

PROVIDER AGREEMENT
BUSINESS ASSOCIATE AGREEMENT
LOYALTYSCRIPT® CARD PROGRAMS

This Agreement, including the Business Associate Agreement appended as Appendix A, (the “Agreement”) governs your pharmacy (“Pharmacy”, “You” or “Your”) participation in the LoyaltyScript® Program (“LoyaltyScript®”) administered by McKesson Patient Relationship Solutions, a business unit of McKesson Specialty Arizona Inc., having its operations at 4343 North Scottsdale Road Suite 370 Scottsdale, AZ 85251 (“Administrator”). Throughout this Agreement, Administrator or Pharmacy may be referred to as a “Party” or collectively as “Parties”.

WHEREAS, Administrator offers transaction adjudication services to certain manufacturers of pharmaceutical products (the “Customers”) and has established electronic communications to process and adjudicate transactions and provide other related administrative, marketing and clinical services (the “Services”) including those related to LOYALTYSCRIPT® (the “Program”);

WHEREAS, Customers have or shall engage Administrator to provide its Services in connection with the Customers’ various programs;

WHEREAS, Pharmacy wishes to make available to its patients the benefits associated with the Programs;

WHEREAS, the Parties wish to set forth the terms and conditions under which Pharmacy shall participate in Programs.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Program Participation. LOYALTYSCRIPT® benefits may be made available through the use of a prescription identifier, which may come in the form of a plastic or paper card, coupon or voucher (the “Cards”). The Cards may be pre-activated or patients may call Administrator, or visit a website to activate their Card or otherwise enroll in the Program. Pharmacy understands and agrees that enrollment in the Program may not be a requirement and is subject to criteria established by the Administrator’s Customers and federal and state law and that the eligibility criteria are subject to change without notice, and that some patients may not qualify for participation in the Program. Individuals who are eligible to participate in the Program (the “Eligible Patients”) shall be eligible to use the Card at point of sale. Eligible Patients must present their Card to Pharmacy in order to participate in the Program. You understand and agree that all beneficiaries of any state or federally funded programs, including but not limited to, Medicare, Medicaid, TriCare, VA, DOD, etc., (“Government Beneficiaries”) are ineligible for participation in the Program and You will not accept Cards or submit transactions for Government Beneficiaries. Pharmacy shall provide Covered Drugs (as defined in Exhibit 1 attached hereto) to Eligible Patients in the same manner and quality as such services are provided in the ordinary course of business absent this Agreement, without preference or discrimination. Upon Eligible Patient’s presentation of the Card and a valid prescription for a Covered Drug, Pharmacy shall: (i) examine the Card, (ii) confirm patient is not a Government Beneficiary, confirm eligibility via the online transaction processing system, (iii) dispense the prescription to the Eligible Patient, and (iv) collect the co-payment, if any, as indicated by the online system.

2. Program Payments. For each of Your patients who: (1) is an Eligible Patient; (2) presents the Card when filling a prescription for a Customer’s Covered Drug, and (3) pays the co-payment, if any as indicated by the online system consistent with the terms of this Agreement, You shall be entitled to receive an amount equal to the Amount Due Pharmacy, plus a transaction fee upon submission of Your transaction (the “Payment”). “Amount Due Pharmacy” shall mean the amount payable to Pharmacy by Administrator acting on behalf of its Customer in connection with any Program transaction, as indicated by the paid response for such transaction, and in accordance with the terms set forth in Exhibit 1 to this Agreement. “Usual and Customary Price” means the lowest price Pharmacy would charge to its patients if such patients were paying cash for an identical prescription on that particular day, including any applicable discounts offered to attract patients. Pharmacy must ensure that the benefit received by the Eligible Patient is not in excess of such patient’s co-pay amount. In the event that Pharmacy collects from the Eligible Patient more than the co-payment on a Program transaction, such action shall constitute a

material breach of this Agreement. In the event that such Pharmacy fails to cure such breach within ten (10) business days of delivery of notice of the breach, the Administrator shall have the right to cease adjudication of such Pharmacy's transactions. Further, Pharmacy shall not use data collected from any Eligible Patient for any purpose other than to process transactions pursuant to this Agreement and not to market any other products or services.

3. Program Participation and Reimbursement. Program participation and reimbursement terms are set forth in Exhibit 1, which may be revised by Administrator at any time and from time to time in its discretion consistent with the Program, becoming effective upon posting at www.mckesson.com/MPRS.

4. Pharmacy Remittance. Administrator shall process Pharmacy's claims every fourteen (14) days (the "Transaction Processing Date") and shall pay Pharmacy for such transactions fourteen (14) days after the Transaction Processing Date. As an example for illustrative purposes only, for transactions submitted by Pharmacy between February 1 and February 14, the Transaction Processing Date shall be February 14 and payment will be made on February 28.

5. Help Desk. Administrator shall make available to Pharmacies the services of a telephone help desk to answer questions regarding Program transaction submissions.

6. Proprietary Notices. You understand and agree that You are not granted any rights, title, interest or licenses in or to the business or product names of Administrator or LOYALTYSCRIPT® or any of the member companies thereof or to any of the business or product names of any Customers of Administrator.

7. Communications. Pharmacy shall restrict its communications about Programs to those specifically authorized by this Agreement or direction from Administrator. Pharmacy shall not advertise LOYALTYSCRIPT® or the Programs or any waiver or reduction of co-pays or other patient liability in connection with this Agreement.

8. Adverse Events or Product Quality Complaints. You agree to report any adverse event information or product quality complaints to the Customer or manufacturer of the Covered Drug.

9. Insurance. Pharmacy shall maintain a general liability insurance policy, a separate products insurance liability policy and a separate pharmacist professional liability insurance policy, with each policy having limits of at least Three Million Dollars (\$3,000,000.00) for personal injury and property damage, and each carried with a company(ies) licensed to provide insurance in the state(s) in which Pharmacy is located. Any insurance carried by Pharmacy hereunder shall be on an occurrence basis, and shall require Pharmacy's insurance carrier to notify Administrator at least thirty (30) days prior to the cancellation of such insurance, and shall name Administrator as an additional insured. Upon Administrator's request, Pharmacy shall provide Administrator with a certificate of such insurance.

10. No Warranty. YOU AGREE THAT YOUR PARTICIPATION IN THE PROGRAM IS VOLUNTARY, AND AT YOUR OWN RISK. YOU UNDERSTAND AND AGREE THAT ADMINISTRATOR, LOYALTYSCRIPT®, ITS ELIGIBLE MEMBERS AND CUSTOMERS, DISCLAIM ANY AND ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PROGRAM AND YOUR PARTICIPATION IN IT. YOU FURTHER UNDERSTAND AND AGREE THAT, EXCEPT FOR THE AMOUNT DUE PHARMACY, YOU ARE NOT ENTITLED TO PAYMENT OR COMPENSATION OF ANY KIND. You shall make no representations or warranties of any kind on behalf of Administrator, LOYALTYSCRIPT®, Eligible Patients or Customer. Administrator shall not be liable for any clam, injury, demand or judgment based on tort or other grounds (including warranty of merchantability) arising out of the sale or dispensing of any prescription drug provided by Pharmacy or any Pharmacy pharmacist to any person or arising out of Your negligence, violation of law, or willful misconduct; and Pharmacy agrees to defend Administrator and indemnify and hold Administrator harmless from and against any and all such claims, injuries, demands and judgments, including, without limitation, payment of all costs and reasonable attorneys' fees

11. Limitation of Liability. YOU UNDERSTAND AND AGREE THAT IN NO EVENT SHALL ADMINISTRATOR, LOYALTYSCRIPT®, ITS ELIGIBLE MEMBERS OR ANY CUSTOMER, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, SUBSIDIARIES, AFFILIATES, OR SUPPLIERS BE LIABLE FOR DAMAGES OF ANY KIND, WHETHER DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL,

PUNITIVE, OR OTHERWISE, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, ARISING OUT OF THESE TERMS OR YOUR PARTICIPATION IN THE PROGRAM, EVEN IF ADMINISTRATOR HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Termination. You understand and agree that the Program (and/or Your participation in it) may be terminated by Administrator at any time with or without cause upon notice to you. Notwithstanding the foregoing, You shall no longer be eligible to participate in the Program and receive the Payment if you fail to comply with the terms of this Agreement. You shall receive Payments for covered pharmacy services prior to the effective date of termination and such amounts shall be payable to You in accordance with the terms of this Agreement. After the effective date of termination of the Program or your participation therein, however, no new Payments shall be payable to You for any reason. Administrator shall not be liable to You or any third party for damages as a result of termination of the Program, and/or Your participation in it. You may terminate Your participation in the Program at any time by ten (10) days' written notice to Administrator. If Pharmacy continues to submit to Administrator Program transactions after notifying Administrator that it no longer intends to participate in such Program, Pharmacy's notice shall become null and void and of no further force or effect. Administrator shall process such transactions at the then current Amount Due Pharmacy calculation in effect for the Program. Sections 7, 10, 11, 14, 16 and 15 of this Agreement and any other provisions, which by their terms are intended to survive shall survive the termination of the Program, and/or Your participation in it.

13. Audit Rights. Administrator or its designee shall have the right upon reasonable prior written notice, and during normal business hours, during the term of this Agreement and for a period of two (2) years thereafter, subject to applicable law (including those governing confidentiality), to audit Your records as they pertain to Your compliance with this Agreement. In the event that any such audit reveals any erroneous amounts paid to You, You agree within thirty (30) days after completion and delivery of the audit findings to pay to Administrator any such amounts. The rights provided in this Section shall be cumulative and in addition to any other rights or remedies that may be available to Administrator.

14. Compliance. Failure by You to comply with this Agreement, including without limitation, failure to limit Your charge to Eligible Patients as set forth in the Program Payments section, shall result in your disqualification to submit Program transactions and Administrator shall have no further obligation to process any such transactions submitted by you or to remit payment to you.

15. Confidentiality. The Parties agree that the terms hereof, including without limitation, the financial terms are to be treated as proprietary and confidential information and are not to be released to third parties unless required by law or valid legal process. In addition, any confidential and proprietary information, materials and know-how, both technical and non-technical, disclosed by one Party to the other shall be treated as confidential information.

16. Miscellaneous. The parties hereto agree to comply with all federal and state laws applicable to their respective obligations hereunder and with regard to pharmacies specifically, You will comply with all federal and state laws applicable to Your Pharmacy and participation in the Program. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware, without giving effect to the conflicts of law principles thereof. Any disputes arising under or in connection with this Agreement shall be resolved in the state or federal courts in San Francisco, California, and the parties hereby submit to personal jurisdiction and venue in such courts. All notices required or provided for under this Agreement shall be in writing, and shall be sent electronically by email or by certified or registered mail, or by overnight delivery service which requires a receipt (such as Federal Express), addressed to the Administrator's address provided above or if to Pharmacy at the address associated with Pharmacy's NABP#. All such notices shall be effective upon receipt. Under no circumstances shall Pharmacy be entitled to receive any payments for any Program other than the Amount Due Pharmacy for the Program under which a Pharmacy is processing a transaction on behalf of the Eligible Patient. The Parties are independent contractors, and nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the Parties. If any portion of the Agreement is found to be void or unenforceable, it shall be enforced to the extent allowable, and the remaining provisions shall remain in full force and effect. This Agreement constitutes the entire agreement of the Parties with respect to Your participation in the Program.

17. AMENDMENTS TO THE AGREEMENT. ADMINISTRATOR MAY, WHETHER REQUIRED BY CHANGES IN LAW OR OTHERWISE, MODIFY THIS AGREEMENT, INCLUDING THE TERMS GOVERNING THE FORMULA USED TO CALCULATE THE AMOUNT DUE PHARMACY AND PROGRAM TRANSACTION FEES. EACH SUCH MODIFICATION SHALL BE EFFECTIVE UPON POSTING AT WWW.MCKESSON.COM/MPRS. PHARMACY AGREES THAT IT WILL MAKE COMMERICALLY REASONABLE EFFORTS TO ACCESS THE WEBSITE TO REVIEW ANY MODIFICATIONS PERIODICALLY BUT NO LESS THAN EVERY 90 DAYS. THE PARTIES AGREE TO NEGOTIATE ANY MODIFICATIONS IN GOOD FAITH WHERE ONE PARTY SEEKS SUCH NEGOTIATION WITHIN 90 DAYS OF ANY MODIFICATION.

LOYALTYSCRIPT® Card Program Participation and Reimbursement Terms

1. Program Participation. Throughout the term of the Program, whenever an Eligible Patient presents his or her LOYALTYSCRIPT® Card to You along with a valid prescription for a Covered Drug (as defined in this paragraph below), You agree: to submit Your claim to McKesson using BIN #610524. If You do not transmit claims electronically, submit a Universal Claim form to McKesson at P.O. Box 52090, Phoenix, AZ 85072. For the purpose of these Terms, a "Covered Drug" is a designated pharmaceutical drug product or device for which a Customer in the Program shall provide savings to Eligible Patients. Administrator may, at the request or direction of one or more Customers, revise the list of Covered Drugs at any time and from time to time in its discretion. The LOYALTYSCRIPT® Card is not valid for use with any other prescription drug discount card, or manufacturer's coupon for the purchase of Covered Drugs. The LOYALTYSCRIPT® Card is not valid for any prescriptions reimbursed under any federal health care program, including Medicare or Medicaid, or any similar state assistance program. The LOYALTYSCRIPT® Card is void where prohibited by law, void outside the United States of America and Puerto Rico, or where prohibited, assigned or transferred.

2. Adjudication.

a. Primary Transaction Adjudication. "Primary Transaction" shall mean a transaction that is submitted to Administrator where Administrator acts as the primary payor of benefits because the Eligible Patient is not covered by any third-party prescription benefit plan. All Primary Transactions must comply with the following procedures in dispensing Covered Drugs under the Program. Pharmacy shall:

i. Transmit an electronic transaction request in accordance with the then current NCPDP transaction format;

ii. Accept a calculation for pricing of AWP less an amount, plus a dispensing fee and a transaction fee or the Pharmacy's U&C, plus any applicable sales tax, in each case, less any patient co-payment amount all of which will be visible to pharmacy when the Primary Transaction is adjudicated.

iii. Collect the co-payment, if any, as directed by the online system.

b. COB Transaction Adjudication. "Coordination of Benefits" shall mean the transactions submitted by pharmacy to Administrator that include the coordination of benefits or other payment segment of the current NCPDP transmission format. Administrator shall accept Coordination of Benefit ("COB") transactions from Pharmacies that transmit such a transaction in accordance with the then current NCPDP transaction format.

i. Administrator shall pay to Pharmacy any applicable discount amount as indicated by Administrator's system when the transaction is adjudicated less the patient's co-pay amount plus a transaction fee, all of which will be visible to pharmacy when the transaction is adjudicated

ii. Collect the co-payment, if any, as directed by the online system.

c. "Average Wholesale Price" or "AWP" shall mean the average wholesale price of the Covered Drug on the date the Pharmacy dispenses the Covered Drug, as published by a nationally recognized provider of pharmacy pricing data from time to time.

If you have any questions about pricing or fees payable for processing transactions, please call the Pharmacy Help Desk at 800.657.7613.

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (“Addendum”) is entered into by and between Administrator and Pharmacy and is effective as of the date posted at www.mckesson.com/mprs (the “Effective Date”). Administrator and Pharmacy may be individually referred to as a “Party” and, collectively, the “Parties” in this Addendum.

RECITALS

- A. Administrator is providing services to Pharmacy under the Provider Agreement (the “Underlying Agreement”), and Pharmacy wishes to disclose certain information to Administrator pursuant to the terms of such Underlying Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).
- B. Pharmacy and Administrator intend to protect the privacy and provide for the security of PHI disclosed to Administrator pursuant to the Underlying Agreement in compliance with (i) the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191 (“HIPAA”); (ii) Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), also known as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law No. 111-005 ; and (iii) regulations promulgated thereunder by the U.S. Department of Health and Human Services, including the HIPAA Omnibus Final Rule, which amended the HIPAA Privacy and Security Rules (as those terms are defined below) and implemented a number of provisions of the HITECH Act (the “HIPAA Final Rule”), extending certain HIPAA obligations to Administrator and their subcontractors.
- C. The purpose of this Addendum is to satisfy certain standards and requirements of HIPAA, the Privacy Rule and the Security Rule (as those terms are defined below), and the HITECH Act, including, but not limited to, Title 45, §§ 164.314(a)(2)(i), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”).

SECTION 1: DEFINITIONS

“**Breach**” will have the same meaning given to such term in 45 C.F.R. § 164.402.

“**Designated Record Set**” will have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.

“**Electronic Protected Health Information**” or “**Electronic PHI**” will have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. § 160.103, as applied to the information that Administrator creates, receives, maintains or transmits from or on behalf of Pharmacy.

“**Individual**” will have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and will include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

“**Privacy Rule**” will mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

“**Protected Health Information**” or “**PHI**” will have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, as applied to the information created, received, maintained or transmitted by Administrator from or on behalf of Pharmacy.

“**Required by Law**” will have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.

“**Secretary**” will mean the Secretary of the Department of Health and Human Services or his or her designee.

“**Security Incident**” will have the meaning given to such term in 45 C.F.R. § 164.304.

“**Security Rule**” will mean the Security Standards at 45 C.F.R. Part 160 and Part 164, Subparts A and C.

“**Unsecured PHI**” will have the same meaning given to such term under 45 C.F.R. § 164.402, and guidance promulgated thereunder.

Capitalized Terms. Capitalized terms used in this Addendum and not otherwise defined herein will have the meanings set forth in the Privacy Rule, the Security Rule, and the HIPAA Final Rule, which definitions are incorporated in this Addendum by reference.

SECTION 2: PERMITTED USES AND DISCLOSURES OF PHI

2.1 Uses and Disclosures of PHI Pursuant to the Underlying Agreement. Except as otherwise limited in this Addendum, Administrator may use or disclose PHI to perform functions, activities or services for, or on behalf of, Pharmacy as specified in the Underlying Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Pharmacy.

2.2 Permitted Uses of PHI by Administrator. Except as otherwise limited in this Addendum, Administrator may use PHI for the proper management and administration of Administrator’s Services or to carry out the legal responsibilities of Administrator. Administrator may also share PHI with, and/or disclose PHI to, Administrator affiliates and subsidiaries providing data or support for Services.

2.3 Permitted Disclosures of PHI by Administrator. Except as otherwise limited in this Addendum, Administrator may disclose PHI for the proper management and administration of Administrator’s Services, provided that the disclosures are Required by Law, or Administrator obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person (which purpose must be consistent with the limitations imposed upon Administrator pursuant to this Addendum), and that the person agrees to notify Administrator of any instances of which it is aware in which the confidentiality of the information has been breached. Administrator may disclose PHI to report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1).

2.4 Data Aggregation. Except as otherwise limited in this Addendum, Administrator may use PHI to provide Data Aggregation services for the Health Care Operations of the Pharmacy as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

2.5 De-identified Data. Administrator may de-identify PHI in accordance with the standards set forth in 45 C.F.R. § 164.514(b) and may use or disclose such de-identified data unless prohibited by applicable law.

SECTION 3: OBLIGATIONS OF MCKESSON

3.1 Appropriate Safeguards. Administrator will use appropriate safeguards and will, after the compliance date of the HIPAA Final Rule, comply with the Security Rule with respect to Electronic PHI, to prevent use or disclosure of such information other than as provided for by the Underlying Agreement and this Addendum. Except as expressly provided in the Underlying Agreement or this Addendum, Administrator will not assume any obligations of Pharmacy under the Privacy Rule. To the extent that Administrator is to carry out any of Pharmacy’s obligations under the Privacy Rule as expressly provided in the Underlying Agreement or this Addendum, Administrator will comply with the requirements of the Privacy Rule that apply to Pharmacy in the performance of such obligations.

3.2 Reporting of Improper Use or Disclosure, Security Incident or Breach. Administrator will report to Pharmacy any use or disclosure of PHI not permitted under this Addendum, Breach of Unsecured PHI or any Security Incident, without unreasonable delay, and in any event no more than thirty (30) days following discovery; provided, however, that the Parties acknowledge and agree that this Section constitutes notice by Administrator to Pharmacy of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined

below). “Unsuccessful Security Incidents” will include, but not be limited to, pings and other broadcast attacks on Administrator’s firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI. Administrator’s notification to Pharmacy of a Breach will include: (i) the identification of each individual whose Unsecured PHI has been, or is reasonably believed by Administrator to have been, accessed, acquired or disclosed during the Breach; and (ii) any particulars regarding the Breach that Pharmacy would need to include in its notification, as such particulars are identified in 45 C.F.R. § 164.404.

3.3 Administrator’s Agents. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), as applicable, Administrator will enter into a written agreement with any agent or subcontractor that creates, receives, maintains or transmits PHI on behalf of Administrator for services provided to Pharmacy, providing that the agent agrees to restrictions and conditions that are substantially similar to those that apply through this Addendum to Administrator with respect to such PHI.

3.4 Access to PHI. The Parties do not intend for Administrator to maintain any PHI in a Designated Record Set for Pharmacy. To the extent Administrator possesses PHI in a Designated Record Set, Administrator agrees to make such information available to Pharmacy pursuant to 45 C.F.R. § 164.524, within ten (10) business days of Administrator’s receipt of a written request from Pharmacy; provided, however, that Administrator is not required to provide such access where the PHI contained in a Designated Record Set is duplicative of the PHI contained in a Designated Record Set possessed by Pharmacy. If an Individual makes a request for access pursuant to 45 C.F.R. § 164.524 directly to Administrator, or inquires about his or her right to access, Administrator will either forward such request to Pharmacy or direct the Individual to Pharmacy.

3.5 Amendment of PHI. The Parties do not intend for Administrator to maintain any PHI in a Designated Record Set for Pharmacy. To the extent Administrator possesses PHI in a Designated Record Set, Administrator agrees to make such information available to Pharmacy for amendment pursuant to 45 C.F.R. § 164.526 within twenty (20) business days of Administrator’s receipt of a written request from Pharmacy. If an Individual submits a written request for amendment pursuant to 45 C.F.R. § 164.526 directly to Administrator, or inquires about his or her right to amendment, Administrator will either forward such request to Pharmacy or direct the Individual to Pharmacy.

3.6 Documentation of Disclosures. Administrator agrees to document such disclosures of PHI and information related to such disclosures as would be required for Pharmacy to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Administrator will document, at a minimum, the following information (“Disclosure Information”): (a) the date of the disclosure; (b) the name and, if known, the address of the recipient of the PHI; (c) a brief description of the PHI disclosed; (d) the purpose of the disclosure that includes an explanation of the basis for such disclosure; and (e) any additional information required under the HITECH Act and any implementing regulations.

3.7 Accounting of Disclosures. Administrator agrees to provide to Pharmacy, within twenty (20) business days of Administrator’s receipt of a written request from Pharmacy, information collected in accordance with Section 3.6 of this Addendum, to permit Pharmacy to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. If an Individual submits a written request for an accounting of disclosures of PHI pursuant to 45 C.F.R. § 164.528 directly to Administrator, or inquires about his or her right to an accounting, Administrator will direct the Individual to Pharmacy.

3.8 Governmental Access to Records. Administrator will make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Administrator on behalf of, Pharmacy available to the Secretary for purposes of the Secretary determining Pharmacy’s compliance with the Privacy Rule and the Security Rule.

3.9 Mitigation. To the extent practicable, Administrator will cooperate with Pharmacy’s efforts to mitigate a harmful effect that is known to Administrator of a use or disclosure of PHI by Administrator that is not permitted by this Addendum.

3.10 Minimum Necessary. Administrator will request, use and disclose the minimum amount of PHI

necessary to accomplish the purpose of the request, use or disclosure, in accordance with 45 C.F.R. § 164.514(d), and any amendments thereto.

3.11 HIPAA Final Rule Applicability. Administrator acknowledges that enactment of the HITECH Act, as implemented by the HIPAA Final Rule, amended certain provisions of HIPAA in ways that now directly regulate, or will on future dates directly regulate, Administrator under the Privacy Rule and Security Rule. Administrator agrees, as of the compliance date of the HIPAA Final Rule, to comply with applicable requirements imposed under the HIPAA Final Rule, including any amendments thereto.

SECTION 4: OBLIGATIONS OF PHARMACY

4.1 Notice of Privacy Practices. Pharmacy will notify Administrator of any limitation(s) in its notice of privacy practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Administrator's use or disclosure of PHI. Pharmacy will provide such notice no later than fifteen (15) days prior to the effective date of the limitation.

4.2 Notification of Changes Regarding Individual Permission. Pharmacy will obtain any consent or authorization that may be required by the Privacy Rule, or applicable state law, prior to furnishing Administrator with PHI. Pharmacy will notify Administrator of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Administrator's use or disclosure of PHI. Pharmacy will provide such notice no later than fifteen (15) days prior to the effective date of the change.

4.3 Notification of Restrictions to Use or Disclosure of PHI. Pharmacy will notify Administrator of any restriction to the use or disclosure of PHI that Pharmacy has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Administrator's use or disclosure of PHI. Pharmacy will provide such notice no later than fifteen (15) days prior to the effective date of the restriction. If Administrator reasonably believes that any restriction agreed to by Pharmacy pursuant to this Section may materially impair Administrator's ability to perform its obligations under the Underlying Agreement or this Addendum, the Parties will mutually agree upon any necessary modification of Administrator's obligations under such agreements.

4.4 Permissible Requests by Pharmacy. Pharmacy will not request Administrator to use or disclose PHI in any manner that would not be permissible under the Privacy Rule, the Security Rule or the HITECH Act if done by Pharmacy, except as permitted pursuant to the provisions of Sections 2.2, 2.3, 2.4 and 2.5 of this Addendum.

SECTION 5: TERM AND TERMINATION

5.1 Term. The term of this Addendum will commence as of the Effective Date, and will terminate when all of the PHI provided by Pharmacy to Administrator, or created or received by Administrator on behalf of Pharmacy, is destroyed or returned to Pharmacy. If it is infeasible to return or destroy PHI, Administrator will extend the protections to such information, in accordance with Section 5.3.

5.2 Termination for Cause. Upon either Party's knowledge of a material breach by the other Party of this Addendum, such Party may terminate this Addendum immediately if cure is not possible. Otherwise, the non-breaching party will provide written notice to the breaching Party detailing the nature of the breach and providing an opportunity to cure the breach within thirty (30) business days. Upon the expiration of such thirty (30) day cure period, the non-breaching Party may terminate this Addendum if the breaching party does not cure the breach or if cure is not possible. If termination is not feasible, the non-breaching party may report the breach or violation to the Secretary.

5.3 Effect of Termination.

5.3.1 Except as provided in Section 5.3.2, upon termination of the Underlying Agreement or this Addendum for any reason, Administrator will return or destroy all PHI received from Pharmacy, or created or received by Administrator on behalf of Pharmacy, at Pharmacy's expense, and will retain no copies of the PHI. This provision will apply to PHI that is in the possession of subcontractors or agents of Administrator.

5.3.2 If it is infeasible for Administrator to return or destroy the PHI upon termination of the Underlying Agreement or this Addendum, Administrator will: (a) extend the protections of this Addendum to such PHI and (b) limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Administrator maintains such PHI.

SECTION 6: COOPERATION IN INVESTIGATIONS

The Parties acknowledge that certain breaches or violations of this Addendum may result in litigation or investigations pursued by federal or state governmental authorities of the United States resulting in civil liability or criminal penalties. Each Party will cooperate in good faith in all respects with the other Party in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action or other inquiry.

SECTION 7: SURVIVAL

The respective rights and obligations of Administrator under Section 5.3 of this Addendum will survive the termination of this Addendum and the Underlying Agreement.

SECTION 8: AMENDMENT

This Addendum may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both Parties. Notwithstanding the preceding sentence if any provision of the Privacy Rule, the Security Rule or the HIPAA Final Rule is amended in a manner that changes the obligations of Administrator or Pharmacy that are embodied in terms of this Addendum, Administrator may update this Addendum to comply with any such obligations, with such amendment becoming effective upon posting at www.mckesson.com/MPRS.

SECTION 9: EFFECT OF ADDENDUM

In the event of any inconsistency between the provisions of this Addendum and the Underlying Agreement, the provisions of this Addendum will control. In the event that a court or regulatory agency with authority over Administrator or Pharmacy interprets the mandatory provisions of the Privacy Rule, the Security Rule or the HIPAA Final Rule, in a way that is inconsistent with the provisions of this Addendum, such interpretation will control. Where provisions of this Addendum are different from those mandated in the Privacy Rule, the Security Rule, or the HIPAA Final Rule, but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of this Addendum will control.

SECTION 10: GENERAL

This Addendum is governed by, and will be construed in accordance with, the laws of the State that govern the Underlying Agreement. Any action relating to this Addendum must be commenced within one year after the date upon which the cause of action occurred. If any part of a provision of this Addendum is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this Addendum will not be affected. Nothing in this Addendum will confer any right, remedy, or obligation upon anyone other than Pharmacy and Administrator.