume of 150% of a Members' previous quarter's volume; if Vendor cannot fulfill orders made by Members, it will be considered a failure to perform by the Vendor. The Vendor agrees to utilize the following process in the event of a backorder situation due to a Vendor-created stock outage.

A. Immediate Notification. Vendor's Ordering System will provide notice within twenty-four (24) hours to MMCAP Infuse and its Members of any Products covered by this Agreement that the Vendor has placed on backorder. Vendor's backorder notification will include:
   i. the Products placed on backorder status;
   ii. the expected timeline of the backorder;
   iii. the reason for the stock outage; and
   iv. how the Vendor intends to resolve the backorder situation.

B. Substitution. If Members consents, Vendor may offer like-kind Products at the same or lower price as the out of stock product. If no acceptable substitution can be offered, the Member may purchase the same or equivalent Product from an alternative MMCAP Infuse vendor, or if unavailable through an alternative MMCAP Infuse vendor, Member may purchase an alternative equivalent Product on the open market, including retail, for the period in which the Vendor is unable to provide the Products. The Vendor will reimburse for any excess costs (including shipping and third-party fees) over the Pricing of this Agreement sustained by Member via a credit within thirty (30) days of receipt of the claim. Vendor credit to Member will amount to ten (10) percent of purchase price difference, not to exceed one-hundred dollars ($100).
   i. Vendor must pay claims directly to the Member within thirty (30) days of receipt of a claim. The Member has the right to charge, and Vendor agrees to pay, a late fee equal to the statutory maximum allowable percentage per month of the amount of any claim within thirty (30) days from receipt of the claim.

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ii. Force Majeure: Any instances of Force Majeure, as identified in *Paragraph 5.4*, will exempt Vendor from providing a credit to Member.

iii. Manufacturer Created: If the Vendor can provide sufficient evidence (at MMCAP Infuse's discretion) that the supply shortage is due to the Manufacturer, the Vendor will be exempt from this Subparagraph.

C. Vendor will be responsible for all product outage claims for 180-calendar days unless the Vendor has provided MMCAP Infuse with at least 180 calendar days' advanced written notice of the intent to remove a Contracted Item from production and discontinue distribution in the market. Vendor will remain responsible for all claims during the 180-day notice period.

4.2 **Product Discontinuation**. If the Vendor assigns, discontinues, or deletes a Core or MMCAP Infuse Product during the Agreement, Vendor must provide written notice to MMCAP Infuse. If the Vendor removes the item, the Vendor will honor Pricing until the inventories are depleted or an agreed upon removal date. If inventory is depleted prior to the end of the ninety (90) day period, *Paragraph 4.1* will apply.

4.3 **Products Returned to the Vendor**. All returns will require pre-authorization by a representative of Vendor and must include the order number or PO number and date of purchase. Product ordered and/or shipped in error (including shortages) and Product received damaged will be credited at the Price if reported within ten (10) business days of receipt. Pick-up of this Product will be no later than the next scheduled delivery following issuance of the authorization to return. Member credit will be issued no later than three (3) days following pick up. Stocked Product returned within three (3) months of purchase will be credited at the Price assuming the merchandise is resalable. Resalable stocked Product returned after three months of purchase shall incur a ten percent (10%) restocking fee. Product re-salability will be determined solely by Concordance, but in no case shall a product be determined as not suitable for resale without reasonable reason. Special order Products or drop-shipped Products will be returnable for credit subject to the terms and conditions of the manufacturer. Credit amount will be adjusted to reflect any manufacturer-imposed re-stocking fees and the actual freight cost incurred to return merchandise to the manufacturer. Special order Product sent in error will be credited the full purchase amount and will not be subject to any additional fees or charges. Vendor will accept returns in accordance with applicable laws, regulations, and normal business practices.

4.4 **Recall Policy**: Procedures and Policies are set forth in ***Attachment H***. If any Product covered by this Agreement requires modification, is removed, or recalled by the Vendor, then Vendor will promptly notify MMCAP Infuse and the affected Members within three (3) days via electronic ordering platform, electronic mail and United States Postal Service. Vendor agrees to comply with any process mandated by the FDA, or any other regulatory body if applicable, and will address the recall with each Member. Members will not incur costs for Product returns related to recalls, the Vendor will issue credit for recalled Product.

4.5 **Backorders**. Vendor must provide written notice of all Product backorders expected to last longer than thirty (30) calendar days and/or inability to supply situations to MMCAP Infuse within twenty-four (24) hours of the knowledge of the situation. Notices must include the reason(s) for and the expected duration of the issue.

4.6 **Failure to Provide Service**. If Vendor fails to provide the Services as set forth in this Agreement, Member may obtain the same or equivalent Service through an alternative MMCAP Infuse vendor. If MMCAP Infuse vendor cannot provide Member the Services required, the Member may obtain the Service on the open market, including retail, for the period in which the Vendor is unable to provide the Service. The Vendor will reimburse for any additional costs (including shipping and third-party fees) over the Pricing of this Agreement sustained by Member via a credit within thirty (30) days of receipt of the claim. Vendor credit to Member will amount to ten (10) percent of purchase price difference, not to exceed one-hundred dollars ($100).

A. Authorized Subcontractors. If the Vendor wants to change any Authorized Subcontractors during the Agreement Term, the Vendor must provide at least thirty (30) days' notice. Additionally, if the Vendor or Authorized Subcontractor changes any forms it requires the Members to sign to obtain the Service, the Vendor must provide the new forms to MMCAP Infuse the new forms with thirty (30) days advance notice.

ARTICLE V
TERMINATION, CANCELLATION, AND REMEDIES

5.1 **Cancellation.** MMCAP Infuse may cancel this Agreement any time, without cause, upon thirty (30) days' written notice to the Vendor.

5.2 **Termination for Cause**. Either party may terminate this Agreement at any time on the basis the other party breached this Agreement. The moving party must provide written notice to the other party, which upon the receiving, the other party has thirty (30) days to cure the defects. Upon the thirty (30) days, the breaching party has not cured the defects, the moving party may terminate this Agreement after ten (10) subsequent days.

5.3 **Termination for Insufficient Funding**. MMCAP Infuse may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the Contracted Items covered here. Termination must be by written or electronic mail notice to the Vendor. MMCAP Infuse is not obligated to pay for any Contracted Items that are provided after notice and effective date of termination. However, the Vendor will be entitled to payment, determined on a pro rata basis, for Contracted Items satisfactorily performed to the extent that funds are available. Minnesota will not be

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assessed any costs, fees, or other charges if the Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. MMCAP Infuse must provide the Vendor notice of the lack of funding within a reasonable time of MMCAP Infuse receiving that notice.

5.4 **Force Majeure**. A party will not be considered in default in the performance of its obligations in the Agreement to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot or other catastrophes beyond the reasonable control of the party. Force majeure will not apply to the extent that the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party claiming excuse of performance under this provision must provide the other party prompt written notice of the failure to perform, take commercially reasonable efforts to mitigate the damages caused to all parties, and take all necessary steps to bring about performance as soon as practicable.

5.5 **Breach**. In the event of a breach of this Agreement, MMCAP Infuse and Members reserve the right to pursue any other remedy available by law. Vendors may be removed from Minnesota's vendor list; suspended; or debarred from receiving a contract for failure to comply with terms and conditions of the Agreement.

5.6 **Failure to Perform**. Should the parties fail to resolve contract performance matters through customary commercial business communications such as, but not limited to, emails, phone calls, vendor scorecards, and business reviews, MMCAP Infuse reserves the right to provide an initial notice to the Vendor detailing a violation under one of the following categories. The Vendor will have thirty (30) days to rectify the issue, otherwise the following fees shall be paid by Vendor:

A. Reports or failure to implement shareback. In the event that any report and/or data provided by the Vendor, pursuant to the terms of this Agreement, is not received according to schedule, contains incorrect data, incomplete data, or no data, or is more than a minor defect or causes harm to MMCAP Infuse's ability to conduct business or its governmental purpose, Vendor will pay the following to MMCAP Infuse: $100/day, until resolved.

B. Late Administrative Fee Payments. As provided for in statute for late payments to the State of Minnesota.

C. Notices and Signatures. If the Vendor fails to provide notice or signature as provided for in this Agreement, the Vendor will pay the following to MMCAP Infuse: $100/day, until resolved.

D. Failing to implement MMCAP Infuse Products and Pricing (or not honoring). When the Vendor fails to load MMCAP Infuse Products or Pricing in the timelines prescribed within this Agreement; or when the Vendor fails to sell all the MMCAP Infuse Products or honor the Pricing: $100/day, until resolved.

E. Selling Prohibited Products or mis-selling brands. When the Vendor sells Products in violation of this Agreement to the Membership, vendor will pay MMCAP Infuse ten percent (10%) of the total gross sales relating to the violation.

F. Excess Non-Core sales. If Non-Core sales make up over seventy-five percent (75%) of a Product category, as described in *Paragraph 1.1*, when there are available MMCAP Infuse and Core Products: $1,500/per Product category violation for each time period.

G. Class of Trade. In connection with this Agreement, if the Vendor denies pricing to any class of trade that has not been pre-approved by MMCAP Infuse, Vendor will pay: $100/per violation.

H. Adding and Removing Members (Attachment). Every time the Vendor fails to meet the timeline requirements in this Agreement to add or remove a Member's eligibility to purchase Contracted Items, Vendor will pay: $500/per violation.

I. Non-responsive Account Representative. Each time the Vendor's account representee (when qualified) fails to respond in a commercially reasonable timeline, the Vendor will pay: $100/per violation.

J. Numerous instances of failure to provide Service, Product outages, late deliveries. Anytime MMCAP Infuse has to notify and question a Vendor regarding instances of them violating *Paragraphs 3.5, 4.1, and 4.6*, more than three (3) times during a rolling twelve (12) month period, the Vendor will pay: $100 per each subsequent violation.

K. Application of Fees. The application of the amounts herein shall not excuse Vendor's performance obligations as set forth in this Agreement, nor will it waive any rights of MMCAP Infuse or Members to seek any and all available legal and equitable remedies. Vendor acknowledges that the fees set forth above are not penalties, but rather seek to make MMCAP Infuse and Members whole for any failure of performance by the Vendor, as based upon good faith estimates as agreed to by the parties.

ARTICLE VI
MEMBERSHIP

6.1 **Onboard, Transition, and Implementation**. If the Vendor requires additional paperwork for Members to acquire the Contracted Items, Vendor will work with MMCAP Infuse and Members to determine the appropriate steps and schedule for an onboard and transition. Vendor's documents and/or procedure for implementing and transitioning Members to this Agreement is set forth on ***Attachment D***.

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6.2 **Membership Listing**. MMCAP Infuse will provide Vendor a complete listing of the Membership which the Vendor is expected to actively utilize to verify Member status. MMCAP Infuse reserves the right to add and remove Members during the Agreement Term.

A. New Members. The Vendor must allow new Members to access the Agreement by the Onboarding Date. MMCAP Infuse will provide Vendor with online access to its Membership list, which is updated daily. MMCAP Infuse will send Vendor a monthly e-mail with instructions on how to obtain the Membership list.

B. Removing Members. Vendor must provide MMCAP Infuse written notification at least thirty (30) days prior to removing any Member. If MMCAP Infuse does not receive notification that a Member has been removed from being attached to the Pricing, Vendor will honor Pricing for the Member for thirty (30) days after MMCAP Infuse receives the written notice.

6.3 **Membership Eligibility**. Upon request, Vendor will send an electronic eligibility list identifying which Members are eligible for pricing to MMCAP Infuse.

A. If the Vendor has eligibility requirements, Vendor must provide MMCAP Infuse access to Vendor's online contract and eligibility management system in addition to providing MMCAP Infuse the algorithm it uses to categorize Members into a class of trade.

6.4 **Member Attachment**. Vendor will ensure Members are attached to the Agreement for all Contracted Item purchases made by Member. Upon request of MMCAP Infuse, Vendor must verify only the Membership has access to the Pricing and Contracted Items. If a Member selects a different group purchasing organization/collective or decides not to participate in the Membership of MMCAP Infuse, the Vendor will immediately notify MMCAP Infuse and suspend access to the MMCAP Infuse's catalog to that Member.

A. By the tenth (10) day of the month, the Vendor will provide a list of purchasers who were either added and removed from MMCAP Infuse Membership in the Vendor's system during the previous month. At a minimum, the report will contain the following for each purchaser:

i. Customer Name
ii. MMCAP infuse ID
iii. Vendor ID (if applicable)
iv. Date attached or detached from MMCAP Infuse
v. Address
vi. City
vii. State
viii. Phone Number

6.5 **Non-Solicitation**. During the term of this Agreement, Vendor will not solicit any Members or prospective Members to enter into or negotiate a separate contract or agreement for the same or substantially equivalent products and services offered in this Agreement without MMCAP Infuse's prior written consent. Vendor is not prohibited from responding to a request for proposals issued by a Member that may include Products and Services covered by this Agreement. However, if the Vendor uses MMCAP Infuse and/or this Agreement as a vehicle to those responses, those sales will still be considered sales under this Agreement and reported and paid an Administrative Fee as outlined in ***Article IX***.

6.6 **DEA License/HIN**. Unless the Member purchases a controlled substance, the Vendor may not require that a Member have a Drug Enforcement Administration number assigned to it in order to be eligible for contracted prices. The Vendor may require a Health Industry Number from Member, which MMCAP Infuse will work with the Member to obtain.

6.7 **Product Use**. All items acquired by Members under this Agreement are purchased for consumption in traditional governmental functions and not for the purpose of competing against private enterprise.

6.8 **MPA**. In order to use this Agreement, some States will require jurisdiction-specific paperwork or statutory language to establish a statewide contract for Members. These are separate from Purchase orders; these are addendum to this Agreement to provide for laws specific to a State jurisdiction. If these circumstances exist, the Vendor will work with MMCAP Infuse and applicable State to prepare an MPA to set forth the additional or altered terms and conditions. An MPA must clearly apply only to the requesting State and will not affect the rights of MMCAP Infuse, other States, and/or their Members, nor will it modify, derogate, or otherwise diminish the rights and obligations set forth herein. When the specific terms are agreeable to the Vendor and the State, the MPA will be presented by MMCAP Infuse to each party for execution. No other mechanism of modifying or "attaching to" the Agreement is authorized. Vendor is not required to agree to any additional terms; however, by not agreeing to the MPA, Vendor may be precluded from doing business with that State/Member. No verbal or written instructions from State/Members to change any provision of this Agreement will be accepted by Vendor without the prior approval of MMCAP Infuse.

A. Services and Purchase Orders. If a Member is electing to utilize a Service from the Vendor, the Member and Vendor can utilize a Purchase Order to write specific unique details regarding the scope of Service being provided; MMCAP Infuse does not have to be involved with that process, however a final draft should be provided to MMCAP Infuse before execution. However, the Member will not attempt include any boiler plate terms that modify items covered under this Agreement or try to add any additional fees/costs that the Vendor would be required to pay with the Purchase Order.

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ARTICLE VII
AGREEMENT MANAGEMENT

7.1 **Required Vendor Personnel**. Vendor must maintain sufficient personnel who can provide comprehensive and timely customer service to the Membership and MMCAP Infuse. Vendor's personnel must have professional qualifications, training and experience, to provide support related to the Contracted Items. In addition, Vendor represents and warrants that its personnel have all the required licenses and certifications in accordance with all applicable law and regulatory agencies. To manage this Agreement, at a minimum, the Vendor must have the following point of contact to support this Agreement. The Vendor will provide a list of all personnel and contact information to MMCAP Infuse on the Effective Date. At a minimum, the Vendor will provide an updated list every six (6) months or when there is a change, whichever occurs first.

A. Account representative and an alternate for MMCAP Infuse and eligible Members;
B. Customer service;
C. Clinical representative;
D. Distribution center representative(s);
E. Emergency or bulk order specialist;
F. Product training and education specialist;
G. Supply chain improvement specialist;
H. Product ordering system technical support and training specialists;
I. Membership/customer attachment specialist;
J. Accounting specialists, capable of addressing and timely solving invoice/credit re bill inquiries and shareback; and
K. Reporting specialist.

7.2 **MMCAP Infuse Account Representative.** Vendor will assign an account representative to MMCAP Infuse for this Agreement and must provide a minimum of seventy-two (72) hours advanced notice to MMCAP Infuse if that person is reassigned. In the event that the account representative is unresponsive (does not respond to inquiries within twenty-four hours) or does not meet MMCAP Infuse's needs, the Vendor will assign another account representative upon MMCAP Infuse's request. The account representative will be responsible for:

A. Proper maintenance and management of the Agreement, including timely execution of all amendments.
B. Timely response to all MMCAP Infuse inquiries
C. Performance of the business review as described in *Paragraph 7.3*.
D. Personnel Changes. Vendor will provide MMCAP Infuse with written advance notice of changes to the account representative. In the event that an employee is removed pursuant to a written request from MMCAP Infuse, the Vendor will have ten (10) business days in which to fill the role with an acceptable employee.
E. Member Dedicated Representative. For any Member whose purchase volume exceeds five-hundred thousand dollars ($500,000) annually, they are eligible for a dedicated account representative. If the Member elects this option, they will provide written notice to the Vendor. The Vendor will have thirty (30) days to provide a dedicated account representative to the Member. This account representative will be the sole point of contact for the Member regarding any issues or inquiries.

7.3 **Reviews**. Quarterly, the Vendor will provide a list of Members and their dedicated account representative. Additionally, Vendor will perform at least one business review with MMCAP Infuse annually. The review will be at a time and location that is mutually agreeable to Vendor and MMCAP Infuse and at a minimum address: a review of sales to members, pricing and contract terms, administrative fees and reporting, supply issues, customer issues, and any other necessary information. Members eligible for an account representative should also have at least one in-person review with the Vendor annually.

7.4 **Customer Service Department**. Vendor must maintain a toll-free customer service center that covers all the U.S. time zone's business hours (8:00AM to 5:00PM) and have a system to respond to emergency calls during its non-operational hours. The center must be capable of responding to telephone or electronic message inquiries (email, or text inquiries, from hand-held messaging devices); contact information is listed on ***Attachment G***. Additionally, any customer service representative must have the corporate authority, experience and training to respond to any inquiry related to the Agreement. If a Member has an account representative, the requirements in this Paragraph can be met by them.

ARTICLE VIII
WARRANTS, COVENANTS, AND DUTIES OF VENDOR

8.1 **Covenant of Laws**. Vendor shall comply with all state and federal laws, as applicable to each Member, in the performance of this Agreement.

8.2 **Required Licenses, Permits, and Registration**. Vendor shall have in place prior to the start of the Agreement, and must maintain for the life of the Agreement, all current licenses, permits and registrations required by state and federal agencies. Vendor must make such documentation available upon request by MMCAP Infuse.

8.3 **FDA-Certified Drug Application.** The Vendor acknowledges that each Product has, if required by law, an FDA-certified New Drug Application, an Abbreviated New Drug Application, or a Biologics License Application on file and

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accepts the liability with which such application confers. The Vendor guarantees to furnish Products that have not been adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, or any regulation of the Federal Food and Drug Administration, or as required by each Member's applicable regulatory board.

8.4 **cGMP**. Vendor certifies that it is in compliance with the Food and Drug Administration's current "Good Manufacturing Practices" (**cGMP**) and the current United States Food, Drug, and Cosmetic Act. If the Vendor receives a 483 or similar type warning letter for any Product, it must be provided to MMCAP Infuse within ten (10) days of receipt by Vendor.

8.5 **Health Care Product Regulations**. Vendor acknowledges that each Product has, if required by law, a United States Food and Drug Administration approval or authorization on file and accepts the liability with which such application confers. Additionally, all Products should meet applicable industry standards such as but not limited to standards set by ISO or UL. The Vendor guarantees to furnish no Product under this Agreement that is adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, or any regulation of the FDA, or as required by each Member state's applicable laws, rules, or regulations.

8.6 **DSCSA**. If the Vendor is selling pharmaceuticals to the Membership under this Agreement, it will maintain DSCSA licensing standards to be classified as an Authorized Trading Partner (as defined by the FDA). If there is a licensing standards issue, the Vendor will provide written notification to MMCAP Infuse within five (5) days. The Vendor will retain all 3T Data per the requirements specified by the DSCSA, for a minimum of six (6) years. Access to the 3T Data will be provided to Members at no charge.

8.7 **Debarment**. Vendor warrants and certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota, the United States federal government, or any Member; and has not been convicted of a criminal offense related to the subject of this Agreement. Vendor further warrants that it will provide immediate written notice to MMCAP Infuse if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

A. Certification regarding debarment, suspension, ineligibility, and voluntary exclusion. Federal money will be used or may potentially be used to pay for all or part of the work under the Agreement, therefore Vendor certifies that it is in compliance with federal requirements on debarment, suspension, ineligibility and voluntary exclusion specified in the solicitation document implementing Executive Order 12549.

8.8 **Indemnification**. Pursuant to the Minnesota Constitution Article XI Section 1, MMCAP Infuse cannot indemnify the Vendor. Except for causes due to MMCAP Infuse's or Members' sole negligence, Vendor will defend and hold harmless MMCAP Infuse, including MMCAP Infuse's Members, agents, directors, employees, attorneys, and other representatives during and after this Agreement from and against all actual and potential claims relating to loss, liability, damage, costs and expenses (including attorneys' fees and legal costs), causes of action, regulatory proceedings, suits, demands, or judgements relating to Vendor's:

A. Intentional, willful, or negligent acts or omissions;
B. Fraud and or deceit;
C. Actions that give rise to strict liability;
D. Breach of contract;
E. Breach of warranty;
F. Violations of federal, state, or local laws, orders, and/or policies;
G. Employees or subcontractors' criminal and civil claims; and/or
H. Failure to pay fees, charges, expenses, taxes, or other debts to third parties.

8.9 **Antitrust**. The Vendor hereby assigns to the State of Minnesota any and all claims for overcharges as to services provided in connection with this Agreement resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota, and/or the antitrust laws of any Member unless otherwise assigned directly to that Member by Vendor with MMCAP Infuse's approval.

8.10 **Product Warranty**. Vendor will assign all manufacturer/factory warranties to the purchasing Member. For all Products manufactured by or under the label of the Vendor, Vendor warrants that all materials, supplies, services and/or equipment provided under this Agreement is fit for the purposes for which intended and conform to the requirements and specifications herein.

ARTICLE IX
ADMINISTRATIVE FEE AND REPORTING

9.1 **Administrative Fee**. In consideration for the administrative support and other services provided by MMCAP Infuse in connection to this Agreement, the Vendor agrees to pay an Administrative Fee on all purchases of all Contracted Items made by Members.

A. Vendor must provide Administrative Fee data to MMCAP Infuse within ten (10) business days after the end of each calendar month. The Administrative Fee must be paid as soon as is reasonable after the end of each calendar month, but no later than thirty (30) calendar days after the end of the calendar month. The Vendor will submit a check payable to:

Financial Management & Reporting – MMCAP Infuse

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50 Sherburne Avenue, Suite 309
St. Paul, MN 55155

B. Vendor shall not be required to pay the Administrative Fees on tax amounts, returns, or other shipments for which Vendor did not collect payment.

C. For individual transactions that exceed, $500,000, the Vendor must notate and assemble on the Administrative Fee Data Report the line items that are the composite of the purchase. Additionally, the Vendor should include the purchase order for those transactions.

9.2 **Administrative Fee and Sales Reporting**. The Vendor must submit a monthly (A) administrative fee data report and (B) sales data report.

A. **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: MMCAP.infuse@state.mn.us at the end of each month, but no later than thirty (30) days after the end of the month. The Vendor will provide a dedicated person.

i. Administrative Fee Data Report fields:

a. MMCAP Infuse Assigned Authorized Wholesaler Number
b. MMCAP Infuse Assigned Manufacturer Number (for MMCAP Infuse Products)
c. Direct or Indirect Purchase Indicator (I=Indirect, D=Direct)
d. Invoice Date (Point of Sale Date)
e. Invoice Number
f. MMCAP Infuse Member
g. Vendor's Account Number for the MMCAP Infuse Member
h. MMCAP Infuse Member DEA Number, if applicable
i. MMCAP Infuse Member HIN Number, if applicable
j. MMCAP Infuse Member Address
k. MMCAP Infuse Member City
l. MMCAP Infuse Member State
m. Product's NDC (Use all 11 digits (00076888888))
n. Product Name (e.g. Acetaminophen with Codeine, Acticin Cream 5%)
o. Credit Indicator (C = credit)
p. Contracted Units (The number of units purchased on contract.)
q. MMCAP Infuse Contracted Unit Price
r. Administrative Fee Decimal Percentage (The contracted administrative fee percentage for the NDC number. Report as a decimal (e.g. 0.030))
s. Vendor Contracted Sales (Contracted Units * Contracted Unit Price. Report in dollars)
t. Administrative Fee Payment Amount (Administrative Fee Decimal Percentage * Vendor Contracted Sales. Report in dollars)

B. Sales Data Usage Reports. Vendor will supply to MMCAP Infuse monthly sales data on or before the tenth (10th) day of the subsequent calendar month. The report must include Contracted Item dollar spend amount sorted in descending order and grouped by the Contracted Item category. Also, the report MUST include the information set forth on ***Attachment E, Table 1***.

9.3 **Reporting Tools**. For no additional charge or subscription fee, the Vendor agrees to provide online electronic access to all purchasing data history to MMCAP Infuse and purchasing Members. The data provided by the Vendor must be manipulatable by MMCAP Infuse and the Members; it also must be able to download and manipulate the data in a "XLSX" format.

A. Customized Member Requests. A Member may request additional reporting from the Vendor, however any additional costs associated with those requested reports will be borne by the requesting Member and the Vendor may not pass on those costs directly or indirectly to the rest of the Membership and/or MMCAP Infuse. Members that have an account representative may have up to three (3) different custom types of reports, dependent upon Vendor capabilities, provided to them at no cost.

ARTICLE X
INTELLECTUAL PROPERTY

10.1 **MMCAP Infuse Ownership**. MMCAP Infuse owns all rights, title, and interest in MMCAP Infuse customer data, sales transaction data, DEA/HIN information (subject to third-party rights), contract pricing, EDI transaction data, reverse distribution data, and payment data, including copyrights and trade secrets contained therein. MMCAP Infuse grants to Vendor an unlimited, non-revocable, nontransferable, fully paid license, for the term of this Agreement, to: (A) release state specific data to a Member's primary contact; (B) release any of the above data to product manufacturers, when necessary for the performance of this Agreement or as required by Vendor's agreements with such product manufacturers; (C) to release any of the above data to other MMCAP Infuse approved third parties, when necessary for the performance of this Agreement; (D) to provide Member purchase data to aggregators, including IQVIA and NDC Health, subject to Vendor's reasonable efforts to require such data

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aggregators to protect any identifiable data from discovery by another third party; and € to provide Member purchase data to other group purchasing organizations of which the Member is also a member, provided such data will not include MMCAP Infuse-identifiable data. Any MMCAP Infuse identifiable data provided hereunder to a third party must identify the data as MMCAP Infuse data and subject to Minnesota Statutes, Chapter 13. To the extent permitted by law, Vendor hereby agrees that in the event that MMCAP Infuse or a Member requests in writing that its purchase data be kept confidential, such data will not be provided to third party aggregators.

10.2 **Vendor Ownership**. Vendor owns all rights, title, and interest to any aggregated data not identifiable as arising from this Agreement and any other intellectual property created for or presented to MMCAP Infuse. Vendor grants to MMCAP Infuse an unlimited, non-revocable, non-transferable, fully paid, perpetual license, to use all intellectual property created for or presented to MMCAP Infuse under this Agreement.

10.3 **Pre-Existing Intellectual Property**. MMCAP Infuse and Vendor will each retain ownership of, and all right and, title and interest in and to, their respective pre-existing intellectual property. The Vendor grants Minnesota a perpetual, irrevocable, non-exclusive, royalty free license for Vendor's pre-existing intellectual property that are incorporated in the products, materials, equipment, deliverables, or services that are purchased through the Agreement. The aforementioned license is solely for use by Members, and their agents related to an internal business or governmental purposes.

10.4 **Vendor Obligations**. The Vendor must perform all acts and take all steps necessary to ensure that all intellectual property rights created for MMCAP Infuse or Member are the sole property of MMCAP Infuse or Member, and that neither Vendor nor its employees, agents, or subcontractors retain any interest in and to the works and documents. The Vendor represents and warrants that the works and documents do not and will not infringe upon any intellectual property rights of other persons or entities.

10.5 **Intellectual Property Indemnification**. The Vendor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless MMCAP Infuse, at the Vendor's expense, from any action or claim brought against MMCAP Infuse to the extent that it is based on a claim of an infringement upon the intellectual property rights of others. The Vendor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Vendor's or MMCAP Infuse's opinion is likely to arise, the Vendor must, at MMCAP Infuse's discretion, either procure for MMCAP Infuse the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of MMCAP INFSE Infuse will be in addition to and not exclusive of other remedies provided by law.

10.6 **Publicity and Endorsement**. Any publicity regarding the subject matter of this Agreement must identify MMCAP Infuse as a sponsoring or endorsing agency and must not be released without prior written approval from MMCAP Infuse. 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 Agreement.

A. Marketing. Any direct advertising, marketing, or direct offers with Members must be approved by MMCAP Infuse. Violation of this may be cause for immediate cancellation of this Agreement and/or MMCAP Infuse may reject any proposal submitted by the Vendor in any subsequent solicitations for awards.

B. Endorsement. The Vendor must not claim that MMCAP Infuse, the State of Minnesota, or any Member State endorses its products or services.

ARTICLE XI
INSURANCE

11.1 **Notice**. The Vendor is required to submit Certificates of Insurance acceptable to MMCAP Infuse as evidence of insurance coverage requirements prior to commencing work under the Agreement. Vendor will not commence work under the Agreement until they have obtained all the insurance described below and MMCAP Infuse has approved such insurance. Vendor shall maintain such insurance in force and effect throughout the term of the Agreement. The failure of MMCAP Infuse to obtain a Certificate of Insurance, for the policies required under this Agreement or renewals thereof, or failure of the insurance company to notify MMCAP Infuse of the cancellation of policies required under this Agreement shall not constitute a waiver by MMCAP Infuse to the Vendor to provide such insurance. MMCAP Infuse reserves the right to immediately terminate the Agreement 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 Infuse and copies of policies must be submitted to MMCAP Infuse. The Vendor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.

11.2 **Additional Insurance Conditions**.

A. Vendor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to MMCAP Infuse with respect to any claim arising out of Vendor's performance under this Agreement;

B. If Vendor receives a cancellation notice from an insurance carrier affording coverage herein, Vendor agrees to notify MMCAP Infuse within five (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 thirty (30) days advance written notice to MMCAP Infuse;

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C. Vendor is responsible for payment of Agreement related insurance premiums and deductibles;
D. If Vendor is self-insured, a Certificate of Self-Insurance must be attached;
E. Vendor's policy(ies) shall include legal defense fees in addition to its liability policy limits;
F. Vendor's insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best; and
G. 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 Agreement.

11.3 **Coverage**. Vendor is required to maintain and furnish satisfactory evidence of the following insurance policies:

A. Workers' Compensation Insurance. Except as provided below, Vendor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Vendor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance minimum limits are as follows:
   i. $100,000 – Bodily Injury by Disease per employee
   ii. $500,000 – Bodily Injury by Disease aggregate
   iii. $100,000 – Bodily Injury by Accident

   If Minnesota Statute 176.041 exempts Vendor from Workers' Compensation insurance or if the Vendor has no employees in the State of Minnesota, Vendor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Vendor from the Minnesota Workers' Compensation requirements. If during the course of the Agreement the Vendor becomes eligible for Workers' Compensation statutory requirements, the Vendor must comply with the Workers' Compensation Insurance requirements herein and provide MMCAP Infuse with a certificate of insurance.

B. Commercial General Liability Insurance. Vendor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Agreement whether the operations are by the Vendor or by a subcontractor or by anyone directly or indirectly employed by the Vendor under the Agreement. Insurance minimum limits are as follows:
   i. $1,000,000 – per occurrence
   ii. $2,000,000 – annual aggregate
   iii. $2,000,000 – annual aggregate – Products/Completed Operations
   iv. The following coverages shall be included:
      a. Premises and Operations Bodily Injury and Property Damage
      b. Personal and Advertising Injury
      c. Blanket Contractual Liability
      d. MMCAP Infuse named as an Additional Insured, to the extent permitted by law

C. Network Security and Privacy Liability Insurance, Including Ransomware (or equivalent). Vendor will maintain insurance to cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service. Insurance minimum limits are as follows:
   i. $2,000,000 – per occurrence
   ii. $2,000,000 – annual aggregate

ARTICLE XII
GENERAL TERMS

12.1 **Notices**. If one party is required to provide legal notice or notice under the terms of the Agreement to the other, such notice will be in writing and will be effective upon dispatch. Delivery shall be by certified United States mail, or by email. Either party must notify the other of a change in address for notification purposes.

12.2 **Audits**. Under Minn. Stat. § 16C.05, subd. 5, the Vendor's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by Minnesota, MMCAP Infuse, and/or the Minnesota Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Agreement. This clause extends to the Membership as it relates to business conducted with and sales to a Member.

A. Invoice and Pricing Audit. MMCAP Infuse and Members served by this Agreement may periodically audit validity of invoice pricing. Such audits may be conducted only during ordinary business hours and upon reasonable notice.
B. Costs. Vendor, MMCAP Infuse, and Members shall each be responsible for its own costs associated with any audit, including costs related to the production of records and/or other documents requested by the other party.

12.3 **Assignment**. The Vendor may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of MMCAP Infuse and a fully executed assignment agreement.

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12.4 **Amendments**. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved this Agreement, or their successors in office.

12.5 **Order of Precedence**. Vendor agrees that applicable federal and state law will supersede this Agreement, however this Agreement will take precedence over all other the terms, covenants, conditions, commitments, stipulations, Order System, Purchase Orders, website use of terms, and other legal documents MMCAP Infuse, Vendor, and/or Member may use in the performance of this Agreement. If the provisions of this Agreement are inconsistent, or are modified, diminished, or derogated with any of the terms and provisions of the aforementioned legal documents in this Paragraph, this Agreement will supersede and govern. MMCAP Infuse does not agree to or bound by any additional terms and conditions between the Vendor and Member.

A. Purchase Orders and MPA. In respect to the relationship between the Vendor and Member, a Purchase Order and/or MPA may override certain aspects of this Agreement under narrow circumstances outlined and specified in the aforementioned documents.

12.6 **Counterparts and Electronic Signature**. The Agreement cannot be executed in counterparts and will not be enforceable until MMCAP Infuse has obtained all required signatures. MMCAP Infuse and Vendor expressly agree to conduct transactions under the Agreement by electronic means (including, without limitation, with respect to execution, delivery, storage, and transfer of this Agreement by electronic means and to the enforceability of this electronic agreement). MMCAP Infuse will be deemed to have control of the authoritative copy for the electronic transferable record, in each case regardless of whether applicable law recognizes electronic transferable records or control of electronic transferable records and regardless of whether this Agreement is an electronic record or transferable record.

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

12.8 **Waiver**. If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.

12.9 **Governing Law, Jurisdiction, and Venue**. Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

VENDOR: Concordance Healthcare Solutions, LLC

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

Name:

Signature:

Title: Wendy Weiss

Date: Digitally signed by Wendy Weiss Date: 2023.02.08 11:29:39 -05'00'

STATE OF MINNESOTA FOR MMCAP INFUSE

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

Name: DocuSigned by: James Babbitt

Signature: James Babbitt DDE5B1490A484FC...

Date: 2/8/2023

COMMISSIONER OF ADMINISTRATION

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

Name: DocuSigned by: Christina Fox

Signature: Christina Fox 126B5884704A473...

Date: 2/14/2023

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ATTACHMENT A-1
Core Products

To be added on a later date

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ATTACHMENT A-2
Discounts and other Cost Saving Opportunities

Non-Core Product Orders: A minimum of twenty-five percent (25%) off the displayed price.

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ATTACHMENT A-3

MMCAP Simple Loaded Product Categories and Mark-ups

Categories	Markup % (Not to Exceed)	UNSPSC Codes
Incontinence	[redacted]	42142700; 42443800; 42143900
Attends Healthcare Products, Inc.	[redacted]	
Essity HMS North America, Inc.	[redacted]	
First Quality Products, Inc.	[redacted]	
Medline Industries, Inc.	[redacted]	
Nutritionals	[redacted]	422318; 5119; 8515
Abbott Laboratories, Inc.	[redacted]	
Ajinomoto Cambrooke, Inc.	[redacted]	
Gerber Products Company	[redacted]	
GVM Associates, Inc.	[redacted]	
Mead Johnson and Company, LLC	[redacted]	
Nestle Healthcare Nutrition, Inc.	[redacted]	
Nutricia North America, Inc.	[redacted]	
Vitaflo USA, LLC	[redacted]	
Diabetic Products; Needles and Syringes	[redacted]	421425; 421426; 4222; 411220
Abbott Diabetes Sales Corporation	[redacted]	
Agamatrix, Inc.	[redacted]	
Lifescan, Inc.	[redacted]	
MediPurpose, Inc.	[redacted]	
Owen Mumford USA, Inc.	[redacted]	
Retractable Technologies, Inc.	[redacted]	
Roche Diagnostic Corp.	[redacted]	
Trividia Health, Inc.	[redacted]	
Ultimed, Inc.	[redacted]	
Pharmaceuticals	[redacted]	
HR Pharmaceuticals, Inc.	[redacted]	
Unifirst-First Aid Corporation DBA Medique Products	[redacted]	
Containers and Vials	[redacted]	411041; 422217
Berry Global, Inc.	[redacted]	
Centor, Inc.	[redacted]	

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Condoms	TBD	36131622
B Holding Group, LLC	TBD	
Global Protection Corp.	TBD	
SXWELL USA, LLC	TBD	

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ATTACHMENT A-4
Vendor Exclusive Brands

BD Pyxis Catalog:

Description	Manufacturer Part Number	SKU	Package Quantity	Contract Price
Pyxis - 0 Drawer Cabinet	323DWR.00	358415	1	
Pyxis - 2 Drawer Cabinet	323DWR.02	358419	1	
Pyxis - 6 Drawer Cabinet	323DWR.06	358448	1	
Pyxis - Bin Drawer	323DWR.BIN	358452	1	
Pyxis - Cubie Drawer	323DWR.CUBIE	358456	1	
Pyxis - Half-Height Smart Cubie Drawer	323DWR.ES.CUBIE	358459	1	
Pyxis - Full-Height Smart Cubie Drawer	323DWR.ES.FH.CUBIE	358461	1	
Pyxis - Flex Matrix Drawer	323DWR.FM	358462	1	
Pyxis - Mini Drawer	323DWR.MINI	358464	1	
Pyxis - Medication Label Module	323MED.LABEL.MODULE	358467	1	
Pyxis - System	323PRDTYP	358469	1	
Pyxis - Profile	323PROFILE	358470	1	
Pyxis - 7 Drawer Cabinet	324DWR.07	358471	1	
Pyxis - Bin Drawer	324DWR.BIN	358472	1	
Pyxis - Cubie Drawer	324DWR.CUBIE	358474	1	
Pyxis - Half-Height Smart Cubie Drawer	324DWR.ES.CUBIE	358475	1	
Pyxis - Full-Height Smart Cubie Drawer	324DWR.ES.FH.CUBIE	358476	1	
Pyxis - Flex Matrix Drawer	324DWR.FM	358477	1	
Pyxis - Mini Drawer	324DWR.MINI	358478	1	
Pyxis - Bar Code Scanner	327BAR.SCAN	358479	1	
Pyxis - Bin Drawer	327DWR.BIN	358480	1	
Pyxis - Flex Matrix Drawer	327DWR.FM	358481	1	
Pyxis - Flex Matrix Half Height	327DWR.FM.HH	358482	1	
Pyxis - Mini Drawer	327DWR.MINI	358485	1	
Pyxis - System	327PRDTYP	358488	1	
Pyxis - Wireless	327WIRELESS	358493	1	
Pyxis - Double Column Cabinet	343CAB.SIZE.DBL	358495	1	
Pyxis - Single Column Cabinet	343CAB.SIZE.SGL	358497	1	
Pyxis - Med Remote Manager	345MED.RM	358501	1	
Pyxis - Med Smart Remote Manager	345MED.SRM	358502	1	
Pyxis - Single Column Cabinet	352CAB.SIZE.SGL	358503	1	
Pyxis - Bay of Cubie Drawers	352CUBIE.BAY	358504	1	
Pyxis - Profile	352PROFILE	358506	1	
Pyxis - Drawer Flex Matrix Rapid Access ASSY	101806-01	358509	1	
Pyxis - CIISAFE,V9.X DESKTOP PC, BIO	107-252-01	358510	1	
Pyxis - CIISAFE, V9.X, DBL IM, BIO, SLD DOORS	111-215	358511	1	
Pyxis - CIISAFE, V9.X, SGL IM, BIO, CLR DOORS	111-216	358514	1	
Pyxis - CIISAFE, SGL AUX, SOLID DOORS	111-217	358517	1	
Pyxis - CIISAFE, DBL AUX, CLEAR DOORS	111-218	358519	1	
Pyxis - CIISAFE, V9.X, DBL IM, BIO, CLR DOORS	111-219	358524	1	

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Pyxis - CIISAFE, TALL DBL AUX, SOLID DOORS	111-220	358525	1
Pyxis - CIISAFE, V9.X, SGL IM, BIO, SLD DOORS	111-221	358526	1
Pyxis - CIISAFE, SGL AUX, CLEAR DOORS	111-222	358527	1
Pyxis - Non Acute Facility	1115-00NA.FACILITY	358930	1
Pyxis - Non Acute Server	1115-00NA.SERVER	358530	1
Pyxis - ES Server Tier I (0-10)	1115-00TIER.1	358533	1
Pyxis - ES Server Tier II (11-20)	1115-00TIER.2	358534	1
Pyxis - ES Server Tier III (21-40)	1115-00TIER.3	358536	1
Pyxis - ES Server Tier IV (41-60)	1115-00TIER.4	358537	1
Pyxis - ES Server Tier V (61+)	1115-00TIER.5	358538	1
Pyxis - Bio-Id XM570 kit, Supply/CII/Specialty	111724-11	358567	1
Pyxis - CUBIE DRAWER HH MODULE	118920-01	358576	1
Pyxis - CUBIE DRAWER HH	119919-01	358577	1
Pyxis - CUBIE DRAWER HH 20-20-0 IL	119919-03	358579	1
Pyxis - CUBIE DRAWER HH 36-6-4 IL	119919-04	358581	1
Pyxis - CUBIE DRAWER HH 20-20-0	120242-02	358582	1
Pyxis - CUBIE DRAWER HH 36-6-4	120242-03	358583	1
Pyxis - Wireless RF KIT (MedStation and PAS)	121575-01	358578	1
Pyxis - SCANNER, MEDSTATION, 1D, RESIDENT	125411-03	358584	1
Pyxis - SCANNER, MEDSTATION, 2D, RESIDENT	125411-04	358587	1
Pyxis - SCANNER, A-SYS, 1D, RESIDENT	127256-01	358588	1
Pyxis - FLEX MATRIX DRAWER BIN	129189-01	359590	1
Pyxis - SCNR FGRPT BIO XM570 W/CASE W/FILM	130747-01	358592	1
Pyxis - KIT HARDWARE PARX V5.3	133349-04	358604	1
Pyxis - KIT INSTALL SITE PARX V5.3	133351-05	358605	1
Pyxis - MINI DRAWER I-18, 12PKT	133626-03	358516	1
Pyxis - MINI DRAWER 1-6, 12PKT	133626-04	358518	1
Pyxis - MINI DRAWER I-18, 6PKT	133626-05	358520	1
Pyxis - MINI DRAWER I-6, 6PKT	133626-06	358521	1
Pyxis - MINI DRAWER I-6, 2PKT	133626-07	358522	1
Pyxis - MINI DRAWER I-18, 4PKT	133626-08	358523	1
Pyxis - MINI DRAWER I-18,6X3,6X4,3X6,3X12PKT	133626-10	358544	1
Pyxis - MINI DRAWER I-6,1X3,2X4,1X6,2X12PKT	133626-11	358546	1
Pyxis - MINI DRAWER I-18,12X4,6X3PKT	133626-14	358548	1
Pyxis - MINI DRAWER I-6,2X3,2X4,2X6PKT	133626-15	358550	1
Pyxis - MINI DRAWER I-10, 12PKT, PAS, UL	133842-01	358553	1
Pyxis - MINI DRAWER I-14, 12PKT, PAS, UL	133842-02	358555	1
Pyxis - MINI DRAWER I-18, 12PKT, PAS, UL	133842-03	358557	1
Pyxis - MINI DRAWER I-6, 12PKT, PAS, UL	133842-04	358559	1
Pyxis - MINI DRAWER I-6, 12PKT	133865-01	358560	1
Pyxis - MINI DRAWER I-10, 12PKT	133865-02	358562	1
Pyxis - MINI DRAWER I-14, 12PKT	133865-03	358563	1
Pyxis - MINI DRAWER I-18, 12PKT	133865-04	358564	1
Pyxis - MINI DRAWER I-18, 6PKT	133865-05	358565	1

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Pyxis - MINI DRAWER I-6, 6PKT	133865-06	358566	1	[redacted]
Pyxis - MINI DRAWER I-18, 4PKT	133865-08	358568	1	
Pyxis - MINI DRAWER I-18,6X3,6X4,3X6,3X12PKT	133865-09	358569	1	
Pyxis - MINI DRAWER I-6,1X3,2X4,1X6,2X12PKT	133865-10	358570	1	
Pyxis - MINI DRAWER I-18,12X4,6X3PKT	133865-11	358573	1	
Pyxis - MINI DRAWER 1-6,2X3,2X4,2X6PKT	133865-12	358574	1	
Pyxis - MINI DRAWER I-6, 3PKT	133865-13	358575	1	
Pyxis - ES S/W ONLY SERVER	134157-01	358607	1	
Pyxis - ES FACILITY LICENSE	134314-01	358608	1	
Pyxis - PCBA WIRELESS ADAPTER WIN7	134513-01	358609	1	
Pyxis - Localized User/Form Mgmt Lic 1-10Mains	134781-01	358610	1	
Pyxis - Enterprise User/Form Mgmt Lic 1-10Mains	134782-01	358611	1	
Pyxis - Localized User/Form Mgmt Lic 11-20Mains	134800-01	358612	1	
Pyxis - Localized User/Form Mgmt Lic 21-40Mains	134801-01	358613	1	
Pyxis - Localized User/Form Mgmt Lic 41-60Mains	134802-01	358615	1	
Pyxis - LOCALIZED USER/FORM MGMT LIC 61+MAINS	134803-01	358616	1	
Pyxis - Enterprise User/Form Mgmt Lic 11-20Mains	134804-01	358617	1	
Pyxis - Enterprise User/Form Mgmt Lic 21-40Mains	134805-01	358618	1	
Pyxis - Enterprise User/Form Mgmt Lic 41-60Mains	134806-01	358619	1	
Pyxis - Enterprise User/Form Mgmt Lic 61+Mains	134807-01	358621	1	
Pyxis - Enterprise User/Form Lic UPG 1-10Mains	134808-01	358623	1	
Pyxis - Enterprise User/Form Lic UPG 11-20Mains	134809-01	358625	1	
Pyxis - Enterprise User/Form Lic UPG 21-40Mains	134810-01	358626	1	
Pyxis - Enterprise User/Form Lic UPG 41-60Mains	134811-01	358627	1	
Pyxis - Enterprise User/Form Lic UPG 61+Mains	134812-01	358628	1	
Pyxis - Flex Matrix Drawer, Pyxibus	134870-01	358629	1	
Pyxis - Profile Upgrade for Medstation ES	135291-01	358631	1	
Pyxis - PAS ES Wireless (1 per Main)	135334-01	358633	1	
Pyxis - MEDICATION LABEL MODULE	136276-02	358634	1	
Pyxis - POP Matrix Drawer FH	136387-01	358635	1	
Pyxis - Flex Matrix Drawer w/Return Bin	136389-01	358636	1	
Pyxis - Flex Matrix Drawer, R	136390-01	358637	1	
Pyxis - Flex Matrix Dwr w/Return Bin	136393-01	358638	1	
Pyxis - Flex Matrix Drawer	136394-01	358639	1	
Pyxis - Matrix Drawer HH PAS	136397-01	358641	1	
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 10 2 2 1	136870-01	358420	1	
Pyxis - SMART CUBIE DRWR,FULL HT (2-U (2-U) 5 2	136871-01	358421	1	

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Pyxis - SMART CUBIE DRWR,FULL HT (2-U (2-U) 5 0	136872-01	358422	1
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 10 1 1 2	136873-01	358423	1
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 15 1 1 1	136874-01	358425	1
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 15 0 0 2	136875-01	358427	1
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 20 1 1 0	136876-01	358429	1
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 20 0 0 1	136877-01	358431	1
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 25 0 0 0	136878-01	358433	1
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 0 5 5 0	136879-01	358434	1
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 0 0 0 5	136880-01	358435	1
Pyxis - SMART CUBIE DRWR,FULL HT (2-U) 5 10 0 0	136881-01	358436	1
Pyxis - CUBIE Drawer, Enhanced FH(2-U) 10 2 2 1	137388-01	358446	1
Pyxis - CUBIE Drawer, Enhanced FH(2-U) 5 2 2 2	137388-02	358445	1
Pyxis - CUBIE Drawer, Enhanced FH(2-U) 0 5 5 0	137388-10	358444	1
Pyxis - CUBIE Drawer, Enhanced FH(2-U) 0 0 0 5	137388-11	358443	1
Pyxis - CUBIE Drawer, Enhanced FH(2-U) 5 10 0 0	137388-12	358442	1
Pyxis - Specialty Site IT Infrastructure License	137601-01	358643	1
Pyxis - ES VM SMALL 2016 SERVER W/SQL <15 MAINS	137669-02	358644	1
Pyxis - ES VM LARGE 2016 SERVER W/SQL	137670-02	358645	1
Pyxis - ES VM LARGE 2016 SERVER W/OUT SQL	137671-02	358646	1
Pyxis - ES Small Server S/W Only <15 Mains	138551-01	358647	1
Pyxis - ES Small Facility License <15 Mains	138552-01	358648	1
Pyxis - PYXIS CONNECT 3.3 SERVER SW	138890-01	358649	1
Pyxis - PYXIS CONNECT 3.3 LOCATION LICENSE SW	138891-01	358650	1
Pyxis - PYXIS CONNECT 3.3 VIEW STATION SW	138892-01	358651	1
Pyxis - CUBIE DRAWER, FULL HEIGHT (2-U) 10 2 2 1	150819-01	358437	1
Pyxis - CUBIE DRAWER, FULL HEIGHT (2-U) 5 2 2 2	150819-02	358438	1
Pyxis - CUBIE DRAWER, FULL HEIGHT (2-U) 0 5 5 0	150819-10	358439	1
Pyxis - CUBIE DRAWER, FULL HEIGHT (2-U) 0 0 0 5	150819-11	358440	1
Pyxis - CUBIE DRAWER,FULL HEIGHT (2-U) 5 10 0 0	150819-12	358441	1
Pyxis - MedStation ES Half Height Aux - 2dr	156-033-01	358460	1
Pyxis - MOBILE DOCK DOMESTIC	171-01	358463	1

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Pyxis - SMART CUBIE DRAWER HH 36-6-4	354672-01	358458	1	
Pyxis - SMART CUBIE DRAWER HH 20-20-0	354676-01	358455	1	
Pyxis - SMART CUBIE DRAWER HH 0-0-20	354821-01	358454	1	
Pyxis - SMART CUBIE DRAWER HH 0-30-0	354822-01	358453	1	
Pyxis - SMART CUBIE DRAWER HH 20-14-4	354824-01	358451	1	
Pyxis - SMART CUBIE DRAWER HH 24-12-4	354825-01	358450	1	
Pyxis - SMART CUBIE DRAWER HH 34-10-2	354826-01	358449	1	
Pyxis - SMART CUBIE DRAWER HH 60-0-0	354828-01	358447	1	
Pyxis - KIT-TC510K-US	356688-01	358652	1	
Pyxis - CRADLE SGL SLOT USB AND CHGR US	356825-01	358674	1	
Pyxis - CDL CHARGE 5-SLOT TC510K WHITE US	356828-01	358675	1	
Pyxis - CDL CHARGE 4-SLOT/4BAT TC510K WHITE US	356831-01	358676	1	
Pyxis - PTR QLN220 US	356861-01	358679	1	
Pyxis - KIT PRINTER/SHELF IMES	356913-01	358680	1	
Pyxis - HANDSET STAGED TC510K-FP WITH FIPS DOM	357092-01	358682	1	
Pyxis - Double Column Cabinet	318CAB.SIZE.DBL	358683	1	
Pyxis - Single Column Cabinet	318CAB.SIZE.SGL	358685	1	
Pyxis - Double Capacity Drawer	318DWR.SPLY.DC	358686	1	
Pyxis - Flex Drawer	318DWR.SPLY.FD	358688	1	
Pyxis - Double Column Cabinet	322CAB.SIZE.DBL	358690	1	
Pyxis - Single Column Cabinet	322CAB.SIZE.SGL	358691	1	
Pyxis - Cathrack Side	322CATHRACK.SIDE	358694	1	
Pyxis - Double Capacity Drawer	322DWR.SPLY.DC	358696	1	
Pyxis - Flex Drawer	322DWR.SPLY.FD	358699	1	
Pyxis - Supply Remote Manager	346SPLY.RM	358700	1	
Pyxis - Epic Software License	800EPIC	358701	1	
Pyxis - HSM Software License	800HSM	358703	1	
Pyxis - PICIS Software License	800PICIS	358704	1	
Pyxis - Surginet Software License	800SURGINET	358706	1	
Pyxis - TIM Software License	800TIM	358708	1	
Pyxis - Tier 1 SW Client	804CLIENTSWTIER1	359129	1	
Pyxis - Tier 2 SW Client	804CLIENTSWTIER2	359130	1	
Pyxis - SW Server	804PSVM.SERVER.SW	358849	1	
Pyxis - ASSY KEYBOARD PAS BIO ID UL	106204-04	358850	1	
Pyxis - Bar Code Reader w/ bezel (Supply)	107244-01	358851	1	
Pyxis - BAR CODE READER NO BEZEL (SUPPLY)	107245-01	358852	1	
Pyxis - MAG READER KIT NO BEZEL (SUPPLY)	107247-01	358854	1	
Pyxis - PRS CNSL SUPPLYCENTER CLIENT V11.X W/ACC	107-249-01	359131	1	
Pyxis - CNSL SUPPLYCENTER CLIENT V11.X W/ACC	107-249-02	359132	1	
Pyxis - PRS CNSL SUPLYCENTER CLNT V11.X PC ONLY	107-250-01	359134	1	
Pyxis - CNSL SUPLYCENTER CLNT V11.X PC ONLY	107-250-02	359135	1	

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Pyxis - KIT MISC BILLABLE PARTS	107261-01	358855	1
Pyxis - READER MAGNETIC STRIPE SCAN TECH 2000M (	107263-02	358857	1
Pyxis - KIT SCNR CYCLONE SCNAS SYM M2004-I216	108450-02	358858	1
Pyxis - Supply HalfHeight Auxiliary	109-110	358864	1
Pyxis - Supply HalfHeight Auxiliary w/ 1 FlexDwr	109-161	358866	1
Pyxis - Supply HalfHeight Auxiliary w/ 2 FlexDwr	109-162	358867	1
Pyxis - Supply HalfHeight Auxiliary w/ 3 FlexDwr	109-163	358869	1
Pyxis - Supply HalfHeight Auxiliary w/ 1 DCdwr	109-166	358870	1
Pyxis - Supply HalfHeight Auxiliary w/ 2 DCdwr	109-167	358871	1
Pyxis - Supply HalfHeight Auxiliary w/ 3 DCdwr	109-168	358872	1
Pyxis - Base Cab	1114-00CAB.SIZE.SGL	358873	1
Pyxis - Cathrack	1114-00CATHRACK	358874	1
Pyxis - Shelf	1114-00SHELF	358876	1
Pyxis - KIT UPGRADE JITRBUD (JB) FOR SS30 LSR	111442-03	358877	1
Pyxis - JITrBUD Upgrade Kit for Secure	111442-04	358878	1
Pyxis - 1D Scanner	1123-001D.SCANNER	358832	1
Pyxis - 2D Scanner	1123-002D.SCANNER	358834	1
Pyxis - Bio ID	1123-00BIO.ID	358835	1
Pyxis - Double Column Cabinet	1123-00CAB.SIZE.DBL	358836	1
Pyxis - Single Column Cabinet	1123-00CAB.SIZE.SGL	358841	1
Pyxis - Double Capacity Drawer	1123-00DWR.SPLY.DC	358843	1
Pyxis - Flex Drawer	1123-00DWR.SPLY.FD	358844	1
Pyxis - JITrBUD	1123-00JITR.BUD	358847	1
Pyxis - Card Reader Login	1123-00LOGIN.CARD.READER	358848	1
Pyxis - ProcedureStation Double Column Cabinet	1123-00PROC.STN.DBL	358724	1
Pyxis - ProcedureStation Single Column Cabinet	1123-00PROC.STN.SGL	358725	1
Pyxis - Wireless	1123-00WIRELESS	359125	1
Pyxis - 1D Scanner	1124-001D.SCANNER	358734	1
Pyxis - 2D Scanner	1124-002D.SCANNER	358735	1
Pyxis - Bio ID	1124-00BIO.ID	358738	1
Pyxis - Double Column Cabinet	1124-00CAB.SIZE.DBL	358748	1
Pyxis - Cathrack Side	1124-00CATHRACK.SIDE	358755	1
Pyxis - Double Capacity Drawer	1124-00DWR.SPLY.DC	358757	1
Pyxis - Flex Drawer	1124-00DWR.SPLY.FD	358759	1
Pyxis - JITrBUD	1124-00JITR.BUD	358761	1
Pyxis - Card Reader Login	1124-00LOGIN.CARD.READER	358764	1
Pyxis - ProcedureStation Double Column Cabinet	1124-00PROC.STN.DBL	358765	1
Pyxis - Wireless	1124-00WIRELESS	359126	1
Pyxis - Bio ID	1127-00BIO.ID	358766	1
Pyxis - Double Capacity Drawer	1127-00DWR.SPLY.DC	358767	1
Pyxis - Flex Drawer	1127-00DWR.SPLY.FD	358768	1
Pyxis - System	1127-00PRDTYP	358772	1
Pyxis - ProcedureStation Software	1127-00PROC.STN	358774	1
Pyxis - JITrBUD	1132-00JITRBUD	358776	1
Pyxis - ProcedureStation	1132-00PROC.STN	358777	1

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Pyxis - StockStation	1132-00STOCKSTATION	358778	1	
Pyxis - Wired Scanner	1132-00WRD.SCNR	358779	1	
Pyxis - Wireless Scanner	1132-00WRLS.SCNR	358780	1	
Pyxis - KIT UPGRADE SR/HHR BIO ID UL	114854-01	358781	1	
Pyxis - Bio ID Kit (Scrub HC/RC)	115447-02	358784	1	
Pyxis - KIT UPGRADE SOUND SUPPLYSTATION HH	117319-02	358785	1	
Pyxis - StockStation Wall Mount Kit	118686-01	358786	1	
Pyxis - KANBAN WALL MOUNT	118686-02	358789	1	
Pyxis - SEC RAPID ACS DRAWER, LEFT SIDE	121060-01	358791	1	
Pyxis - SEC RAPID ACCESS DRAWER, RIGHT SIDE	121060-02	358792	1	
Pyxis - KIT MC9090 ETHERNETCRADLE 4SLOT W/PS CBL	122669-01	358793	1	
Pyxis - KIT MC9090ETHERNETCRADLE SGLSLT W/PS CBL	122670-01	358794	1	
Pyxis - SCANNER, SUPPLYSTATION, WIRED	125412-01	358795	1	
Pyxis - SCANNER, SUPPLYROLLER/HH MAIN, USB BCR	125457-01	358797	1	
Pyxis - BIO ID KIT (STOCKSTATION/JITMAIN)	126595-01	358798	1	
Pyxis - JITrBUD Enhanced Upgrade Kit for Open	128716-01	358800	1	
Pyxis - JITrBUD Enhanced Upgrade Kit for Secure	128810-01	358801	1	
Pyxis - KIT SCANNER 2D PHASER SCANASSIST/STOCKST	129222-01	358803	1	
Pyxis - Wireless Scnr Kit for StockStation	129223-01	358807	1	
Pyxis - PRS STOCKSTN V11.X WIRED SCANNER	132-57-01	358809	1	
Pyxis - STOCKSTN V11.X WIRED SCANNER	132-57-02	358810	1	
Pyxis - PRS STOCKSTN V11.X WRD/WL SCANNERS	132-58-01	358812	1	
Pyxis - STOCKSTN V11.X WRD/WL SCANNERS	132-58-02	358815	1	
Pyxis - PRS STOCKSTN V11.X WIRELESS SCANNER	132-59-01	358817	1	
Pyxis - STOCKSTN V11.X WIRELESS SCANNER	132-59-02	358819	1	
Pyxis - PRS STOCKSTN RF V11	132-60-01	359127	1	
Pyxis - STOCKSTN RF V11	132-60-02	359128	1	
Pyxis - KIT MC75 ETHR CRDL SGLSLOT W/PWRSPLYCBLS	133667-01	358823	1	
Pyxis - KIT MC75 ETHR CRDL 4 SLOT W/PWRSPLYCBLS	133668-01	358826	1	
Pyxis - JITRBUDs ENHANCED 20PK 2032	134174-01	358827	1	
Pyxis - XCVR JITRBUD II 20 PACK QBUD	134174-02	358828	1	
Pyxis - ProcedureStation UPG Equipment	134229-01	358829	1	
Pyxis - SEC FLEX DRAWER, HH, POS 9 & 13 W/SHELF	134477-01	358586	1	
Pyxis - SEC FLEX DRAWER, NOT POS 9&13	134478-01	358585	1	
Pyxis - SEC FLEX DRAWER,POS25&29DBL,POS9&13SGL	134479-01	358589	1	
Pyxis - SEC FLEX DRAWER,NOT POS25&29DBL,9&13SGL	134480-01	358654	1	

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Pyxis - FLEX DRAWER, LEFT SIDE POS 9&13	134485-01	358655	1	
Pyxis - FLEX DRAWER, RIGHT SIDE POS 25&29	134486-01	358656	1	
Pyxis - FLEX DRAWER, POS 9 & 13 W/SHELF	134487-01	358657	1	
Pyxis - FLEX DRAWER, NOT POS 9 & 13 DBL	134488-01	358658	1	
Pyxis - FLEX DRAWER,POS9&13SGL,25&29DBL,w/SHELF	134489-01	358659	1	
Pyxis - FLEX DRAWER,NOTPOS9&13SGL,25&29DBL,SHELF	134490-01	358660	1	
Pyxis - FLEX DRAWER, LEFT SIDE NOT POS 9&13	134496-01	358661	1	
Pyxis - FLEX DRAWER RIGHT SIDE NOT POS 25&29	134497-01	358664	1	
Pyxis - KIT UPG WIRELESS ADAPTER WIN7 DOD/VA	134514-01	358830	1	
Pyxis - PRS JITRBUD MAIN V11.X NO JB OR SCNR	134-88-01	358787	1	
Pyxis - JITRBUD MAIN V11.X NO JB OR SCNR	134-88-02	358824	1	
Pyxis - SUPPLY SCNR BARCODE 2D PGM USB	135763-01	358833	1	
Pyxis - TIM ORIS PICIS Facility License	135843-01	358842	1	
Pyxis - KIT, 2D BARCODE SCANNER	137049-01	358845	1	
Pyxis - KIT PARASSIST TC51 HANDSET	138475-01	358672	1	
Pyxis - KIT PARASSIST TC51 SGL SLOT CHARGER	138476-01	358673	1	
Pyxis - KIT PARASSIST TC51 5-SLOT CHARGER	138477-01	358678	1	
Pyxis - KIT PARACTIVE RF V11	138566-01	358681	1	
Pyxis - PARASSIST MC75 SYMBOL COMPLETE V1.2	146-04	358684	1	
Pyxis - RFID Auxiliary v1 Single Column PRS	153-01	358687	1	
Pyxis - SUPPLYSTATION RF	153-02	358702	1	
Pyxis - PYXIS SUPPLYSTATION RF v2.0 W/6 SHELVES	153-03	358707	1	
Pyxis - PYXIS SPLYSTATION RF v2.0 INTL W/6 SHLF	153-04	358711	1	
Pyxis - RFID Tag Associator v1	154-02	358714	1	
Pyxis - ASSY CATHRACK SUPPLY RF	356852-01	358717	1	
Pyxis - KIT PRINTER ZEBRA ZT410R SUPPLY RF	356916-01	358718	1	
Pyxis - KIT PRINTER ZEBRA ZD500R SUPPLY RF	356917-01	358719	1	

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ATTACHMENT A-5
Additional Exceptions to Prohibited Products

Specific Pharmaceutical Over the Counter Treatments (OTC): The Vendor can sell the following OTC Products under the Non-Core category:

1. Cold/Cough Remedies
2. Vitamins
3. Supplements
4. Pain relievers
5. Irrigation Solutions
6. Topical Pain Relief
7. Antifungals
8. Antiseptics
9. Allergy Relief
10. Digestive Medication

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ATTACHMENT B
Alternative Product Categories

Not Applicable

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ATTACHMENT C
Services and Pricing

Concordance Capital: Furniture, delivery, and installation.	Capital furniture has a baseline price for a standard model. Member can expect to pay additional fees above the base price for upgrades, premium add-ons or additional accessories/component options selected by the members. Freight charges and installation (white glove service) will also be added to capital furniture orders. The pricing and terms for these services will range based on the manufacturer, product selection and additional services a member request. Additional services not to exceed 30% of the total order cost.
White Glove Service: Our team will coordinate with the manufacturer to ensure that your member has all appropriate training literature and customer support for the products purchased. Concordance will take ownership for any commodities that require pre-delivery planning and will ensure that delivery requirements and ship-to addresses are correct prior to scheduled shipment. Concordance will track the shipment of this product and ensure that the delivery meets the MMCAP Infuse member agreed upon delivery window. Our team then inspects all products to ensure that commodities are in excellent condition and free from any damage before set-up. Once delivery/products have been accepted, Concordance will set-up, install and stage the products included in the white glove service. Concordance install team will take extra precautions to ensure that doors, entry ways, hallways have the appropriate clearance and protection to ensure no damage to your products or building structure occurs during the unloading and moving process. Concordance will unbox, assemble, install, remove packaging/debris and ensure that all products are properly installed and ready for patient use.	This service fee will range based on the total price of the order and number of products needing installation.
Strategic Storage	See Attachment C 3PL and Strategic Sourcing
3PL Services	See Attachment C 3PL and Strategic Services

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Attachment C-1

Category	Service	Capability (Y/N)	Additional Detail	Fee *Notated base services will be incorporated into a separate exhibit*
Transportation	Pick up products/equipment from provider facility and deliver to storage facility	Y		Cost +10%
Transportation	Pick up products/equipment from storage facility and deliver to provider facility	y		Cost +10%
Transportation	Refrigerated material transportation	Y		Cost +10%
Transportation	Hazardous material transportation	N		N/A
Transportation	Delivery of products transported on carts ready to be taken off truck and wheeled to provider departments (may or may not include delivery from tru	Y		Cost +10%
Transportation	Emergency deliveries (within 4 hours, courier, non- business hours)	Y		Cost +10%
Transportation	Return of authorized goods (RGA) to storage facility from provider facilities	Y		Cost +10%
Handling	Inbound receiving of products/equipment and put into storage (cases on pallets or full pallets)	Y	Not to Exceed	$20/Pallet
Handling	Additional stretch wrapping of pallets for long term storage	Y	Not to Exceed	$10/Pallet
Handling	Processing of returns (RGA) from provider facilities and returning to storage (stock) or supplier (non stock)	Y		Cost +10%
Handling	Bulk pick (picking of supplies on pallets or in cases onto pallets)	Y	Not to Exceed	$25/Pallet
Handling	Small unit (LUM) picking into plastic totes or small containers	Y	Not to Exceed	$1.75/Line
Handling	LUM picking into totes with plastic liners	Y	Not to Exceed	$1.75/Line
Handling	Outbound logistics (pack/stack/stretch wrap, prepare for shipment)	Y	Not to Exceed	$20/Pallet
Handling	Cardboard De-casing (remove all products from brown cardboard cases)	Y	Not to Exceed	Cost +10%
Handling	Crossdocking (includes receipt and immediate readiness for shipment)	Y	Not to Exceed	$25/Pallet
Handling	Special handling of refrigerated, high security, or hazardous materials	Y	Not to Exceed	Cost +10%
Handling	Hazmat certification	N		N/A
Handling	Patient labeling of LUM products (stickering)	Y	Not to Exceed	$.20/label
Handling	Kit packing of products	Y		Kit based quote
Handling	Pallet Architecture (customized pallet stacking for delivery to provider facilities/departments)	Y		Cost based quote
Handling	Loading products onto carts ready for transportation/ delivery to provider facilities departments (includes stretch wrapping carts)	Y		Cost based quote
Handling	Emergency/stat orders (one-hour, non- business hours processing)	Y		Cost +10%
Handling	Records storage/ retrieval services	N		N/A
Handling	Document shredding services	N		N/A
Handling	Product /equipment disposal services	Y		Cost +10%
Storage	Storage of products in cases, totes, or on pallets (either on shelving or pallet racks)	Y	Not to Exceed	$25/Pallet
Storage	Lot, serial number, and expiration date tracking of individual products	Y		No Charge
Storage	Certified to handle cold storage	Y		No Charge
Storage	Custom storage for sterile items (clean room environment)	N		N/A
Storage	Temperature and humidity-controlled storage and monitoring (alarm if temp/humidity goes outside specified range)	Y		Included (dependant on scale/footprint)
Storage	Custom storage for high security items (drugs, implants)	Y		Included (dependant on scale/footprint)
Storage	Cycle count/audit	Y		Cost +10%
Storage	Physical inventory	Y		Annual Inventory: No Charge. Additional hourly rate +10%
Storage	Manage Customer owned Inventory (includes flags for automatic reorder points for inventory)	Y		Pricing Based on Customer Requirements
Storage	Manage Supplier Owned Inventory (includes flags for automatic reorder points for inventory)	Y		Pricing Based on Customer Requirements
Storage	Capital equipment storage	Y		Cost based quote
Storage	Records storage (in file boxes w/ labels/ bar codes)	N		N/A
Storage	Security	Y		Included with 3PL agreement
Storage	24hr Access	Y		Included with 3PL agreement
Equipment	Equipment assembly (in provider facility)	Y		Cost based quote
Equipment	Equipment installation	Y		Cost based quote
Technology	Real time Warehouse Management System	Y		Included with 3PL agreement
Technology	Electronic invoicing	Y		Included with 3PL agreement

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Attachment D-1
EXAMPLE ONLY

FORM OF CUSTOMER PASS THROUGH TERMS

These Supplemental End User Terms (this "Agreement"), effective as of the date of Customer's signature below (the "Effective Date"), are entered into by and between and ("Reseller" or "Distributor"), and [_____] ("Customer" or "Member") each a "Party" and, collectively, the "Parties." For clarity, each Customer is a member of MMCAP Infuse, a national cooperative operated by the State of Minnesota, Office of State Procurement. In respects to the Reseller and Customer/Member this Agreement shall be a supplement to contract MMSXXXXX between MMCAP Infuse and Reseller, (the "MMCAP Master Agreement"). This Agreement does not impact the terms and conditions of the MMCAP Master Agreement for the rest of the Membership and/or MMCAP Infuse. Capitalized terms in this Agreement will have the same meaning ascribed to such term under the MMCAP Master Agreement, unless otherwise defined herein.

RECITALS

WHEREAS, Reseller has contracted with CareFusion Solutions, LLC ("CareFusion"), a wholly owned subsidiary of Becton, Dickinson and Company ("BD"), to sell certain medication and supply technologies, including BD's BD Pyxis™ line of dispensing systems and related software ("BD Products") and implementation and support services ("Services") to Customer;

WHEREAS, the specific BD Products and Services being acquired by Customer from Reseller will be set forth in separate a Customer Agreement (as defined in **Section 1** (*Customer Orders*), below) between Customer and Reseller;

WHEREAS, in addition to any applicable purchasing agreement terms in the MMCAP Master Agreement, the BD Products and Services are subject to additional and supplemental terms and conditions reflected in the pass-through terms in this Agreement.

NOW THEREFORE, the Parties agree to the following terms and conditions:

GENERAL TERMS AND CONDITIONS

1. **Customer Orders; Customer Agreements.** Reseller and Customer may enter into various transactions for BD Products and Services, which will be provided pursuant to this Agreement and the MMCAP Master Agreement. The specific BD Products and/or Services for each transaction will be set forth in a separate customer order ("Customer Order") and a Customer Order may have one or more attachments (each, a "Customer Order Attachment"). Each Customer Order will create a separate contract (each, a "Customer Agreement"), each of which will be deemed to incorporate by reference: (i) this Agreement and the MMCAP Master Agreement, (ii) any Schedule attached to this Agreement that is applicable to the BD Products and/or Services provided under such Customer Order, and (iii) any Customer Order Attachments.

2. **Use of the BD Products**. Customer shall Only use BD Products: (i) for Customer's internal business purposes and not for resale; (ii) in the manner described in the applicable user guide provided by BD; and (iii) in accordance with applicable laws and regulations. Customer shall not, export, re-export or modify any BD Product, nor use any software with a product which was not licensed from or approved by BD. Customer consents to BD's right to inspect any Customer record regarding use of BD Products during Customer's regular business hours to verify compliance with the licensing and other terms of Reseller's agreement(s) with BD. BD will provide at least thirty (30) days' notice.

3. **Acceptance; Term Begin Date**. For purposes of the Agreement as related to the BD Products, "Accepted" or "Acceptance" shall mean that (i) the BD Products or Services have been delivered; (ii) as applicable, implementation Services have been completed for such BD Products, (iii) and the BD Products are Properly Performing as defined below. Customer shall execute BD's standard confirmation form, provided that Customer may reject a BD Product if it is not Properly Performing. "Properly Performing" or "Proper Performance" shall mean the BD Product is functioning substantially in accordance with the applicable user, specifications or product guide provided by BD ("User Guide"). "Term Begin Date" shall mean the Term Begin Date set forth in an Implementation Timeline, if any, provided that if no Term Begin Date is set forth in an Implementation Timeline or if there is no Implementation Timeline, then the "Term Begin Date" shall be the first date of the month following the Acceptance of the BD Product.

4. **Data Security and Rights.**

   a. During the term, BD will maintain a written information security program of policies, procedures and controls governing the processing, storage, transmission and security of Customer Data (as defined below) (the "Security Program"). The Security Program includes industry-standard practices designed to protect Customer Data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access. BD updates the Security Program to address new and evolving security technologies, changes to industry standard practices, and changing security threats, although no such update will materially reduce the commitments, protections or overall level of service provided to Customer as described herein. For purposes of this Agreement, "Customer Data" means data that is created by Customer, or as between Customer and BD, originates with Customer and is stored, transmitted to, or

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accessed by BD through a BD Product, as applicable, and "BD Data" means any data relating to or arising from the business operations or plans, services and products of BD or the performance or use of the BD Products or that may aide BD in optimizing resources and support; may be used to improve products or services, may be used in research and development regarding products or services; may be used in verification of security and data integrity of products or services or in resource planning, industry trends, benchmarking, or contract administration (e.g., data used for sales compensation), and any personal data that is aggregated and not identified or identifiable to any individual. For avoidance of doubt, Customer Data includes PHI and personally identifiable information of any member of Customer's workforce and excludes BD Data.

b. BD's information security policies shall be documented and communicated to personnel, contractors, and third parties with access to Customer Data, including appropriate ramifications for non-compliance, and are available at https://cybersecurity.bd.com/?_ga=2.254414920.1133650491.1634222395-1074638392.1514910707.

c. BD shall perform risk assessments with the objective to regularly test, assess and evaluate the effectiveness of the Security Program supporting the Software. BD shall have the risk program audited annually by an independent third-party in accordance with **Section 3(d)** below.

d. BD shall use commercially reasonably efforts to establish and maintain sufficient controls to meet certification and attestation for the objectives stated in ISO 27001, ISO 27018, SSAE 18 / SOC 1 and SOC 2 Type 2 (or equivalent standards) for the Security Program supporting the Software. Commencing on January 1, 2023, BD shall, at least once per calendar year, obtain an assessment against such standards and audit methodologies by an independent third-party auditor and, upon request make the executive reports available to the Customer.

e. Any data center facilities include (1) physical access restrictions and monitoring; and (2) fire detection and fire suppression systems both localized and throughout the data center floor. The systems, machines and devices include (1) physical protection mechanisms; and (2) entry controls to limit physical access.

f. BD shall use NIST 800-88 industry standard (or substantially equivalent) destruction of sensitive materials, including Customer Data, before such media leaves BD's data centers for disposition.

g. BD conducts regular security risk evaluations to identify critical information assets, assess threats to such assets, determine potential vulnerabilities, and provide for remediation. When software vulnerabilities are revealed and addressed by a vendor patch, BD will obtain the patch from the applicable vendor and apply it within an appropriate timeframe in accordance with BD's then-current vulnerability management and security patch management standard operating procedure and only after such patch is tested and determined to be safe for installation in all production systems.

h. BD updates antivirus, anti-malware, and anti-spyware software on regular intervals and centrally logs events for effectiveness of such software.

i. BD uses industry standard encryption to encrypt Customer Data in transit over public networks to the Software.

j. Software patches are regularly made available to Customers to address known vulnerabilities.

k. Software shall not contain viruses, malware, worms, date bombs, time bombs, shut-down devices, that may result in, either: (a) any inoperability of the Software; or (b) any interruption, interference with the operation of the Software (collectively, "Illicit Code"). If the Software is found to contain any Illicit Code that adversely affects the performance of the Software or causes a material security risk to Customer Data, BD shall, as Customer's exclusive remedy, use commercially reasonable efforts to remove the Illicit Code or to advise and assist Customer to remove such Illicit Code.

l. BD maintains a disaster recovery related plan for BD-hosted Products and Services that is consistent with industry standards for the Software.

m. BD monitors, analyzes, and responds to security incidents in a timely manner in accordance with BD's standard operating procedure. BD's security group will escalate and engage response teams as may be necessary to address a security incident. BD will report to Customer any accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Customer Data (a "Breach") without undue delay following determination by BD that a Breach has occurred. As information is collected or otherwise becomes available, BD shall provide without undue delay any further information regarding the nature and consequences of the Breach to allow Customer to notify relevant parties, including affected individuals, government agencies, and data protection authorities in accordance with data protection laws. Customer will cooperate with BD by providing any information that is reasonably requested by BD to resolve any security incident, including any Breaches, identify its root cause(s), and prevent a recurrence. Customer is solely responsible for determining whether to notify the relevant supervisory or regulatory authorities and impacted parties and for providing such notice.

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n. This **Section 3** does not apply to: (a) information shared with BD that is not Customer Data; (b) data in Customer's VPN or a third-party network; and (c) any data processed by Customer or its users in violation of the Agreement.

o. BD may access and use Customer Data: (i) only to provide BD Products, Support, and Implementation Services; (ii) to improve BD Products and to develop new BD Products to improve the delivery, quality, or safety of healthcare; (iii) for benchmarking; and (iv) for aggregate analysis. Notwithstanding the foregoing, BD may only use or disclose PHI in accordance with **Section 11**. If Customer Data contains PHI, then BD will use such Data in conformance with the Privacy Rules. For purposes of this Agreement, "PHI" means "protected health information" as defined in 45 CFR §160.103, of any patient of Customer.

5. **Software Sub-License**. For the purpose of this Agreement, "Software" means all BD-owned software (e.g., application software, embedded and/or integrated software, interface software, custom drivers) and any related software owned by a third party ("Third Party Software"). Reseller, as licensee of BD, grants Customer a limited, perpetual, non-exclusive, non-transferable sub-license to use BD Software at Customer's site(s) (as set forth in the applicable Reseller Order) during the applicable term, provided that all licensing of Third Party Software will be subject to **Section 9** of this Agreement. Each sub-license Customer acquires from BD for use of the embedded Software is valid only for use with the particular unit of BD Product, identified by serial number, within which it is embedded. Each sub-license granted to Customer is: (i) perpetual, unless a different license term is expressly set forth in the applicable Customer Agreement under which the Software is licensed to Customer; and (ii) subject to termination pursuant to the terms of this Agreement and/or the MMCAP Master Agreement.

6. **Software Sub-License Restrictions; Scope of Use.** Customer will not: (i) translate, disassemble, decompile, reverse engineer, alter, modify or create any derivative work of any portion of Software; (ii) make any copies of Software or its documentation, except one (1) copy for back-up or archival purposes; (iii) sell, assign, sublicense, distribute, rent, or otherwise transfer Software to a third party; (iv) separate integrated Software from any BD Product, or otherwise use integrated Software except as an integrated part of the applicable BD Product; or (v) unless otherwise approved in writing, use the Software in conjunction with any BD-manufactured Product that was not provided to Customer by BD or Reseller. Without limiting the license restrictions in this Section and as an additional obligation, Customer will adopt and implement reasonable measures to guard against unauthorized use of Software. BD may suspend or revoke user codes, or take other appropriate action, if BD reasonably believes that a security violation has occurred. Additional scope of use restrictions for Software may be set forth in the applicable Reseller Order.

7. **Intellectual Property Ownership.** All right, title and interest in the intellectual property embodied in the BD Products and related documentation (including, without limitation, all copyrights, patents, trademarks, trade secrets, trade names, and trade dress), as well as the methods by which the BD services are performed and the processes that make up the BD services, will belong solely and exclusively to BD or Reseller. Neither Reseller nor its Customers has any rights in any such intellectual property, except as otherwise expressly granted by BD.

8. **Technical Environment; Implementation Services**. Customer will maintain, the technical environment specified by BD in applicable User Guides and provided during implementation to support the technical and functional workflow requirements for the BD Products.

a. **Project Resources.** BD and Customer agree to provide qualified resources throughout the duration of the project.

b. **Implementation Activities.** The project will be completed in stages as set forth in each Implementation Timeline. BD and Customer will complete any applicable technical, infrastructure, and workflow assessment ("Implementation Assessment") at Customer's site(s), providing the basis for the implementation activities set forth therein and in each Implementation Timeline ("Implementation Activities"). BD and Customer shall use commercially reasonable efforts to complete the Implementation Activities on or before the applicable Completion Date(s) set forth in the Implementation Timeline(s).

c. **Medication Handling.** BD employees and agents ("BD Personnel") shall not handle Customer's medications. Customer must be physically present and capable of observing BD Personnel during any implementation activity in which BD Personnel have access to Customer's medications. If Customer fails to do so, then BD may re-schedule that activity and, upon invoice, Customer will reimburse BD for expenses related to re-scheduling that activity.

d. **Conditions**. The Completion Dates set forth in an Implementation Timeline are contingent upon BD's timely receipt of all properly executed contract documents from Customer prior to the applicable Completion Date and the provision of adequate Customer resources as outlined therein. If Customer fails to provide access or otherwise prevents BD from conducting an Implementation Activity, then (i) BD may adjust affected deadlines and re-schedule the activity, and (ii) Customer shall reimburse BD for expenses incurred due to re-scheduling.

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9. **Support Services.** If under a Customer Agreement, Customer has acquired Support (as defined in **Exhibit A, Schedule 1**, attached hereto) to be provided by BD, then such Support will be provided in accordance with BD's support plan applicable to the BD Products under an applicable Customer Agreement. BD's support plans and the applicable terms for such Support are as set forth in **Exhibit A, Schedule 1** attached hereto (the, "Support Terms and Conditions"). For Software Products which are not integral to the BD Products covered by the Support Terms and Conditions under **Exhibit A, Schedule 1**, BD will provide technical support for the products Monday through Friday, between 6:00 a.m. and 5:00 p.m. Pacific Time. Customer may access support by contacting the BD Technical Support Center ("TSC") by phone at 1.800.727.6102 or through the TSC's self-service portal at https://eim.carefusion.com/Account/Login?to=ICSS. From time to time, BD may enhance, modify, discontinue, or provide new features or functions to such Software Products, which may include additional terms, conditions and fees. Some enhancements, modifications and new features or functions may require use of additional Data or other information, including Data and other information from Customer's third-party medical and health information technologies. Additional Hardware, Software or Services may be required for the BD Products to access such Data or other information, for which BD may charge additional fees. In no event will BD materially lessen core features or functions.

10. **Third Party Software**. Customer's possession, use, or access to Third Party Software does not transfer any ownership of such software nor any intellectual property rights to Customer. Customer may use Third Party Software only in conjunction with BD Products, and not as a stand-alone product. Customer may not make any copies of Third Party Software for any purpose unless expressly authorized by BD. To the extent allowable by law, Customer must erase or destroy all Third Party Software upon notice from BD. Third Party Software may contain components that enable and facilitate the use of certain Internet-based services. Customer acknowledges and agrees, that a Third Party may automatically check the version of Third Party Software and/or its components that Customer is using and may provide upgrades or supplements to Third Party Software which may be automatically downloaded. No personally-identifiable information will be obtained through these services.

11. **Responsibility for Medical Care.** BD Personnel are not responsible for the delivery of medical care or other services to any patients. Accordingly, Customer will not rely upon BD Personnel to practice medicine or provide patient care.

12. **Business Associate Terms**.

    a. **Permitted Uses and Disclosures by Business Associate.** In the performance of its obligations under the Agreement, BD will receive PHI from or on behalf of Customer. BD shall not use or further disclose PHI except:

        i. Business Associate may use or disclose protected health information as necessary to perform the services set forth in the Agreement; or

        ii. Business Associate may use protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; or

        iii. Business Associate may use or disclose PHI as otherwise expressly permitted in writing by Covered Entity; or

        iv. Solely to the extent permitted by 45 C.F.R. §164.514, Business Associate shall de-identify PHI and use such de-identified PHI only as permitted by law and in a manner that would not violate the HIPAA Rules and the Agreement; or

        v. If BD provides data aggregation services to Customer, BD may use PHI to provide Data Aggregation services to Customer as permitted by the HIPAA Rules.

        vi. "HIPAA Rules" means Health Insurance Portability and Accountability Act of 1996, and regulations promulgated thereunder, and the Health Information Technology for Economic and Clinical Health Act (Division A, Title XIII and Division B, Title IV, of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5).

    b. **Minimum Necessary**. In conducting functions and/or activities under the Agreement that involve the use and/or disclosure of PHI, BD shall make reasonable efforts to limit the use and/or disclosure of PHI to the minimum amount of information necessary to accomplish the intended purpose of the use or disclosure.

    c. **Protection of PHI**. BD shall use appropriate safeguards to prevent use or disclosure of PHI other than as permitted by the Agreement.

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d. **Reporting**. BD shall promptly and without undue delay report to Customer any Breach, Security Incident, or improper Use or Disclosure of PHI as required by the HIPAA Rules and applicable State law. Notwithstanding the foregoing, no report shall be required for unsuccessful attempts at unauthorized Access, Use, Disclosure, modification, or destruction of PHI or unsuccessful attempts at interference with systems operations in an information system, which shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above with respect to Business Associate's information systems, unless such incident appears to be an attempt to obtain unauthorized access, use or disclosure of Covered Entity's electronic PHI.

e. **Mitigation**. BD shall mitigate, to the extent practicable, any harmful effect that is known to BD of a use or disclosure of PHI by BD in violation of the Agreement.

f. **Subcontractors and Agents.** BD agrees to ensure that any subcontractors and agents to whom it provides PHI received from, or created, or received by, BD on behalf of Customer agree in writing to the same restrictions and conditions set forth in the business associate provisions of the HIPAA Rules that apply through the Agreement to BD with respect to such information in accordance with such rules.

g. **Accounting to HHS**. BD shall make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary of Health and Human Services (the "Secretary"), in a time and manner designated by Customer or the Secretary, for the purpose of the Secretary determining Customer's compliance with the HIPAA Rules.

h. **Documentation of Disclosures**. BD shall document and maintain documentation of such disclosures of PHI and information related to such disclosures as would be required for Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA Rules.

i. **Accounting of Disclosures**. If BD receives a request from an individual pursuant to the HIPAA Rules for an accounting of Customer's disclosures of the individual's PHI and, in the course of attempting to satisfy the individual's request, Customer provides a written request to BD, then Business Associate shall promptly provide Customer the information required to be included in an accounting pursuant to applicable HIPAA Rules for BD's disclosures of PHI that are subject to an accounting pursuant to HIPAA Rules.

j. **Access and Designated Record Set.** To the extent BD maintains PHI in a "Designated Record Set," as that term is defined in the HIPAA Rules, BD agrees to provide access, at the request of Customer, and in a reasonable time and manner, to PHI in a Designated Record Set to Customer in order for Customer to meet the requirements under the HIPAA Rules. If applicable, BD agrees to make any amendment(s) to PHI in a Designated Record Set that Customer directs or agrees to pursuant to HIPAA Rules at the request of Customer and in a reasonable time and manner.

k. To the extent the Business Associate is to carry out one or more of Covered Entity's obligations(s) under the HIPAA Rules, it will comply with the requirements that apply to the Covered Entity in the performance of such obligation(s).

l. **Return or Destruction of PHI**. Upon termination of the Agreement for any reason, BD shall either return or destroy, if feasible, all PHI received from Customer, or created, maintained or received by BD on behalf of Customer. This provision shall apply to all such PHI in the possession of subcontractors or agents of BD. BD shall retain no copies of the PHI. If BD determines that returning or destroying the PHI is infeasible, then BD shall provide to Customer notification of the conditions that make return or destruction infeasible. BD shall extend the protections of this Section to such PHI and limit further uses and disclosures of such PHI to those purposes that makes the return or destruction infeasible, for so long as BD maintains the PHI.

m. **Electronic PHI Safeguards.** To the extent BD creates, receives, maintains or transmits Electronic PHI on behalf of Customer, BD shall comply with the applicable HIPAA Rules and shall implement Administrative, Physical and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic PHI, in accordance with the applicable HIPAA Rules, and ensure that any agent, including a subcontractor, that creates, receives, maintains or transmits Electronic PHI on BD's behalf will (i) implement reasonable and appropriate safeguards to protect Electronic PHI; and (ii) comply with any applicable requirement of the applicable HIPAA Rules.

n. **Conformance with Modification of HIPAA Rules or Regulations**. If an amendment to or modification of HIPAA Rules, requires modification of this Section to permit Customer or BD to remain in compliance during the term of the Agreement, then BD and Customer shall enter into good faith negotiations to amend this Section to conform to any change required by such amendment or modification. Notwithstanding the foregoing, if Customer and BD have not amended the Agreement to address a law or final regulation that becomes effective after the Effective Date and that is applicable to the Agreement, then upon the effective date of such law or regulation (or any portion thereof) the Agreement shall be amended automatically and deemed to incorporate such new or revised provisions as are necessary

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for the Agreement to be consistent with such law or regulation and for Customer and BD to be and remain in compliance with all applicable laws and regulations.

o. **Survival**. The obligations of BD pursuant to this Section shall survive the termination, cancellation or expiration of the Agreement.

13. **Confidentiality.** Except as provided below, to the extent allowable by law, neither Party shall disclose Confidential Information to any other person, or entity other than the Federal Government, a Party's advisors for purposes consistent with the Agreement, or as required by law. In the event a Party in receipt of Confidential Information ("Receiving Party") is requested or becomes compelled, by a court of competent jurisdiction, administrative agency or other governmental body, to disclose Confidential Information of the Party that disclosed the Confidential Information ("Disclosing Party"), the Receiving Party will provide the Disclosing Party with prompt written notice. It will be up to the Disclosing Party (and at their expense) to further protect the information. After ten (10) days, the Receiving Party may disclose the information if required to do so by law. BD's obligations in this paragraph and the exceptions below supersede any obligations of BD or any BD representative contained in any confidentiality agreement or statement executed or acknowledged at the entry of any Customer facility, which agreements or statements are void. For purposes of this Agreement, "Confidential Information" means any confidential or proprietary information of a Party (such as, with respect to Customer, Customer Data, and, with respect to BD, BD Data). .

The obligations of this confidentiality section do not apply to information that: (i) was in the public domain or was known to the Receiving Party before the information was received by the Receiving Party; (ii) is developed by the Receiving Party or on its behalf independently of the information disclosed by the Disclosing Party as shown by written record; (iii) is acquired by the Receiving Party from a third party not under an obligation of confidentiality to the Disclosing Party; or (iv) becomes public knowledge without breach by the Receiving Party of any obligations of confidence to the Disclosing Party.

14. **Assignment.** Neither Party may assign any rights or obligations under this Agreement without the other Party's prior written consent, which will not be unreasonably withheld.

15. **WARRANTIES; EXCLUSIONS.**

a. **Product Warranty Period**. BD warrants that for the period of ninety (90) days from the Term Begin Date (the "Warranty Period"), the BD Products shall be Properly Performing. If Customer reports to BD (via the TSC defined above) that a BD Product is not Properly Performing during the Warranty Period, then, BD shall repair or replace the BD Product (at BD's sole option), as applicable. BD does not warrant that the operation of the BD Products will be uninterrupted. A longer Warranty Period may be negotiated between the Parties and documented on this Agreement or in the Support Terms and Conditions attached hereto.

b. **Services Warranty**. BD warrants that Services will be performed in a professional and workmanlike manner by personnel trained to provide the Services. If Customer reports to BD any substantial nonconformance with this warranty, BD will redo the Services to establish Proper Performance.

c. **Warranty Exclusions**. Any unauthorized use or misuse of a BD Product or unauthorized access to a BD Product, including without limitation, any transfer of a BD Product to a third party without BD's advance written consent, or any performance issue resulting from an exclusion set forth in **Section 7** of the Support Terms and Conditions under **Exhibit A, Schedule 1,** attached hereto, as applicable, shall void the warranties herein (each, a "Warranty Exclusion"). This limited warranty is not transferrable without BD's prior written consent.

d. BD DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY QUIET ENJOYMENT, ACCURACY OF DATA, AS WELL AS ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, OR THE ABSENCE OF ANY DEFECTS THEREIN. IN ADDITION, NO WARRANTY IS MADE BY BD ON THE BASIS OF TRADE USAGE, COURSE OF DEALING OR COURSE OF TRADE.

16. **LIMITATION OF LIABILITY** NEITHER BD NOR CUSTOMER WILL BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES (INCLUDING, WITHOUT LIMITATION LOSS OF BUSINESS OR PROFITS), WHETHER BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS OF LIABILITY WILL APPLY EVEN IF THERE IS A FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THESE PASS-THROUGH TERMS AND CONDITIONS OR ANY CUSTOMER ORDER.

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These terms apply to support services ("Support") for BD Pyxis™ MedStation™ ES System Products, BD Pyxis™ SupplyStation™ Products, BD Pyxis™ IV Prep Products, and BD Pyxis™ Logistics Products (collectively, "Pyxis Products"), as set forth in the applicable Customer Agreement and MMCAP Master Agreement between Reseller and Customer, and solely to those products. The Customer Agreement identifies the Support Program (Comprehensive, Enhanced, or Premier). Distributor's and BD's responsibilities for Support of the Pyxis Products will vary according to the chosen Support Program, as set forth below.

1. Support Term. The "Initial Support Term" for a Pyxis Product means the number of months stated in the applicable Customer Agreement, beginning on the Term Begin Date as stated in the applicable Implementation Timeline. If there is no Term Begin Date set forth in an Implementation Timeline, then the Initial Support Term will begin on the first day of the month after the Pyxis Product is Accepted. The Parties may mutually agree to extend the Initial Support Term (any such period beyond the Initial Support Term as set forth in the Customer Agreement shall be an "Extended Term", and together with the Initial Support Term, the "Support Term"). Either Party may terminate an Extended Term in accordance with the Parties agreement to extend the Support Term, or if not stated, upon no less than thirty (30) days' prior written notice.

2. Monthly Support Fees and Payment. During the Initial Support Term, the Monthly Support Fee shall be as stated in the applicable Customer Agreement or MMCAP Master Agreement, as applicable, and during each Extended Term the Monthly Support Fee will be mutually agreed upon by the Parties prior to the beginning of such Extended Term (the "Monthly Support Fee"). Customer will pay the Monthly Support Fees on the first business day of each month during the Support Term.

3. General Support. BD shall provide Support, as identified in these terms and set forth in the applicable Customer Agreement. Notwithstanding any contrary Support Plan identified on a Customer Agreement for BD Pyxis™ IV Prep or BD Pyxis™ Logistics Products, only the Comprehensive Support Plan shall be applicable to such Pyxis Products. If Customer at any time fails to pay any Monthly Support Fees for Support, then BD may cease providing such Support upon thirty (30) days' notice, and cease providing any or all Support to Customer for so long as the fees remain unpaid. Customer shall facilitate BD's provision of Support, including by (i) using reasonable efforts to cause Users to obtain and maintain reasonable competence in the use of Products, (ii) ensuring that the applicable elements of Customer's technology environment meet the system requirements specified in the applicable documentation, (iii) properly maintaining each element of Customer's technology environment, and (iv) discontinuing the use of each element that has reached the end of its useful life. For the avoidance of doubt, BD has no obligation to maintain, repair or replace any element of Customer's technology environment.

3.1 Properly Performing.

(a) During the Support Term, BD will provide parts and labor necessary to keep the Pyxis Products and BD-provided interfaces ("Interfaces") performing in accordance with the material specifications of the applicable User Guide ("Properly Performing"), subject to **Section 7.3**. During any Extended Term, BD will use commercially reasonable efforts to restore the functionality of any Pyxis Product which is not Properly Performing, subject to **Section 7.3**, but will have no obligation to replace Equipment or Software. If, during an Extended Term, BD is unable to restore the functionality of the Pyxis Product, then in its sole determination, BD may elect to terminate the Support Term for such Pyxis Product, effective as of the first day of the month following such determination.

(b) If the MMCAP Master Agreement terminates or expires before the end of the Initial Support Term or subsequent Extended Term of the Customer Agreement, the Customer Agreement will remain effect through the stated term. The terms and conditions of the MMCAP Master Agreement can be incorporated by the Customer and BD for the purposes of compliance and enforcement of issues not covered in the Customer Agreement.

(c) If (i) the MMCAP Master Agreement is terminated; or (ii) if the Reseller and Customer do not mutually agree to enter into an Extended Term in accordance with **Section 1**, above, then the, Customer may elect to do the following to obtain Support for the Pyxis Products:

(i) Option 1: Customer may contact BD's Technical Support Center to request Support on a time and materials basis, which includes, without limitation, the time and materials reasonably required to trouble shoot, diagnose, and repair the performance issue, at BD's then-current time and materials rates ("Time and Materials Support"). BD will then invoice Customer for any Time and Materials Support, and Customer will pay any amounts due within thirty (30) days from receipt of such invoice.

(ii) Option 2: Customer may elect to enter into a new and separate support agreement with BD, subject to Customer's execution of the applicable contractual documents, including, but not limited to BD's standard Master Agreement with applicable Schedules and BD's corresponding Customer Order, subject to BD's then-current pricing for such Support.

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3.2 Technical Support. To obtain technical support, Customer may contact BD's Technical Support Center, by phone at 1.800.727.6102 or online at www.BD.com/css, twenty-four (24) hours a day, seven (7) days a week, each day of the year.

3.3 Remote Issue Resolution. When Customer reports a failure of a Pyxis Product to Properly Perform (an "Issue"), BD will promptly respond to Customer's report. BD will request additional information about the Issue, if needed, will assess the severity of the Issue in consultation with Customer, and will begin work to verify, diagnose and resolve the Issue. If remote support technologies ("RSS") are deployed with the Product, BD will use RSS as appropriate in its work to verify, diagnose and resolve the Issue. Customer will provide high-speed internet access and firewall modifications to enable connectivity to the Pyxis Product via RSS, if applicable. If Customer's system, connectivity, or personnel do not permit RSS on a Pyxis Product, then: (i) any Guaranteed Response Time or Uptime (as defined below) applicable to that Pyxis Product will be void; and (ii) Customer will pay BD on a time and materials basis for any onsite services. Customer will permit BD to install and maintain at Customer's site the applications necessary to allow the deployment of Updates and Upgrades (as defined below) by RSS. Where direct access to equipment is required, Customer will allow BD such access. For applicable Pyxis ES Products, as defined in **Section 6.7**, BD will provide monitoring of Pyxis ES Product performance via RSS and will notify identified Customer representatives of specific alarms and events where BD has acted either to prevent or correct a service condition.

3.4 On-Site Issue Resolution. If BD determines that on-site service is necessary for proper verification, diagnosis or resolution of an Issue, it will promptly dispatch a field service technician to Customer's facility, or, if BD determines that the Issue does not require immediate attention, it will schedule on-site service for a mutually-agreed date. BD will resolve Equipment Issues by repairing or, as needed, by replacing the Equipment, provided that BD will not be obligated to replace any Equipment during an Extended Term, unless otherwise stated under an agreed upon warranty.

4. Support of Equipment. For Equipment, in addition to the Support obligations outlined in **Section 3** above, BD will provide additional services or guarantees, based on the support plan identified in the Customer Agreement, as summarized in **Table 1** below and further described below.

Table 1 – Support Service Tiers

Support Services	Comprehensive	Enhanced	Premier
Guaranteed Response Time	**24 Hours**	**8 Hours**	**6 Hours**
Device Uptime Guarantee	not included	√	√
Preventative Maintenance	√	√	√
Equipment Moves	√	√	√
Replacement Parts	√	√	√

4.1 Guaranteed Response Time (On-Site Service). When BD determines that immediate on-site service is required, BD guarantees that a technician will arrive at Customer's site within six (6) hours after dispatch under Elite Support, within eight (8) hours after dispatch under Premier Support, and otherwise within twenty-four (24) hours after dispatch unless Customer requests scheduled time (the, "Guaranteed Response Time"). For any failure to meet this guarantee, Customer, will be entitled to credits against Customer's monthly Support fees, as follows: (i) for Premier Support, an amount equal to five percent (5%) of the fees for all Pyxis Products at the site of the affected Pyxis Product; (ii) for Enhanced Support, an amount equal to twenty percent (20%) of the fees for the affected Pyxis Products; and (iii) for Comprehensive Support, an amount equal to five percent (5%) of the fees for the affected Pyxis Products.

4.2 Equipment Uptime Guarantee. For Premier and Enhanced Support, BD guaranties that, in any calendar month (i) the product of the number of hours in the month and the average number of RSS-enabled devices at a Customer site in the month ("Total Device Hours"), less (ii) the number of hours in the month required to resolve Issues (other than low priority Issues) for such Equipment at the site will not be less than ninety seven percent (97%) of Total Device Hours ("Uptime"). If BD fails to meet this guarantee due to no fault of the Customer, Customer will be entitled to a credit against Customer's Monthly Support Fee for such devices at the site in an amount equal to ten percent (10%) of the Monthly Support Fee, for Premier Support, and five percent (5%) of the Monthly Support Fee for Enhanced Support. Customer shall give BD notice of any and all such failures in a quarter not later than the last day of the first month of the following quarter. All credits will be applied to the Monthly Support Fee for the third month of the next calendar quarter.

4.3 Preventative Maintenance. BD will perform recommended onsite preventative maintenance of Equipment in accordance with BD's then-current preventive maintenance schedule.

4.4 Equipment Relocation. Upon thirty (30) days' written notice from Customer, BD will relocate eligible Equipment to another Customer facility within one hundred (100) miles. Relocation services will be provided during normal business hours or as otherwise mutually agreed upon by Customer and BD. A list of eligible Equipment is available at cp.BD.com.

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5. Software Services. For those Pyxis Products that are Software, in addition to the Support obligations outlined in **Section 3** above, BD will provide additional services, based on the support plan identified in the Customer Agreement, as summarized in Table 2 below.

Table 2

Support Services	Comprehensive	Enhanced	Premier
Remote Support Services	√	√	√
Updates and Upgrades	√	√	√
Software Patching	√	√	√
Virtual Machine (VM) Deployments	√	√	√
Proactive Monitoring*	√	√	√
Project Management for Upgrades	√	√	√
Online Learning	√	√	√
Server Migration	not included	not included	√
Knowledge Portal for Dispensing Products	√	√	√
Remote Data Support	not included	√	√
Remote Practice Support	not included	√	√
Dispensing System Manager Courses Tuition Waiver	not included	1/contract	1/year
Dispensing System Data Workshop Tuition Waiver	not included	not included	2/year
Annual On-Site Consulting	not included	not included	8hours/devices

5.1 Updates. "Update" means a bug fix, error correction, virus update, minor enhancement or modification to existing features to maintain the security or operation of the Software. Update also includes BD-approved software patches for its Software. During the Support Term, if BD generally releases an Update to the Software, then BD will install the Update and will deliver notice to Customer of the Update. Customer will promptly test the connections between the Pyxis Product and Customer's information system.

5.2 Upgrades. "Upgrade" means a major enhancement, new feature or other improvement to the Software, but does not include any Equipment, Third Party Software, or any other Software that BD generally licenses separately. During the Support Term, if BD generally releases an Upgrade to the Software, then BD will install the Upgrade and will deliver notice to Customer of the Upgrade.

5.3 Server Upgrades. For Premier Support, BD will provide support services and BD licenses on a one-time basis to upgrade Distributor's server to the latest version if required in order to support a Product release.

5.4 Virtual Machine (VM) Services. For Software deployed using VM technology, if the applicable relational database server (e.g., MSSQL) instance is housed locally in the BD-provided VM container, then BD will provide services for (i) database backup and recovery, (ii) operating system patches, updates and security, and (iii) the applicable relational database server (e.g., MSSQL). If the applicable relational database server instance is not housed locally in the BD-provided VM container then Customer shall have these obligations as set forth in **Section 6.4**.

5.5 Project Management for Upgrades. BD will remotely assist Customer in managing project tasks and deliverables for Software Upgrades. Customer is entitled to 20 hours of consulting in each annual period (unused hours do not carry over to succeeding periods). Customer may schedule this service no less than six (6) weeks in advance.

5.6 Online learning. BD will provide Customer with access to its online learning management system. Customers with access to this portal can also view scheduled trainings and webinars. In addition, Customer may participate in BD-hosted webinars with clinicians to discuss best practices in using the Software. Webinars may be accessed at bd.com/LearningCompass.

5.7 Remote Data Support. For qualifying support tiers, as described in Table 2 of this **Section 5** above, BD will provide access to qualified consultants to address Customer data set questions and concerns and to assist with the interpretation of Knowledge Portal. To obtain data support, Customer may contact pyxissupport@bd.com. BD will monitor and respond within 24 hours of receipt Monday through Friday from 5:00 a.m. to 5:00 p.m. Pacific Time.

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5.8 Remote Practice Support. For qualifying support tiers, BD will answer Customer's questions about features, functions and operation of the Software. To obtain remote practice support, Customer may contact pyxissupport@bd.com. BD will monitor and respond within 24 hours of receipt Monday through Friday from 5:00 a.m. to 5:00 p.m. Pacific Time.

5.9 Dispensing System Manager Courses Tuition Waiver. Beginning upon execution of the first Customer Agreement for Pyxis MedStation ES Products with an applicable Support Plan under this Schedule, not to exceed once during each twelve months during the Support Term, BD will waive tuition for qualifying support tiers as in Table 2 above for Customer staff to attend a generally available system manager course held at BD's facility. The number of tuition seats available on an annual basis will not exceed the number of years remaining in the then-current Support Term. Course dates are available at bd.com/LearningCompass. Unused tuition waivers may not be applied towards subsequent years.

5.10 Dispensing System Data Workshop Tuition Waiver. Beginning upon execution of the Customer Agreement for Pyxis MedStation ES Products with an applicable Support Plan under this Schedule, not to exceed once during each twelve months during the Support Term, BD will waive tuition for qualifying support tiers as in Table 2 above for two members of Customer's staff to attend a data workshop. Course dates are available at bd.com/LearningCompass. The number of tuition seats available on an annual basis will not exceed the number of years remaining in the then-current Support Term.

5.11 Annual On-Site Clinical Inservice. For Customers with a qualifying support tier, at Customer's request, BD will provide on-site clinical inservicing for practice reinforcement, and best practices, as BD and Customer determine appropriate for the Customer site. BD will provide this service in one 8-hour visit for up to 200 devices at the site. If multiple visits are required, they will be on consecutive days. Customer may schedule this service no less than six weeks in advance. BD will perform this service one time per twelve-month period during the Support Term, beginning upon execution of the Customer Agreement for Pyxis MedStation ES Products with an applicable Support Plan under this Schedule. The number of tuition seats available on an annual basis will not exceed the number of years remaining in the then-current Support Term.

5.12 Knowledge Portal for Dispensing Technologies. Customer may access the BD Knowledge Portal for technologies website. Resources available at the website include product documentation, self-study courses, and group training sessions.

6. Customer Obligations

6.1 Server Support. Customer will ensure the proper functioning and availability of (i) Customer's side of station and server network connectivity, (ii) Customer-provided server Equipment, and (iii) server-based, non-application related system performance and downtime, e.g., operating system, database issues, host system etc.

6.2 System Requirements. Customer will provide (i) station and server environment, (ii) Customer data center and network availability, (iii) conformance with minimum server environment requirements for the Pyxis Product(s) as set forth in an applicable Equipment Requirements Schedule, and (iv) a virtual platform approved by BD for all BD-provided Virtual Machine deployments as set forth in an applicable Equipment Requirements Schedule.

6.3 Interface Modification. If BD modifies an Interface between a Pyxis Product and Customer's information system as part of Support, then Customer will test the modified Interface within seventy-two (72) hours. Customer's sole remedy for any Issues related to Interface functionality will be for BD to modify the Interface to provide full functionality.

6.4 Virtual Machine (VM) Deployments. For Software deployed using VM technology, Customer will provide all services for (i) database backup and recovery, (ii) operating system patches, updates and security, and (iii) the performance of the applicable relational database server (e.g., MSSQL) instance for the Pyxis Product(s) as set forth in the Equipment Requirements Schedule.

6.5 Active Directory. For products that support Active Directory capability, Customer will provide integrated Active Directory services and user administration, e.g., passwords, user log-in, etc.

6.6 Data Backup. Where applicable, Customer will implement a network data backup capability that is remote to Pyxis Product(s) and in accordance with guidelines provided by BD.

6.7 Software Patching. Customer will schedule and deploy BD-approved software patches to servers (e.g., operating system, anti-virus, and product patches) for Pyxis Products that operate on the Pyxis ES technology platform ("Pyxis ES Products").

6.8 Peripherals. Customer will provide support for all non-BD provided peripheral products, e.g., mobile devices.

6.9 Consumables. Customer is solely responsible for the replacement or installation of consumables, including but not limited to batteries, paper and toner.

6.10 Additional Services. Any service not specifically identified herein as a component of the Support Plan elected by Customer under the Customer Agreement may be provided by BD under separate agreement between the Parties at then-current time and materials rates for that service.

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6.11 Onsite Support. Customer may cancel scheduled onsite Support by delivering notice to TSC no less than two (2) business days prior to the start date. If Customer fails to provide timely notice or interferes with BD's performance of scheduled onsite Support, then the Guaranteed Response Time will not be ~~honored, and~~ the Uptime calculation will not include the Service Case Hours associated with that service call. BD employees and agents ("BD Personnel") shall not handle Customer's medications. Customer must be present and capable of monitoring BD Personnel during any activity involving Pyxis Products in which medications are present. If Customer fails to do so, then Customer will reimburse BD for any expenses related to re-scheduling such activity.

7.1 Outdated Software. BD is not obligated to provide Support, and no Uptime Guarantee or Guaranteed Response Time applies, for a Pyxis Product that is more than three (3) versions older than the then-current version.

7.2 Customer Equipment. BD will not provide Support for products that are not Pyxis Products, including but not limited to Customer's equipment, software and personal peripheral devices (e.g., mobile devices, printers) used in conjunction with the Pyxis Products.

7.3 External Causes. BD is not obligated to perform Support for any part of a Pyxis Product which is not Properly Performing because of: (i) abuse, misuse or vandalism; (ii) unauthorized repairs, including modification, alteration and adjustment; (iii) failure of equipment not supplied by BD; (iii) a computer virus or other disabling code introduced by a source other than BD; (iv) any Support activity that is a Customer obligation as defined in **Section 6** above; or (v) Customer prevents or refuses installation of an Update or Upgrade (collectively, "External Causes"). If Customer requests that BD attempt to correct a problem with a Pyxis Product attributable to an External Cause, then BD will perform repair services on a time and materials basis at BD's then-current rates and prices.

8. Third-Party Applications and Equipment. Support for any software or Equipment sublicensed or resold, as applicable, to Customer by BD will be limited to the support and maintenance provided by that third party, with BD as the primary point of contact for such support and maintenance. If requested by Customer, BD shall serve as liaison between Customer and the applicable third party for support requested by Customer, with such liaison services provided at BD's then-current service rates.

8.1 Codonics SLS Maintenance and Support. Notwithstanding any other term or condition in the Customer Agreement to the contrary, (i) any Codonics SLS product set forth in the Product Schedule attached thereto (each, a "Codonics Product") will not be subject to the terms of this **Schedule 1**; (ii) the warranty set forth under **Section 15(a)** of the General Terms and Conditions of this Agreement will have no application to a Codonics Product; and (iii) warranty and support services for any Codonics Product will be provided by Codonics pursuant to warranty and support information to be delivered by BD with the Codonics Products. BD will have no obligation to provide support services in relation to any Codonics Product.

9. End of Life. BD intends to continue to create new and better technologies, products and services. From time to time, BD may discontinue Products and replace them with one or more of these technologies, products and services. To help Customers identify these transitions and plan for infrastructure adjustments, BD maintains End-of-Sale and End-of-Life policies for all Pyxis Products. BD will, among other things (i) announce the date on which BD will no longer license, lease or sell a Product ("End-of-Sale"), (ii) specify the date on which BD will cease providing Support for the Product ("End-of-Life"), and (iii) identify one or more new technologies or services, or existing Products, that may be suitable replacements for the Product.

10. Services Warranty. BD warrants that its services will be performed by trained individuals in a professional, workman-like manner. BD will promptly re-perform any non-conforming services for no charge if Customer provides reasonably prompt written notice to BD. NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE WILL APPLY. BD may use refurbished parts during service so long as it uses the same quality control procedures as for new parts. Any part for which BD has supplied a replacement shall become BD property.

11. Termination for Cause by BD. Notwithstanding anything to the contrary in the applicable Master Agreement, BD may suspend performance of Support under this Schedule, or cancel one or more Support Terms, upon written notice if Customer: (i) fails to comply with any material term or condition under this Schedule, or fails to make any payment required pursuant to any Customer Agreement for Pyxis Products; and (ii) fails to cure such non-compliance within thirty (30) days (or within ten (10) days for any past due payment) after receipt of such written notice providing full details of such non-compliance.

[End of Exhibit F-1]

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ATTACHMENT E
Reporting Requirements

Table 1: Required Data Field for Sales Data Report (Paragraph 9.2(B))

Excel Column	Required Data Field Full Name for Sales Data Report
A	MMCAP Infuse-assigned Member ID
B	MMCAP Infuse Member Name
C	Vendor Distribution Center Code
D	Vendor-assigned Account number for MMCAP Infuse Member (this should be the ship-to account number)
E	Invoice Number
F	Invoice Line Number
G	Purchase Order Number
H	Invoice date (MMDDYYYY)
I	Buyer name or equivalent of buyer ID for person submitting the invoices (if available)
J	Vendor's (distributor) SKU item number
K	NDC of purchased Product as stored in First DataBank, Inc. (Required for pharmaceutical Products)
L	Label Name/Product Description
M	Unit Dose (Required for pharmaceutical Products)
N	Pack Size
O	Unit
P	Case Size
Q	Dose (Required for pharmaceutical Products).
R	Strength (Required for pharmaceutical Products).
S	Route (Required for pharmaceutical Products).
T	Unit Price (99999.9999)
U	Quantity Ordered (not Vendor repackaged or re-bundled quantity)(99999.9999)
V	Quantity Shipped (not Vendor repackaged or re-bundled quantity)(99999.9999)
W	Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999.9999)
X	Type of transaction (MMCAP Infuse Product, Core, Non-core) 1= Core/MMCAP Infuse Product, 2=Non-Core, 3=Non-admin fees sales
Y	Bill to Address 1
Z	Bill to City
AA	Bill to State (2 alpha postal code)
AB	Bill to Zip (standard 5-4 format, no dash necessary)
AC	Ship to Address 1
AD	Ship to City
AE	Ship to State (2 alpha postal code)
AF	Ship to Zip (standard 5-4 format, no dash necessary)
AG	Service Fee (99999.9999)
AH	MMCAP Infuse Contract Number (MMSxxxxx)
AI	Admin Fee
AJ	Credit Indicator (C for credit)
AK	MMCAP Infuse Assigned Wholesaler Code (***Codes will be assigned to PPV's during implementation period of the contract***)
AL	Manufacturer Name (MFG Name)
AM	Class of Trade
AN	340B Purchase
AO	Category

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AP	Manufacturer Part Number
AQ	List Price
AR	UNSPSC Code (XXXXXXXX)
AS	UNSPSC Description
AT	GLN
AU	GTIN
AV	Order Date (MMDDYYYY)

Table 2: Substitution Report (Paragraph 3.2)

Excel Column	Required Data Field Full Name for Substitution Report
A	MMCAP Infuse ID
B	Vendor ID
C	Customer Name
D	Invoice Number
E	Invoice Date
F	Product Trade Name **(Original item ordered)**
G	UNSPSC Code (or NDC of pharmaceutical Product)
H	Pack Size
I	Dose (Required for pharmaceutical Products).
J	Strength (Required for pharmaceutical Products).
K	Unit Price (99999.9999)
L	Quantity Ordered (not Vendor repackaged or re-bundled quantity)(99999.9999)
M	Quantity Shipped (not Vendor repackaged or re-bundled quantity)(99999.9999)
N	Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999.9999)
O	Type of transaction (MMCAP Infuse Product, Core, Non-core) 1= Core/MMCAP Infuse Product, 2=Non-Core, 3=Non-admin fees sales
P	Product Trade Name (**Replacement Item**)
Q	UNSPSC Code (NDC of pharmaceutical Product)
R	Pack Size
S	Dose (Required for pharmaceutical Products).
T	Strength (Required for pharmaceutical Products).
U	Unit Price (99999.9999)
V	Quantity Ordered (not Vendor repackaged or re-bundled quantity)(99999.9999)
W	Quantity Shipped (not Vendor repackaged or re-bundled quantity)(99999.9999)
X	Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999.9999)
Y	Type of transaction (MMCAP Infuse Product, Core, Non-core) 1=MMCAP Infuse Product, 2=Core, 3=Non-Core
Z	Reason for Replacement

Table 3: Punch-out User Reports (Paragraph 3.17)

Punch Out User Reports
MMCAP ID (if none, please indicate)
Punch-Out system utilized (i.e., State and Agency that owns system)
Punch-Out system Account Number
Vendor Account Number
Purchaser's Name
Purchaser's Address
Invoice Number
Invoice Date
Invoice Amount

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Table 4: EPro/Buyspeed Upload Template (Paragraph 2.2(A))

*Actual template will be provided to Vendor; required fields are outlined below

Excel Column	Required Data Field Full Name	How to complete
A	Item Number	
B	Description	
C	Quantity	Leave as 1.0
D	Unit Cost	
E	Unit of Measure	Leave as "See_PKG"
F	Class Code	NIGP Class
G	Class Item Code	NIGP Item
H	Commodity Code	Blank
I	Discount Percent	Leave as 0.0
J	Discount Amount	Leave as 0.0
K	Tax rate Code	Blank
L	Freight Amount	Leave as 0.0
M	Manufacturer	
N	Make	Manufacturer SKU
O	Brand	Blank
P	Packaging	Product Packaging Size (i.e., CS)
Q	Model #	Model Number
R	Minimum Quantity	Leave as 0.0
S	Max Quantity	Leave as 0.0
T	UPC/ISBN	
U	SKU	
V	Tags	Product Category (i.e., gloves)
W	URL	Blank
X	Product Length	Quantity (i.e., 50)
Y	Product Width	Product Packaging (i.e., CS)
Z - AV	Various	Blank
AW	P Admin Fee	Admin Fee amount for Item
AX	P Sales Type	Core or Non-Core
AY	UNSPSC	

Product Compliance and Replacement Report (**Paragraph 1.7**). Vendor agrees to report Product compliance using MMCAP Infuse's preferred calculations as follows:

1. Compliance Formula:

$$\frac{\textbf{Core + MMCAP Infuse Products Sales}}{\textbf{Total Sales}}$$

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ATTACHMENT F
Minnesota Statutory Procurement Language

1. **Government Data Practices**. Parties to this Agreement must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (**Data Practices Act**), as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Vendor or MMCAP Infuse.
   A. Notification. If the Vendor receives a request to release the data referred to in statute, the Vendor must immediately notify and consult with MMCAP Infuse as to how the Vendor should respond to the request.
   B. Indemnification. Vendor agrees to indemnify, save, and hold Minnesota, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision of the Agreement.
   C. Release of MMCAP Infuse Data. Except as may be required by Data Practices Act, Vendor will not release to any third party any MMCAP Infuse customer data, sales transaction data, DEA/HIN information, pricing, EDI transaction data, reverse distribution data, or payment data.
2. **Data Disclosure.** Under Minn. Stat. § 270C.65, subd. 3 and other applicable law, the Vendor consents to disclosure of its social security number, federal employer tax identification number, and Minnesota tax identification number, already provided to the MMCAP Infuse, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Vendor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.
3. **Non-discrimination**. The Vendor will comply with the provisions of Minn. Stat. § 181.59.
4. **Affirmative Action Requirements**.
   A. Covered contracts and vendors. If the Agreement exceeds $100,000 and the Vendor employed more than forty (40) full-time employees on a single working day during the previous twelve (12) months in Minnesota or in the state where it has its principal place of business, then the Vendor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600.
   B. Minn. R. 5000.3400-5000.3600.
      i. 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 Vendor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400-5000.3600 including, but not limited to, Minn. R. 5000.3420-5000.3500 and 5000.3552-5000.3559.
      ii. Disabled Workers. The Vendor must comply with the following affirmative action requirements for disabled workers.
         a. The Vendor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Vendor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
         b. The Vendor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
         c. In the event of the Vendor'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.
         d. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the Vendor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
         e. The Vendor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Vendor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed

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to take affirmative action to employ and advance in employment physically and mentally disabled persons.

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

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

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

6. **Certification of Nondiscrimination (In accordance with Minn. Stat. § 16C.053**). The following term applies to any contract for which the value, including all extensions, is $50,000 or more: Vendor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the Vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

7. **Contingency Fees Prohibited**. Pursuant to Minn. Statute § 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

8. **Diverse Spend Reporting**. If the total value of this Agreement may exceed $500,000 in Minnesota, including all extension options, the Vendor must track and report, on a quarterly basis, the amount paid to diverse businesses both: (A) directly to subcontractors performing under the Agreement, and (B) indirectly to diverse businesses that provide supplies/services to your company (in proportion to the revenue from this Agreement compared to your company's overall revenue). When this applies, you will be set up in a free portal to help report the Tier 2 diverse spend, and the requirement continues as long as the Agreement is in effect.

9. **Retainage for Minnesota Government Units**. Under Minn. Stat. § 16C.08, subd. 2 (10), no more than ninety percent (90%) of the amount due under this Agreement may be paid until the final product of this Agreement has been reviewed by a Minnesota agency head. The balance due will be paid when the Minnesota agency head determines that the Vendor has satisfactorily fulfilled all the terms of this Agreement.

10. **Payment to Subcontractors.** To the extent applicable, the Vendor must pay all subcontractors in accordance with Minn. Stat. § 16A.1245.



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Attachment G

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Concordance Healthcare Solutions – Operations Manager POC

Millwoood Distribution Center 917 Jack Burlingame Drive Millwood, WV 25262 Aaron Nelson 304-532-1211 ANelson@Concordancehs.com	Shelbyville Distribution Center 500 Industrial Park Drive Shelbyville, IN 46176 Todd Kramer 317-398-2403 TKramer@Concordancehs.com	Mocksville Distribution Center 276 Enterprise Way Mocksville, NC 27028 Drew Krupp 419-618-0544 DKrupp@Concordancehs.com
Andersonville Distribution Center 1473 Mountain Road Anderson, TN 37705 Greg Finger 865-360-6670 GFinger@Concordancehs.com	Riverside Distribution Center 14540 Innovation Drive Riverside, CA 92518 James Jones 951-269-2879 JJones@Concordancehs.com	Kalamazoo Distribution Center 3625 Park Circle Drive Kalamazoo, MI 49048 Jim Friddle 269-459-3820 JFriddle@Concordancehs.com
Tiffin Distribution Center 85 Shaffer Park Drive Tiffin, OH 44883 Pat Hoepf 419-455-2121 PHoepf@Concordancehs.com	Chicago Distribution Center 2545 West 24th Street Chicago, IL 60608 Rachel Gary 312-628-3701 RGary@Concordancehs.com	Edison Distribution Center 60 Distribution Boulevard Edison, NJ 08817 Raul Henriquez Assistant Operations Manager 732-374-4203 rhenriquez@concordancehs.com
Earth City Distribution Center 13400 Lakefront Drive Earth City, MO 63045 Chris Arnold 314-593-2583 CArnold@Concordancehs.com	Baton Rouge Distribution Center 3401 Oak Villa Boulevard Baton Rouge, LA 70814 Jason Glover 225-910-8649 JGlover@concordancehs.com	Nampa Distribution Center 16240 Norco Way Nampa, ID 83687 Mike Nelson 208-615-2093 Mnelson@Concordancehs.com
Sioux Falls Distribution Center 3901 West 34th Street North Sioux Falls, SD 57107 Tom Olson 605-789-4242 TOlson@Concordancehs.com	Billings Distribution Center 1535 Industrial Avenue Billings, MT 59101 Whitley Evans 406-371-2055 WEvans@Concordancehs.com	Grand Prairie Distribution Center 915 Avenue S Grand Prairie, TX 75050 Dee Griggs 972-408-3201 DGriggs@Concordancehs.com
Phoenix Distribution Center 2229 East Magnolia Street Phoenix, AZ 85034 Shawn Johnson 480-376-7945 SJohnson@Concordancehs.com	Wichita Distribution Center 1970 South West Street, Suite 360 Wichita, KS 67213 Jeff Troyer 316-796-8220 JTroyer@Concordancehs.com	Rapid City Distribution Center 403 West Boulevard Rapid City, SD 57701 Dan Simonson 605-858-6809 DSimonson@Concordancehs.com
Orlando Distribution Center 10601 Southport Drive Orlando, FL 32824 407-470-1160 Wilfredo Rodriguez 732-374-4201 Wrodriguez@Concordancehs.com	Rogers Distribution Center 19401 Rogers Drive, Suite 150 Rogers, MN 55374 763-315-5017 Jacob Green 612-604-4639 jagreen@concordancehs.com	Grapevine Distribution Center Heritage Business Park 4 801 Industrial Blvd. Grapevine, TX 76051 David Solano 909-251-9029 dsolano@concordancehs.com

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CONCORDANCE HEALTHCARE SOLUTIONS	Policy Number: CRP17.000.00	Original Issue Date: April 30, 2018
85 Shaffer Park Drive Tiffin, OH 44883	**Product Recall and Retrieval**	Revision Date: March 9, 2020
Recall and Retrieval		Approved By:

POLICY:

Concordance processes notifications and recalls from the Manufacturers, the FDA (or regulatory agency) on products in the supply chain immediately upon receipt of notification. Concordance shall follow the instructions in the recall with regard to notification, quarantine, destruction, return and/or disposal. Records of Recall are maintained. Concordance will respond to the FDA's request for product retrieval for adulterated or suspect product in the supply chain.

SCOPE:

This policy applies to:

- Recall Coordinator
- Item Maintenance
- Inventory Control
- Operations Manager
- Compliance Director
- VP of Purchasing

Responsibilities:

The Compliance Director is responsible for establishing the recall process, notifying authorities when required, and to ensure that records of Recall are maintained

The Recall Coordinator (RC) is responsible for overseeing the recall process according to each Recall's unique written requirements.

1. The Recall Coordinator/Designee is responsible to identify all Concordance part numbers for the manufactured item(s) on recall.
2. The RC notifies all branch locations of the items on Recall by Concordance part number and lot number.
3. The RC maintains records of which locations have/had Recalled products and coordinates the disposition of such products.
4. The RC shall notify the sales and customer services teams of the recall.
5. The RC is responsible for securing sales history reports,

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for sending customer notification of recall and product disposition letters, if required.

6. The RC is responsible to ensure that all records are maintained and for closing the Recall.

The Customer Service Rep or Return Goods Rep is responsible to issue and RMA and ensure the product returned from the customers is placed in a Recall Quarantine Bin and credit is issued.

Inventory Control is responsible for physically removing recalled product from Concordance inventory and placing it into Recall Quarantine Bins both physically and in the system. Inventory Control/designee is responsible to accept the product returns from the customers, place into quarantine, and to carry out disposition instructions from the manufacturer including destruction or return to vendor. All records shall be maintained in the system and/or with the Recall Coordinator.

The RC provides the vendor or manufacturer the fee for performing the recall. Fees are outlined in the Supplier Agreement.

DEFINITIONS:

1. **Voluntary Recall**: a recall in which the manufacturer of the product finds an issue or potential issue and performs the recall on their own.

2. **Class I Recall:** a situation in which there is a reasonable probability that the use of or exposure to the product will cause serious adverse health consequences or death.

3. **Class II Recall:** a situation in which use of or exposure to the product may cause temporary or medically reversible adverse health consequences or where the probability of serious adverse health consequences is remote.

4. **Class III Recall:** a situation in which use of or exposure to the product is not likely to cause adverse health consequences.

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5. **Market Withdrawal:** occurs when a product has a minor violation that would not be subject to FDA legal action. The firm removes the product from the market or corrects the violation.

6. **FDA Notification of Illegitimate Product:** occurs when a suspect product received is confirmed to be illegitimate by the FDA.

PROCEDURE:

CBP17.100.00 Recall Notification to Concordance Healthcare

When a manufacturer recalls a product, the recall information is sent to Concordance in hard copy and or through an email correspondence to the buyer or recall coordinator. All recall notices shall be forwarded to the Recall Coordinator for logging and processing.

The FDA maintains a Recall Website for verification as does the manufacturer to validate recall communication. E-mails and news releases are the primary methods of recall communications used by regulatory agencies.

All Recall notifications and follow through are handled by the Recall Coordinator/designee.

CBP17.200.00 Recall Actions

Concordance processes Recalls under the direction of the manufacturer or the FDA. Concordance is required to carry out the actions provided by the manufacturer based on the category, recall level, and instructions.

CBP17.300.00 Recall Process

When a recall notice is received, the RC/designee determines the Concordance item numbers affected by the recall and checks the product (and lot number if specified) against the items set up in the VAI system.

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- If the item has not been entered in the system this confirms that Concordance has not sold the product. All products sold by Concordance must have the item set up in the system. The Recall Coordinator completes the forms to respond to the manufacturer/FDA and close the recall.

If the item is in the system, the Recall Coordinator performs the following steps:

- Scan the recall paperwork and send to information to each Concordance distribution location that has on hand inventory.
    - Each location must check the inventory on hand to verify if any of the recalled lots are in stock.
    - Branch Inventory Control (IC) must respond back to the Recall Coordinator regarding quantity on hand (by lot number if specified).
    - Branch IC must put specific item/lot in a Recall quarantine bin physically and in the system pending instructions for disposition. I.E. return to vendor or destruction.

- Enters the specific item numbers and the applicable time frame into the system for a sales history report showing the customers/ship to locations which have purchased the recalled product.
    - Customer Recall letters should have the customer contact Concordance for disposition of affected products.
        - In some cases the manufacturer may have the end user (customer) report the quantity on hand, or destruction of property directly to them. If so, this will be dictated in the letter.

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- The sales history report is used for the customer notification letters and mails to the customers within in the time frame required. If the time frame is not specified the letters should be sent within five business days of receipt of the recall notice.

- The customer notification includes the letter, instructions for requesting a return authorization or instructions for destruction and the certificate of destruction form to be returned to Concordance. The original recall letter, issued by the manufacturer, may be included to provide specific details of the recall.

CBP17.300.10 FDA Retrieval Process

If the FDA confirms that a suspect receipt of product is illegitimate or adulterated (CBP14.000.00) the VP of Finance/Compliance and the Compliance Director are responsible to oversee the trading partner notification, retrieval of product, and the disposition of the product according to the FDA instructions.

Products returned to Concordance due to FDA retrieval notification are immediately received into a quarantine bin systematically and physically.

Products retrieved due to FDA notification may only be removed from a quarantine bin systematically and physically based on the disposition provided by the FDA or agency. The Compliance Director or the VP of Finance/Compliance must approve these removals and ensure the proper paperwork has been generated.

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Illegitimate Product Retrieval Records and samples are maintained for a minimum of six (6) years as required by law.

CBP17.400.00 Recalled Product Receipt

- Recalled products are received into the facility via a Return Material Authorization (RMA).
- The RMA identifies the product as a recall and at the time of Receiving Inspection. The product is immediately moved into the designated returns area to be placed into a Recall Quarantine Bin.

CBP17.500.00 Recalled Product Disposition

All products retrieved from inventory will be quarantined while waiting for instructions from the vendor regarding return or destruction procedures.

- All recalled product returned from customers is received in according to the RMA and placed into the Quarantine Area. Customers are issued credit for any returned products.
    - New orders are entered for any replacements and invoiced at full sell price. No even exchanges for product will be issued this is required to have a record of the replacement.
- All facilities receiving product returned from customers for each recall must be report quantity received to the Recall Coordinator. The Recall Coordinator/or designee contacts the supplier for disposition of product received in all locations. Note product may be in multiple locations and more than one 1 RMA may need to be issued to return product.
- RC provides the Return to Vendor RMA authorizations to

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each facility.

- Return Goods teams are responsible to enter returns into system and ensure products are shipped. In warehouses where there is not a return goods team, the Recall Coordinator enters the Return Oder in the system and coordinates the return with the Operations Manager.

- The Recall Coordinator is responsible to audit the Recall Bins at each location monthly.

- The Recall Bin Status Report is generated to allow the Recall Coordinator to work with each facility to verify that the return or destruction is completed and the appropriate paperwork has been cleared in the system ensuring Concordance has been reimbursed for recalled product.

CBP17.600.00 Closing the Recall, Reporting and Recordkeeping

When all steps of the recall are completed; the Recall Coordinator shall close the Recall.

Recall Coordinator validates:

1. That all locations have responded to the recall.
2. That all inventory on shelf was placed into Quarantine both physically and in the system.
3. That all customers who purchased product or lot # received a Recall Letter.
    a. That all customers who requested an RMA, returned the product and received a credit. (Returns)
    b. That all RMA product is in the Quarantine bin at each location.
4. Recall Coordinator must send response back to the Recall Initiator.
5. Ensures that the Return Authorization(s) has been received from the Vendor for all Recalled Product.
    a. That Recalled product was returned to vendor.

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   b. Verify that credit was received for both product and cost of performing the recall.
6. Ensure that a copy of the recall, response, customer letter, proof product was returned to vendor or destruction records are in Recall File and maintained for five (5) years.

Reporting to the FDA on recall actions is not generally required, but the Compliance Director would be responsible for completing reports as applicable. The FDA audits Concordances' recall records to ensure the vendor recall notifications are received and to verify the Concordance records of performing the recall.

Record Retention:
Recall records are retained for a minimum of five (5) years and are filed in the Purchasing Department at Recall Coordinator's location.

Illegitimate Product Retrieval Records and samples are maintained for a minimum of six (6) years as required by law.

EXCEPTION APPROVAL: Recall procedures apply to all products sold by Concordance. Retrieval procedures apply to all Rx drugs sold by Concordance.

REVISION SCHEDULE: Product recall procedures are reviewed annually and revised as applicable. These procedures are subject to additional review and actions when necessary.

REFERENCES: None

Revision Date	Explanation of Revision	Revised By
April 30, 2018	Original issue of document.	Pam Scherrer
May 14, 2019	Review of process and minor changes.	Pam Scherrer
March 9, 2020	Removed Recall Coordinator reporting to VP of Purchasing	Pam Scherrer

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Attachment I

Emergency Order Point of Contacts

800# (location for CS)	ACD Agent Skill Group	ACD Group Name
800-762-7324	Andersonville 800 Auto Attendant - Option 1	Andersonville CS ACD 9040
800-473-2332	Earth City 800 Customer Service number - EC Option group	Multi-Options ACD by choice
866-999-4650	Billings 800 Auto Attendant - Option 1	CS SF ACD Group 9603
312-628-3700	Chicago 800 Auto Attendant - Option 1	WCST ACD Group
800-736-2115	Earth City MAIN 800 Number, Option 1 - To EC CSR 800	Main to Earth City 800 ACD - Multi-option
800-483-8403	GEO Routed 800 Number, routes by Area code to Facility	EC VA (Earth City agents)
800-585-8882	New Rochelle Regional Office Auto Attendant, Option 1	New Rochelle ACD 9315
800-473-2332	Earth City 800 Customer Service number - EC Option group	Multi-Options ACD by choice
877-268-0592	Kalamazoo 800 Auto Attendant - Option 1	CS Kalamazoo Gr 9021
800-445-5153	Millwood 800 Auto Attendant - Option 1	Millwood Agent Group 9612
855-242-0816	Mocksville 800 Auto Attendant - Option 1	Mocks CS Group 9044
888-897-9816	Nampa 800 Auto Attendant - Option 1	Nampa CS ACD Gr 9013
800-777-2634	Phoenix 800 Auto Attendant - Option 1	AZ Cust Serv Group 9304
800-342-1713	Rapid City 800 Auto Attendant - Option 1	CS SF ACD Group 9603
833-470-6560	Riverside 800 Auto Attendant - Option 1	Riverside ACD Group 9002
800-843-7948	Immediate transfer of Sioux Falls CS	CS SF ACD Group 9603
866-326-0313	Shelbyville 800 Auto Attendant - Option 1	Shelby Agent Group 9034
800-843-7948	Sioux Falls Customer Service - Straight to ACD Queue	CS SF ACD Group 9603
800-483-8403	GEO Routed 800 Number, routes by Area code to Facility	SF VA Path (Sioux Falls agents)
800-447-0226	Tiffin Customer Service - Straight to ACD Queue	Tiff CS ACD Gr 9053
800-483-8403	GEO Routed 800 Number, routes by Area code to Facility	TIFF VA ACD (Tiffin agents)

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