IDAHO

State of Idaho

CHANGE ORDER - 01

PLEASE DO NOT DUPLICATE THIS ORDER.

Change Order Summary

Purchase Order Number:	PADD16200471
Account Number:	AC-1
Revision Number:	01
Change Order Date:	April 29, 2016
Service Start Date:	June 1, 2016
Service End Date:	May 31, 2017
Payment Method:	Invoice
Payment Terms:	No Payment Terms specified
Currency	USD
FOB Instruction:	Destination
Attachment(s):	ChangeLog.htm :Purchase Order Change

Supplier

Marsha Corl
MEDLINE INDUSTRIES, INC.
One Medline Place
Mundelein, IL 60060
Phone: 866-212-2822

Fax: 847-949-2497

Email: mcorl@medline.com

Buyer Contact

Chelsea Cameron
Tel:208-332-1607
Fax:208-327-7320
chelsea.cameron@adm.idaho.gov

Contract Number:

Bill To Address

DOP - Prog Mgr
Dept of Administration
Division of Purchasing
650 West State St Rm B-15
PO Box 83720
Boise, Idaho 83720

Phone: 208-332-1600
Fax: 208-327-7320
Email: purchasing@adm.idaho.gov
Mail Stop: DOP Program Manager

Ship To Address

DOP - Prog Mgr
Dept of Administration
Division of Purchasing
650 West State St Rm B-15
PO Box 83720
Boise, Idaho 83720

Phone: 208-332-1600
Fax: 208-327-7320
Email: purchasing@adm.idaho.gov
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Instructions

NOTICE OF STATEWIDE CONTRACT (PADD) AWARD

This Contract for is for Medical Supplies and other non-pharmacy products and MMCAP Price Agreement (MMCAP Contract No. MMS12010). The contract is for the benefit of State of Idaho Agencies, institutions, and departments and eligible political subdivisions or public agencies as defined by Idaho Code, Section 67-2327. The Division of Purchasing or the requisitioning agency will issue individual releases (delivery or purchase orders) against this Master Contract on an as needed basis.

Contract Title:..... ... Medical Supplies

Contract Usage Type:.....Optional Use

Public Agency Clause: .....Yes

Contract Administration:....Chelsea Cameron

---Phone Number:..... ...208-332-1607

---Fax Number:..... 208-327-7320

---E-Mail:..... ..chelsea.cameron@adm.idaho.gov

Contractor's Primary Contacts

---Attn:..... Michael O'Ryan

---Address:.....One Medline Place

---City, State, Zip:.....Mendelein, IL 60060

Phone Number:.....847-643-4759

Facsimile:..... 847-949-2497

E-Mail:..... moryan@medline.com

CONTRACTOR: Ship to the FOB DESTINATION point and BILL DIRECTLY to the ORDERING AGENCY. DO NOT MAIL INVOICES TO THE DIVISION OF PURCHASING. Notating the Contract Award Number on any invoices/statement will facilitate the efficient processing of payment.

QUANTITIES: The State of Idaho, Division of Purchasing can only give approximations of quantities and will not be held responsible for figures given in this document.

For ordering and payment information see the above contact information THIS CONTRACT, (including any files atta

ched), CONSTITUTES THE STATE OF IDAHO'S ACCEPTANCE OF YOUR SIGNED BID, QUOTATION, OR OFFER (including any electronic bid submission), WHICH SUBMISSION IS INCORPORATED HEREIN BY REFERENCE AS THOUGH SET FORTH IN FULL.

In the event of any inconsistency, unless otherwise provided herein, such inconsistency shall be resolved by giving precedence in the following order:

1. This Participating Addendum document.

2. MMCAP's original solicitation document.

3. The Contractor's signed bid, quotation, or offer.

INVOICES MUST BE SENT TOTHE IDAHO ORDERING AGENCY.

ORIGINAL Contract 11/2015-05/31/2016 $126,000.00

Change Order 1: 06/01/2016-05/31/2017 $250,000.00

TOTAL Contract: $376,000.00

		Items			
Supplier Part Number	**Quantity**	**Back Order**	**Unit**	**Unit Price**	**Total**
	1	0	ANN	$250,000.00	$250,000.00

Item Description #1

Extend PADD16200471 for one (1) year and add funds.

Delivery Date: April 30, 2016
Shipping Method: Delivery
Shipping Instructions:
Ship FOB: Destination
Attachment(s)

Special Instructions:

Sub-Total (USD)	$250,000.00
Estimated Tax (USD)	$0.00
TOTAL: (USD)	$250,000.00

Note: If there is a next to an item's unit price, that indicates that the price has been discounted.

Signature :

Signed By : Chelsea Cameron

AMENDMENT NO. 13 TO MMCAP CONTRACT NO. MMS12010

THIS AMENDMENT is by and between the State of Minnesota acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Medline Industries, Inc., with principal place of business at One Medline Place, Mundelein, IL 60060 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS12010 (Original Contract). MMCAP and the Vendor are willing to amend the Original Contract as stated below.

Contract Amendment
(EG)

Revision 1: Effective when signed Article 4, Section 2 of the Original Contract is amended to read:

2. Contract Expiration date: May 31, 2017.

Revision 2: Effective when signed, the parties hereto agree that Vendor shall provide MMCAP with updated product and pricing information within ninety (90) days of the effective date of this Amendment. The Agreement will thereafter be revised to incorporate such updated information as is mutually agreed to by MMCAP and Vendor.

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

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

By: R L Barth
Ron Barth
Title: Executive Vice President, Sales
Date: April 11, 2016

By: _____
Title: _____
Date: _____

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

By: Sandra Christiansen
Title: Pharm Analyst
Date: 04-18-16

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

By: Heather Corbett
Title: _____
Date: April 18, 2016

C.L. "Butch" OTTER
Governor
ROBERT L. GEDDES
Director
SARAH HILDERBRAND
Administrator

State of Idaho

Department of Administration

Division of Purchasing

650 West State Street B-15 (83702)
P. O. Box 83720
Boise, ID 83720-0075
Telephone (208) 327-7465
Fax: 208-327-7320
http://purchasing.idaho.gov

January 22, 2016

Medline Industries, Inc.
Attn: Michael O'Ryan

VIA E-MAIL TRANSMISSION
moryan@medline.com

RE: Renewal of Contract PADD16200471, a Contract for Medical Supplies and other Non-Pharmacy Products for the various State of Idaho Agencies, Institutions, and Departments Expiring May 31, 2016

The State of Idaho would like to renew the above referenced contract for a period of One (1) Year.

The contract renewal period is June 1, 2016 to May 31, 2017. The same terms and conditions prevail for the contract renewal period, except as expressly modified herein.

If the terms of this renewal letter are acceptable to your company, please sign in the appropriate space below and mail, fax (208.327.7320) or e-mail (purchasing@adm.idaho.gov) to the Division of Purchasing. If you need to update the contact information for this contract, please do so below. Please update your IPRO profile as well, if necessary, in order to continue to receive e-mail notifications through the IPRO System.

Thank you for your consideration in this matter.

Sincerely,

Chelsea Cameron
Idaho Division of Purchasing

APPROVED: ✓ YES _____ NO

COMPANY: Medline Industries

BY: _____
(Signature)

Ron Barth - Executive Vice President, Sales
(Printed Name)

Date: February 2, 2016

UPDATED CONTACT INFORMATION for PADD16200471:

Contact Name	
Title	
Address	
Phone	
Fax	
E-mail	

IDAHO

State of Idaho

Participating Addendum

Purchase Order Summary

Purchase Order Number:	PADD16200471
Account Number:	AC-1
Purchase Order Date:	November 16, 2015
Service Start Date:	November 10, 2015
Service End Date:	May 31, 2016
Payment Method:	Invoice
Payment Terms:	No Payment Terms specified
Currency	USD
FOB Instruction:	Destination
Attachment(s):	

Supplier

Marsha Corl
MEDLINE INDUSTRIES, INC.
One Medline Place
Mundelein, IL 60060
Phone: 866-212-2822

Fax: 847-949-2497

Email: mcorl@medline.com

Buyer Contact

Chelsea Cameron
Tel:208-332-1607
Fax:208-327-7320
chelsea.cameron@adm.idaho.gov

Contract Number:

Bill To Address

DOP - Prog Mgr
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Contract Title:..... ... Medical Supplies

Contract Usage Type:.....Optional Use

Public Agency Clause: .....Yes

Contract Administration:....Chelsea Cameron

---Phone Number:..... ...208-332-1607

---Fax Number:..... 208-327-7320

---E-Mail:..... ..chelsea.cameron@adm.idaho.gov

Contractor's Primary Contacts

---Attn:..... Michael O'Ryan

---Address:.....One Medline Place

---City, State, Zip:.....Mendelein, IL 60060

Phone Number:.....847-643-4759

Facsimile:..... 847-949-2497

E-Mail:..... moryan@medline.com

CONTRACTOR: Ship to the FOB DESTINATION point and BILL DIRECTLY to the ORDERING AGENCY. DO NOT MAIL INVOICES TO THE DIVISION OF PURCHASING. Notating the Contract Award Number on any invoices/statement will facilitate the efficient processing of payment.

QUANTITIES: The State of Idaho, Division of Purchasing can only give approximations of quantities and will not be held responsible for figures given in this document.

For ordering and payment information see the above contact information THIS CONTRACT, (including any files atta

ched), CONSTITUTES THE STATE OF IDAHO'S ACCEPTANCE OF YOUR SIGNED BID, QUOTATION, OR OFFER (including any electronic bid submission), WHICH SUBMISSION IS INCORPORATED HEREIN BY REFERENCE AS THOUGH SET FORTH IN FULL.

In the event of any inconsistency, unless otherwise provided herein, such inconsistency shall be resolved by giving precedence in the following order:

1. This Participating Addendum document.

2. MMCAP's original solicitation document.

3. The Contractor's signed bid, quotation, or offer.

INVOICES MUST BE SENT TOTHE IDAHO ORDERING AGENCY.

Items

Supplier Part Number	Quantity	Back Order	Unit	Unit Price	Total
	6	0	EA	$21,000.00	$126,000.00
Item Description	#1				

Delivery Date:	November 16, 2015
Shipping Method:	Delivery
Shipping Instructions:	
Ship FOB:	Destination
Attachment(s)	
Special Instructions:	

Sub-Total (USD)	$126,000.00
Estimated Tax (USD)	$0.00
TOTAL: (USD)	$126,000.00

Note: If there is a next to an item's unit price, that indicates that the price has been discounted.

Signature : Chelsea Cameron

Signed By : Chelsea Cameron

MEMBER-REQUESTED PARTICIPATION AGREEMENT

MMS12010 Amendment 12

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

STATE OF IDAHO, DEPARTMENT OF ADMINISTRATION, DIVISION OF PURCHASING (MEMBER);

MEDLINE INDUSTRIES, INC. (VENDOR);

and

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

and amends the Agreement between MMCAP and Vendor to include the following:

Effective Date and Term: This MPA is effective upon final signature, and expires upon the expiration of MMCAP's contract with Vendor (MMS12010) or by any party upon 30 days' written notice to the other parties to this MPA.

Scope: MMCAP and Vendor entered an agreement identified as MMCAP Contract No. MMS12010 on June 1, 2012, and Member desires to access the MMCAP agreement for products and services with Vendor, which is incorporated into this MPA by reference.

Additional Terms:
The following terms and conditions apply solely to the performance of Vendor and Member and solely for facilities designated as applicable by Member. These terms will be enforced by Member.

Notwithstanding the provisions of section 15 – Purchase Orders and Payment of the MMCAP Agreement, the following additional terms shall be effective between Member and Vendor:

1. Vendor acknowledges and agrees that the State of Idaho does not recognize and shall not pay any claim or invoice to an assignee unless the assignment is accepted by the Idaho Board of Examiners pursuant to Idaho Code section 67-1027. Member will provide reasonable assistance to Vendor or Vendor's assistance in applying for such recognition.

2. The Idaho Legislature has not delegated authority to Member to consent to the jurisdiction of the courts of sister states. Notwithstanding the provisions of section 13 of the MMCAP Agreement, disputes between Vendor and Member shall be governed by the laws of the State of Idaho. Nothing in this MPA or the MMCAP Agreement shall be construed as consent to the jurisdiction of the courts of the State of Minnesota, a waiver of the State of Idaho's rights pursuant to the 11th Amendment to the United States Constitution, or a waiver of the State of Idaho's sovereign immunity, which immunity is hereby expressly reserved.

MMCAP

MEMBER-REQUESTED PARTICIPATION AGREEMENT

MMS12010 Amendment 12

3. For the purposes of section 2.5.5 of the MMCAP Agreement, the following shall be deemed written consent for Member to initiate a claim, action, suit or proceeding against Vendor in the courts of the State of Idaho:

a. Failure of the State of Minnesota Attorney General's Office to provide written consent to Member within ninety (90) calendar days of a written request for consent to the State of Minnesota Attorney General's Office pursuant to section 2.5.5 of the MMCAP Agreement or,

b. Failure of MMCAP to initiate a claim, action, suit or proceeding against Vendor within ninety (90) calendar days of a written request for consent to the State of Minnesota Attorney General's Office pursuant to section 2.5.5 of the MMCAP Agreement.

4. Upon acceptance as a member within the MMCAP program, Vendor shall offer and extend the terms of the MMCAP Agreement, as modified by this Member-requested Participation Agreement and to the extent such MMCAP Agreement has not expired or terminated, to other public agencies of the state of Idaho, as defined in Idaho Code section 67-2327. Any public agency desiring these terms shall independently contract with the Vendor, separately comply with participation requirements imposed by MMCAP, and comply with any other applicable provisions of Idaho law governing public agency contracts.

1. State of Idaho

By: Julie A Cameron Date: 11/09/2015

Title: Buyer

2. Medline Industries, Inc.

By: R.C. Barth Date: November 6, 2015

Ron Barth

Title: Executive Vice President, Sales

3. State of Minnesota for MMCAP
In accordance with Minn. Stat. § 16C.03, subd. 3

By: Sandy Christensen Date: 11-10-15

4. Minnesota Commissioner of Administration
In accordance with Minn. Stat. § 16C.05, subd. 2

By: Sara Hunboow Date: 11-10-15

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

This contract is between the State of Minnesota, acting through its "Commissioner of Administration on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Medline Industries, Inc. with principal place of business at One Medline Place, Mundelein, IL 60060; (collectively. "Vendor").

ARTICLE 1: RECITALS

1. Under Minn. Stat. § 16C.03, the Commissioner of Administration, on behalf of MMCAP, is empowered to engage such assistance as deemed necessary.

2. MMCAP is a group purchasing organization of government owned and/or operated health care facilities which contracts for pharmaceuticals, medical supplies and other non-pharmacy products for its members' use. Participation in MMCAP is limited to facilities within member states that are specifically permitted by the member state's statutes to purchase goods from the member state's contracts. Participation is generally available to facilities run by state agencies, counties, cities, townships, and school districts.

3. The Vendor wishes to contract with MMCAP to supply medical supplies and other non-pharmacy Products to the national MMCAP Participating Facilities.

ARTICLE 2: INCORPORATION

1. The parties agree that the recitals are true and correct, and are hereby incorporated into this Contract.

2. **Attachments, Exhibits, and Order of Precedent.**

2.1. The following Attachments and Exhibits are attached and incorporated into this agreement. In the event of conflict, the following order of precedence applies.

a. Contract # MMS12010
b. Attachment A: Products and Pricing
c. Attachment B: Core Products
d. Attachment C: Statement of Work
e. Attachment D: MMCAP Member State Requirements
f. Attachment E: Service Area
g. Attachment F: Vendor's Contract Implementation and Transition Plan
h. Attachment G: MMCAP Contracted Manufacturer List
i. Attachment H: Vendor's Shipping Policy
j. Attachment I: Vendor's Stock Outage and Backorder Policy
k. Attachment J: Vendor's Product Return Policy
l. Attachment K: Vendor's Product Recall Policies/Procedures
m. Attachment L: Vendor's Business Interruption Plan

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

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

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

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

2.2.4. During the term of this Contract other MMCAP Member States may request the MMCAP Office or the Vendor to amend this Contract to include terms and conditions specific to the requesting MMCAP Member State by attaching an Exhibit to Attachment D specific to that State. If a MMCAP Member State requests an amendment to this Contract to include their state specific requirements, the Vendor will review the proposed amendment and, if the amendment is acceptable to the Vendor will work with the MMCAP Member State and the MMCAP Office to execute an amendment to this Contract in a reasonable period of time. If the Vendor does not execute the amendment, and no final revision(s) of the amendment can be agreed upon, the Vendor and the MMCAP Member State may choose to continue doing business under this Contract without such amendment, or either party may elect not to do business with the other party under this Contract unless and until an amendment acceptable to both parties is agreed to. No verbal or written instructions from the MMCAP Member States, MMCAP Participating Facilities, or any of their staff or state officials to change any provision of this Contract will be accepted by the Vendor without the prior written approval of the MMCAP Office. The Vendor will immediately report any such requests to the MMCAP Office.

ARTICLE 3: REPRESENTATIONS, WARRANTIES AND CERTIFICATIONS

1. GPO Representation. MMCAP represents and warrants that it is a "group purchasing organization" as that term is defined under 42 C.F.R. Section 1001.952(j) and that it shall comply with all applicable federal and state laws, rules and regulations, including, but not limited to, the provisions set forth in 42 U.S.C. Section 1320a-7b and the "safe harbor regulations" set forth in 42 C.F.R. Section 1001.952.

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

Participating Facilities from any claims, demands or damages which the State of Minnesota, MMCAP and its Participating Facilities may suffer as a result of Vendor's breach of this Section 2.

3. Debarment by State, its Departments, Commissions, Agencies or Political Subdivisions. Vendor certifies that neither it nor its principles is presently debarred or suspended by the State, or any of its departments, commissions, agencies, or political subdivisions. Vendor's certification is a material representation upon which this Contract award is based. Vendor shall provide immediate written notice to the State's authorized representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

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

5. Warranty. Vendor expressly warrants that the Products covered under this Contract shall be merchantable within the meaning of the Uniform Commercial Code, Article 2 in effect on the date of this Contract and throughout the term of this Contract. In addition, to all warranties which may be prescribed by law, Vendor further warrants that the Products shall be free from defects in materials and workmanship and that Vendor has good title which is free and clear of all encumbrances. No applicable warranties, whether express or implied, are intended to be disclaimed or diminished by the terms of this Contract.

ARTICLE 4: CONTRACT TERMS AND CONDITIONS

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

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

3. Contract Termination

3.1. Termination by Either Party Without Cause. Either party may cancel this Contract at any time during the term of the Contract, without cause, upon no less than one (1) year written notice by Vendor to MMCAP and one-hundred twenty days (120) written notice by MMCAP to Vendor. Upon termination, the Vendor will be entitled to payment for services satisfactorily performed, but in no event may Vendor bring any claim or cause of action for any losses or damages.

3.2. Termination by Either Party With Cause. Subject to immediate termination rights as set forth in Article 3, Section 2, either party may cancel this Contract at any time, with cause, upon no less than 30 days written notice to the other party. Except as provided for in Article 3: Section 2, upon notice of termination, the breaching party shall have thirty(30) days to cure any defects, subject to the dispute Resolution Procedures set forth in Article 4: Section 35. Timelines set forth in the Dispute Resolution Procedures shall not apply in cases where notice of termination has been issued by either party in writing.

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

3.4. Cancellation by Member States and Participating Facilities. Subject to MMCAP termination rights, MMCAP Member States and MMCAP Participating Facilities may cancel their participation in this Contract with the Vendor at any time upon no less than one hundred and twenty (120) days written notice to the other party to assist in the operational transition. Vendor shall be provided with no cure period, and shall have no right of recovery or claim arising from the cancellation, except for payment of 1) Products delivered prior to the end of the one hundred and twenty (120) day notice period or 2) Vendor's entire inventory of any custom items (i.e. Vendor and non-Vendor kits and trays). The Dispute Resolution process shall not apply in cases of cancellation set forth herein.

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

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

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

7. Eligible Purchasers. Commencing on the Effective Date, all MMCAP Participating Facilities located in the United States shall be eligible to purchase Products offered under this Contract. In addition, the Vendor must allow new MMCAP Participating Facilities to be added to the MMCAP Participating Facilities List (password protected and published online at www.mmcap.org), as incorporated herein by reference, and to access Contract Product prices throughout the term of this Contract. As new MMCAP Participating Facilities are added to MMCAP, the Vendor will be given seven (7) calendar days from date of notification to implement Contract pricing. MMCAP will provide Vendor with monthly e-mail notices announcing that a new MMCAP Participating Facilities List has been posted online. Vendor agrees to check the updated MMCAP Participating list within five (5) business days following the MMCAP monthly email notice regarding the updated list. In the event that an MMCAP Participating Facility ceases to be a MMCAP Participating Facility of MMCAP, Vendor agrees not to allow such entity to purchase the Vendor's Products related to this Contract. Any MMCAP Participating Facility desiring to utilize the contractual options, terms and conditions described in this Contract may, at its option, and without penalty or liability, terminate any existing contract or other arrangement with Vendor for the sole purpose of participating in the group purchasing arrangement set forth in this Contract. MMCAP reserves the right to add and delete MMCAP Participating Facilities during the term of this Contract.

8. Separate Agreements. During the term of this Contract, Vendor will not solicit any MMCAP Participating Facilities or Prospective MMCAP Participating Facilities to enter into or negotiate a separate contract or agreement for the same or substantially equivalent Products offered in this Contract

or any amendment, modification, or supplement to this Contract, unless provided for in this Contract, without MMCAP's prior written consent. However, in no way does this section 8 preclude the Vendor from 1) entering into agreements which were initially solicited by the Vendor, prior to signing this Contract, 2) continuing any existing agreements with any MMCAP Member State of Participating Facility or 3) responding to bid solicitations or requests for proposals issued by any MMCAP Member State or Participating Facility.

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

10. Product Pricing.

10.1. Lowest Available Fixed Pricing. During the term of this Contract Vendor shall provide fixed pricing for all Products listed on Attachment A: Products and Pricing; and Attachment B: Core Products. The Vendor's fixed pricing for the Products shall be a combination of Vendor's Federal Supply Schedule (FSS) contract pricing, applied as the primary pricing wherever applicable, and comparable GPO product pricing of similar total volume. Vendor shall indicate on Attachment A and Attachment B, all of the Products and the prices for those Products that are also offered to its federal government customers on any Federal Supply Schedule.

10.2. Core Product Pricing. Vendor shall provide the fixed pricing per 10.1 for all Products or for substantially equivalent Products to those listed on Attachment B: Core Products, which may be amended from time to time by MMCAP during the term of this Contract. In the event Vendor does not offer a Product or a substantially equivalent Product as listed on Attachment B: Core Products, Vendor agrees to exhaust all reasonable efforts to obtain the Product for the ordering MMCAP Participating Facility and will establish the pricing per 10.1.

10.3. Vendor's Percentage Discount. Vendor shall provide a percentage discount for <u>each</u> of its categories of medical supplies and other non-pharmacy products not listed on Attachment A: Products and Pricing and Attachment B: Core Products. The list of the Vendor's categories of medical supplies must include the percentage discount of the product and be submitted on a separate tab of Attachment A and Attachment B. For each of the Vendor's categories of medical supplies listed, the specific discount shall apply to that category as identified and be provided on an adjusted annual basis. .

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

10.5. Fixed Pricing and Percentage Discounts. All Product prices and percentage discounts listed on Attachment A: Products and Pricing and Attachment B: Core Products, will be considered to be fixed during the first twelve (12) months of this Contract term and the price and/or percentage discounts set forth on Attachment A and Attachment B, may not be changed unless approved in writing by MMCAP. Price reductions may also occur at any time during the term of the Contract pursuant to Section 10.7. The fixed pricing and percentage discounts listed on Attachment A and Attachment B must be made available to all MMCAP Participating Facilities regardless of the size or location of the MMCAP Participating Facilities.

10.6. No Additional Fees. No fee, percentage, or other cost may be added to the Products purchased under this Contract unless the fee, percentage, or cost is defined within this Contract, or a formal amendment to the Contract is executed by both parties reflecting the agreed upon fee, percentage, or cost.

10.7. Price Reductions and Increased Discounts. During the term of this Contract, if the Vendor offers price reductions, promotional price offers, introductory pricing, or any other offers or promotions that provide lower prices or larger discounts for Products to MMCAP Participating Facilities other than those stated in the Contract, the Vendor agrees to i) notify the MMCAP Office of such lower Product prices or larger Product pricing discounts as stated in Section 10.5 of this Contract ii) make such lower Product prices or larger Product pricing discounts available to all MMCAP Participating Facilities iii) state on the invoices the decreased Product prices or the larger Product pricing discount for the Products ordered and shipped under this Contract.

10.8. Pricing Effectiveness. Prior to the first sales order being processed, pricing for Attachment A: Products and Pricing and Attachment B: Core Products will be submitted by Vendor to MMCAP and the pricing will be reviewed, approved, and incorporated into the Contract by the MMCAP Office and will take effect at that time.

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

12. Risk of Loss, Damage, and Shipping Terms. Shipments under this Contract shall be FOB Destination, freight prepaid and allowed in accordance with Attachment H: Vendor's Shipping Policy and, other than certain specific Vendor's products which are manufacturer directs with freight paid by the MMCAP Participating Facility, to the MMCAP Participating Facility's receiving dock or if applicable, its pharmacy, unless otherwise agreed to by Vendor and Participating Facility. Title to and risk of loss of the Products covered by this Contract transfers to the MMCAP Participating Facility upon delivery to the MMCAP Participating Facility, as set forth above. During the term of this Contract Vendor shall not add any fuel surcharges to the purchase of any Products covered by this Contract.

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

14. Failure to Supply MMCAP Contract Products. If Vendor fails to maintain sufficient inventory to meet the anticipated needs of MMCAP Participating Facilities for any Products in accordance with Attachment C, Section 7.3.h. and 7.3.i, the ordering MMCAP Participating Facility may purchase an alternate equivalent products on the open market for the period of time in which the Vendor is unable to provide the Product. Notwithstanding any other term or condition of this Contract, Vendor shall not be liable hereunder or under any applicable law for "cover" or other damages relating to failure to supply, except for (a) the penalty provided in Attachment C, Section 7.6.5, if applicable, and (b) in the event (i) Vendor is unable to provide the Product or a reasonable substitute for the Product, and (ii) a MMCAP Participating Facility requires such Product during the period of unavailability, then Vendor shall be liable for any additional cost of acquiring a substitute Product from another vendor, provided that Vendor's liability for such payments shall be capped at 10% of the price of the Product hereunder, and shall only apply for ordinary course orders submitted during the first sixty (60) days of unavailability/failure to deliver during the term of this Agreement.

15. Purchase Orders and Payment.

15.1. Minimum Purchase Order Requirement. As set forth in Attachment H: Vendor's Shipping Policy.

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

15.3. Verification of Authorized Purchasers. Upon request by MMCAP, Vendor must verify that it provides Products pursuant to this Contract only to MMCAP Participating Facilities. Only MMCAP Participating Facilities may purchase Products under the terms of this Contract.

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

15.5. Termination of Individual Purchase Orders. MMCAP Participating Facilities may terminate individual Purchase Orders, in whole or in part, immediately upon notice to Vendor, or at such later date as the MMCAP Participating Facility may establish in such notice, upon the occurrence of any of the following events:

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

(b) Federal or State laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under the Purchase Order is prohibited or the MMCAP Participating Facility is prohibited from paying for such goods from the planned funding source; or
(c) Vendor commits any material breach of this Contract or a Purchase Order.

Upon receipt of written notice of termination, Vendor shall stop performance under the Purchase Order as directed by the MMCAP Participating Facility. Termination of a Purchase Order does not extinguish or prejudice the MMCAP Participating Facility's right to enforce the Purchase Order with respect to Vendor's breach of any warranty or any defect in or default of Vendor's performance that has not been cured, including any right of the MMCAP Participating Facility to indemnification by Vendor or enforcement of a warranty. If a Purchase Order is terminated, the MMCAP Participating Facility must pay Vendor in accordance with the terms of this Contract for goods delivered and accepted by the MMCAP Participating Facility.

15.6. Purchase Order Default. An MMCAP Participating Facility's purchase order constitutes a binding contract between the ordering MMCAP Participating Facility and the Vendor. All commodities furnished will be subject to inspection and acceptance by the MMCAP Participating Facility after delivery, in accordance with UCC Art. 2. No product substitutions, shipments of non-conforming goods or Products, or cancellations are permitted without prior written approval of the MMCAP Participating Facility. Back orders and stock outages, as defined in Attachment C: Statement of Work, failure to meet delivery requirements or failures to meet specifications in the purchase order authorizes the MMCAP Participating Facility to cancel the purchase order, or any portion of it and purchase elsewhere. In the event of default, MMCAP and the MMCAP Participating Facility reserve the right to pursue the Dispute Resolution Procedures set forth in Article 4 Section 35, and any other remedy available by law. Vendor may be removed from the vendors list, suspended or debarred from receiving a contract for failure to comply with terms and conditions of the contract, or for failure to pay MMCAP or the MMCAP Participating Facility for the cost incurred on the defaulted contract.

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

15.8. Federal Funds. Payments to the Vendor for Products ordered by MMCAP Participating Facilities under this Contract may be made from federal funds. The Vendor must agree to accept as payment in full for the Products, the amount as determined by the federal agency or federal program administering the payments. Vendor 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.

15.9. Conditions of Payment. All Services provided by the Vendor under this Contract must be performed to MMCAP's satisfaction (directed by the MMCAP Participating Facility or MMCAP Member), as determined at the reasonable discretion of MMCAP's Authorized Representative, and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Vendor will not receive payment for work found by MMCAP (directed by the MMCAP Participating Facility or MMCAP Member) in its reasonable discretion to be unsatisfactory or performed in violation of federal, state, or local law. All Products provided under the terms of this Contract are subject to

inspection and acceptance by the MMCAP Participating Facility in accordance with the requirements set forth in the Uniform Commercial Code, Article 2, as incorporated herein by reference.

16. Vendor Fees.

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

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

The Vendor's Authorized Representatives are:

John O'Daniel, Vice President, Government Sales
Medline Industries, Inc.
One Medline Place
Mundelein, IL 60060
847-643-3147

Michael O'Ryan, Government Bid Manager
Medline Industries, Inc.
One Medline Place
Mundelein, IL 60060
847-643-4759

or his/her successor. If either of the Vendor's Authorized Representatives changes at any time during this Contract, the Vendor must immediately notify MMCAP.

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

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

To the Vendor:
Medline Industries, Inc.
Michael O'Ryan, Government Bid Manager
One Medline Place
Mundelein, IL 60060
Email: moryan@medline.com
Fax: 847-949-2497

19. Indemnification. In the performance of this Contract by Vendor, or Vendor's agents or employees, the Vendor must indemnify, save, and hold harmless the State, MMCAP, MMCAP Members, MMCAP Member Facilities, their agents, and employees, from any claims or causes of action, including attorney's fees incurred, to the extent caused by Vendor's:

a. Intentional, willful, or negligent acts or omissions; or
b. Actions that give rise to strict liability; or
c. Actions related to the improper release of non-public data, as set forth by law; or
d. Breach of contract or warranty.

The indemnification obligations of this section do not apply insofar as and proportional to the comparative negligence of the indemnified party, in the event all or some of the claim or cause of action is the result of the State's negligence. This clause will not be construed to bar any legal remedies the Vendor may have for the State's failure to fulfill its obligation under this Contract.

20. Liability Limitations. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO ANY OTHER PARTY FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, INCIDENTAL OR INDIRECT DAMAGES INCURRED BY THE OTHER PARTY, HOWEVER CAUSED ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT THEY HAVE BEEN ADVISED OF THE POSSIBILITY, OF SUCH DAMAGES. ANY OUT OF POCKET COSTS AND EXPENSES INCURRED BY MMCAP OR ANY OF THE MMCAP PARTICIPATING FACILITIES, OR VENDOR, TO MITIGATE OR LESSEN ANY DAMAGES OR HARM CAUSED BY THE COUNTERPARTY'S NEGLIGENCE, OR, WITH RESPECT TO MMCAP PARTICIPATING FACILITIES ONLY, ARISING FROM ANY FAILURE OF VENDOR TO PROVIDE PRODUCTS IN COMPLIANCE WITH THE WARRANTIES REFERENCED IN THIS AGREEMENT SHALL BE CONSIDERED DIRECT DAMAGES.

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

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

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

23. Intellectual Property and Data. MMCAP owns all rights, title, and interest in MMCAP customer data, sales transaction data, DEA/HIN information (subject to third-party rights), Contract pricing, EDI

transaction data, reverse distribution data, and payment data, including copyrights and trade secrets contained therein, provided that MMCAP grants to Vendor an unlimited, non-revocable, non-transferable, fully paid license to possess and use the foregoing data in the ordinary course of business and otherwise pursuant to the applicable terms and conditions of this Agreement. MMCAP grants to Vendor an unlimited, non-revocable, nontransferable, fully paid license, for the term of this Contract, to (i) release state specific data to an MMCAP Member's State Contact, MMCAP Participating Facilities; (ii) release any of the above data to product manufacturers, when necessary for the performance of this Contract or as required by Vendor's agreements with such product manufacturers; (iii) to release any of the above data to other MMCAP-approved third parties, when necessary for the performance of this Contract; (iv) to provide MMCAP Participating Facility purchase data to third-party aggregators, subject to Vendor's reasonable efforts to require such data aggregators to protect any identifiable data from discovery by another third party and subject to written approval by MMCAP; and (v) to provide MMCAP Participating Facility purchase data to other group purchasing organizations of which the MMCAP Participating Facility is also a member, provided such data will not include MMCAP-identifiable data. Any MMCAP identifiable data provided hereunder to a third party must identify the data as MMCAP data and subject to Minn. Stat. Ch. 13. Vendor hereby agrees that in the event that an MMCAP Member or MMCAP Participating Facility requests in writing that its purchase data be kept confidential, such data will not be provided to third party aggregators.

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

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

23.2. Intellectual Property Warranty and Indemnification. Except as otherwise set forth below, Vendor warrants that any materials, software or products produced by Vendor will not infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any such claim by any third party against MMCAP, MMCAP will promptly notify Vendor. Vendor, at its own expense, will indemnify; defend to the extent permitted by the Minnesota Attorney General's Office, and hold harmless MMCAP against any loss, cost, expense, or liability (including reasonable legal fees) arising out of such a claim, whether or not such claim is successful against MMCAP.

If such a claim has occurred, or in the Vendor's opinion is likely to occur, the Vendor will either procure for MMCAP the right to continue using the materials or products or replacement or modified materials or products. If an option satisfactory to MMCAP is not reasonably available, MMCAP will return the materials or products to the Vendor, upon written request of the Vendor and at the Vendor's expense. This remedy is in addition to any other remedy provided by law.

In the event of a third party claim of infringement by any material, software or product provided by Vendor or utilized by Vendor in the performance of this Contract, but produced by a third party,

Vendor's indemnification obligations set forth in this Contract shall apply to the extent that the third party's indemnification obligation to the Vendor is available to MMCAP or Vendor will assist MMCAP in tender of such claim directly to the manufacturer of such material, software or product.

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

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

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

24.1. Workers' Compensation Insurance. Except as provided below, Vendor must provide Workers' Compensation insurance for all its employees 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:

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

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

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

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

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

The following coverages shall be included:
Premises and Operations Bodily Injury and Property Damage

Personal and Advertising Injury
Blanket Contractual Liability

Other; if applicable, please list_____
State of Minnesota named as an Additional Insured

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

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

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

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

$2,000,000 – per claim or event
$2,000,000 – annual aggregate

Any deductible will be the sole responsibility of the Vendor.

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

24.5. Additional Insurance Conditions.

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

b. Vendor's policy(ies) and Certificate(s) of Insurance shall not be cancelled without at least thirty (30) days advanced written notice to MMCAP and said notice will be the responsibility of Vendor;

c. Vendor is responsible for payment of Contract 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, if reasonably available to the Vendor, in addition to its liability policy limits, with the exception of B.4 above;

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

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

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

25. Publicity and Endorsement

25.1. Publicity. Any publicity by Vendor regarding the content of this Contract must identify MMCAP as the sponsoring agency and must not be released without prior written approval from MMCAP's Authorized Representative. Any publicity by MMCAP regarding the subject matter of this Contract must not be released without the prior written notice of Vendor's Authorized Representative, except that MMCAP may publicize non-trade secret information in the normal course of business in order to promote its services. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

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

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

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

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

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

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

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

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

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

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

31.3. Minn. R. 5000.3400-5000.3600.

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

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

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

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

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

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

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

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

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

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

33. Force Majeure. Neither party hereto will be considered in default in the performance of its obligations hereunder to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot or other catastrophes beyond the reasonable control of the party unless 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 defaulting under this provision must provide the other party prompt written notice of the default and take all necessary steps to bring about performance as soon as practicable.

Except for provisions of this Contract relating to protection of Trade Secrets and the obligation of payment, neither party will be liable for non-performance caused by circumstances beyond their reasonable control, including, but not limited to (i) Acts of God, explosion, flood, lightning, tempest, fire or accident; (ii) war, hostilities (whether war is declared or not), invasion, acts of foreign enemies; (iii) rebellion, revolution, insurrection, military or usurped power or civil war; (iv) riot, civil commotion or disorder; (v) acts, restrictions, regulations, refusals to grant any licenses or permission, prohibitions or measures of any kind on the part of any local, state, national, governmental or supra-governmental authority; (vi) state government shutdown; (vii) import or export regulations or embargos; (viii) defaults of subcontractors where such default is itself caused by force majeure Notwithstanding any other term or condition of this Agreement, in the event of a force majeure affecting Vendor as described above, or an inability to obtain at reasonable prices or in sufficient quantities the Products or the raw materials, chemicals, material, fuel, power, energy, labor, containers, transportation or distribution facilities or equipment relating to the production or distribution of the Products, Vendor may apportion its available supply of such Products among its purchasers on any basis without incurring any liability and/or adjust the prices of the Products to offset increased costs relating to the force majeure or other events and occurrences described above.

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

35. Dispute Resolution Procedures. Vendor and the MMCAP Participating Facility (the "Parties") will handle resolution of unresolved disputes using the following procedure.

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

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

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

35.4 Resolution Plan. Upon development of a plan and timeline for resolution, Vendor will have a reasonable amount of time to cure the issue, but in no event longer than thirty (30) days, except by express written agreement of the parties. Failure to cure any defect within thirty (30) days shall give MMCAP cause to declare a material breach, subject to the termination rights set forth herein, where the cure period included in dispute resolution shall count towards the notice and cure periods, if applicable, for termination.

35.5 Mandatory Resolution Plan, Without Need For Prior Escalation. A mandatory resolution plan and timeline shall be created by the parties, without the prior need for Escalation of Dispute, when any of the following circumstances occur. Failure to correct identified defects, as set forth below, within the agreed upon time, not to exceed thirty (30) days, or the reoccurrence of any issue under Section 35.5 within ninety (90) days of initial resolution, shall give MMCAP cause to declare a material breach, subject to the termination rights set forth herein, where the cure period included in dispute resolution shall count towards the notice and cure periods, if applicable, for termination. In addition, or the alternative, failure to correct identified defects, as above, shall grant cause for any effected MMCAP Member or MMCAP Participating Facility to terminate all dealings with Vendor.

35.5.1 Reports. Vendor submits any such required report or data in a manner that materially fails to comply with the applicable provisions set forth in this Contract

35.5.2 Invoices. If an MMCAP Participating Facility places an order for Product and receives a separate invoice for any fee not directly related to the cost of the Product from the Vendor without providing a separate invoice that references the same invoice number or purchase order number that is indicated on the Product invoice or purchase order

35.5.3 Unauthorized Fees. Vendor charges an MMCAP Participating Facility any fee not authorized by this Contract or any Attachment hereto.

35.5.4 Inventory Management. MMCAP Contract Products with manufacturers are not loaded and stocked (based upon usage, request, notice of usage or due to barriers created by Vendor to avoid stocking the Product), and viewable by all MMCAP Participating Facilities, as required pursuant to this Contract and within the timelines set forth herein.

35.5.5 Delivery Delays. Deliveries made by the Vendor are not in accordance with the time schedules specified in Attachment C or as otherwise agreed upon by the Vendor and MMCAP Participating Facility.

35.5.6 Ordering Information. Products and pricing are not loaded correctly into the Vendor's product ordering system and an MMCAP Participating Facility must order alternatives to the MMCAP Contracted Products due to the Vendor's error.

35.5.7 Business Interruption Plan. Vendor experiences a systemic business interruption that materially affects Vendor's ability to perform its obligations under this Contract, excluding those systemic business interruptions caused by an event of force majeure; change in applicable laws, rules or regulations or interpretation or application thereof; changes in manufacturer policies or procedures; or any other event outside the reasonable control of Vendor.

35.5.8 Required Licenses, Permits, and Registration. Vendor fails to maintain all necessary licenses, permits and registrations required by state, local and federal agencies. Vendors must make such documentation available upon request by the MMCAP Office.

35.6. Performance while Dispute is Pending. Notwithstanding the existence of a dispute, other than non-payment of delivered product beyond ninety (90) days of payment terms, the Vendor must continue without delay to carry out all of their responsibilities under the Contract. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed

work, any additional costs incurred by MMCAP and/or MMCAP Participating Facilities as a result of such failure to proceed shall be borne by the Vendor.

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

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

37. DEA License/HIN. The Vendor shall not require an MMCAP Participating Facility to have a DEA number in order to obtain products unless the facility places orders for controlled substances. MMCAP Participating Facilities will have HIN numbers assigned by the MMCAP Office.

38. Administrative Personnel Changes. The Vendor shall notify the MMCAP Office of changes in the Vendor's key administrative personnel, in advance and in writing. Any employee of Vendor, who, in the opinion of the MMCAP Office, the MMCAP Participating Facilities or the MMCAP Participating Member State Contacts is unacceptable, will be removed from the project upon written notice to the Vendor; provided, however, any such removal must be for lawful reasons and in accordance with the following procedure: 1) whenever MMCAP has an issue with a Vendor's employee that cannot be resolved between MMCAP and the Vendor's employee; Step 1 is to engage the Vendor's Contract Administrator (CA). The CA will work to reach an acceptable resolution between MMCAP and the Vendor's employee and 2) if an acceptable resolution cannot be reached between MMCAP and the Vendor's employee, the CA will implement a change of employees for the project within 30-45 days. In the event that an employee is removed pursuant to a written request from MMCAP's authorized representative, the Vendor will have ten (10) working days in which to fill the vacancy with an acceptable employee.

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

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

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

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

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

40. Survival of Terms. The following clauses survive the expiration, termination or cancellation of this Contract: Indemnification; 19. Audits; 21. Government Data Practices; 22. Intellectual Property; 23.

Publicity and Endorsement; 25. Liability Limitations; 20. Governing Law Jurisdiction, and Venue; 27. Data Disclosure 28.

41. E-Verify Certification (In accordance with Minn. Stat. §16C.075). For services valued in excess of $50,000, Vendor certifies that as of the date of services performed on behalf of the State, 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 the State. 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 the State upon request.

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

By: _____
Alex Liberman
Title: General Counsel and Assistant Secretary
Date: May 16, 2012

By: _____
Title: _____
Date: _____

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

By: Dai Hoang, PharmD, MBA
Title: Pharmacist, Senior
Date: May 16, 2012

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

By Sara Turnbow, PharmD, BCPS
Title: Pharmacist Sr.
Date: 5-16-12

ATTACHMENT A
PRODUCTS AND PRICING
(Pricing to be mutually agreed upon and incorporated into the Contract prior to the first processed order for Products purchased through this Contract)

ATTACHMENT B
CORE PRODUCTS
(Pricing to be mutually agreed upon and incorporated into the Contract prior to the first processed order for Products purchased through this Contract)

ATTACHMENT C: STATEMENT OF WORK

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

Alternate Contract Sales: Alternate Contract Sales consist of Products purchased from contracts individually negotiated by the MMCAP Participating Facilities with direct manufacturers and distributed by Vendor.

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

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

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

Bulky Products: The MMCAP Office's definition of Bulky Products include food and food products, home healthcare products (durable medical equipment, such as walking aids, bathroom safety products, wheelchairs and accessories, scooters and lift chairs, etc.), non-contract nutritionals, non-contract large volume parenteral, and non-contract IV Fluids.

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

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

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

Distribution Center: Vendor's facility used for receipt, temporary storage, and redistribution Products according to the customer orders

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

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

Eligible Purchasers: MMCAP Participating Facilities that are deemed by the MMCAP Office to have met the requirements to be active an MMCAP Participating Facility.

Emergency Product Delivery: An off-schedule delivery of the Products required by the MMCAP Participating Facility, which may include orders of Product for patient specific medical treatment or to ensure the facility has sufficient Product to remain operational until the next-scheduled delivery day.

Fill/Kill. An order or a portion of a Core Product order cancelled ("killed") due to non-shipment of Core Products from the Vendor to the MMCAP Participating Facility by the required Core Product delivery date, unless the ordering facility has previously approved the delivery of a Substitute Product. Killed items shall count against the Service Level except as set forth in Attachment C., Section 7.6.4.

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

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

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

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

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

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

MMCAP Contract Product Cost: The applicable MMCAP Contract Product price agreed upon by the Vendor and MMCAP, and if applicable to this Contract, the Product price agreed upon by the MMCAP Contracted Manufacturer and MMCAP.

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

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

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

MMCAP Participating Facility: Any facility, purchasing through the Contract of an MMCAP Member, and listed by the MMCAP Office as an active participant in good standing in the MMCAP Membership and either does not have another GPO agreement that includes Medline as a vendor or has had an authorized representative sign a statement indicating their decision to switch to the MMCAP GPO. A current listing of MMCAP Participating Facilities is made available to all MMCAP vendors monthly.

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

Net Purchase: All purchases of Products (excluding returns, credits, rebates, late charges and other similar fees) made through Vendor by any MMCAP Participating Facility including Products drop shipped from an affiliate of Vendor in the normal course of business.

Next Day Delivery: Orders placed Sunday through Thursday by MMCAP Participating Facilities by the designated time as proposed by the Vendor which will be delivered the next business day. Orders placed on Friday or Saturday must be delivered on the following Monday or next business day.

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

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

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

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

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

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

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

Contract, Products that are added to this Contract as a result of executed contracts between MMCAP and manufacturers of medical equipment, medical supplies and other non-pharmacy products.

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

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

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

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

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

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

Unique Product: A Product that is not stocked by Vendor in Vendor's primary shipping plant and which is not an item manufactured by the Vendor. Unique Product does not count against the Vendor's Service Level Requirements.

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

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

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

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

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

Vendor personnel must include but are not limited to the following:

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

4. Customer Service.

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

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

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

Name	Title	Office Address	Contact Information
Michael O'Ryan	Government Bid Manager	One Medline Place, Mundelein, IL 60060	**Phone:** 847-643-4759 **Mobile Phone:** 630-362-5519 **Fax:** 847-949-2497 **Email:** moryan@medline.com
John O'Daniel	Vice President, Government Sales	One Medline Place, Mundelein, IL 60060	**Phone:** 847-949-3147 **Mobile Phone:** 847-226-8496 **Fax:** 847-949-2497 **Email:** jodaniel@medline.com
Theresa Maskrey	VP Healthcare Inside Sales	One Medline Place, Mundelein, IL 60060	**Phone:** 847-247-7867 **Mobile Phone:** 815-276-9600 **Fax:** 866-914-2745 **Email:** tmaskrey@medline.com

b. The alternate Account Representatives will be:

Name	Title	Office Address	Contact Information
Dave Jacobs	Sr. Vice President HealthCare Sales	One Medline Place, Mundelein, IL 60060	**Phone:** 847-949-2299 **Mobile Phone:** **Fax:** 949-2654 **Email:** djacobs@medline.com

c. In the event the MMCAP Office determines the Primary Account Representative is non-responsive, the MMCAP Office will escalate issues to the following individuals to take appropriate corrective action for problem resolution.

Name	Title	Office Address	Contact Information
John O'Daniel	Vice President, Government Sales	One Medline Place, Mundelein, IL 60060	**Phone:** 847-949-3147 **Mobile Phone:** 847-226-8496 **Fax:** 847-949-2497 **Email:** jodaniel@medline.com
Dave Jacobs	Sr. Vice President HealthCare Sales	One Medline Place, Mundelein, IL 60060	**Phone:** 847-949-2299 **Mobile Phone:** **Fax:** 949-2654 **Email:** djacobs@medline.com
Kurt Krieghbaum	Sr. Vice President, National Accounts	One Medline Place, Mundelein, IL 60060	**Phone:** 847-970-4021 **Mobile Phone:** **Fax:** 847-949-2497 **Email:** kkrieghbaum@medline.com

d. The Vendor must provide thirty (30) days prior written notification to the MMCAP Office, MMCAP Member State Contact and the MMCAP Participating Facilities, of changes in the Vendor's key personnel assigned to this MMCAP Contract, and/or the MMCAP Member State and/or the MMCAP Participating Facilities. Upon written request by the MMCAP Office and notice to the Vendor, Vendor must within a reasonable period of time to allow for smooth transition remove from this project and replace a key administrative personnel employee of Vendor as set forth in Section 38.

Administrative Personnel Changes, of the Contract, who, in the sole opinion of the MMCAP Office, and the MMCAP Member State Contact and the MMCAP Participating Facilities is providing unacceptable service under this Contract. There will be no charge to the MMCAP Office, MMCAP Member States or the MMCAP Participating Facilities for assigning replacement personnel. Vendor agrees that each such replacement personnel have the necessary orientation, background, knowledge, skills, and abilities to perform in the position replaced. Such replacement personnel are subject to advance approval by the MMCAP Office, the MMCAP Participating Facility, and the MMCAP Member State Contact.

4.2. Customer Service to the MMCAP Participating Facility

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

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

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

a. Customer support center located at: Medline Industries, 7900 Chavenelle Rd, Dubuque, Iowa

b. Access to customer service representatives with principal responsibilities in the areas of but not limited to: order entry, shipping, delivery, ordering, stocking issues, and other general customer service requests.

c. Customer service hours of operation are: [7:00am-7:00pm (CST)] Monday through Friday (excluding the following national holidays: Memorial Day, 5/28/2012; Fourth of July, 7/4/2012; Labor Day, 9/3/2012; Thanksgiving, 11/22-23/2012 and Christmas, 12/24-25/2012). Future national holidays similar to those mentioned, beyond 2012, will also be excluded, but may vary slightly as to the specific dates dependent upon they day of the week that they occur.)

d. Vendor's customer service can be reached toll free at: 800-633-5463 by fax at: at 800-351-1512, or by e-mail at: customerservice@medline.com.

Technical support is available: [7:00am-6:00pm (CST)], Monday through Friday via e-mail at helpdesk@medline.com. For expedited and/or urgent service please call using the toll-free number 1-800-216-5954 during normal business hours. Vendor's product ordering systems are monitored internally by data center support staff 24/7 365 days/year with certain holiday exceptions. After hours support is managed through customer service which contacts our internal Data Center support staff for technical problems

e. **Emergency Call Procedures**: To be used for life critical emergency situations only that requires Product before the Next Scheduled Delivery Day.

i. During normal business hours (Monday-Friday [7:00am-7:00pm (CST)], call customer service at: 800-633-5463; email to customerservice@medline.com or fax to 800-351-1512.

ii. Outside normal business hours, please call Medline's **After Hours Emergency Customer Service Hotline** can be reached Monday - Friday from [7:00pm – 7:00am (CST)] and 24 Hours Sat – Sun by calling **563-543-0558**

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

- Customer Satisfaction
- Vendor Performance
- State Account Performance (COGs, payment terms, etc.)
- Reports (e.g., contract compliance)
- Medicare Part B: Billing Issues
- Invoices For Charge-backs and/or Products not billed to Medicare
- Other Contract Related Issues

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

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

5.1.1. Meeting Structure and Topics.

a. The business review meeting agenda must be finalized a week in advance with significant MMCAP input.
b. All data, backup reports and slides pertaining to the meeting should be sent to the MMCAP Office at least three (3) business days in advance
c. The quarterly business review meetings held at the MMCAP Office with the Vendor's Primary Account Representative and others at the Vendor's Corporate Office should address at a minimum the following:

- Medical Supply Industry News/Updates

- Service Levels
- Contract Activity Reporting
- Cost of Goods and Fees
- Success Stories and Ongoing Opportunities.
- Product Information (recalls, innovations, new products etc.)
- Compliance Activity Reporting
- Purchase Activity Reporting
- EDI Setup and Audits
- Customer Satisfaction
- Vendor Performance Issues
- Member Issues
- Conversion Activities
- Contract Implementation/Transition Issue
- Core Product Sales Activity Review
- Provide a briefing on Vendor's ongoing efforts to guarantee that the MMCAP Participating Facilities are receiving the lowest available Product pricing during the term of the MMCAP Contract.
- Provide a briefing on Vendor's ongoing efforts to ensure that additional Product price reductions are always extended to all MMCAP Participating Facilities.
- Provide a briefing on Vendor's efforts to refer the MMCAP Members to Products that represent the "Best Value".

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

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

6.2. Contract Transition.

6.2.1. MMCAP Participating Facility Eligibility. Vendor shall inform any prospective new MMCAP business accounts that it must enter into a MMCAP Participating Facility Membership Agreement and complete the MMCAP Participating Facility Membership Application form before it is eligible to purchase Products covered by this Contract. Vendor also agrees to refer any prospective new MMCAP business accounts that need further assistance regarding the MMCAP Participating Facility Membership application process to the MMCAP Office and to the MMCAP Participating State Contact.

6.2.2. Vendor Required Documentation. Vendors shall be responsible for notifying both new and existing MMCAP Participating Facilities and the MMCAP Participating State Contact in writing specifying the Vendor's required documentation and instructions to enable the MMCAP Participating

Facilities to transition to the new Contract. Vendor shall promptly notify the MMCAP Participating Facilities and the MMCAP Member State Contact at least thirty (30) calendar days prior to the Commencement Date of the MMCAP Contract and throughout the Contract Term of any missing or incomplete documentation required for account set-up.

6.2.3. Start-Up Inventory. At least thirty (30) calendar days prior to the Commencement Date of the MMCAP Contract and in accordance with Section 7.3.h., Vendor will provide an inventory of MMCAP Core Contract Products, or same or substantially equivalent products in accordance with Article 4, Section 9. and 10.2, sufficient to meet the needs of the national MMCAP Participating Facilities. Historical Product usage data will be provided by the MMCAP Office to the Vendor at least sixty (60) calendar days prior to the Commencement Date of the Contract. Vendor must have all MMCAP Contract Products loaded in its ordering system and have a minimum of thirty (30) calendar days' Core Contract Product supply available to order prior to the Commencement Date of the MMCAP Contract.

6.2.4. Product Samples and/or Demonstration Models. At least thirty (30) calendar days prior to the Commencement Date of the MMCAP Contract and upon request from the MMCAP Participating Facilities the Vendor agrees to provide Product reasonable and appropriate quantity of samples and/or demonstration models for each of the requesting MMCAP Participating Facilities. The product samples and/or demonstration models must be provided at no charge prior to the Commencement Date of the MMCAP Contract and throughout the term of the MMCAP Contract. In addition, during the term of the MMCAP Contract and upon request by the MMCAP Participating Facility, Vendor shall provide training on the Products, if applicable and appropriate, covered by the MMCAP Contract which includes the Product features and proper use of the Products.

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

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

7. Inventory Management. Described below are the Product inventory management requirements for MMCAP Contract Products that are set forth on Attachment A: Products and Pricing and Attachment B: Core Products. Also, if applicable to this Contract, Products may be added to this Contract through contracts between MMCAP and manufacturers of medical supplies, equipment and other non-pharmacy products in accordance with 7.4.a. In the event such contracts for specific products are executed between MMCAP and a manufacturer, the Vendor will agree to distribute the product under the same terms and conditions as set forth in this Contract in accordance with 7.4.a.

7.1. Inventory Management at an MMCAP Participating Facility. Upon request by an MMCAP Participating Facility, Vendor will provide, at no cost to the MMCAP Participating Facility, inventory management support that includes, as applicable and necessary, training, software, reporting capability, and handheld devices to assist the facility in performing its onsite inventory. Upon request by the MMCAP Participating Facility, Vendor must agree to conduct the inventory management support services onsite.

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

Name	Title	Office Address	Contact Information
Michael O'Ryan	Government Bid Manager	One Medline Place, Mundelein, IL 60060	**Phone:** 847-643-4759 **Mobile Phone:** 630-362-5519 **Fax:** 847-949-2497 **Email:** moryan@medline.com

Vendor's designated contact for all usage, inventory and special order questions for the **MMCAP Participating Facilities is:**

Name	Title	Office Address	Contact Information
Michael O'Ryan	Government Bid Manager	One Medline Place, Mundelein, IL 60060	**Phone:** 847-643-4759 **Mobile Phone:** 630-362-5519 **Fax:** 847-949-2497 **Email:** moryan@medline.com

7.3. MMCAP Contract Products.

a. Vendor will stock all MMCAP Contract Products in accordance with the Vendor Stocking Policy in 7.3.h. and 7.3.i. and not create any barriers in order to avoid stocking MMCAP Contract Products.

b. Vendor acknowledges and agrees to maintain Product utilization history data of the MMCAP Contract Products for a minimum of sixty (60) calendar days. If any Product has not been ordered after sixty (60) calendar days, Product utilization history data can be adjusted accordingly in the Vendor's Product inventory management system to reflect the non-usage of the Product.

c. Vendor will bring in a thirty (30) calendar days' supply of Products for initial account set-up based on sales usage data from the MMCAP Office. Thereafter, Vendor's buying system will acknowledge the created demand and purchase inventory to meet said demand. Inventory will be maintained according to Vendor's Service Level and inventory parameters. See also Section 6.2.3. Start-Up Inventory.

d. Vendor is responsible for providing an inventory forecasting report to the MMCAP Office as requested. This report will monitor and forecast ordering, usage patterns, as well as, identify significant trends, including increases and decreases in purchases. Monthly contract compliance reports to monitor purchases of MMCAP Contract and non-contract products must also be available to the MMCAP Office upon request.

e. Vendor cannot discontinue stocking an MMCAP Contract Product unless there is mutual written agreement between the MMCAP Office and the Vendor unless otherwise determined by force majeure or market conditions.

f. **MMCAP Contract Product Additions.** For newly added MMCAP Contract Products, Vendor will make good faith efforts to have the Products loaded, stocked, and viewable in its system and ready for delivery no later than ten (10) business days from the time Vendor receives notification that the Product has been added to the MMCAP Contract.

g. **Non-Stocked MMCAP Contract Products.** For MMCAP Contract Products that are not stocked, an MMCAP Participating Facility may request the Vendor add the Product to inventory

at the applicable distribution center by contacting customer service or its account representative. MMCAP Contract Products will be available for delivery no later than three (3) business days from request receipt for Products stocked at Vendor's distribution center unless the MMCAP Contract Product is delayed due to manufacturer unavailability or force majeure provision as set forth in Section 33 Force Majeure of the Contract. In the event the fulfillment of any of the requests will take longer than what is specified in this section, Vendor will provide prior written notice of the delay and the reason for the delay to the requesting MMCAP Participating Facility and the MMCAP Office.

h. **Vendor Stocking Policy.** Products will be stocked in requested UOM and in Vendor's primary branch warehouse if:

   a. The Product is already set-up in Medline's primary shipping plant.

   b. At the request of the ordering MMCAP Participating Facility, Unique Products that are not set-up in Vendor's primary shipping plant can be stocked, if the ordering MMCAP Participating Facility agrees to purchase all requested stock of Unique Products, based on sixty (60) days prior usage provided by the ordering MMCAP Participating Facility and if requested by Vendor, the MMCAP Office. Unique Products will not count against the Vendor's Service Level Requirements.

i. **Surplus Products Policy.** As part of Vendor's agreement with the ordering MMCAP Participating Facility, Vendor is ordering into stock, Products per Vendor's Stocking Policy specific for distribution to the ordering MMCAP Participating Facility.

   Vendor will maintain a maximum sixty (60) day inventory level for the ordering MMCAP Participating Facility. Because Vendor is bringing Products in specifically to Vendor's branch and specifically for the ordering MMCAP Participating Facility, Supplier reserves the right to implement the following for any Product which after ninety (90) days has not been ordered:

   a. Sell Products to other established accounts serviced from the same distribution branch.

   b. Stock transfer Products to other established accounts (the ordering MMCAP Participating Facility would be responsible for any associated freight and stock transfer fees).

7.4. MMCAP Contracted Manufacturers.

a. If MMCAP contracts directly with a manufacturer(s) of medical equipment, medical supplies and other non-pharmacy products and, if a mutually acceptable amendment to this Contract is signed by both MMCAP and the Vendor, then Vendor must agree to stock and distribute the MMCAP Contracted Manufacturer's product as they become available to MMCAP Participating Facilities at the Contract prices agreed to by MMCAP, the Vendor and the manufacturer. Until and unless a mutually acceptable amendment is signed by both MMCAP and the Vendor, any and all references and requirements in this Contract related in any way to MMCAP Contracted Manufacturers, are not applicable.

b. The MMCAP Office reserves the right to modify the MMCAP Contracted Manufacturers List, as set forth in Attachment G, at any time during the Contract term unless this action is superseded by the terms and conditions of the amendment referenced in 7.4.a.

c. **New Product Additions.** If MMCAP contracts directly with a manufacturer(s), the MMCAP Contracted Manufacturer's Product will be loaded, stocked, viewable, and ready for delivery in five (5) business days from the Effective Date of the MMCAP Contract with the manufacturer unless a longer term is approved in writing by the MMCAP Office or unless a longer term is stated in the amendment referenced in 7.4.a. The Vendor will be provided with 30 to 45 days advance notice of the Effective Date to allow for orders to be placed and product stocked in the appropriate branch warehouse locations. If Vendor does not have a business relationship with the MMCAP Contracted Manufacturer then the Product will be loaded, stocked, viewable, and ready for delivery in fifteen (15) business days from the Effective Date of the MMCAP Contract with the manufacturer unless a longer term is approved in writing by the MMCAP Office or unless a longer term is stated in the amendment referenced in 7.4.a. The Vendor will be provided with sixty (60) to ninety (90) days advance notice from MMCAP of the Effective Date to allow for orders to be placed and product stocked in the appropriate branch warehouse locations.

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

7.5.1. Immediate Notification. Vendor will notify the MMCAP Participating Facilities, MMCAP Member States and the MMCAP Office in writing within twenty-four (24) hours of any Products covered by this Contract that the Vendor has placed on backorder. Vendor's backorder notification will include:

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

7.5.2. Delivery Timeframe. Vendor will have three (3) to five (5) business days from the date the Product is ordered to have the Product, which is not custom or other specialty product, stocked and delivered at no charge and with no additional fees, in accordance with and as specified in Article 4, Section 15.1, to the ordering MMCAP Participating Facility, barring any manufacturer production issues.

7.5.3. Manufacturer Direct Shipment. If the Product subject to the backorder is deemed critical by the MMCAP Participating Facility, and the Product is available from the Vendor's Contracted Supplier, then the Vendor will have the Vendor's Contracted Supplier of the Product ship directly (drop shipped) to the MMCAP Participating Facility via Next Day Delivery. Any Products that are drop shipped to MMCAP Participating Facilities from the Vendor's Contracted Supplier, directly as a result of a backorder, will not be charged any additional fees or shipping charges. However, as previously noted, this does not apply to certain Vendor's products which are manufacturer directs with freight paid by the MMCAP Participating Facility.

7.5.4. Product Substitutes. The ordering MMCAP Participating Facility may purchase Product Substitutes on the open market for the period in which the Vendor is unable to provide the backordered Product. The Product Substitutes must be an equivalent (brand, generic or private label) product that is approved by the ordering MMCAP Participating Facility. Notwithstanding any other

term or condition of this Contract, Vendor shall not be liable hereunder or under any applicable law for "cover" or other damages relating to failure to supply, except for (a) the penalty provided in Attachment C, Section 7.6.5, if applicable, and (b) in the event (i) Vendor is unable to provide the Product or a reasonable substitute for the Product, and (ii) a MMCAP Participating Facility requires such Product during the period of unavailability, then Vendor shall be liable for any additional cost of acquiring a substitute Product from another vendor, provided that Vendor's liability for such payments shall be capped at 10% of the price of the Product hereunder, and shall only apply for ordinary course orders submitted during the first sixty (60) days of unavailability/failure to deliver during the term of this Contract.

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

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

7.5.6.1. **Immediate Notification.** Vendor will notify the MMCAP Participating Facilities, MMCAP Member States and the MMCAP Office in writing within twenty-four (24) hours of any Products covered by this Contract that the Vendor has placed on backorder due to **a manufacturer created stock outage**. Vendor's backorder notification will include but is not limited to:

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

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

7.6.1. **Fill-Rate Reports.** During the term of this Contract and on a monthly basis, Vendor will calculate the Service Level and issue reports to the MMCAP Office. Reports shall provide calculations for the following:

a. Each of the MMCAP Participating Facility account(s) serviced by the Vendor.

b. An aggregate report of all of the MMCAP Participating Facility accounts serviced by the Vendor.

c. Each Distribution Center that services MMCAP Participating Facility accounts.

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

a. **Service Level = # of Lines Delivered / # of Lines Ordered**

7.6.3. Manufacturer Backorder Units will include the following:

a. Orders for Core Products made but not shipped because of industry wide shortages or other issues beyond the control of Vendor, as demonstrated by Vendor to the reasonable satisfaction of the MMCAP Office (e.g., Manufacturer Unable to Supply, Manufacturer Allocations, Manufacturer Backorders, Manufacturer Recalls, and Manufacturer Discontinued).
b. Purchases of Core Products which exceed 100% of the communicated forecast in accordance with Attachment II: Vendor's Shipping Policy.
c. Core Products ordered which are filled and delivered within twenty-four (24) hours of the original order.
d. Partial shipments of Core Products if 75% or more of the order can be completely filled within 48 hours.
e. Special orders requiring shipment from the manufacturer.
f. Non-stock products that are not under contract with MMCAP

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

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

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

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

8. Management of MMCAP Contract Products

8.1. Price Loading Requirements.

a. Vendor will be responsible for processing the MMCAP Contract File Updates, or the files sent to the Vendor by the MMCAP Office which specify the Products and pricing covered under this Contract.

b. If applicable to this Contract, this may also include the Product pricing that the MMCAP Office has negotiated with MMCAP Contracted Manufacturers. Vendor will load and make viewable in its ordering system all data lines from MMCAP's Contract File Update notifications within five (5) business days from the date of receipt or by the MMCAP Contract File Update Effective Date (the date upon which MMCAP and the manufacturer executed the Contract), whichever is later. When manufacturer verification is needed in order to load an MMCAP Contracted Manufacturer's Product and the MMCAP-Contracted Manufacturer has not responded or provides data that is inconsistent with the MMCAP Contract File Updates, Vendor will make a good faith effort to notify the MMCAP Office in writing no later than two (2) business days (after the five (5) business days allowed for Vendor processing).

c. Vendor agrees that any notice received from an MMCAP-Contracted Manufacturer or the Vendor's Product supplier for a price or Product change on an MMCAP Contract Product will be forwarded to the MMCAP Office Contacts referenced in Section 6.2.5 of this Attachment C.

d. Provided that Vendor has received all requested account set-up information, Vendor will have all MMCAP Contract and in accordance with 7.4.a, individual MMCAP Contracted Manufacturer contracts, in accordance with 7.4.a., loaded prior to the MMCAP Participating Facility's first order. This includes all tiered contracts, if applicable to this Contract.

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

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

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

8.5. Product Expiration Dating.

a. At a minimum, expiration dating for all MMCAP Contract Products and non-contract products delivered to MMCAP Participating Facilities must have a minimum shelf life of six (6) months expiration dating remaining upon delivery to the MMCAP Participating Facilities.

b. Shipment of Product with expiration dating of less than six (6) months requires the prior approval of the MMCAP Participating Facility before release and delivery of the short-dated Product.

c. If Vendor distributes short dated Product to an MMCAP Participating Facility without prior approval, the Product may be returned to Vendor at Vendors expense and subject to Section 18: Products Returned to the Vendor.

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

9.1. Ordering System.

a. Vendor will provide to each MMCAP Participating Facility a product ordering method that allows the facility to quickly and accurately order MMCAP Contract Products and non-contract products, within the technological capabilities of the MMCAP Participating Facility. At a minimum, Vendor's product ordering system(s) must provide the following functionalities:
   i. Clearly identify all MMCAP Contract Products and whether these Products are in stock
   ii. Build and place electronic orders
   iii. Review pending orders for correctness and contract compliance
   iv. Provide online allocation of ordered amounts
   v. Receive Order Confirmation reports

b. Vendor will offer its product ordering system(s) to MMCAP Participating Facilities. Vendor will support the following ordering methods: Internet, EDI, phone orders via interactive voice response, direct call to customer service, handheld device ordering, and fax orders.

c. Vendor must have a separate ordering method for stock supplies and Medicare Part B billed supplies. Facilities must be provided with a phone and fax number for patient specific Medicare Part B orders and these orders must be handled separately from the ordering MMCAP Participating Facilities' stock orders.

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

a. Training will include but is not limited to the following:
   i. Proper use of product order entry devices including computer and hand held units
   ii. How to access and interpret Vendor's inventory status
   iii. Order placement process (Product inquiry, placement, order edit, print back confirmation, etc.)
   iv. Any required product ordering system maintenance
   v. Downloading price changes
   vi. Performing file maintenance
   vii. Requesting or printing bar code labels
   viii. Download/Run/Print/Export contractually required reports
   ix. Operation of Inventory Management program
   x. Identifying MMCAP Contract Products (e.g., contract ranking)
   xi. Any other commercially available training in use of the equipment or ancillary items
   xii. Contact information in case of questions regarding ordering

xiii. Training guides or manuals and system operating manuals, accessible on line (including all updates), for all equipment and software furnished by the Vendor to each individual ordering facility
xiv. Assigning of account login IDs and passwords
xv. Item Return Processing Training
xvi. Technical support to interface hand held devices with each facility's PC/network infrastructure.

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

9.3. Ordering System(s) Back-up Service, Maintenance and Repair. If Vendor's ordering system is internet based Vendor agrees that routine site maintenance will only occur after normal business hours and MMCAP Participating Facilities and Participating State Contacts will be notified in advance of the scheduled maintenance through messages applied to both Medline.com and the Medline.com login pages. Vendor reserves a maintenance window of Tuesdays and Thursdays from [9:00PM to 11:00PM (CST/CDT)] and intermittently on weekends if needed. During the routine maintenance Customer Service, per 4.2.1., will serve as back-ups for Vendor's product ordering systems. If maintenance is required for Vendor's product ordering system devices (e.g. handheld or computer) then Vendor will replace or repair the devices accordingly.

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

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

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

9.5. Confirmation Printback/Order Confirmation. The Vendor's product ordering system will allow for the input of an individual purchase order number assigned by the MMCAP Participating Facility for each order submitted. Vendor will provide a purchase order confirmation report to the Order Originator the same day the order is placed by the MMCAP Participating Facility. The order status report will reference the purchase order number of the original order and include any related Product order information including but not limited to, inventory availability dates that reflect the data in which inventory is expected to be available at the Medline distribution center.

Vendor's ordering system will clearly identify both MMCAP Contract Products and the MMCAP Participating Facilities' Alternate Contracts. MMCAP shall be listed as the primary and only GPO for all MMCAP Participating Facilities who designate MMCAP as their primary GPO and Vendor shall credit all sales utilizing the MMCAP Contract to MMCAP.

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

9.7. Technical Support for Product Ordering. Vendor's technical support is available from [7:00 am-6:00 pm (CST)], Monday-Friday via e-mail at helpdesk@medline.com. For expedited and/or urgent service please call using the toll-free number 1-800-216-5954 during normal business hours. Vendor's product ordering systems are monitored internally by the Data Center support staff 24/7 365 days/year with certain holiday exceptions. After hours support is managed through Customer Service which alerts our internal Data Center support staff for technical problems. See below for Medline's Customer Service contact information also provided in 4.2.1. Vendor's customer service can be reached toll free at: 800-633-5463 by fax at 800-351-1512 or by e-mail at: customerservice@medline.com.

Emergency Call Procedures: To be used for life critical emergency situations only that requires Product before the Next Scheduled Delivery Day.

i. During normal business hours (Monday-Friday [7:00am-7:00pm (CST)], call customer service at: 800-633-5463; email to customerservice@medline.com or fax to 800-351-1512.

ii. Outside normal business hours, please call Medline's **After Hours Emergency Customer**

Service Hotline can be reached Monday - Friday from [7:00pm – 7:00am (CST)] and 24 Hours Sat – Sun by calling **563-543-0558**

9.8. Special Orders. Vendor agrees to an average turn-around time from the placement of an MMCAP Participating Facility's order to the expected delivery date of the Product of no more than three (3) business days.

9.9. Emergency Order, Placement and Delivery. Vendor agrees to offer an emergency Product ordering system during the term of this Contract. An emergency Product order is defined as one necessary for immediate and specific patient care which falls outside the normal order and delivery parameters. For emergencies that occur after normal working hours, Vendor will provide each MMCAP Participating Facility access to a special after-hours phone number that is dedicated to handling emergency orders. The MMCAP Office agrees to work with Vendor if abusive situations related to emergency orders arise.

9.9.1. Emergency Order Placement. During normal working hours, emergency orders should be directed to the customer service team assigned to service the MMCAP Participating Facility. After normal business hours, Vendor will provide each MMCAP Participating Facility access to a special after-hours notification system which may include phone or electronic notification systems that are dedicated to handling emergency orders. Vendor's emergency ordering system must be available twenty-four (24) hours a day, seven (7) days a week. The emergency order must be processed by the Vendor's representative, who must accept the emergency order and immediately acknowledge receipt of the emergency order placed by the MMCAP Participating Facility.

9.9.2. Emergency Order Delivery. The emergency order must be processed the same day it is received and shipped by the most expeditious means possible, unless other shipping means are identified by the Order Originator.

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

10.1. Routine Delivery Requirements.

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

b. **Shipping Terms.** As set forth in Attachment H: Vendor's Shipping Policy, all routine scheduled order shipments in accord with the requirements of Article 4, Section 15.1, will be F.O.B. destination, freight prepaid other than certain specific Vendor's products which are manufacturer directs with freight paid by the MMCAP Participating Facility.

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

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

e. **Delivery Time.** Vendor's daily order cut off time will be 1:00 PM local time with the delivery window from 8:00AM – 5:00PM within three (3) to five (5) business days of the placement of the order depending on location and distance from servicing distribution center. The Vendor's Rush Order Cutoff for all Branches (warehouses) is 3:30 PM Branch Local Time. Orders received Monday through Thursday will be delivered in an average turn-around time from the placement of an MMCAP Participating Facility's order to the expected delivery date of the Product, which is not custom or other specialty product, stocked and delivered, of three (3) to five (5) business days in accordance with Article 4, Section 15.1 and Attachment C, 7.5.2. Vendor's distribution centers will make a good faith effort to deliver before noon local time when applicable.

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

g. **Damaged Products.** All damaged Products must be reported to Vendor's customer service department as set forth in Section 18: Products Returned to the Vendor and applicable credits will be issued within twenty (20) to thirty (30) business days from receipt of the damaged item.

h. **Lost Products.** All lost Products must be reported to Vendor's customer service department as set forth in Section 18: Products Returned to the Vendor. Upon reconciliation, Vendor will apply credit for lost items as applicable within three (3) business days.

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

10.2. Drop Shipment Order Requirements.

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

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

c. Unless approved by the MMCAP Participating Facility, Drop Shipments directly from Product suppliers (not shipped by Vendor) for recurring orders are prohibited however, this does not apply to certain Vendor's products which are manufacturer directs with freight paid by the MMCAP Participating Facility.

d. Products requiring Drop Shipment must be easily identified in Vendor's product ordering system. Vendor's Drop Shipment Products are denoted in its product ordering system.

e. Timelines for the delivery of Drop Shipment Products will be made per the request of the ordering MMCAP Participating Facility (e.g., expedited shipment, standard delivery, etc.). Vendor will place Drop Shipment requests with manufacturers or Product suppliers within one (1) business day of receiving the request from the MMCAP Participating Facility.

f. In the event that Vendor is unable to fill an MMCAP Participating Facility's order for an MMCAP Contract Product, Vendor will have the Product drop shipped directly from the manufacturer. The MMCAP Participating Facility will not be assessed a fee for this shipment.

10.3. Delivery for Special Products.

a. If applicable to the Products offered under this Contract, Vendor will maintain appropriate temperatures and environmental conditions in accordance with manufacturer requirements for delivery of Special Products to the MMCAP Participating Facilities. All refrigerated Special Products will be shipped in returnable coolers with appropriate packaging to maintain the required temperature range. Special Products requiring refrigeration will be clearly marked as such. Temperature monitors will be used if they are required by the manufacturer.

b. All Special Products will be adequately packaged by Vendor. If an MMCAP Participating Facility refuses Special Product that has been inadequately packaged, the MMCAP Participating Facility must notify Vendor's customer service department to log the complaint. Any costs associated with the return of Special Product due to improper packaging or transport will be at the expense of the Vendor.

c. Vendor must not distribute MMCAP Contract Products through associated specialty distributors without the prior written approval of the MMCAP Office or without the manufacturer requiring the Vendor to do so.

d. In the event a manufacturer charges Vendor for shipping due to an expedited request by an MMCAP Participating Facility, Vendor will provide advance written notice to the MMCAP Participating Facility and invoice the MMCAP Participating Facility by line item for the same shipping cost charged by the manufacturer. Backup documentation will be available upon request for any shipping fees that are charged to the MMCAP Participating Facility for Products supplied by Vendor.

11. Contract Compliance.

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

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

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

12. Invoicing.

12.1. Order Invoice.

a. Vendor will submit an invoice with each order. Invoices must be only for the amount of Product delivered, not the amount ordered. Quantity ordered and quantity shipped must be based on the packaging associated with the Vendor's Product ID number.

b. No additional fees or special handling charges will be assessed for MMCAP Contract Products.

c. All additional fees (e.g., expedited shipping charges) previously agreed upon the Vendor and MMCAP will be in line item detail separated from the Product's cost and will be tied back to an original invoice number.

d. Upon request, Vendor will work with the MMCAP Participating Facility to develop a customized invoice format.

e. **At a minimum, the Vendor's invoice will contain the following fields:**
   - Facility Name
   - Vendor-assigned account number for the MMCAP Participating Facility
   - Invoice line number
   - MMCAP Participating Facility's purchase order number
   - Invoice date
   - Vendor's SKU item number
   - NDC (11 digit)(if applicable to this Contract)
   - Product Name/Description
   - Packaging as associated with NDC number(if applicable to this Contract)
   - Unit price
   - Quantity ordered
   - Quantity shipped
   - Extension (unit price multiplied by the quantity shipped)
   - Total invoice price
   - Bill to address
   - Ship to address
   - Applicable omit codes (e.g., manufacturer backorder, wholesaler temporarily out, manufacturer discontinued, etc.)

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

13. Credits and Rebills.

a. Vendor will process credits and rebills within twenty (20) to thirty (30) business days as notifications are received. Vendor will issue credits due to MMCAP Participating Facilities daily. In the case of an invoice dispute, Vendor will issue credits/rebills within twenty (20) to thirty (30) business days after the Dispute Resolution process set forth in this Contract.

b. Vendor will make credits and rebills available to each MMCAP Participating Facility online, with the option to print a hard copy.

c. Vendor will notify MMCAP Participating Facility of credit balances as they are generated. A statement of account listing open invoices/credit memos will be sent weekly, semimonthly, or monthly depending on the account's payment terms.

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

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

f. If directed by an MMCAP Participating Facility, a credit can be transferred from one account to another account.

g. Vendor will clearly identify credits as a credit.

h. The Vendor will take all commercially reasonable steps to ensure that credits that become available close to the end of the MMCAP Participating Facility's Fiscal Year are available for use by the MMCAP Participating Facility no later than five (5) business days prior to the end of the fiscal year.

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

- Original purchase order
- Original Vendor invoice number
- Itemized listing of the product(s) affected
- Any rebill associated with the credit
- Reason(s) for the credit (e.g., manufacturer credit, merchandise return, etc.)
- Net credit amount available to the MMCAP Participating Facility

j. Vendor will clearly identify rebills as a rebill.

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

- Original Vendor invoice number
- Original order date
- Itemized listing of the Product(s) affected
- Credit memo associated with the rebill
- Reason(s) for the rebill (e.g., manufacturer chargeback denial, pricing error, etc.)
- Effective date of the Product price change

14. Price Audits and Corrections

a. In the event of a Product pricing error (e.g., late pricing load, etc.) that is solely attributable to the Vendor, Vendor agrees to process credit/rebills for ninety (90) calendar days.

b. When an MMCAP Participating Facility or the MMCAP Office discovers an error in pricing for an MMCAP Contract Product that favors an MMCAP Participating Facility, the MMCAP Participating Facility or the MMCAP Office will notify Vendor. Upon mutual agreement by the MMCAP Office and Vendor of the error in pricing, Vendor will issue credits/rebills to all MMCAP

Participating Facilities for the time period from the date the error began to the date it is corrected subject to timeframe described in this Section 14(a).

c. The foregoing provisions of this Section 14 shall be subject to Section 21 of the Contract ("Audits").

15. Chargebacks. Vendor will provide the MMCAP Office notification within five (5) business days of any chargebacks resulting from the Vendor's billing of Medicare for the payment of Products covered by this Contract and discrepancies between MMCAP Contract Product pricing and the Product pricing loaded by the Vendor in its product ordering system. It will be the responsibility of the Vendor to coordinate correction of Product pricing discrepancies after Vendor has provided such notice. During the term of this Contract no MMCAP Participating Facility shall have an obligation to pay any amount due for chargebacks issued by the Vendor that exceed one (1) year (365 calendar days) from the date the Product was supplied to the MMCAP Participating Facility by the Vendor. In the event of a chargeback, the Vendor will provide detailed information including patient name, product information, date of service and if applicable to the chargeback, the reason for Medicare denial.

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

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

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

Where the above is prohibited by an MMCAP 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 Contract pricing within thirty (30) calendar days of notice of the dispute. This clause will in no way be deemed a limitation on the Parties as it relates to the future auditing and/or correction of invoices.

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

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

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

19.1. Recall Notification. Vendor agrees to notify MMCAP and the affected MMCAP Participating Facilities within twenty-four (24) hours after becoming aware that any of the Products covered by this Contract and distributed to MMCAP Participating Facilities requires modification, is removed or recalled as stated above. Notices to **MMCAP** shall be sent by e-mail to: mmcap.contracts@state.mn.us

Vendor agrees that it will comply with any process mandated by the FDA, if applicable, to address such recall with each MMCAP Participating Facility. Unless otherwise required by the applicable manufacturer of the Product distributed by the Vendor to the MMCAP Participating Facility, the MMCAP Participating Facility shall have the right to return to Vendor any Products where the Products or any components included are subject to a recall, regardless of whether actual return of the Products or components to Vendor is required, recommended, or suggested by the recall, in which case Vendor shall pay all freight costs incurred or the return of each affected Product and shall reimburse each MMCAP Participating Facility for the MMCAP Participating Facility's original costs, including freight, in acquiring each affected Product. In the event the Vendor is unable to acquire Replacement Products for the recalled Product, and an MMCAP Participating Facility purchases Replacement Products from a source other than the Vendor, such purchases shall count against the fill-rate requirements set forth in Section 7.6. Service Level Requirements. Also, the Vendor must reimburse the affected MMCAP Participating Facility for the difference between the MMCAP Contract Product price for the recalled Product and the price of the Replacement Product acquired from a non-contract source if the non-contract source price is higher.

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

20.1. Reporting Tools.

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

b. At a minimum, Vendor will provide the following on-line reporting tools:

i. Purchase Summary Report: ranks items by sales value over a designated period of time
ii. Manufacturer backorder reporting
iii. Fill-Rate Reports
iv. Contract Compliance Reports

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

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

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

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

MMCAP Contract Number MMS12010

Required Data Fields for the Sales Data Report
MMCAP-assigned facility ID
MMCAP Facility Name
Vendor Distribution Center Code
Vendor-assigned Account number for the MMCAP Facility
Customer Invoice Number
Customer Invoice Line Number
Customer Purchase Order Number
Invoice date (mmddccyy)
Buyer name or equivalent of buyer ID for person submitting the invoices (May be left blank)
Vendor's (distributor) SKU item number
NDC of purchased product in 5-4-2 format as stored in First DataBank, Inc. (may be left blank if not pharmaceutical)
Label Name (product description)
Unit Dose (may be left blank if not pharmaceutical)
Pack Size (may be left blank if not pharmaceutical)
Unit (selling unit of measure)
Case Size (case packaging size)
Dose (may be left blank if not pharmaceutical)
Strength (may be left blank if not pharmaceutical)
Route (may be left blank if not pharmaceutical)
Unit Price (99999.9999) (selling unit price)
Quantity ordered (not Vendor repackaged or re-bundled quantity)(999999.9999)
Quantity shipped (not Vendor repackaged or re-bundled quantity) (999999.9999)
Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999999.999)
Type of transaction (MMCAP contract purchase, other contract purchase (340B,PHS), not on contract purchase) 1=contract item, 2=other contract, 3=not on contract
Bill to Address 1
Bill to City
Bill to State (2 alpha postal code)
Bill to Zip (standard 5-4 format, no dash necessary)
Ship to Address 1
Ship to City
Ship to State (2 alpha postal code)
Ship to Zip (standard 5-4 format, no dash necessary)
Service Fee (9999.9999) (if providing negotiated service fee discounts)
MMCAP Contract Number (MMSxxxxx)
Admin fee for non-contract items (9999.9999)
Credit Indicator (C for credit)
MMCAP Assigned Wholesaler Code (AmeriSource-Bergen=0401, Cardinal Health=0301, Morris-Dickson=0701, Bergen=0201, (New codes will be assigned to PPV's during implementation period of the contract)
Manufacturer Name (MFG Name)
Class of Trade (if offering volume or tiered discounts)
340B Purchase (1=True, 0=False)
Manufacturer Part Number
Product Category
Manufacturer Part Number
Product Category

Monthly Usage Report - Fixed Length Fields

Required Data Field Full Name	Field Name	Data Type	Format (note decimals are to be included)	Size	Nulls	Begin Column	End Column
MMCAP-assigned facility ID	MMCAP_id	Alpha Numeric		7	1	1	7
MMCAP Facility Name	MMCAP_Name	Alpha Numeric		30	1	8	37
Vendor Distribution Center Code	DistributionCenter	Alpha Numeric		3	1	38	40
Vendor-assigned Account number for the MMCAP Facility	VendAccountNo	Alpha Numeric		10	1	41	50
Customer Invoice Number	InvoiceNumber	Alpha Numeric		15	1	51	65
Customer Invoice Line Number	InvoiceLineNo	Alpha Numeric		4	1	66	69
Customer Purchase Order Number	poNumber	Alpha Numeric		15	1	70	84
Invoice date (mmddccyy)	InvoiceDate	numeric	mmddccyy	8	1	85	92
Buyer name or equivalent of buyer ID for person submitting the invoices	BuyerName	Alpha Numeric		20	1	93	112
Vendor's (distributor) SKU item number	SKU	Alpha Numeric		13	1	113	125
NDC of purchased product in 5-4-2 format as stored in First DataBank, Inc.	NDC	Alpha Numeric	999999999	11	1	126	136
Label Name	LabelName	Alpha Numeric		40	1	137	176
Unit Dose	UD	numeric	9	1	1	177	177
Pack Size	Pack_Size	numeric	99999.999	9	1	178	186
Unit	Unit	Alpha Numeric		2	1	187	188
Case Size	Case_Size	numeric	9999	4	1	189	192
Dose	D	Alpha Numeric		10	1	193	202
Strength	STR	Alpha Numeric		10	1	203	212
Route	RT	Alpha Numeric		10	1	213	222
Unit Price (99999.9999)	UnitPrice	numeric	99999.9999	10	1	223	232
Quantity ordered (not Vendor repackaged or re-bundled quantity)(999999.9999)	QuantityOrdered	numeric	999999.9999	11	1	233	243
Quantity shipped (not Vendor repackaged or re-bundled quantity) (999999.9999)	QuantityShipped	numeric	999999.9999	11	1	244	254
Extension (unit price multiplied by the quantity shipped) EXTENDED PRICE (99999999.999)	ExtendedPrice	numeric	99999999.999	13	1	255	267
Type of transaction (MMCAP contract purchase, other contract purchase (340B,PHS), not on contract purchase) 1=contract item, 2=other contract, 3=not on contract	SaleType	Alpha Numeric		1	1	268	268
Bill to Address 1	billtoaddress1	Alpha Numeric		30	1	269	298
Bill to City	billtocity	Alpha Numeric		20	1	299	318
Bill to State (2 alpha postal code)	billtostate	Alpha Numeric		2	1	319	320
Bill to Zip (standard 5-4 format, no dash necessary)	billtozip	Alpha Numeric		9	1	321	329
Ship to Address 1	shiptoaddress1	Alpha Numeric		30	1	330	359
Ship to City	shiptocity	Alpha Numeric		20	1	360	379
Ship to State (2 alpha postal code)	shiptostate	Alpha Numeric		2	1	380	381
Ship to Zip (standard 5-4 format, no dash necessary)	shiptozip	Alpha Numeric		9	1	382	390
Service Fee (9999.9999)	ServiceFee	numeric	9999.9999	9	1	391	399
MMCAP Contract Number (MMSxxxxx)	contractnumber	Alpha Numeric		10	1	400	409
Admin fee for not-on-contract items (9999.9999)	AdminFee	numeric	9999.9999	9	1	410	418
Credit Indicator (C for credit)	CreditIndicator	Alpha Numeric		1	1	419	419
MMCAP Assigned Wholesaler Code (AmerisSource-Bergen=0401, Cardinal Health=0301, Morris-Dickson=0701, Bergen=0201, ***(New codes will be assigned to PPV's during implementation period of the contract)***	WholeCode	Alpha Numeric		4	0	420	423
Manufacturer Name (MFG Name)	MfgName	Alpha Numeric		40	1	424	463
Class of Trade	ClassofTrade	Alpha Numeric		4	1	464	467
340b Purchase	340b	Alpha Numeric		1	1	468	468
Manufacturer Part Number	MfgPartNumb	Alpha Numeric		20	0	469	488
Product Category	ProdCat	Alpha Numeric		40	0	489	528

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

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

20.5. Annual State Fiscal Year Summary Usage Report for the MMCAP Office. An annual State Fiscal Year (based on the State of Minnesota's fiscal year of July 1- June 30) summary usage report by Product and dollar spend amount sorted in descending order and grouped by Product category will be provided to the MMCAP Office for each Fiscal Year (consecutive twelve (12) calendar month period July1 – June 30) of the MMCAP Contract. The summary usage report must be provided to the MMCAP Office on or before the 10th day of the subsequent calendar month (e.g., the report will be due on July 10th). The annual report data provided to the MMCAP Office must include all the monthly usage for every MMCAP Participating Facility serviced by the Vendor. During the first year of the MMCAP Contract, Vendor will provide a partial summary usage report for the Fiscal Year which includes the period of the Effective Date through June 30 of the first year of the MMCAP Contract.

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

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

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

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

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20.9. Fill/Kill Report. Upon request by the MMCAP Office, Vendor will provide to the MMCAP Office accurate kill/fill data on or before the 10th day of the second subsequent month (e.g., June's data will be due on July 10th). This report must be provided in an Excel format and be submitted electronically to mn.multistate@state.mn.us. **The table details the required fields for the Fill/Kill data report.**

Field Long Name
MMCAP ID (May be left blank)
Customer Name
Vendor Customer DC Number
Customer Distribution Center (May be left blank)
Vendor's Customer Number
Address
City
State
Invoice Number
Invoice Date
Short Reason Code
Short Reason Description
Manufacturer
Product Band Name
Product Generic or Private Label Name
Vendor's Product or Part ID Number
Manufacturer's Product or Part ID Number
Pack Qty
Pack Size
Order Quantity
Shipped Quantity
Killed Qty
Extended Sales

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23. Administrative Fee. In consideration for Services provided by MMCAP, the Vendor, under this Contract, will pay an Administrative Fee on all MMCAP Participating Facility "Net Purchases" (which term, for purposes of the Contract, excludes returns, credits, rebates, late charges and other similar fees) made through Vendor and Products drop shipped from an affiliate of Vendor in the normal course of business. The payment of the Administrative Fees is intended to be in compliance with the Medicare and Medicaid Patient Protection Act of 1987 (Anti-Kickback Statute), as set forth at 42 USC§ 1320a-7b (b) (3) (C), and the "safe harbor regulation" set forth in 42 C.F. R. §1001.952(j) The Vendor will submit a check payable to "State of Minnesota, MMCAP Program" for an amount equal to three percent (3%) for all MMCAP Participating Facilities' eligible net purchases covered under this Contract. The Administrative Fee shall be

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

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

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ATTACHMENT D
MMCAP MEMBER STATE REQUIREMENTS

Remainder of page left intentionally blank unless and until a mutually acceptable amendment is signed by both MMCAP and the Vendor.

ATTACHMENT E
SERVICE AREA

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

ATTACHMENT F
VENDOR'S – MMCAP CONTRACT IMPLEMENTATION AND TRANSITION PLAN

-Vendor will announce Contract implementation to MMCAP Membership through various forms of media.

-Vendor will confirm Membership of the MMCAP Participating Facility.

-Vendor will assign a Sales Representative to the MMCAP Participating Facility.

-The assigned Sales Representative will:

- o contact the MMCAP Participating Facility,
- o introduce themselves and Medline,
- o collect six (6) months to one (1) year of past monthly trend usage from the MMCAP Participating Facility,
- o ensure products selected and used routinely by the facility, in accordance with Attachment 3, 7.3.h. are stocked in the Medline branch closest to the facility,
- o provide information on:
  - product ordering procedures and complete training on such procedures (including any minimum software/hardware requirements for on-line ordering system),
  - delivery procedures,
  - billing procedures,
  - product return procedures,
  - customer service call center,
  - reporting capabilities and procedures to access to them,
- o in future will make product in-service education readily available,
- o respond to any questions or concerns.

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

Remainder of page left intentionally blank unless and until a mutually acceptable amendment is signed by both MMCAP and the Vendor.

ATTACHMENT H
VENDOR'S SHIPPING POLICY

FOB destination on orders of $50.00 or more on all stock Products located at the MMCAP Member Facility's primary shipping branch in the United States. Freight charges will be added to emergency overnight shipments and stock Products where usage is in excess of 100% of communicated forecast which are required to be stock transferred or shipped overnight, and to any Product that is not stocked for the MMCAP Member Facility in their primary shipping branch. Manufacturer drop ship charges and FOB shipping point terms of distributed manufacturers will be assessed by Medline to the MMCAP Member Facility, together with all other applicable freight charges.

ATTACHMENT I
VENDOR'S STOCK OUTAGE AND BACKORDER POLICY

In the unlikely event that a back order does occur, the Medline Sales Representative assigned to the MMCAP Participating Facility would identify the line item back ordered and immediately check for availability from one of Medline's other 30 branch locations or a pre-approved alternate item to substitute. If there is no pre-approved substitute for the back ordered item, the Sales Representative would immediately place a telephone call to the identified point of contact for that MMCAP Participating Facility to review all potential substitute items that may be an acceptable one time alternative for the backordered item. Upon approval from the MMCAP Participating Facility's point of contact, the item would be substituted and picked for shipment. This process should not impede the standard delivery time frame of any order placed. Also, Medline requests that our customers work with our sales representatives to identify those products which are critical items.

ATTACHMENT J
VENDOR'S PRODUCT RETURN POLICY

This Policy applies to all customers and transactions, unless superseded by a signed written agreement including specific returned goods terms and conditions. We reserve the right to reject any return that does not comply with the terms of this Policy.

Returns of non-Medline brand items and "vendor directs" are subject to the terms and conditions of the manufacturer and may incur additional charges such as restocking or freight, based on the manufacturer's policy. These charges will be deducted from the credit when issued.

Custom Items, Patient Home Direct, Kaumographed, Embroidered and/or Altered Textiles or Made to Order items cannot be returned. Product may be returned for any item that has been shipped in error or found to be defective. Damaged items will require the appropriate inspection and/or documentation that would allow Medline to file the appropriate claim with the carrier. (All other returns may be subject to a restocking fee as listed below).

All returns require a Returned Goods Authorization (RGA). Goods received without prior authorization will be subject to review and credit may be denied. You may obtain an RGA by calling Medline's Return Goods Department at 1-800-307-8386. An RGA Number is valid for 60 days after issuance. All efforts will be made to assist you in meeting the 60 day requirement.
Should you decide to keep your product after obtaining your RGA authorization, please advise us by calling the number listed above. We will gladly cancel your authorization.

Returns may be rejected due to the physical condition of the items received in our warehouse or our vendor's warehouse. When returning product that is not defective, damaged, or a Medline shipping error, the following terms and conditions apply, (a) items must be received in unopened cases with original packaging intact, (b) items with "piggyback labels" will not be accepted (these fall into the made to order category), (c) the expiration date on all nutrients have a shelf life of not less than six months from date received in our warehouse, (d) expired items may not be returned, and (e) items not in salable condition due to improper storage, spoilage, or damaged packaging are not returnable.
Returns that are not for defect, damage or error will be subject to the following restocking amounts, based on the date of the original invoice:

Return from Date of Invoice Re-Stocking Fee as a % of the Invoice Amount
0 - 30 days 5% + Freight
31 - 60 days 10% + Freight
61 - 120 days 20% + Freight
121 - 180 days 30% + Freight
6 months or greater not returnable

Should you need assistance in scheduling a pick up, we can provide you with the appropriate Call Tags or Bill of Lading. Your RGA authorization will be provided with instructions on contacting the carrier, costs relating to freight and/or restocking fees as applicable. These fees will be deducted from the credit issued. All quality issues, damaged product or returns that are the result of a Medline error, will be returned at Medline's expense.

[Attachment K in its entirety is Proprietary to Medline Industries and should be considered a Trade Secret]

ATTACHMENT K
VENDOR'S PRODUCT RECALL PROCEDURES/POLICIES

Document Number: **CW010**	Title: **Field Action Procedure (Market Withdrawals, Corrective Actions or Removals, Recalls and Sub-Recalls)** (Corporate Procedure)	
Released by: D. Moore		Date: 01/07/11
Effective date: 01/07/11		**CO#: C11-00033**
Approved by:	President: J. Bowser Corporate President - QA/RA: L. Simmons	Originator: D. Wolfe VP RA (Corporate): B. Thompson

1.0 Purpose:

1.1 The purpose of this document is to describe the procedures to be followed for FDA mandatory and voluntary recalls, and product corrections and removals including market withdrawals, stock recoveries and safety alerts.

2.0 Scope:

2.1 These procedures will be followed for medical device, drug, cosmetic or food products manufactured and/or distributed by Medline Industries, Inc., domestic as well as international that require action after the product leaves Medline control. Product in Medline's branches or with a Medline employee is still under Medline control.

2.2 Prescription drug products are not Medline-labeled so will follow the distributed products sub-recall procedure based on information provided by the firm responsible for the drug recall. The firm responsible for the recall would be the notifier of the FDA, state agencies and the NABP.

2.3 Medical devices, drugs, cosmetics and food manufactured and/or distributed by Medline Industries to HPG and member Hospitals will follow the outlined procedures in attachment 1.

2.4 Revisions to this document require approval by Corporate President of QA/RA, Corporate Director of QA Systems and a Division President.

3.0 Responsibility:

3.1 It is the responsibility of the Corporate President QA/RA, or designee to ensure that the appropriate management personnel are involved in the decision process as well as carrying out the action in the most expedient, efficient, manner.

3.2 The VP of Quality for the specific division, Corporate Director of QA Systems and/or the QA Recall Coordinator will be responsible for the implementation of the field action procedures as well as recalls for distributed products.

3.3 The CEO, CFO, President and General Counsel will be notified of all Medline branded recalls.

3.4 The Corporate President of QA/RA and the General Counsel will approve the outgoing method and correspondence for Medline branded recalls.

3.5 The International RA Manager or Designee will be responsible for notifying the competent authorities and notifying body. The notifying bodies (these also include the AU Sponsor and the EU Representative) will be advised per SOP323.

3.6 The Corporate Director of Quality Systems or QA Recall Coordinator will notify the FDA when appropriate.

3.7 The QA Recall Coordinator will notify the RA Pedigree Supervisor of all recalls involving prescription drugs and devices. The notification must include the vendor name, vendor item numbers and lot numbers affected.

4.0 Definitions:

4.1 "Correction" means the repair, modification, adjustment, relabeling, destruction or inspection of a product without its physical removal from its point of use to some other location.

4.2 "FDA Mandatory Recall" is the removal of a device ordered by the FDA when the FDA finds there is a reasonable probability that the device would cause serious adverse health consequences or death.

4.3 "Voluntary Recall" is the removal of a drug, cosmetic or food when there is reasonable probability that the product would cause serious adverse health consequences or death.

4.4 "Market Withdrawal" means a correction or removal of a medical device, drug, cosmetic or food that involves a minor violation of the food and Drug Act that would not be subject to legal action by FDA or that involves no violation of the act, e.g., normal stock rotation practices.

4.5 "Removal" means the physical removal of a medical device, drug, cosmetic or food from its point of use to some other location for repair, modification, adjustment, relabeling, destruction or inspection.

4.6 "Classification Level" is the classification of the product being considered into a Class I, Class II or Class III level as determined by the relative degree of health hazard.

4.6.1 Class I – when there is a reasonable probability that using the product will cause serious adverse health consequences or death.

4.6.2 Class II – when there is a reasonable probability that using the product will cause temporary or medically reversible adverse health consequences and probability of serious adverse effects is remote.

4.6.3 Class III – when the product is unlikely to cause adverse health consequences.

4.7 "Risk to health" means:

1) A reasonable probability that use of or exposure to the product will cause serious adverse health consequence or death; or

2) That the use of or exposure to the product may cause temporary or medically reversible adverse health consequences or an outcome where the probability of serious adverse health consequences is remote.

4.8 "Stock recovery" means the correction or removal of a device that has not been marketed or that has not left the direct control of the manufacturer, i.e., the device is located on the premises owned or under control of the manufacturer or with a Medline employee and no portion of the lot, product number, or other relevant unit is involved in the corrective or removal action has been released for sale or use.

4.9 Remedial Action is any action taken to correct a product in the market or to remove a product from the market.

4.10 NABP : National Association of Boards of Pharmacy

5.0 References and Forms:

5.1 21 CFR 806 – Medical Devices; Reports of Corrections and Removals and 21 CFR 810 – Medical Device Authority

5.2 MEDDEV 2.12/1 Revision 5 Guidelines on a Medical Devices Vigilance System.

5.3 SOP327:Stock Check Request Procedure

5.4 Medical Device Requirements – Canada

5.5 SOP323:Medical Device Vigilance Reporting Procedure

5.6 Optional Forms to be used as needed:

5.6.1 CW010-A1: Sales Rep Recall Notification (Sample Format)

5.6.2 CW010-A2: Sub Recall Letter (Sample Format)

5.6.3 CW010-A4: Medline Recall Letter (Sample Format)

5.6.4 CW010-A5: Response Form (Sample Format)

5.8.5 CW010-F3: Health Hazard Evaluation – HHE Form

5.8.6 CW010-F2: Recall Procedure Checklist (Sample Format)

5.7 **Corrections and Removal:** When making a decision to perform a medical device, drug, cosmetic or food correction or removal on Medline branded products, Legal, Clinical and Regulatory personnel should be consulted as well as Sales and Management. It is important to proceed in a timely manner. The decision to do a correction or removal will rest at a minimum with QA management and the Division President.

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6.0 Procedure for Medline Corrections and Removals:

6.1 A stock check will be issued per SOP327; products within Medline's control will be placed on hold. For manufacturing divisions, floor stock and pulled stock in the manufacturing staging or production areas will be checked and cleared.

6.2 Sample rooms will be checked for stock.

6.3 A health hazard evaluation will be completed and classification will be determined. This will be completed by a team consisting at a minimum of a clinician and the Divisional QA.

6.4 The depth of the recall, corrective actions or removal will be determined.

6.5 The quantity of the product and its location will be determined.

6.6 Determine the type and content of the communications.

6.7 The disposition of the recalled product, component and/or pack shall be determined by the divisional QA Director and will be communicated to the customer.

6.7.1 Recalled product that is returned will be segregated from other products and labeled with Quarantine stickers pending disposition.

6.8 Identify the earliest date of distribution for the product.

6.9 Determine how effectiveness checks will be conducted.

6.10 Identify Medline customers domestic and international that purchased affected product.

6.11 Reconcile product.

6.12 Corrective actions and removals will be closed upon receipt of the Closure Letter from the FDA or sub-recalls for all Medline products upon verification that all vendor items distributed are on hold and returned to vendor and all applicable customers were notified. Complaints related to Medline removals and corrections maybe closed with an overview closing letter by the Divisional QA and Corporate Director of QA Systems that has been approved by the Corporate President of QA/RA.

6.13 All applicable sales representatives, customer service representatives, complaint manager, sales and marketing management, applicable divisional management and the CEO, President and Counsel are notified.

6.14 Medline shall submit a written report to FDA within 10 working days of initiating any correction or removal of Medline product which has been classified as a level I or II:

1) To reduce a risk to health posed by the device; or
2) To remedy a violation of the act caused by the product, which may present a risk to health.

6.15 The following actions are exempt from the FDA reporting requirements for corrections and removal:

1) Action undertaken to improve the performance or quality of a product but that do not reduce a risk to health posed by the product or remedy a violation of the act caused by the product.
2) Market withdrawals

3) Stock recoveries

4) Distributed product removals

6.16 In the case of a FDA mandatory or voluntary recall the same procedures described in this section will be followed, as well as the other actions required per CFR21 part 810.

6.17 Termination – Upon completion of the correction, removal or FDA mandatory or voluntary recall for Medline product the Divisional QA will prepare a final report including a root cause analysis for the Divisional President and Corporate President of QA/RA. A recall effectiveness check will be conducted under the direction of the FDA, when applicable. All applicable regulatory issues as specified by the FDA will be completed. In the case of a FDA mandatory or voluntary recall, a request to close the order will be submitted to the FDA, and the FDA will either grant or deny the request.

Number error by vendor. No content for Section 7 of Attachment K.

8.0 Vendor Corrections and Removals (Distributed Products/Sub-recalls):

8.1 All vendor corrections and removals will be forwarded to the QA Recall Coordinator.

8.2 The Division President and Corporate Director of QA Systems will be notified.

8.3 The vendor will identify the date Medline received product affected by the recall.

8.4 All applicable divisions including International will be notified to determine if the product is a component and/or a finished good.

8.5 If the product is a component, a report will be run to identify any finished goods utilizing this part.

8.6 A stock check at all branches will be conducted, including component stock at manufacturing locations, manufacturing staging and production areas, and sample rooms.

8.7 A report will be run listing all customers that potentially purchased the recalled product as well as the date and quantity of the purchase.

8.8 Letters are drafted by the QA Recall Coordinator and approved by the Corporate Director of QA Systems to go to all customers who may have received the product in question. "Urgent" will be indicated on the envelope.

8.9 All applicable sales representatives, customer service representatives, the complaint manager and applicable divisional/sales management will be notified.

8.10 The disposition of a recalled component will be determined by the vendor recalling the product.

8.11 The QA Recall Coordinator will reconcile confirmation from the customer.

8.12 The Corporate President of QA/RA will approve closure of the recall. Unacceptable response may require additional customer notification per sec. 8.8.

8.13 All costs associated with the recall will be calculated and a Debit Memo filled out and provided to the applicable division. A copy of the debit will be placed in the recall file.

8.14 Upon closure of the recall, it will be filed with the QA Recall Coordinator.

ATTACHMENT L
VENDOR'S BUISINESS INTERRUPTION PLAN

MEDLINE EMERGENCY ACTION PLAN

In the event of a disaster or other crisis, Medline will activate its Emergency Action Plan or EAP.

Medline's Disaster Response Team (DRT) will meet in our Disaster Response Center to determine the nature and scope of the event and initiate an appropriate response. The DRT will continue to meet twice daily to reassess the situation and redirect resources when and where appropriate. The DRT is empowered with the authority to take whatever actions it feels are necessary to respond in a manner consistent with Medline's Mission, Vision and Core Values.

In the event that a natural or other disaster destroys or renders a Medline facility inoperable, the following procedures are in place to maintain continuity of service:

1. One of three assigned back-up distribution centers will act as a temporary distribution center for a designated service area. Within 2 (two) hours all orders will be moved to the back-up branch until such time as the primary branch can resume operations.
2. MedTrans assets and personnel may be repositioned to provide additional transportation and support services in areas with the most critical need.
3. As the situation dictates, inventory will be reallocated to the appropriate back-up distribution center to accommodate the increased demand.

Medline will extend its hours of operation in all appropriate locations to ensure all customers' needs are met. Medline has contractual agreements with both LTL (common) carriers and same-day express-delivery services that will also flex their hours of operation as required.

Medline will continue to process orders and make deliveries as long as the safety of our employees is not jeopardized and local authorities do not impede service.

Medline employees will receive updates twice daily or any time there is a significant change in our service capabilities.

In times of crisis, customer pickups will be available as long as the distribution facility is secure and operational. In the event of a pandemic, some other restrictions may apply in an effort to protect our employees, our customers, and their needs.

MMCAP

MEMBER-REQUESTED PARTICIPATION AGREEMENT

MMS12010 – Amendment 1

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

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

MEDLINE INDUSTRIES, INC.,

and

STATE OF NEW HAMPSHIRE
ACTING THROUGH THE DIVISION OF PLANT AND PROPERTY MANAGEMENT
(NH Contract Number 8001181)

and amends the Agreement between MMCAP and Medline Industries, Inc. to include the following:

Term: This MPA is effective upon final signature, and expires upon the expiration of MMCAP's contract with Medline Industries, Inc. (MMS12010) or by any party upon 30 days' written notice to the other parties to this MPA listed below.

Scope: State of New Hampshire, desires to access the MMCAP agreement for medical supply distribution services with Medline Industries, Inc. (MMS12010), which is incorporated into this MPA by reference.

Contacts:

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

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

Medline Industries, Inc.:
Michael O'Ryan, Government Bid Manager
Medline Industries
One Medline Place
Mundelein, IL 60060
847-643-4759

MMCAP

MEMBER-REQUESTED PARTICIPATION AGREEMENT

MMS12010 – Amendment 1

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

1. Medline Industries, Inc.

By: R R Barth Date: 7-19-12

Ron Barth

Title: Executive Vice President, Sales

2. State of New Hampshire

Submitted for Acceptance:

By: Melanie Carraher Date: 7/14/12

Melanie Carraher, Purchasing Agent
Bureau of Purchase and Property

Recommended for Acceptance:

By: Robert Stowell Date: 7/23/12

Robert Stowell, Administrator
Bureau of Purchase and Property

Endorsed for Acceptance:

Endorsed by: Michael P. Connor Date: 8/3/12

Michael P. Connor, Director
Plant and Property Management

Acceptance for the State of New Hampshire Under the Authority Granted to Me by New Hampshire Statutes, Annotated 21-1:14, XII.

Linda M. Hodgdon Date: 8/3/12

Linda M. Hodgdon, Commissioner
Department of Administrative Services

3. State of Minnesota for MMCAP
In accordance with Minn. Stat. § 16C.03, subd. 3

By: Lisa A Vander Plaats, CPhT Date: 8/8/2012

4. Commissioner of Administration
In accordance with Minn. Stat. § 16C.05, subd. 2

By: Sara Turnbow, PharmD, BCPS Date: 8-8-12

Medline Industries, Inc.
Contract MMS12010

Amendment 2
is not posted for
viewing

AMENDMENT NO. 3 TO MMCAP CONTRACT NO. MMS12010

THIS AMENDMENT is by and between the State of Minnesota, acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Medline Industries, Inc., with principal place of business at One Medline Place, Mundelein, IL 60060 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS12010 (Original Contract). MMCAP and the Vendor are willing to amend the Original Contract as stated below.

Contract Amendment
(JL)

Effective when signed Article 4, Section 2 of the Original Contract is amended to read:

2. Contract Expiration date: May 31, 2015. The Contract may be extended for up to two (2) additional one (1) year periods upon execution of a written amendment and acceptance of both parties, for a total term not to exceed five (5) years.

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

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

By: RE Barth
Ron Barth
Title: Executive Vice President, Sales
Date: April 14, 2014

By: _____
Title: _____
Date: _____

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

By: Dandie Christensen
Title: Pharmacy Analyst
Date: 4-14-14

3. COMMISSIONER OF ADMINISTRATION
In accordance with Minn. Stat. ' 16C.05, Subd. 2

By: Heather Christ
Title: _____
Date: April 14, 2014

Medline Industries, Inc.
Contract MMS12010

Amendments 4 - 6 are not posted for viewing

AMENDMENT NO. 7 TO MMCAP CONTRACT NO. MMS12010

THIS AMENDMENT is by and between the State of Minnesota, acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Medline Industries, Inc., with principal place of business at One Medline Place, Mundelein, IL 60060 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS12010 (Original Contract). MMCAP and the Vendor are willing to amend the Original Contract as stated below.

Contract Amendment
(JL)

Effective November 16, 2014, Vendor updated pricing for Products on Attachment B: Core Products of the Original Contract (the Core Products also contains many Products which are currently on the U.S. Federal Supply Schedule). MMCAP completed price validation on January 15, 2015 for the updated Attachment B: Core Pricing that went into effect on November 16, 2014.

Vendor has no mechanism to revert to pricing charged to MMCAP Members prior to November 16, 2014, and requiring Vendor to revert to the old prices will negatively impact MMCAP Members in that many Product prices have decreased. Therefore, MMCAP and Vendor agree to amend Attachment B: Core Products, which is incorporated into this amendment by reference to the pricing that was effective November 16, 2014.

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

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

By: R L Barth
Ron Barth
Title: Executive Vice President, Sales
Date: February 11, 2015

By: _____
Title: _____
Date: _____

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

By: Sandra Christensen
Title: Pharmacy Analyst
Date: 02-11-15

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

By: Heather Chatt
Title: _____
Date: Feb. 11, 2015