

## AMENDMENT No. 1

This Amendment No. 1, effective July 1, 2008 amends the Amended and Restated Prescription Benefit Services Agreement between Caremark, L.L.C., a California limited liability company ("Caremark") and El Dorado County ("Client") dated July 1, 2007 (the "Agreement").

The parties agree to amend the Agreement as set forth herein.

**1. Section 9.1 (Term) of the Agreement is hereby amended by deleting such section in its entirety and inserting the following in its place:**

**"Term. The term of this Agreement shall commence on the Effective Date and expire on June 30, 2011 ("Term") subject to earlier termination as hereinafter set forth. THE TERM SHALL BE AUTOMATICALLY RENEWED FOR ADDITIONAL ONE (1) YEAR PERIODS UNLESS EITHER PARTY SENDS NOTICE OF NON-RENEWAL TO THE OTHER PARTY AT LEAST NINETY (90) DAYS PRIOR TO THE END OF THE ORIGINAL TERM OR ANY SUBSEQUENT ONE-YEAR TERM."**

**2. Section 2 (Caremark Services) of the Agreement is hereby amended by inserting the following as a new Section 2.18 at the end thereof:**

**"2.18 iBenefit Report. On an annual basis, at Client's request and subject to the fees described in Exhibit A, Caremark shall mail the iBenefit Report to Plan Participants identified by Client. The iBenefit Report is designed to educate Plan Participants about the value of their prescription benefit and highlights certain opportunities for Plan Participants to save out-of-pocket costs based on their specific drug history."**

**3. Exhibit A (Financial Terms) of the Agreement is hereby amended by deleting such Exhibit in its entirety and inserting the attached Exhibit A (Financial Terms) in its place.**

**4. Exhibit F (Clinical Service Programs) of the Agreement is hereby amended by deleting such Exhibit in its entirety and inserting the attached Exhibit F (Clinical Service Programs) in its place.**

**5. If any provision of this Amendment is held to be void or unenforceable, the remaining provisions are considered to be severable and their enforceability is not affected or impaired in any way by reason of such law or holding.**

**6. The terms and conditions of the Agreement as amended remain in effect except as otherwise stated herein. All capitalized terms used in this Amendment and not otherwise defined shall have the meanings set forth in the Agreement. In the event that any provision of this Amendment conflicts with any of the provisions set forth in the Agreement, the provisions of this Amendment shall govern and control.**

**7. This Agreement as amended constitutes the entire agreement between the parties with respect to the subject matter hereof; superseding all prior understandings, agreements, contracts or arrangements between the parties, whether oral or written.**

\* \* \* \* \*

Authorized representatives of the parties have signed this Amendment.

**CAREMARK, L.L.C.:**

**EL DORADO COUNTY:**

**Name:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Exhibit A Financial Terms

In order for Caremark to implement the pricing as set forth above by July 1, 2008, this Amendment must be signed by Client and returned to Caremark before June 1, 2008. If Caremark does not receive this executed Amendment by June 1, 2008, the financial terms described in this Exhibit A shall be effective the later of August 1, 2008, or the first day of the month following forty-five (45) days of Caremark's receipt of this executed Agreement.

1. Mail, Retail, Rebates and Specialty Payments.

<b>MAIL</b>	
<b>BRAND</b>	AWP – 24.5% + \$0.00 dispensing fee
<b>GENERIC</b>	AWP – 59% + \$0.00 dispensing fee
<b>ELECTRONIC CLAIM ADMINISTRATION FEE</b>	\$0.00 per Claim
<b>RETAIL</b>	
<b>BRAND</b>	Lower of U&C or AWP-16.5% + \$1.60 dispensing fee
<b>GENERIC</b>	Lowest of U&C or AWP-16.5% + \$1.60 dispensing fee or Caremark MAC + \$1.60 dispensing fee
	<b>Generic effective rate guarantee of AWP-56% (MAC and non-MAC combined) + \$1.60 dispensing fee</b>
<b>ELECTRONIC CLAIM ADMINISTRATION FEE</b>	\$0.00 per Claim
<b>MANUAL CLAIM ADMINISTRATION FEE</b>	\$1.50 per Claim
<b>REBATES*</b>	
<b>Two Tier Qualifying Plan Design</b>	
<b>MAIL</b>	\$20.70 per brand Claim
<b>RETAIL</b>	\$6.18 per brand Claim
<b>Three Tier Qualifying Plan Design</b>	
<b>MAIL</b>	\$21.20 per brand Claim
<b>RETAIL</b>	\$6.72 per brand Claim
<b>SPECIALTY MEDICATIONS</b>	
	AWP - 16.5% + \$0.00 dispensing fee Administration Fee \$0.00

\*See Section 5.1 for rebate conditions.

1.1 The pricing set forth above is contingent upon the following assumptions:

- Caremark shall be the exclusive mail service provider.
- Caremark shall be the exclusive specialty provider.
- Rebate guarantees for mail and retail are measured and reconciled in the aggregate.
- Any Specialty Drug rebates received will be retained by Caremark.
- Participating Pharmacy rates may vary and the amount paid to the Participating Pharmacy may not be equal to the amount billed to Client and Caremark shall retain any difference.
- Caremark may exclude the following from any retail pricing guarantee:
  - Specialty Drugs
  - 100% member-paid Plans
  - Generics that enter the market with supply limitations or restrictions that limit marketplace

competition.

o Compound drugs

- The Participating Pharmacy may collect from the Plan Participant the lower of the applicable Cost Share, or the Participating Pharmacy’s Usual and Customary price.
- Client agrees not to participate in any other formulary or similar discount program, or enter into any direct or indirect contracts with pharmaceutical manufacturers with respect to the products and services dispensed to Client’s Plan Participants.

A. Shipping fees and/or postage will be increased by any increase in shipping fees and/or postage costs over the term of the Agreement.

B. Caremark may update the Specialty Drugs on the Specialty Drug List. Caremark will provide Client quarterly notifications regarding such updates (each a “Specialty Drug Update”) upon request from the Client. Any new Specialty Drug (each a “New Specialty Drug”) will be dispensed at the Specialty Drug rate. Should the addition of any New Specialty Drug at the Specialty Drug rate not be satisfactory to either party, the parties shall negotiate mutually agreeable terms for such New Specialty Drug within ninety (90) days of the date of the Specialty Drug Update. The rates noted above do not include ancillary charges such as nursing and per diems (e.g. pumps, supplies, etc.) which may apply to certain infused Specialty Drugs.

2. **Optional Services.** As consideration for the Services selected by Client in accordance with the Agreement, Client will pay to Caremark the fees set forth below:

Prior Authorization/Formulary Exception: \$40.00 per prior authorization

iBenefit Report One report will be mailed annually to each Plan Participant identified by Client and is included in the fees paid by Client under this Exhibit A. (Additional reports are available for \$1.50 per report mailed to each Plan Participant identified by Client.)

3. **Clinical Programs.** As consideration for the clinical Services selected by Client in accordance with this Agreement, Client will pay to Caremark the fees set forth below:

3.1 Base Clinical Services (included in base administrative fee)

Concurrent DUR	No Charge
Physician Profiling	No Charge
Formulary Management	No Charge
Generic Substitution Programs	No Charge

3.2 Additional Clinical Programs:

	<u>Fee</u>	<u>Guaranteed ROI</u>
CustomCare Mail (includes Proactive Generics)*	\$1.50 per mail Rx	300% ROI over 36 months (CCM/CCR combined)
CustomCare Retail*	\$0.30 per retail Rx	300% ROI over 36 months (CCM/CCR combined)

\*Any savings beyond the ROI guarantee will be shared between Caremark and Client at 50%/50%, respectively.

NOTE: For those programs that have a shared savings component over the targeted savings, Client will be billed for any excess savings, as applicable. Any overachievement of guaranteed savings related to any clinical program will be applied to any underachievement of guaranteed savings.

**4. Special Fees.**

4.1 Administrative charges relating to certain services may be charged to Client at Caremark's prevailing rate.

4.2 Miscellaneous Fees.

Paper Submitted Claim (per processed Claim)	\$1.50/Claim
Card Re-issuance	\$0.50/Card
Manual Eligibility Submission	\$1.00/Manual Entry
Client Specific Programming	\$150.00/Hour

4.3 Charges or services not identified in this Exhibit A shall be quoted upon request.

**5. Client Credits:**

This Section 5 of Exhibit A sets forth various rebates and credits to be paid or credited by Caremark to Client (collectively "Client Credits"). It is the intention of the parties that, for purposes of the Federal Anti-Kickback Statute, these Client Credits shall constitute and shall be treated as discounts against the price of drugs within the meaning of 42 U.S.C. 1320a 7b(b)(3)(A).

**5.1 Drug Rebates:**

Caremark will remit to Client in connection with Caremark's PDL a rebate in the amount set forth above in the table in Section 1. No rebate shall be credited for any generic Claim, whether such Claim is filled with a generic drug or by a brand-name drug dispensed in lieu of a generic drug at the generic drug reimbursement rate. This annual rebate credit shall be made within sixty (60) days of the end of each calendar year. This rebate arrangement will be effective the first day of the first calendar quarter following Caremark's receipt of this executed Amendment and will remain in effect until June 30, 2011, and is contingent upon Client's current Plan design parameters, full adoption of and alignment with Caremark's PDL, use of the Caremark mail program including an average ninety (90) days' supply at mail, as well as formulary management and intervention programs for both retail and mail. For subsequent years, rebate arrangements will be determined by annual negotiation of the parties based on projected market estimates. Caremark may adjust the negotiated rebate payments in an equitable manner if: (i) a generic version of a branded product is unexpectedly introduced in the market; or (ii) a branded product is recalled or withdrawn from the market.

To qualify for the two-tier qualifying rebates set forth above in the table in Section 1 of this Exhibit A, the Plan Participants under this Agreement must be covered under a two-tier qualifying Plan design. A two-tier qualifying Plan design consists of an open Plan design with no minimum Cost Share requirement that includes formulary interventions.

To qualify for the three-tier qualifying rebates set forth above in the table in Section 1 of this Exhibit A, the Plan Participants under this Agreement must be covered under a three-tier qualifying Plan design. A three-tier qualifying Plan design consists of at least a \$15.00 Cost Share differential between preferred and non-preferred brand prescriptions, a \$15.00 differential in the minimum Cost Share for coinsurance, or a differential of coinsurance 1.5 times between the preferred and non-preferred brand (for example, if preferred brand coinsurance was 20%, non-preferred brand would need to be 30% to qualify).

6. **Miscellaneous.**

- 6.1 **Plan Participant Cost Share.** Caremark may, but shall not be obligated to, dispense a prescription even if the prescription is not accompanied by the Cost Share. Caremark will credit any amount submitted by Plan Participant in excess of the Plan Participant's Cost Share. In the event a Plan Participant submits to Caremark an insufficient Cost Share and the Plan Participant fails to remit the balance of the Cost Share amount to Caremark within thirty (30) days of Caremark's request, then Caremark shall have the right to invoice Client for, and Client shall have an obligation to pay Caremark, the amount of the uncollected Cost Share(s). Shipping of prescriptions submitted without the appropriate Cost Share may be delayed.

7. **Reservation of Rights.**

A. Caremark reserves the right to modify or amend the financial provisions in this Amendment in the event of:

- A change in the scope of services to be performed by Caremark or the assumptions upon which the financial provisions included in this Amendment are based and/or any government imposed or industry wide change that would impede Caremark's ability to provide the pricing described in this Amendment, including any prohibition or restriction on Caremark's ability to receive Rebates from pharmaceutical manufacturers;
- A change in Client's alignment with Caremark's PDL;
- Implementation or addition of a high deductible health plan/consumer-driven health plan option;
- Implementation or addition of a one hundred percent (100%) member paid Plan;
- A greater than twenty percent (20%) change in the total number of Plan Participants from the number provided during pricing negotiations; or
- A change in the coverage of Medicare eligible Plan Participants, irrespective of the resulting change in total number of Plan Participants, as defined above.

B. In the event First DataBank, Medi-Span or other nationally available AWP reporting source discontinues the reporting of AWP or changes the manner in which AWP is calculated, then Caremark reserves the right to modify the pricing terms of this Amendment, to be effective as of the date of such discontinuation or change, so as to maintain the parties' relative economic positions under this Amendment as existed immediately before the effective date of such discontinuation in reporting or change in the calculation of AWP, as measured across all products on an aggregate basis. Such modifications may include the utilization of alternate pricing benchmarks.

## Exhibit F Clinical Service Programs

Caremark will provide the following services if selected by Client for an additional fee set forth in Exhibit A.

### I. CustomCare – Mail.

In accordance with the CustomCare Mail program, Caremark will:

- a. Analyze available Plan Participant prescription data to determine the appropriateness and cost effectiveness of current prescriptions that are identified by Caremark's computerized CustomCare Mail edits;
- b. Based upon the foregoing analysis, contact Prescriber, as necessary, to suggest modifications to a more appropriate drug therapy, including the use of therapeutic or generic equivalents; and
- c. dispense prescriptions as authorized by the Prescriber.

Caremark guarantees that the gross savings realized from these services over the Clinical Program Period for both the CustomCare-Mail and the CustomCare Retail programs combined will be 300% of the expense to Client for these programs over the Clinical Program Period. Any additional savings will be equally shared between Caremark and Client. Savings realized will be calculated as described below. Client will be billed for any additional savings at the end of each Clinical Program Year. In the event Caremark fails to meet the targeted savings, Client will be credited for any guaranteed savings short fall following the end of the Clinical Program Period up to the amount of fees paid by Client for CustomCare – Mail during the Clinical Program Period. "Clinical Program Year" means the twelve (12) month period commencing on the start date of the clinical program and each full consecutive twelve (12) month period thereafter that the clinical program is provided. "Clinical Program Period" means the thirty-six (36) month period commencing on the start date of Custom Care-Mail and each full consecutive thirty-six (36) month period thereafter such clinical program is provided.

Savings realized shall be calculated as follows:

- a. Conversions. In those situations where Caremark obtains Prescriber approval to dispense a drug, dosage, or quantity of medication different than that originally prescribed, the savings realized shall be the difference between the Gross Cost of the original prescription and the Gross Cost of the prescription dispensed. Savings shall also be realized for any refills (up to one year in total) of the converted prescription and for any subsequent prescriptions for the converted product written by the same Prescriber for the same Plan Participant. "Gross Cost" means the cost to Client for prescription drug as set for the in this Agreement, inclusive of the discounted drug cost, dispensing fees and Participant Cost Share, but exclusive of any administrative fee and any credits provided to Client in connection with this program.
- b. Discontinued Prescriptions. In certain situations, where clinically appropriate, Caremark may obtain Prescriber approval to not dispense an original prescription received. In such situations, Caremark shall return the prescription to the Plan Participant and the savings realized shall be calculated as the original Gross Cost of the original prescription (not including any refill(s) indicated). In certain situations, where clinically appropriate, Caremark may obtain Prescriber approval to dispense the original prescription, but to discontinue one or more of the refills indicated. In such situations, the savings realized shall be the Gross Cost of the refill(s) authorized to be discontinued, and such savings realized shall be recognized at the time that the authorization

for discontinuation is given. In the event that the discontinued prescription is resumed during the time period during which savings for refill(s) were realized, Caremark shall credit Client for the time period during which savings were realized but the prescription was resumed.

## **2. CustomCare - Retail.**

In accordance with the CustomCare – Retail program, Caremark will:

- a. Analyze available Plan Participant prescription data, which shall include each Plan Participant's integrated drug history derived from mail service and retail prescriptions. Caremark pharmacist will conduct a comprehensive clinical review of Plan Participant drug history to determine the appropriateness and cost effectiveness of prior drug usage and historical prescribing patterns as identified by Caremark's CustomCare Retail edits and clinical review to identify excessive therapy duration, drug-induced diseases, alternative or appropriate medications for Plan Participant, and possible complications of pre-existing conditions.
- b. Based upon the foregoing analysis, provide the Prescriber, as necessary, with a detailed prescription history of Plan Participant and letter suggesting modifications to a more appropriate drug therapy, including the use of therapeutic or generic equivalents.
- c. Encourage physician feedback by providing Plan Participant specific response form. All feedback is tracked at a Plan Participant level.
- d. Track and monitor Plan Participant for further clinical review and savings calculations.

Caremark guarantees that the gross savings realized from these services over the Clinical Program Period for both the CustomCare-Mail and the CustomCare Retail programs combined will be 300% of the expense to Client for these programs over the Clinical Program Period. Any additional savings will be equally shared between Caremark and Client. Savings realized will be calculated as described below. Client will be billed for any additional savings at the end of each Clinical Program Year. In the event Caremark fails to meet the targeted savings, Client will be credited for any guaranteed savings short-fall following the end of the applicable Clinical Program Period, up to the amount of fees paid by Client for CustomCare – Retail services during the Clinical Program Period.

Savings realized shall be calculated as follows: For each intervention letter sent to a Plan Participant's Prescriber suggesting alternative therapy within a particular therapeutic category, a savings period shall be tracked beginning on the first day of the month following the date of the letter and extending for the lesser of (A) the average length of therapy for a therapeutic class or (B) three hundred sixty-five (365) days for non-controlled substances and one hundred eighty (180) days for controlled substances. The savings realized shall be the difference between the expected Gross Cost for all products dispensed in the subject therapeutic category to the Plan Participant during the savings period and the actual Gross Cost for all products dispensed in that therapeutic category to the Participant during the savings period, when the actual Gross Cost is less than the expected Gross Cost. "Gross Cost" means the cost to Client for a prescription drug as set forth in this Agreement, inclusive of the discounted drug cost, dispensing fees and Participant Cost Share, but exclusive of any administrative fee and any credits provided to Client in connection with this program. Expected Gross Cost shall be calculated as the Gross Cost that would have been incurred had no letter been sent, based upon the drugs being used within the therapeutic category as of the date of the intervention letter.

## **3. Prior Authorization/Formulary Exception ("PA/FE").**

Caremark may provide Client with a form of prospective drug utilization review known as the PA/FE Program. Caremark will supply a list of suggested criteria for review, modification, and/or adoption by Client. Client will have final approval over the criteria to be utilized that will be evidenced in writing by Client. Caremark will administer the criteria as approved by Client. No changes will be made to the criteria except pursuant to Client's written request. From time to time, new information on a specific drug therapy will become available. This new information may make it necessary or desirable to modify existing PA/FE criteria. Caremark will notify Client of



changes to the criteria. If Client does not wish to accept the proposed changes to the PA criteria, Client agrees to notify Caremark in writing within ten business days and may terminate this program or adopt the customized criteria for a mutually agreed upon fee. Client shall be deemed to have approved any proposed changes to the criteria unless it timely notifies Caremark in writing of its objection.

Caremark will accept PA/FE requests from physicians and will approve or deny such requests in accordance with the PA/FE criteria approved by Client. Caremark will make clinical pharmacists available to provide professional support to the PA/FE unit as Caremark determines necessary to evaluate PA/FE requests and clarify Client's PA/FE criteria. Caremark's PA/FE unit will notify the physician who submitted the PA/FE request of the coverage determination for such request.

Approvals will be entered in the appropriate Caremark Claim adjudication system. Caremark's clinical pharmacists will review denials on a regular basis to assist Client in determining whether PA/FE criteria and/or processes warrant modification. Denial reports will be furnished to Client upon request for decisions regarding updates to PA/FE criteria. Reports of approvals and denials will be produced on a quarterly basis and included in quarterly reporting to Client.

Client covenants that under no circumstances shall Caremark be responsible or otherwise liable to Client with respect to any and all Losses arising from or as a result of Caremark's decision to authorize or deny coverage of any drug in accordance with the Plan design, except to the extent that any Losses arise from Caremark's failure to apply the Plan design.

#### **4. Savings Achievement.**

Any overachievement of guaranteed savings related to any clinical program will be applied to any underachievement of guaranteed savings of any other clinical program for purposes of calculating Caremark's compliance with the guaranteed savings set forth herein.

Original Contract  
196-50811



Amended and Restated  
PRESCRIPTION BENEFIT SERVICES AGREEMENT

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This Amended and Restated Prescription Benefit Services Agreement (the "Agreement"), entered into as of July 1, 2007 (the "Effective Date"), between Caremark, L.L.C., a California limited liability company, ("Caremark") and El Dorado County, located at 330 Fair Lane, Placerville, California 95667 ("El Dorado County"), on behalf of the health benefit plan(s) listed on Exhibit G ("Client").

Client has established a health benefit plan(s), as defined herein, for its Plan Participants and desires to retain Caremark to provide certain prescription benefit management, disease management and specialty pharmacy services with respect to Client's health benefit plan(s).

Caremark desires to provide such services pursuant to the terms and conditions of this Agreement.

Now, therefore, in consideration of the mutual promises set forth herein, the parties hereto agree as follows:

1. **Definitions.**

- 1.1. "AWP" means the "average wholesale price" for a standard package size of a prescription drug from the most current pricing information provided to Caremark by First DataBank®, Medi-Span Prescription Pricing Guide (with supplements), or any other nationally available reporting service of pharmaceutical prices as selected by Caremark. Caremark uses a single data reporting source for determining a Client's AWP pricing. The data reporting source used is dependent on the service platform utilized by Client. The standard package size applicable to a mail service pharmacy shall mean 100 units (i.e., pills, tablets, capsules, etc.), unless only a smaller package size is available from the manufacturer, or the actual package size dispensed for liquids and topical treatments. The standard package size applicable to a retail pharmacy shall be the actual package size dispensed as reported by the retail pharmacy to Caremark. If the reporting source used for determining Client's AWP should not continue to support AWP, the parties agree to modify the pricing hereunder to maintain the parties' respective economic position under this Agreement as of the Effective Date such that the aggregate net price of a product is the same as before such change occurred.
- 1.2. "Claims" means those prescription drug claims processed through Caremark's on-line claims adjudication system or otherwise transmitted or processed in accordance with the terms of this Agreement in connection with Client's Plan.
- 1.3. "Contract Year" means the full twelve (12) month period commencing on the Effective Date and each full consecutive twelve (12) month period thereafter that this Agreement remains in effect.
- 1.4. "Cost Share" means the amount which a Plan Participant is required to pay for a prescription in accordance with the PDD, which may be a deductible, a percentage of the prescription price, a fixed amount and/or other charge or penalty.
- 1.5. "Losses" means all claims, liabilities, demands, damages, losses, costs or expenses of any kind, including, without limitation, reasonable attorneys' fees and expenses.

El Dorado County 7-1-07 PBM v3.doc

- 1.6. **“Maximum Allowable Cost”** or **“MAC”** means the unit price that has been established by Caremark for a multi-source drug included on its MAC drug list developed for Caremark clients, which may be amended from time to time by Caremark, in maintaining its generic pricing program. A copy of such MAC drug list shall be provided to Client following execution of this Agreement and thereafter upon Client’s reasonable request.
  - 1.7. **“Participating Pharmacy”** shall mean a retail pharmacy that participates in the national retail network established by Caremark.
  - 1.8. **“PDL”** means the Caremark Primary/Preferred Drug List, which is a list of preferred pharmaceutical products, created and maintained by Caremark, as amended from time to time, which: (a) has been approved by Caremark’s Pharmacy and Therapeutics Committee, and (b) reflects Caremark’s recommendations as to which pharmaceutical products should be given favorable consideration by plans and their participants.
  - 1.9. **“Plan”** means the health benefit plan(s) sponsored by Client of which the prescription drug benefit is a part.
  - 1.10. **“Plan Administrator”** means the Plan sponsor or committee designated by the Plan sponsor with respect to the Plan.
  - 1.11. **“Plan Design Document”** or **“PDD”** means the document prepared by Caremark and approved by Client, and that may be amended by Client from time to time, in accordance with this Agreement, which details the relevant parts of Client’s Plan for prescription drug benefits and which is used by Caremark to provide Services and process Claims under this Agreement.
  - 1.12. **“Plan Participant”** means each individual who Client identifies in the eligibility file to be eligible for prescription drug benefits under its Plan.
  - 1.13. **“Prescriber”** means a health care practitioner licensed or authorized by law to issue an order for a prescription drug.
  - 1.14. **“Prescribing Guide”** means the Caremark Prescribing Guide, as modified and published from time to time, and which has been approved by Caremark’s Pharmacy and Therapeutics Committee.
  - 1.15. **“Protected Health Information”** or **“PHI”** shall have the meaning given such term at 45 C.F.R. 160.103, but limited to that information created or received by Caremark in its capacity as a pharmacy benefit manager (and not as a mail service pharmacy or other health care provider) on behalf of the Plan.
  - 1.16. **“Services”** means the prescription drugs, including biotech, biological and/or other specialty drugs, and all related products and services provided by Caremark under this Agreement.
  - 1.17. **“Specialty Drugs”** means certain pharmaceuticals and/or biotech or biological drugs that are used in the management of chronic or genetic disease, including but not limited to, injectible, infused, or oral medications, or otherwise require special handling.
  - 1.18. **“Usual and Customary”** or **“U&C”** means a Participating Pharmacy’s usual selling price for a prescription drug if the product were not eligible for coverage under the Plan.
2. **Caremark Services.** Caremark shall provide the Services hereunder in accordance with the PDD and the terms of this Agreement. Caremark may make changes to the Services from time to time and may use Claims information to improve or recommend additional Services to Client provided such changes do not materially alter any of the provisions of this Agreement.
  - 2.1 **Mail Service Pharmacy.** Caremark’s mail service pharmacies shall provide the following products and services:
    - (a) Dispense new or refill prescriptions upon receipt from a Plan Participant of (i) a prescription and a completed order or refill order form, and (ii) any applicable Cost Share;

- (b) Fill prescriptions subject to the professional judgment of the dispensing pharmacist, good pharmacy practices in accordance with local community standards, and product labeling and guidelines;
- (c) Provide certain utilization management and clinical services as described in this Agreement; and
- (d) Ship all drugs to Plan Participants via U.S. Postal Service or other appropriate carriers to the address provided by Client and/or the Plan Participant.

2.2 Retail Pharmacy Network. Caremark maintains a national network of Participating Pharmacies, which are independent contractors, and Client selects Caremark's national network of Participating Pharmacies as its retail network, to provide prescription drugs and related products and services with respect to the Plan. Caremark shall:

- (a) Require Participating Pharmacies to service Plan Participants during their normal business hours, in all applicable geographic areas;
- (b) Provide information to Participating Pharmacies concerning drug interaction, safety edits, and generic substitution and therapeutic intervention programs;
- (c) Direct Participating Pharmacies to collect all applicable Cost Shares or the lesser of co-payment or U&C from Plan Participants;
- (d) Provide and maintain toll free telephone access to Participating Pharmacies to address claim submission and clinical drug utilization review issues;
- (e) Maintain a database of Participating Pharmacies so that Plan Participants and Client may locate a Participating Pharmacy using Caremark's website;
- (f) Maintain a claims adjudication system to process payments of paper and electronic claims in accordance with the PDD; and
- (g) Be solely responsible for payment to the Participating Pharmacies of the charge for prescriptions dispensed (exclusive of Cost Shares), provided that the foregoing shall not release Client from any payment obligation to Caremark under this Agreement.

2.3 Participating Pharmacy Audit.

- (a) Caremark will conduct weekly on-site and off-site audits of Caremark selected Participating Pharmacies to verify the Participating Pharmacy's compliance with its retail pharmacy network agreement with Caremark ("Periodic Audits"). Caremark will have the sole right to audit Participating Pharmacies.
- (b) To the extent Caremark determines, as the result of its Periodic Audits, that amounts have not been billed in accordance with Caremark's retail pharmacy network agreement ("Audit Discrepancies"), Caremark will make reasonable attempts to reconcile such Audit Discrepancies. In the event the Audit Discrepancy has a financial impact to Client, Caremark will reconcile Client's invoice based upon recovered Audit Discrepancies. Caremark will retain twenty percent (20%) of all recovered Audit Discrepancies to help cover its collection and audit costs. Caremark will notify Client of any Audit Discrepancy that has impacted Client's financial obligation to Caremark by greater than \$1,000 that Caremark determines to be reasonably uncollectible by Caremark. Caremark will not be required to institute litigation to collect any Audit Discrepancies. Caremark's obligation to conduct Periodic Audits and to attempt collection and reconciliation, as described, will be Caremark's sole obligation with respect to remedying Audit Discrepancies.

2.4 Implementation.

- (a) In consultation with Client, Caremark shall develop a mutually agreeable implementation project plan.
- (b) Prior to the Effective Date, Client or Client's designee shall provide: (i) the initial eligibility test data and the initial full eligibility data to Caremark; (ii) the governing Plan documents, a summary plan description, and an executed PDD to Caremark; and (iii) a refill file (if available) in a format acceptable to Caremark. Any delays by Client or its designee in providing this information may delay the implementation of Services by Caremark
- (c) Subject to timely receipt of a refill file, Caremark will begin filling prescriptions through its mail service pharmacies as of the Effective Date.
- (d) Caremark will provide Client with implementation kits for distribution to Plan Participants. The implementation kits will include the following materials: (a) introductory cover letter; (b) standard identification cards for use within the retail network which shall include Caremark's name and toll free number; (c) a standard client benefit brochure; (d) mail service order form; (e) paper claim reimbursement form, if applicable; and (f) PDL brochure, if applicable. If Client chooses to have Caremark prepare envelopes for mailing kits to Plan Participants, Client must provide at least one data tape containing Plan Participant address information in a mutually acceptable format. Caremark shall bulk ship initial implementation kits to up to five (5) locations at no charge to Client. Postage for bulk shipments to additional locations or distribution of implementation kits directly to Plan Participants, including Plan Participants who become eligible under the Plan after the Effective Date, shall be at Client's expense.
- (e) Any reprints or customization of any communication materials requested by Client shall be at Client's expense.

## 2.5 Eligibility Data.

- (a) Client, or Client's designee, at Client's sole expense, will provide Caremark all information concerning its Plan and Plan Participants needed to perform the Services, including any updates thereto ("Eligibility Information"). This Eligibility Information must be complete and accurate, provided timely, and in a format and media acceptable by Caremark.
- (b) Caremark will maintain the Eligibility Information provided by Client.
- (c) Caremark, Plan Participants' physicians and the Participating Pharmacies are entitled to rely on the accuracy and completeness of the Eligibility Information and updates thereto.
- (d) Caremark is not liable for fraudulent Claims submitted by Plan Participants or by unauthorized persons using a Plan Participant's identification card or number.

## 2.6 Formulary Management.

- (a) Client hereby adopts, as part of the Plan design and as Client's formulary, the PDL and the Prescribing Guide.
- (b) Changes made by Caremark to the PDL or the Prescribing Guide may be based upon, among other things, new products, customer safety, clinical appropriateness, efficacy, cost effectiveness, changes in availability of products, new clinical information and other considerations, changes in the pharmaceutical industry, introduction of generics, new legislation and regulations. Caremark shall use reasonable efforts to provide Client with thirty (30) days notice prior to the addition or removal of a drug from the PDL or the Prescribing Guide. In the event safety concerns or regulatory action require Caremark to

- remove a drug sooner, Caremark shall notify Client of the removal of the drug from the PDL or the Prescribing Guide within five (5) business days.
- (c) Caremark shall implement therapeutic interchange program(s) for selected products, as approved by its Pharmacy and Therapeutics Committee, under which Caremark's mail service pharmacy shall, upon receipt of a Prescription for a drug that is not on the PDL, contact Prescribers, as appropriate, to obtain approval for substitution of a clinically comparable drug on the PDL. In accordance with its standard policies, Caremark shall credit Client for any prescription returned to Caremark due to an error made by Caremark in effectuating the therapeutic interchange program.
  - (d) Client acknowledges Prescriber shall have final authority over the drug prescribed to a Plan Participant, regardless of benefit coverage.
  - (e) Client acknowledges that, pursuant to the Plan, in the event a drug is removed from the PDL or the Prescribing Guide (unless the removal was the result of product recall or withdrawal), the Cost Share in effect as of the date of removal shall continue to be applied to refill prescriptions for such drug for a period of ninety (90) days after the effective date of the removal in order to allow Plan Participants time to transition to the new recommended drug in that therapeutic class.

## 2.7 Generic Substitution Program.

- (a) Generic substitution shall be conducted through Caremark's mail service pharmacies and Participating Pharmacies under a program which substitutes brand name drugs with generic equivalents, where available and clinically appropriate, unless (i) the Prescriber issues the prescription with a "dispense as written" notation, or (ii) the Plan Participant has notified Caremark or the Participating Pharmacy to dispense the brand name drug only.
- (b) Caremark will provide generic messaging to Participating Pharmacies, which is intended to promote at the point-of-sale generic substitution of multi-source brand drugs. Client acknowledges that a pharmacist may override such messaging if the Prescriber or the Plan Participant has notified the Participating Pharmacy to dispense the brand name drug only.

## 2.8 Drug Utilization Review ("DUR") Services/Clinical Programs.

- (a) Caremark will provide its automated concurrent DUR Services including but not limited to: (i) drug to drug interactions; (ii) therapeutic duplications; (iii) known drug sensitivity; (iv) over-utilization; (v) insufficient or excessive drug usage; and (vi) early or late refills.
- (b) Prescribers or Pharmacists are individually responsible for acting or not acting upon information generated and transmitted through the DUR Services, and for performing services in each jurisdiction consistent with the scope of their licenses. The DUR Services are necessarily limited by the amount, type and accuracy of Plan Participant information made available to Caremark. Caremark will update DUR databases on a reasonable basis to reflect changes in available standards for pharmaceutical prescribing.
- (c) Caremark shall provide clinical programs, as mutually agreed to by the parties, and described in Exhibit F.
- (d) In accordance with applicable law, including HIPAA, Client authorizes Caremark to perform the following service programs (collectively referred to herein as the "Additional Service Programs"): (i) local market clinical consulting; (ii) national clinical consulting; (iii) compliance and persistency; (iv) RxReview (participant program and prescriber program); and (v) RxViewpoints. Client and Caremark acknowledge and agree that: (i) although the Additional Service Programs may be of benefit to Client and its Plan Participants, Caremark

will not charge Client for the performance of such Additional Service Programs; (ii) the performance of such Additional Service Programs may utilize PHI; (iii) the performance of such Additional Service Programs is at the discretion of Caremark and such performance is not an obligation of Caremark; and (iv) Caremark may contract with, and pursue and retain reimbursement from, pharmaceutical companies for the funding and provision of such Additional Service Programs.

- 2.9 Plan Participant Services. Caremark shall operate toll-free customer service lines twenty-four (24) hours a day, seven (7) days a week for the purpose of responding to inquiries from Plan Participants. Caremark shall also provide telephonic emergency pharmacist services twenty four (24) hours a day, seven (7) days a week.
- 2.10 Communication Materials. In addition to materials provided under Section 2.4(d), Caremark shall produce and provide the following communication materials:
- (a) Caremark will periodically distribute PDL brochures directly to Prescribers.
  - (b) Caremark will provide an Internet website where Plan Participants can access information with respect to Plan specific drug information, the PDL, Cost Shares, Participating Pharmacy listings and Prescriptions.
  - (c) Caremark, in its discretion, may provide communications to Plan Participants and/or Client regarding drug recalls or withdrawals. Client acknowledges that it shall look solely to pharmaceutical companies for any refunds or reimbursements.
- 2.11 Reports, Claims Data and SAS 70. Caremark shall provide reports and detailed Claim data to Client as follows:
- (a) Caremark shall prepare and provide Client with Caremark's standard management and utilization reports.
  - (b) At Client's expense, Caremark may prepare and provide non-standard management and utilization reports and ad hoc reports within an agreed-upon time and format, at Caremark's prevailing rate.
  - (c) With the issuance of each invoice, Caremark shall provide Client up to two (2) sets of complete Claims data in Caremark's standard format. At Client's expense, request and direction, Caremark may provide detailed electronic files or Claim detail reports to Client's designated third party service provider subject to such third party's execution of Caremark's form confidentiality agreement. Except as otherwise set forth in Section 10 of this Agreement, Client shall not release or provide any Claims data including pricing and other confidential information, to a third party.
  - (d) If requested, Caremark shall provide Client with a copy of its most recent Type II SAS 70 report in accordance with the terms and conditions of such report.
- 2.12 CaremarkDirect. Caremark shall contact Plan Participants who have submitted mail or retail service Prescription(s) for products or services not covered under the PDD to determine whether the Plan Participant elects to participate in the CaremarkDirect program. The CaremarkDirect program allows Plan Participants to purchase certain products or services that are not covered by the Plan directly from Caremark's mail service pharmacy at discounted rates. The Plan Participant is solely responsible for payment to Caremark for all products or services purchased under the CaremarkDirect program.

- 2.13 **Drug Classification.** Caremark shall use the indicators of Medi-Span Master Drug Database (Medi-Span), and their associated files, as updated regularly by Medi-Span, or another nationally available reporting service of pharmaceutical drug information in determining the classification of drugs (e.g. legend vs. over the counter, brand vs. generic, single-source vs. multi-source) for purposes of this Agreement.
- 2.14 **Specialty Pharmacy.** Caremark shall be the exclusive provider of Specialty Drugs to Plan Participants and shall provide the products and services, as follows:
- (a) Dispense new or refill prescription orders for Specialty Drugs upon receipt from a Plan Participant of (i) a prescription and a completed order or refill order form, and (ii) the applicable Cost Share;
  - (b) Fill prescriptions for Specialty Drugs subject to the professional judgment of the dispensing pharmacist, good pharmacy practices in accordance with local community standards, and product labeling and guidelines;
  - (c) Ship Specialty Drugs to Plan Participants via U. S. Postal Service or other appropriate carriers to the address provided by Client and/or the Plan Participant;
  - (d) Bill major medical benefits through the use of a CMS 1500 form when required;
  - (e) Provide routine supplies required for the administration of the Specialty Drug (such as needles, syringes, alcohol swabs) to the extent deemed appropriate by Caremark.
- 2.15 **Government Agency Submitted Claims.** Client acknowledges that government agencies may seek eligibility or similar data from Caremark regarding Plan Participants and may submit to Caremark Claims for, on behalf of and/or in the name of Plan Participants. Client authorizes Caremark to provide such data as requested by government agencies or their authorized agents and further authorizes Caremark to process such Claims in accordance with applicable laws and regulations. The administrative fee for processing Claims submitted by government agencies will be invoiced at the paper claim rate already agreed to by the parties or as otherwise agreed by Caremark and Client. Client will reimburse Caremark for amounts paid by Caremark to government agencies in accordance with its payment obligations under this Agreement.
- 2.16 **Debit Card Program.** Client hereby authorizes and directs Caremark to disclose data, upon the request of Client, to a third party vendor for the purposes of administering payments under a health benefit reimbursement account program subject to such third party's execution of Caremark's form confidentiality agreement. Caremark may provide such data, as requested by the third party for this purpose, until such time as Client advises it otherwise in writing.
- 2.17 **Performance Guarantees.** Caremark agrees to perform in accordance with the performance standards described in Exhibit E. Unless otherwise stated, all performance standards shall be measured across Caremark's book of business based on Caremark's standard calculation methodology and exclude Specialty Drugs and related services. In the event Caremark fails to meet the proposed standards, the penalties described in Exhibit E shall be the sole and exclusive remedy available to Client for such failure.
3. **Maintenance of Records.** Caremark shall maintain records with respect to the processing, payment, and denial of Claims by Caremark and shall retain such records for a period of ten (10) years after the transaction occurred or as otherwise required by applicable law.



4. **Use of Data.** Caremark may use, disclose, reproduce or adapt information obtained in connection with this Agreement, including Claims as well as eligibility information, which is not identifiable on a Client or Plan Participant basis. Caremark shall maintain the confidentiality of this information to the extent required by applicable law, and may not use the information in any way prohibited by applicable law.
5. **Audit Rights.**
  - 5.1 **Claims Audits.** Client, or a mutually acceptable independent third party retained by Client, may conduct an annual Claims audit of Caremark data that directly relates to Claims billings for the prior Contract Year. The scope of the Claims audit shall be in accordance with the procedures set forth in Exhibit D. Client acknowledges that it shall not be entitled to audit agreements with vendors, pharmaceutical companies, Participating Pharmacies or other providers of products or services to Caremark.
  - 5.2 **Caremark Audit.** Upon reasonable notice, Caremark may inspect and audit, or cause to be inspected and audited, the books and records of Client directly relating to the existence and number of Plan Participants. For purposes of audit verification, Client shall maintain eligibility records for Plan Participants for a period of twelve (12) months from the date of the review.
  - 5.3 **Required Payments.** Any adjustments, payments and/or reimbursements determined to be necessary as a result of any examination or audit shall be paid by the appropriate party within thirty (30) days of execution of an appropriate release document covering the audit period.
6. **Obligations of Client.**
  - 6.1 **Plan Participant Authorizations.** Client represents and warrants that it has obtained from Plan Participants all consents and/or authorizations required, if any, for Caremark to perform the Services and for the use and disclosure of information including PHI, as permitted under this Agreement.
  - 6.2 **Control of Plan.** Client and/or Plan Administrator retains the sole and absolute authority to design, amend, terminate or modify, in whole or in part, all or any portion of the Plan, including the sole authority to control and administer the Plan and any assets of the Plan. Client and/or Plan Administrator will also have complete discretionary, binding and final authority to construe the terms of the Plan, to interpret ambiguous Plan language, to make factual determinations regarding the payment of Claims or provision of benefits, to review denied Claims and to resolve complaints by Plan Participants. Nothing in this Agreement shall be deemed to confer upon Caremark the status of plan administrator or fiduciary as defined in ERISA, or applicable state law, or any responsibility for the terms or validity of the Plan.
  - 6.3 **PDD.**
    - (a) Client represents and warrants that the PDD, as may be amended from time to time, accurately reflects the applicable terms of the Plan for purposes of this Agreement.
    - (b) Client shall provide Caremark with ninety (90) days prior written notice of any proposed changes to the PDD, which changes shall be consistent with the scope and nature of the Services to be performed by Caremark under this Agreement. Client agrees that it is responsible for Losses resulting from any failure to implement Plan design changes which are

not communicated in writing to Caremark. In addition, Client shall notify Plan Participants of any Plan design changes prior to the effective date of any such changes.

6.4 **Client's Obligation.** Caremark shall not be held responsible to any performance standard or obligation if Client, or Client's designee, fails to provide Caremark with accurate, timely and complete information as needed to meet such performance standard or obligation.

7. **Invoicing and Payment.**

7.1 **Invoicing.** Caremark shall invoice Client in accordance with the pricing terms set forth in Exhibit A according to the following schedule:

(a) **Claims.** Caremark shall issue Client an invoice for prescription claims four (4) times monthly.

(b) **Administrative Fees.** Caremark shall issue Client an invoice for administrative fees on a monthly basis.

7.2 **Payment.** Client shall pay Caremark for the Services provided in accordance with the terms set forth in Exhibit A. Client shall pay Caremark all invoiced amounts for Claims and administrative fees within five (5) days after Client receives an invoice from Caremark. Client shall have no right to offset disputed amounts or amounts due or allegedly due from Caremark from such payment except as approved in writing by Caremark. Any sales, use or other tax or assessment, including any surcharge or similar fee imposed under any applicable law on any health care provider, Plan Participant, service, supply or product provided under this Agreement, will be the sole responsibility of Client and shall be added to the invoice.

7.3 **Late Payments.** Payments not received in accordance with Section 7.2 shall bear a service fee of eighteen percent (18%) per annum (or, if less, the highest rate allowed by law).

7.4 **Financial Responsibility.** If at any time during this Agreement Caremark reasonably determines that Client may have difficulty meeting its financial commitments under this Agreement, then Caremark may request information, reasonable assurances or both from Client as to its financial responsibility (including a deposit in an amount equal to the average billing amount based upon the average of the last three (3) months of billing history). If Caremark requires Client to provide a deposit, Client will provide such deposit within ten (10) days of Caremark's request. If Client gives Caremark a deposit, Caremark may apply the deposit to past due balances and shall return the remaining deposit, if any, after the termination of this Agreement and the payment of all amounts payable to Caremark hereunder. Any deposit provided by Client shall not be deemed a Plan asset.

7.5 **Suspension of Performance.** In the event Client: (i) is fifteen (15) days in arrears on its payment obligations under this Agreement or does not provide a deposit pursuant to Section 7.4; (ii) makes an assignment for the benefit of creditors; (iii) is the subject of a voluntary or involuntary petition for bankruptcy, or is adjudged insolvent or bankrupt; or, (iv) a receiver or trustee is appointed for any portion of its property, Caremark may immediately, and without penalty or any liability for any Losses, suspend performance of Services hereunder. Suspension of performance by Caremark shall not constitute termination of this Agreement.

8. **Pharmaceutical Contracts and Rebates.**

8.1 Pharmaceutical Company Agreements. Caremark may hold contracts with pharmaceutical companies relating to products covered under this Agreement. In connection with such contracts, Caremark may have a financial relationship with such pharmaceutical companies and may receive and retain rebates and discounts from such pharmaceutical companies. Caremark negotiates such rebates and discounts on its own behalf as a purchaser of pharmaceutical products over its aggregate book of business and not on behalf of any client or plan. Neither Client nor Plan shall have any right to or interest in such rebates or discounts.

8.2 Non-Interference. Client agrees that during the Term of this Agreement, Client will not negotiate, contract, or agree with any pharmaceutical company for the purpose of obtaining rebates or other discounts related to the drug utilization, including the use of over the counter products, of Plan Participants. Client further agrees to cancel any existing agreements, arrangements and/or contracts with any pharmaceutical company related to such rebates or discounts as of the Effective Date.

9. Term and Termination.

9.1 Term. The term of this Agreement shall commence on the Effective Date and expire on June 30, 2008 ("Term") subject to earlier termination as hereinafter set forth. **THE TERM SHALL BE AUTOMATICALLY RENEWED FOR ADDITIONAL ONE (1) YEAR PERIODS UNLESS EITHER PARTY SENDS NOTICE OF NON-RENEWAL TO THE OTHER PARTY AT LEAST NINETY (90) DAYS PRIOR TO THE END OF THE ORIGINAL TERM OR ANY SUBSEQUENT ONE-YEAR TERM.**

9.2 Termination for Cause.

- (a) Either party may terminate this Agreement upon written notice to the other party in the event of a material breach of this Agreement by the other party which is not cured within sixty (60) days of notice thereof.
- (b) Client may terminate this Agreement upon a material breach by Caremark of Exhibit B (Business Associate Obligations) of this Agreement if Caremark does not cure the breach or if a cure is not possible, end the violation, within thirty (30) days of receipt of written notice by Caremark of such breach.

9.3 Termination for Change in Law.

- (a) Either party may terminate this Agreement upon written notice to the other party if, as a result of any change in law, the rights or obligations of the requesting party would be materially adversely affected. Any such termination shall be effective on the day immediately preceding the effective date of such change in law, subject to the provisions of Section 9.3(b) below.
- (b) Notwithstanding Section 9.3(a), the parties agree to use prompt, good faith efforts to renegotiate the terms of this Agreement. If the parties successfully conclude such negotiations prior to the effective date of the change in law, this Agreement shall not terminate and shall be amended to reflect the negotiated terms. In the event the parties are unable to successfully conclude such negotiations, this Agreement shall terminate as provided above.

9.4 Obligations Upon Termination.

- (a) Upon termination of this Agreement, Caremark will, at Client's request, provide mutually agreed upon post-termination services at Caremark's prevailing rate.
- (b) Except as provided in Section 9.4(c) below, upon termination of this Agreement, for any reason, Caremark shall return or destroy all PHI created or received by Caremark as a business associate of Client in connection with this Agreement.
- (c) In the event that Caremark determines that returning or destroying the PHI is not feasible, Caremark may retain PHI, provided that Caremark shall extend the protections contained in Exhibit B to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Caremark maintains such PHI.
- (d) Upon termination of this Agreement, Caremark will not transition claims files and/or history that contain Caremark's cost and pricing information to Client's new pharmacy benefit manager.

10. Confidential and Proprietary Information.

10.1 Confidential Information. The term "Confidential Information" includes, but is not limited to, any information of either the Client or Caremark (whether oral, written, visual or fixed in any tangible medium of expression) relating to either party's services, operations, systems, programs, inventions, techniques, suppliers, customers and prospective customers, contractors, costs and pricing data, trade secrets, know-how, processes, plans, designs and other information of or relating to either party's business, including its therapeutic and disease management programs. "Confidential Information" does not include Protected Health Information, the use and disclosure of which is governed by Section 12 of this Agreement.

10.2 Obligations of Officers or Employees. Neither Caremark, Client, nor any of Client's officers or employees shall disclose or make use of any Confidential Information except as permitted under this Agreement without the prior written consent of the non-disclosing party, which consent may, *inter alia*, be conditioned upon the execution of a confidentiality agreement prior to any disclosure to a third party. Each party will disclose Confidential Information of the other party only to its officers or employees who have a need to know the Confidential Information in order to accomplish the purpose of this Agreement and who (i) have been informed of the confidential and proprietary nature of the Confidential Information, and (ii) have agreed not to disclose it to others and to treat it in accordance with the requirements of this Section.

10.3 Permitted Disclosure of Confidential Information. The foregoing shall not apply to such Confidential Information to the extent: (i) the information is or becomes generally available or known to the public through no fault of the receiving party; (ii) the information was already known by or available to the receiving party prior to the disclosure by the other party on a non-confidential basis; (iii) the information is subsequently disclosed to the receiving party by a third party who is not under any obligation of confidentiality to the party who disclosed the information; (iv) the information has already been or is hereafter independently acquired or developed by the receiving party without violating any confidentiality agreement or other similar obligation; or (v) the information is required to be disclosed pursuant to a non-appealable court order. If either party is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand, formal or informal investigation by any government or governmental agency, judicial process or otherwise) to disclose the

Confidential Information of the other party such party shall give such prior written notice to the other party to allow the other party to seek an appropriate protective order or modification of any disclosure. The receiving party agrees not to oppose any action by the disclosing party to obtain a protective order or other appropriate remedy. If the receiving party is ultimately legally required to disclose such Confidential Information, the receiving party shall disclose the minimum required pursuant to the court order or other legal compulsion.

- 10.4 **Remedies.** Any unauthorized disclosure or use of Confidential Information including but not limited to, the sharing of this Agreement any of the financial terms related to this Agreement, or Claims tapes with any consulting agents, advisors, brokers, or any other third party, would cause Caremark or Client immediate and irreparable injury or loss that may not be adequately compensated with money damages. Accordingly, if either party fails to comply with this Section 10, the other party will be entitled to specific performance including immediate issuance of a temporary restraining order or preliminary injunction enforcing this Agreement, and to judgment for Losses caused by the breach, and to any other remedies provided by law.
11. **Indemnification.**
- 11.1 **Caremark Indemnification.** Caremark shall defend, indemnify and hold harmless Client, its subsidiaries and affiliates and each of their respective officers, directors, and employees (the "Client Parties") from and against any and all Losses incurred by any Client Parties to the extent arising out of or relating to Caremark's negligence or breach of its obligations or warranties set forth in this Agreement, except to the extent such Losses are caused by the negligence or willful misconduct of any Client Party.
- 11.2 **Client Indemnification.** Client shall defend, indemnify and hold harmless Caremark, its subsidiaries and affiliates and each of their respective officers, directors, and employees (the "Caremark Parties") from and against any and all Losses incurred by any Caremark Parties arising out of or relating to (i) Client's negligence or breach of its obligations or warranties set forth in this Agreement, except to the extent such Losses are caused by the negligence or willful misconduct of any Caremark Party, (ii) any legal defects in the design of the Plan, or (iii) any deficiencies in the PDD.
- 11.3 **Notice of Claim.** The party seeking indemnification shall notify the other party in writing within thirty (30) days of the assertion of any claim or the commencement of any action or proceeding for which indemnity may be sought under this Agreement. Failure to notify the other party shall not result in the waiver of indemnity rights with respect to such claim, suit, action or proceeding unless such failure materially prejudices the ability of the indemnifying party to defend such claim, suit, action or proceeding. The parties shall cooperate with each other in the defense and settlement of any such claim, action or proceeding.
12. **Business Associate Relationship.** The parties acknowledge and agree that Caremark is a Business Associate, as defined under HIPAA, of the Plan in connection with the provision of certain Services, and is a health care provider and Covered Entity, and not a Business Associate of Client, under HIPAA in connection with its provision of certain other Services. To the extent Caremark acts as a Business Associate of the Plan, and in accordance with HIPAA, Caremark shall adhere to the applicable requirements established for Business Associates as set forth in Exhibit B.

13. **General Provisions.**

13.1 **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party, provided such consent will not be unreasonably withheld. However, Caremark may assign this Agreement or delegate the duties to be performed under this Agreement without the consent of Client to any of its subsidiaries or affiliates at any time, or as part of a sale of all, or substantially all, of the assets to which this Agreement pertains.

13.2 **Compliance with Law.**

(a) Each party shall comply with the provisions of all applicable law relating to the performance of its obligations under this Agreement. Neither party has any responsibility to advise the other about such party's compliance with any law.

(b) Each party certifies that it shall not violate the federal anti-kickback statute, set forth at 42 U.S.C. § 1320a-7b(b) ("Anti-Kickback Statute"), or the federal "Stark Law," set forth at 42 U.S.C. § 1395nn ("Stark Law"), with respect to the performance of its obligations under this Agreement. Further, Caremark shall ensure that individuals meeting the definition of "Covered Persons" (as such term is defined in the Corporate Integrity Agreement between the Office of Inspector General of the Department of Health and Human Services and AdvancePCS) shall comply with Caremark's Compliance Program, including training related to the Anti-Kickback Statute and the Stark Law. Caremark's Code of Conduct and policies and procedures on the Anti-Kickback Statute and Stark Law may be accessed at <http://www.caremark.com/wps/portal/s.155/3370?cms=CMS-2-007764>.

13.3 **Force Majeure.** Except for payment obligations, neither party shall be liable for failure or delay of performance arising from an act of God or other events beyond the reasonable control of such party, such as the acts of a regulatory agency, fires, floods, pandemics, explosions, strikes, labor stoppages, and acts of terrorism, war or rebellion. This Agreement does not require Caremark to dispense those products to which Caremark has no reasonable access.

13.4 **Limitation of Liability.**

(a) Except as otherwise expressly set forth in this Agreement, Caremark makes no additional representations or warranties, including without limitation, warranties of merchantability or fitness for a particular purpose.

(b) In no event shall either party be liable to the other for any incidental, special or consequential damages incurred by the other party as a result of the performance or any default in the performance of their respective obligations under this Agreement.

(c) Client acknowledges that Caremark does not establish AWP, and Caremark shall have no liability to Client arising from the use of First DataBank, Medi-Span or any other nationally available reporting service.

13.5 **General.** Except as otherwise provided herein, this Agreement may not be amended except in a writing signed by both parties. If any provision of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms. This Agreement, including all documents referred to herein and attached hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior oral or written representations, understanding and agreements between the

parties with respect thereto. Any waiver of any breach of any provision of this Agreement shall not be a waiver of any subsequent breach of any provision of this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not in any way affect the meaning or interpretation of this Agreement.

13.6 Governing Law/Venue. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Illinois (without regard to its conflict of laws rules). Any suit brought hereunder (including any action to compel arbitration or to enforce any award or judgment reentered thereby) shall be brought in the state or federal courts sitting in Cook County, Illinois, the parties hereby waiving any claim or defense that such forum is not convenient or proper. Each party agrees that any such court shall have *in personam* jurisdiction over it and consents to service of process in any manner authorized by Illinois law.

13.7 Notices. Any notice given under this Agreement shall be given in writing, and sent by hand delivery, facsimile transmission (receipt confirmed), overnight courier that provides confirmation of delivery, or certified mail, return receipt requested, to the applicable party at its address set forth below:

If to Caremark:

2211 Sanders Road, 10<sup>th</sup> Floor  
Northbrook, Illinois 60062  
Attn: Vice President, Legal  
Services/Managing Counsel  
Client and Account Services  
Fax No: (847) 559-4879

With a copy to:

211 Commerce Street, 8<sup>th</sup> Floor  
Nashville, Tennessee 37201  
Attn: General Counsel  
Fax No: (615) 743-6611

If to Client:

330 Fair Lane  
Placerville, California 95667  
Attn: Sherril Jodar  
Fax No: (530) 642-9815

or to such other address or to the attention of such other person as either party may designate in writing pursuant to this Section 13.7. Written notices shall be deemed received on the date actually delivered to the other party.

13.8 Fiscal Consideration. The parties to this Agreement recognize and acknowledge that Client is a political subdivision of the State of California. As such, Client is subject to the provisions of

Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of Client business, Client will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, Client shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the Services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and Client released from any further liability hereunder subject to payment for Services performed prior to cancellation.

In addition to the above, should the board of supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any Client department for which Services were contracted to be performed, pursuant to this paragraph in the sole discretion of the Client, this Agreement may be deemed to be canceled in its entirety subject to payment for Services performed prior to cancellation.

- 13.9 Interest of Public Official. No official or employee of Client who exercises any functions or responsibilities in review or approval of Services to be provided by Caremark under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership or association in which he/she is directly or indirectly interested; nor shall any such official or employee of Client have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- 13.10 California Residency (Form 590). All independent consultants providing services to Client must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certify that they have a permanent place of business in California. Caremark will be required to submit a Form 590 prior to execution of an Agreement or Client shall withhold seven (7%) percent of each payment made to Caremark during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.
- 13.11 Taxpayer Identification Number (Form W-9). All independent consultants or corporations providing services to Client must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.
- 13.12 Administrator. The Client officer or employee with responsibility for administering this Agreement is Sherril Jodar, Risk Manager, Human Resources or successor.
- 13.13 Insurance. Caremark shall provide proof of a policy of insurance reasonably acceptable to Client's Risk Manager and documentation evidencing that Caremark maintains insurance that meets the following requirements:
- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Caremark as required by law in the State of California.



- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than \$500,000.00 is required in the event motor vehicles are used by Caremark in the performance of the Agreement.
- D. Caremark is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per claims made.
- E. Caremark shall furnish a certificate of insurance reasonably acceptable to Client's Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company reasonably acceptable to Client, or be provided through partial or total self-insurance likewise reasonably acceptable to Client.
- G. Caremark agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Caremark agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the reasonable approval of Client and Caremark agrees that no work or Services shall be performed prior to the giving of such approval. In the event the Caremark fails to keep in effect at all times insurance coverage as herein provided, Client may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to Client, and;
  - 2. Client, its officers, officials, employees and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all liability policies except worker's compensation and professional liability insurance policies.
- I. Caremark's insurance coverage shall be primary insurance as respects Client, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by Client, its officers, officials, employees or volunteers shall be in excess of Client's insurance and shall not contribute with it.
- J. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to Client, its officers, officials, employees or volunteers.
- K. The insurance companies shall have no recourse against Client, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.

- L. Caremark's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- M. In the event Caremark cannot provide an occurrence policy, Caremark shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- N. Certificate of insurance shall meet such additional standards as may be determined by the contracting county department either independently or in consultation with risk management, as essential for protection of Client.
- 13.14 Independent Contractors. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating a relationship of employer and employee, principal and agent, or joint venture of the parties hereto; it being understood and agreed that no provision contained in this Agreement nor any acts of the parties hereto shall be deemed to place Caremark in any relationship with Client other than as an independent contractor.
- 13.15 Third Party Beneficiary. This Agreement has been entered into solely for the benefit of Client and Caremark and is not intended to create any legal, equitable, or beneficial interest in any third party or to vest in any third party any interest as to enforcement or performance, including but not limited to, Participating Pharmacies or Plan Participants.
- 13.16 Survival. Sections 4 (Use of Data), 7.2 (Payment), 6.2 (Control of Plan), 9.4 (Obligations Upon Termination), 10 (Confidential and Proprietary Information), 11 (Indemnification), 13.4 (Limitation of Liability) and 13.16 (Survival) shall survive the termination or expiration of this Agreement.
- 13.17 Use of Name. Each party shall use the other party's name, logo and trademark only in the manner specified by the other party in writing, or as expressly permitted by this Agreement. The terms of use of Caremark's name, logo and trademark are set forth in Exhibit C.
- 13.18 Attorney Fees. If either party institutes an action or proceeding to enforce any rights arising under this Agreement, the party prevailing in such action or proceeding will be paid all reasonable attorneys' fees and costs to enforce such rights by the other party, such fees and costs to be set by the court, not by a jury, and to be included in the judgment entered in such proceeding.
- 13.19 Authority. Each party represents and warrants that it has the necessary power and authority to enter into this Agreement and to consummate the transactions contemplated by this Agreement.
- 13.20 Government Programs. To the extent required by applicable law or contractual commitment, Client agrees to fully and accurately disclose and report to Medicare, Medicaid or other government health care programs any discount or rebate received under this Agreement, whether reflected in the fees for the products and services or otherwise provided hereunder, as discounts against the price of the drugs under all applicable state or federal programs that provide reimbursement to Client for products or services provided by Caremark.
14. Exhibits. The following Exhibits are hereby incorporated into and made a part of this Agreement:

**Exhibit**

- A
- B
- C
- D
- E
- F
- G

**Description**

- Financial Terms
- Business Associate Obligations
- Terms of Use of Name
- Audit Guidelines
- Performance Guarantees
- Clinical Service Programs
- List of Plans (Employer)

\*\*\*\*\*

The parties hereto have caused this Amended and Restated Prescription Benefit Services Agreement to be executed by their duly authorized representatives.

CAREMARK, L.L.C.

EL DORADO COUNTY:

By: [Signature]  
 Its ZVP  
 Date: 6/26/07

By: [Signature]  
 Its HELEN K. BAUMANN  
 Date: 6/19/07

LEGAL REVIEW

ATTEST: CINDY KECK, Clerk  
 of the Board of Supervisors  
 By: [Signature]  
 DEPUTY 6/19/07

## Exhibit A Financial Terms

Effective the later of July 1, 2007, or within thirty (30) days of Caremark's receipt of this executed Agreement.

### 1. Mail, Retail, Rebates and Specialty.

<b>MAIL<sup>A</sup></b>	
<b>BRAND</b>	AWP - 22% + \$0.00 dispensing fee
<b>GENERIC</b>	AWP - 55% + \$0.00 dispensing fee
	<b>Generic effective rate guarantee of AWP - 55%</b>
<b>ADMINISTRATION FEE</b>	\$ 0.00 per claim
<b>RETAIL</b>	
<b>BRAND</b>	Lower of U&C or AWP-16% + \$1.80 dispensing fee
<b>GENERIC</b>	Lower of U&C or AWP-16%+ \$1.80 dispensing fee or Caremark MAC + \$1.80 dispensing fee
<b>ELECTRONIC CLAIM ADMINISTRATION FEE</b>	\$0.00 per Claim
<b>MANUAL CLAIM ADMINISTRATION FEE</b>	\$1.50 per Claim
<b>REBATES*</b>	
	<b>Two Tier</b>
<b>MAIL</b>	\$11.50 per brand Claim
<b>RETAIL</b>	\$3.75 per brand Claim
<b>REBATES*</b>	
	<b>Three Tier Qualifying</b>
<b>MAIL</b>	\$12.00 per brand Claim
<b>RETAIL</b>	\$4.00 per brand Claim
<b>SPECIALTY MEDICATIONS<sup>A,B</sup></b>	
	AWP - 16% + \$1.80 dispensing fee Administration Fee \$0.00

\*See Section 5.1 for rebate conditions.

#### 1.1 The pricing set forth above is contingent upon the following assumptions:

- Execution of a one-year agreement
- Caremark shall be the exclusive mail service provider.
- Caremark shall be the exclusive specialty provider.
- Rebate guarantees are based upon fully-funded plan designs, which allow a 90 day supply at mail and Claim utilization and plan design(s) are as represented by Client
- Rebate guarantees for mail and retail are measured and reconciled in the aggregate.
- Rebates will be effective the first day of the first calendar quarter following Caremark's receipt of an executed document.
- Any specialty rebates received will be retained by Caremark.
- Qualifying plan designs will have at least a \$15.00 Cost Share differential between preferred and non-preferred brand prescriptions, a \$15.00 differential in the minimum Cost Share for coinsurance, or at least a 20% (20 percentage points) co-insurance differential between the preferred and non-preferred brand.
- Participating Pharmacy rates may vary and the amount paid to the Participating Pharmacy may not be equal to the amount billed to Client and Caremark shall retain any difference.
- Caremark may exclude the following from any retail pricing guarantee:
  - Specialty/biotech drugs
  - 100% member-paid plans
  - Generics that enter the market with supply limitations or restrictions that limit marketplace

- competition.
- Compound drugs

- The participating retail pharmacy may collect from the plan participant the lower of the applicable Cost Share, or the retail pharmacy's Usual and Customary price.
- Client agrees not to participate in any other formulary or similar discount program, or enter into any direct or indirect contracts with pharmaceutical manufacturers with respect to the products and services dispensed to Client's Plan Participants.
- In the event that the Plan Participant Cost Share exceeds the prescription charge at mail, Caremark shall retain the difference.

A. Shipping Fees and/or postage will be increased by any increase in shipping fees and/or postage costs over the term of the Agreement.

B. Caremark will provide Client quarterly notifications regarding updates (each a "Specialty Drug Update") upon request from the Client. Any new Specialty Drug (each a "New Specialty Drug") will be dispensed at the Specialty Drug rate. Should the addition of any New Specialty Drug at the Specialty Drug Rate not be satisfactory to either party, the parties shall negotiate mutually agreeable terms for such New Specialty Drug within ninety (90) days of the date of the Specialty Drug Update. The rates noted above do not include ancillary charges such as nursing and per diems (e.g. pumps, supplies, etc.) which may apply to certain infused Specialty Drugs.

2. **Clinical Programs.** As consideration for the clinical Services selected by Client in accordance with this Agreement, Client will pay to Caremark the fees set forth below:

2.1 Base Clinical Services (included in base administrative fee)

Concurrent DUR	No Charge
Physician Profiling	No Charge
Formulary Management	No Charge
Generic Substitution Programs	No Charge

2.2 Additional Clinical Programs:

	<u>Fee</u>	<u>Guaranteed ROI</u>
(a) CustomCare Mail (includes Proactive Generics)*	\$2.50 per mail Rx	200% ROI over 1 yr
(b) CustomCare Retail*	\$0.50 per retail Rx	200% ROI over 1 yr

Note:

1. The fees listed above are based on a per review per Plan Participant.
2. Custom reports and modifications requested by Client are subject to additional fees.
3. All prices quoted herein are subject to change at Caremark's discretion upon notice to Client.

\*Any savings beyond the ROI guarantee will be shared between Caremark and Client at 50%/50%, respectively.

NOTE: For those programs that have a shared savings component over the targeted savings, Client will be billed for any excess savings, as applicable. Any overachievement of guaranteed savings related to any clinical program will be applied to any underachievement of guaranteed savings.

3. **Special Fees.**

3.1 Administrative charges relating to certain services may be charged to Client at Caremark's prevailing rate.

3.2 Miscellaneous Fees.

Paper Submitted Claim (per processed Claim)	\$1.50/Claim
Card Re-issuance	\$0.50/Card
Manual Eligibility Submission	\$1.00/Manual Entry
Client Specific Programming	\$150.00/Hour

3.3 Charges or services not identified in this Exhibit A shall be quoted upon request.

**4. Client Credits:**

This Section 4 of Exhibit A sets forth various rebates and credits to be paid or credited by Caremark to Client (collectively "Client Credits"). It is the intention of the parties that, for purposes of the Federal Anti-Kickback Statute, these Client Credits shall constitute and shall be treated as discounts against the price of drugs within the meaning of 42 U.S.C. 1320a 7b(b)(3)(A).

**4.1 Drug Rebates:**

Caremark will credit Client in connection with Caremark's PDL an annual rebate in the amount set forth in the table above. No rebate shall be credited for any generic Claim, whether such Claim is filled with a generic drug or by a brand-name drug dispensed in lieu of a generic drug at the generic drug reimbursement rate. This annual rebate credit shall be made within 60 days following quarter close for rebates received during the prior calendar quarter. Caremark may adjust the negotiated rebate payments in an equitable manner if: (i) a generic version of a branded product is unexpectedly introduced in the market; or (ii) a branded product is recalled or withdrawn from the market.

Caremark guarantees that Client's share of rebates shall be as set forth in the table above. (the "Guaranteed Rebate Amount"). All claims may be aggregated for purposes of this guarantee. In the event that rebates payable to Client are less than the Guaranteed Rebate Amount, Caremark shall pay to Client the amount of any deficiency. This Guaranteed Rebate Amount will be effective the first day of the first calendar quarter following Caremark's receipt of this executed document and will remain in effect until June 30, 2008, and is contingent upon Client's current Plan design parameters, full adoption of and alignment with Caremark's PDL, use of the Caremark Mail Program including an average 84 days' supply at mail, as well as formulary management and intervention programs for both retail and mail. For subsequent years, any rebate guarantee will be determined by annual negotiation by the parties of a mutually acceptable Guaranteed Rebate Amount based on projected market estimates.

**5. Miscellaneous:**

5.1 Plan Participant Cost Share. Caremark may, but shall not be obligated to, dispense a prescription even if the prescription is not accompanied by the Cost Share. Caremark will credit any amount submitted by Plan Participant in excess of the Plan Participant's Cost Share. In the event a Plan Participant submits to Caremark an insufficient Cost Share and the Plan Participant fails to remit the balance of the Cost Share amount to Caremark within thirty (30) days of Caremark's request, then Caremark shall have the right to invoice Client for, and Client shall have an obligation to pay Caremark, the amount of the uncollected Cost Share(s). Shipping of prescriptions submitted without the appropriate Cost Share may be delayed.

5.2 Reservation of Rights

Caremark reserves the right to modify or amend the financial provisions in this document in the event of:

- o A change in the scope of services to be performed by Caremark or the assumptions upon which the financial provisions included in this document are based and/or any government imposed or industry wide change that would impede Caremark's ability to provide the pricing described in this document, including any prohibition or restriction on Caremark's ability to receive rebates from pharmaceutical manufacturers

- A change in Client's alignment with Caremark's PDL;
- Implementation or addition of a high deductible health plan/consumer-driven health plan option;
- Implementation or addition of 100% member paid plan;
- A greater than twenty percent (20%) change in the total number of Plan Participants from the number provided during pricing negotiations; or
- A change in the coverage of Medicare eligible Plan Participants, irrespective of the resulting change in total number of Plan Participants, as defined above.
- A change in methodology by which AWP is calculated or reported.

## Exhibit B Business Associate Obligations

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WHEREAS, Client and Caremark entered into this Agreement pursuant to which Caremark provides services to Client, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and Electronic Protected Health Information (“E PHI”) may be made available to Caremark for the purposes of carrying out its obligations under this Agreement; and

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act, Pub. L. No. 104-161 of 1996 (“HIPAA”), more specifically the regulations found at Title 45, CFR, Parts 160 - 164 (the “Privacy and Security Rule”), may be amended from time to time, which are applicable to the protection of any disclosure of PHI pursuant to this Agreement; and

WHEREAS, Client is a Covered Entity, as defined in the Privacy Rule; and

WHEREAS, Caremark, when a recipient of PHI on behalf of Client, is a Business Associate as defined in the Privacy Rule; and

WHEREAS, “Individual” shall have the same meaning as the term “individual” in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.202(g) and “PHI” and “E PHI” shall be limited to such information created or received by Business Associate in its capacity as a pharmacy benefits manager (and not a mail pharmacy or other health care provider) on behalf of Client; and

WHEREAS, the parties agree that any disclosure or use of PHI or E PHI be in compliance with the Privacy and Security Rule or other applicable law;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. **Definitions.** Unless otherwise provided in this Exhibit B, capitalized terms shall have the same meanings as set forth in the Privacy Rule, as may be amended from time to time.
2. **Scope of Use and Disclosure by Caremark of Client Disclosed PHI**
  - A. Caremark shall be permitted to use and disclose PHI:
    - (1) on behalf of Client, or to provide services to Client for the purposes contained herein, if such use or disclosure does not violate the Privacy Rule, or the minimum necessary requirements of the Privacy Rule and
    - (2) as necessary to perform any and all of its obligations, including to provide or improve its services, under this Agreement.
  - B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Exhibit B or Required by Law, Caremark may:
    - (1) use the PHI in its possession for its proper management and administration and to fulfill any legal obligations.
    - (2) disclose the PHI in its possession to a third party for the purpose of Caremark’s proper management and administration or to fulfill any legal responsibilities of Caremark. Caremark may disclose PHI as necessary for Caremark’s operations only if:
      - (a) The disclosure is Required by Law; or
      - (b) Caremark obtains written assurances from any person or organization to which Caremark will disclose such PHI that the person or organization will:



- (i) hold such PHI in confidence and use or further disclose it only for the purpose of which Caremark disclosed it to the third party, or as Required by Law; and,
  - (ii) the third party will notify Caremark of any instances of which it becomes aware in which the confidentiality of the information has been breached.
- (3) use and disclose PHI in order to aggregate the PHI and/or aggregate the PHI with that of other data for the purpose of providing Client with data analyses related to this Agreement, or any other purpose, financial or otherwise, as requested by Client.
  - (4) not use or disclose PHI not authorized by this Agreement or this Exhibit B without patient authorization or de-identification of the PHI.
  - (5) use and disclose PHI to de-identify any and all PHI of Client received by Caremark under this Exhibit B provided that the de-identification conforms to the requirements of the Privacy Rule, 45 CFR and does not preclude timely payment and/or claims processing and receipt.
  - (6) as otherwise authorized in writing by Client.
- C. Caremark agrees that it will neither use nor disclose PHI, except as permitted or required by this Exhibit B, or as Required by Law, or as otherwise permitted by law.

3. Obligations of Caremark. In connection with its use of PHI disclosed by Client to Caremark, Caremark agrees to:
- A. Use or disclose PHI only as permitted or required by this Exhibit B or as permitted or Required by Law.
  - B. Use reasonable and appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Exhibit B.
  - C. To the extent practicable, mitigate any harmful effect that is known to Caremark of a use or disclosure of PHI by Caremark in violation of this Exhibit B.
  - D. Report to Client any use or disclosure of PHI not provided for by this Exhibit B of which Caremark becomes aware.
  - E. Require subcontractors or agents to whom Caremark delegates the performance of any services for Client and to whom it provides PHI to agree to the same restrictions and conditions on the use and disclosure of the PHI that apply to Caremark pursuant to this Exhibit B.
  - F. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use or disclosure of PHI created or received for or from Client.
  - G. Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Client and to follow generally accepted system security principles as required in section 164.314(a) of the final rule 45 CFR Parts 160-164.
  - H. Caremark will report any Security Incident involving EPHI of which it becomes aware to Client. Security incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations. This does not include trivial incidents that occur on a daily basis, such as scans or "pings".

- I. Obtain and maintain knowledge of the applicable laws and regulations related to HIPAA, as may be amended from time to time.
  - J. May use and disclose PHI to report violations of law to appropriate Federal and State Authorities, consistent with § 164.502(j) (1).
4. **PHI Access, Amendment and Disclosure Accounting.** Caremark agrees to:
- A. Provide access, at the written request of Client, within ten (10) business days, to PHI in a Designated Record Set, to Client, or to an Individual as directed by Client.
  - B. To make any amendment(s) to PHI in a Designated Record Set that Client directs or agrees to at the written request of Client within sixty (60) days of the request of Client.
  - C. To assist Client in meeting its disclosure accounting under HIPAA:
    - (1) Caremark agrees to document such disclosures of PHI made by it and information related to such disclosures as would be required for Client to respond to a request by an Individual for an accounting of disclosures of PHI.
    - (2) Caremark agrees to provide to Client or an Individual, within sixty (60) days of receipt of a written request from Client, information collected in accordance with this section to permit Client to respond to a request by an Individual for an accounting of disclosures of PHI.
    - (3) Caremark shall have available for Client the information required by this section for the six (6) years preceding Client's request for information (except Caremark need have no information for disclosures occurring before April 14, 2003 or, if later, the Effective Date of this Agreement).
  - D. Make available to the Secretary of Health and Human Services, Caremark's internal practices, books and records relating to the use of and disclosure of PHI for purposes of determining Client's compliance with the Privacy Rule, subject to any applicable legal restrictions.
  - E. Within thirty (30) days of receiving a written request from Client, make available any and all information necessary for Client to make an accounting of accountable disclosures of Client PHI by Caremark as required by 45 CFR 164.528.
  - F. Within sixty (60) days of receiving a written request from Client, incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in Caremark's possession constitutes a Designated Record Set.
  - G. Not make any disclosure of PHI that Client would be prohibited from making, except as permitted under Section 2.
5. **Obligations of Client.**
- A. Client shall not request Caremark to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Client, except as may be expressly permitted by the Privacy Rule.
  - B. Client will obtain any authorizations necessary for the use or disclosure of PHI, so that Caremark can perform its obligations under this Business Associate Agreement and/or this Agreement.
6. **Term and Termination.**

- A. Term – this Business Associate Agreement shall commence upon the Effective Date and terminate upon the termination of this Agreement, as provided therein, at which time all PHI provided by Client to Caremark, or created or received by Caremark on behalf of Client, is destroyed or returned to the Client, or, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
  - B. Termination for Cause. Upon Client’s knowledge of a material breach by Caremark of this Agreement, Client shall provide written notice to Business Associate specifying the nature of the breach and shall either:
    - (1) Provide a reasonable opportunity, but no less than sixty (60) business days, for Caremark to cure the breach or end the violation and terminate this Agreement if Caremark does not cure the breach or end the violation within the time specified by Client.
    - (2) Immediately terminate this Agreement if Caremark has breached a material term of this Agreement and the parties agree cure is not possible; or
    - (3) If neither termination nor cures are feasible, Client shall report the violation to the Secretary.
  - C. Effect of Termination.
    - (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Caremark shall return or destroy all PHI received from Client, created or received by Caremark on behalf of Client. This provision shall apply to PHI that is in the possession of subcontractors or agents of Caremark. Caremark shall retain no copies of the PHI.
    - (2) In the event that Caremark determines that returning or destroying the PHI is infeasible, Caremark shall provide to Client notification of the conditions that make return or destruction infeasible. Upon such notification that return or destruction of PHI is infeasible, Caremark shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Caremark maintains such PHI.
7. Amendment – the parties agree to negotiate in good faith to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Client to comply with the Privacy Rule, 45 CFR, and HIPAA generally.
  8. Survival – the respective rights and obligations of Business Associate under Section 6 of this Exhibit B shall survive the termination or expiration of this Agreement.
  9. Regulatory References – a reference in this Business Associate Agreement to a section in the Privacy Rule means the section as in effect or as amended.
  10. Conflicts – any ambiguity in this Business Associate Agreement and this Agreement shall be resolved to permit Client to comply with the Privacy Rule, 45 CFR, and HIPAA generally.

## Exhibit C

### Terms of Use of Name

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Caremark International Inc. owns federal trademark registrations for the mark CAREMARK and variations thereof in connection with goods and services in the health care and medical field (the "Caremark Mark"). No use of the Caremark Mark, including use of any of Caremark's logos, is allowed without the prior written permission of Caremark International Inc.

Upon grant of permission to use the Caremark Mark, Client may use the Caremark Mark only in the following manner:

- a. CAREMARK is to be used in block letters only;
- b. The symbol "®" in superscript shall be placed directly after the Caremark Mark on any usage of the Caremark Mark; and
- c. No modifications to font style, orientation or color shall be made to the Caremark Mark that are inconsistent with the depiction of the Caremark Mark.

Within thirty (30) days of notification by Caremark International Inc., or upon termination of this Agreement, Client must cease all use of the Caremark Mark in any form.

## Exhibit D Audit Procedures

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An audit of the Services is intended to enable Client to confirm that Caremark has complied with its obligations under the Agreement related to administration of the PDD. To accomplish the review in an efficient and timely manner, the following guidelines will apply to the audit process:

### 1. Audit Notification Letter

A Client request for an audit of Caremark will be directed to the Client Contract Audit Manager either in writing on Client's letterhead or by e-mail. Audits require sixty (60) days prior written notice.

### 2. Use of Third Party Auditor

In the event a third party auditor is used, the auditor shall be a mutually acceptable independent third party retained by Client. The third party auditor shall execute a confidentiality agreement with Caremark in a form and substance reasonably acceptable to Caremark prior to conducting an audit.

### 3. Teleconference

Upon Caremark's receipt of a request for an audit, Caremark will organize and conduct an initial teleconference between Client and Caremark. This teleconference will address the following:

- Individual audit participants
- Requirement and purpose of an approved confidentiality agreement (for use with outside audit firms or other Client representatives, as applicable)
- Onsite requirements
- Mutually established timelines
- Claims tape needs and costs
- Prescription copies: timelines, availability and cost
- Guidelines for acceptable verification of audit questions
- Caremark's right to respond within a reasonable time after questions arise and before audit results are disseminated by the auditor to Client
- Audit Process Confirmation Letter
- Other appropriate issues.

### 4. Mutually Agreed Timelines

Client and Caremark will mutually agree upon an audit timeline, taking into consideration individual circumstances and constraints. An example of a standard timeline is as follows (*from the time a signed confidentiality agreement is secured*):

- Claim tape request – two (2) weeks
- Standard screen prints – two (2) weeks
- Mail service prescription copies – six (6) weeks (cost is typically \$5.00 per script copy)
- Audit Report Reply – one (1) month.

#### 5. Response to Sampling Questions

The Client can submit to Caremark questions related to provided claim samples. Answers to sampling questions are normally provided within two (2) weeks after the questions have been presented.

#### 6. Claims Tape Requests

Claims tape specifications shall be clarified during the initial teleconference and processed in the order of receipt of a signed Confidentiality Agreement. Delivery to the specified party normally takes place within two (2) weeks. The cost typically is \$125.00 per month of data.

#### 7. Audit Report

In the event of an audit by a third party, Caremark and Client will be provided a copy of any proposed audit report and Caremark will have a reasonable opportunity to comment on any such report before it is finalized.

#### 8. Close of Audit

Upon finalization of audit results and agreement between Client and Caremark on any identified financial discrepancies, the period under review will be considered closed.

#### 9. Audit Costs

Client shall be responsible for all reasonable expenses of the Claims audit, including Caremark's costs related to the provision of records.

#### 10. Audit Document Limitations

Client acknowledges that it shall not be entitled to audit documents that Caremark is barred from disclosing by applicable law or pursuant to an obligation of confidentiality to a third party.

## Exhibit E

### Performance Guarantees

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Caremark will diligently attempt to maintain its performance at the levels represented herein, provided that failure to achieve or maintain those levels does not constitute a default for purposes of the termination provisions set forth in the Agreement.

Caremark will not be liable to Client for any failure to satisfy a performance standard during any time that no agreement existed between Caremark and Client, even if a subsequent written agreement between the parties provides that the effective date of the Agreement is prior to the time at which the written agreement actually was executed by the parties.

If Caremark fails to satisfy a performance standard that is measured for all Caremark clients utilizing the same process platform, Caremark will have satisfied a performance standard regarding Client if it satisfies that standard with respect to Client only.

If any period covered by the Agreement is less than the period covered by the proposed performance standard, and Caremark has not met such performance standard for such period, the penalty associated with such failure will be prorated to reflect the actual period during which the Agreement was in effect.

Unless otherwise indicated with respect to a specific performance standard, Caremark's satisfaction of the proposed performance standards will be:

- (i) Monitored internally by Caremark on a monthly basis for all Caremark clients utilizing the same process platform, and
- (ii) Measured by Caremark on a calendar-year basis for all Caremark clients utilizing the same process platform.

The total amount at risk will be will be allocated as set forth below.

Caremark shall provide the Performance Guarantee Report Card no later than 90 days after the end of the applicable Contract Year. Any applicable amounts owed to Client will be credited on the month end invoice following the month of the reporting date

In the event Caremark fails to meet the proposed standards, the penalties described above will be the sole and exclusive remedy available to Client for such failure.

- **Penalty Amount** – Client's annual performance pool will be equal to the total number of covered lives among the Client members, as determined below, multiplied by \$10.00.
- **Determining Number of Covered Lives** – For penalty calculation purposes, the number of covered lives will be based on the actual number of covered lives within the Client as of the Effective Date or the first day of the anniversary being measured (Example: for the period 1/1/08 – 12/31/07, total penalty amount available will be \$10.00 multiplied by the actual number of covered lives on 1/1/08).

- **Penalty Allocation** – Client may allocate the total amount at risk at its discretion provided no more than 20% of the total amount at risk is allocated to any one guarantee. The total allocation to performance guarantee categories must equal 100%.
  - **Performance Guarantee Category** – Client may select from a list of performance guarantee categories. Each category has corresponding performance guarantees that apply to that category.
  - **Reallocate Penalty Dollars** – Each Contract Year, Client will have the option to reallocate penalty dollars based on the list of performance guarantee categories. See Penalty Allocation.
1. **Phone Abandonment Rate.** Inbound calls to Caremark’s toll-free customer service lines shall be answered with an abandonment rate of 4% or less, as measured on a Contract Year basis. Measurement excludes calls routed to an IVR and excludes calls abandoned by the Plan Participant within the first thirty (30) seconds.
  2. **Phone Average Speed of Answer.** Inbound calls to Caremark’s toll-free customer service lines shall be answered within an average time of thirty (30) seconds or less. Measurement excludes calls routed to an IVR.
  3. **Mail Generic Dispensing Rate.** Caremark guarantees at least 43.1% of all prescriptions dispensed to Plan Participants shall be dispensed with a generic product, as permitted by applicable law and the plan participant consents, as measured on a Contract Year basis.
    - a. GDR guarantee will be adjusted to reflect situations where generically available medications are excluded from Client’s benefit coverage such as OTC equivalent strengths, etc.
    - b. Plan design drivers need to remain constant and DAW penalties must exist. Any changes, including changes in Plan design and any other changes which materially affects Caremark’s ability to meet this guarantee must be mutually agreed upon by both parties and the GDR guarantee shall be adjusted to account for such change, whether higher or lower depending on the actual impact of such change;
    - c. An adjustment will be made to the GDR guarantee calculation for breakthrough therapies, new drugs, specialty or bio-tech drugs and drugs filled that are not covered during the baseline period which materially affect the savings guarantee calculation;
    - d. In the event that the health status or age/sex mix of the population changes in a manner to materially affect the GDR guarantee, the parties agree to adjust the GDR guarantee calculation to account for the change in health status or selection either higher or lower as the case may be.
  4. **Retail Generic Dispensing Rate.** Caremark guarantees at least 56% of all prescriptions that are dispensed to Plan Participants by retail pharmacies in Caremark’s network shall be dispensed with a generic product, as permitted by applicable law and the Plan Participant consents, as measured on a Contract Year basis.



- a. GDR guarantee will be adjusted to reflect situations where generically available medications are excluded from Client's benefit coverage such as OTC equivalent strengths, etc.
  - b. Plan design drivers need to remain constant and DAW penalties must exist. Any changes, including changes in Plan design and any other changes which materially affects Caremark's ability to meet this guarantee must be mutually agreed upon by both parties and the GDR guarantee shall be adjusted to account for such change, whether higher or lower depending on the actual impact of such change;
  - c. An adjustment will be made to the GDR guarantee calculation for breakthrough therapies, new drugs, specialty or bio-tech drugs and drugs filled that are not covered during the baseline period which materially affect the savings guarantee calculation;
  - d. In the event that the health status or age/sex mix of the population changes in a manner to materially affect the GDR guarantee, the parties agree to adjust the GDR guarantee calculation to account for the change in health status or selection either higher or lower as the case may be.
5. **Mail Service Prescription Accuracy.** Caremark's accuracy in dispensing prescriptions from its mail service pharmacy (correct drug, correct strength, correct dosage form and correct participant) shall be at least 99.995%, as measured on a Contract Year basis.
  6. **Mail Turnaround Time.** Within an average of two (2) working days of receipt, Caremark shall dispense and ship at least 95% of all clean (not requiring intervention or clarification) mail service pharmacy prescriptions, as measured on a Contract Year basis. The average calculation is determined by taking the total number of prescriptions shipped (as recorded by Caremark's systems) multiplied by the number of days these prescriptions took to ship divided by the total number of shipped prescriptions.
  7. **Participant Submitted Paper Claim Turnaround Time.** Within a weighted average of ten (10) business days, Caremark shall process at least 90% of all commercial paper Claims submitted by Plan Participants not requiring clarification, as measured on a Contract Year basis.
  8. **Participant Submitted Paper Claim Financial Accuracy.** Assuming that Caremark receives complete and accurate information regarding a Claim from a Plan Participant, the paper Claims adjudication accuracy rate shall be at least 99% correct with respect to the correct reimbursement amount being paid to the Plan Participant and the correct amount being billed to the Client, as measured on a Contract Year basis.
  9. **Participant Submitted Paper Claim Statistical Accuracy.** Assuming that Caremark receives complete and accurate information regarding a Claim from a Plan Participant, Caremark guarantees that the paper Claims adjudication accuracy rate shall be 97% with respect to statistical (non-financial) adjudication, as measured on a Contract Year basis.
  10. **Generic Retail Substitution.** At least 84% of all prescriptions with qualifying generics that are dispensed to Plan Participants by retail pharmacies in Caremark's network shall be dispensed with a generic product, when the applicable law indicates that therapeutic substitution is appropriate, the Plan Participant consents and Caremark is unrestricted in its ability to promote the dispensing of generic drugs, as measured on a Contract Year and Client specific basis.

11. **Participating Retail Pharmacy Access.** Subject to the availability of any active retail pharmacy within the specified area, Caremark's retail National Network shall include a pharmacy within ten (10) miles of the residence of at least 90% of Plan Participants, when Plan Participants have an active retail pharmacy within ten (10) miles of their residences, as measured on a Contract Year and Client specific basis.
12. **Plan Participant Satisfaction.** Satisfaction surveys shall be conducted during the Plan year among Caremark's base of prescription drug benefit Plan Participants. Survey respondents shall be selected at random from Plan Participants who have recent experiences with one or more of the following Caremark services: 1) Retail Pharmacy benefits; 2) Mail Service Pharmacy benefits; 3) Customer Care.
13. Based upon a statistically valid sample, overall satisfaction ratings of at least 90% shall be guaranteed. For the purposes of this guarantee, satisfaction shall be defined as Satisfied or better on the following 5-point scale; Completely Satisfied, Very Satisfied, Satisfied, Dissatisfied, Very Dissatisfied. Caremark shall be responsible for survey design, data collection, analysis and all costs associated with conducting the surveys.
14. **Management Report Timeliness.** Client's quarterly standard management reports shall be available within forty-five (45) days after the end of each contract quarter, as measured on a Contract Year and Client specific basis.
15. **Management Report Accuracy.** Information contained in Caremark's standard reports is to be considered fully accurate based upon data contained in Caremark's data systems at the time the reports are produced. Caremark is exempt from this standard if incomplete or inaccurate data were received on the Claim or externally processed files, and/or were due to circumstances beyond Caremark's control.

## Exhibit F Clinical Service Programs

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Caremark will provide the following services if selected by Client for an additional fee set forth in Exhibit A.

1. **CustomCare – Mail.**

In accordance with the CustomCare Mail program, Caremark will:

- a. Analyze available Plan Participant prescription data to determine the appropriateness and cost effectiveness of current prescriptions that are identified by Caremark's computerized CustomCare Mail edits;
- b. Based upon the foregoing analysis, contact Prescriber, as necessary, to suggest modifications to a more appropriate drug therapy, including the use of therapeutic or generic equivalents; and
- c. dispense prescriptions as authorized by the Prescriber.

Caremark guarantees that the gross savings realized from these services over the **Term** of the Agreement for CustomCare-Mail will be 200% of the expense to Client for these services over the Term. Any additional savings will be equally shared between Caremark and Client. Client will be billed for any additional savings at the end of each Clinical Program Year. In the event Caremark fails to meet the targeted savings, Client will be credited for any guaranteed savings short fall following the end of the Term up to the amount of fees paid by Client for CustomCare – Mail during the Term. "Clinical Program Year" means the twelve (12) month period commencing on the start date of the clinical program and each full consecutive twelve (12) month period thereafter that the clinical program is provided.

Savings realized shall be calculated as follows:

- a. Conversions. In those situations where Caremark obtains Prescriber approval to dispense a drug, dosage, or quantity of medication different than that originally prescribed, the savings realized shall be the difference between the Gross Cost of the original prescription and the Gross Cost of the prescription dispensed. Savings shall also be realized for any refills (up to one year in total) of the converted prescription and for any subsequent prescriptions for the converted product written by the same Prescriber for the same Plan Participant. "Gross Cost" means the cost to Client for prescription drug as set for in this Agreement, inclusive of the discounted drug cost, dispensing fees and Participant Cost Share, but exclusive of any administrative fee and any credits provided to Client in connection with this program.
- b. Discontinued Prescriptions. In certain situations, where clinically appropriate, Caremark may obtain Prescriber approval to not dispense an original prescription received. In such situations, Caremark shall return the prescription to the Plan Participant and the savings

realized shall be calculated as the original Gross Cost of the original prescription (not including any refill(s) indicated). In certain situations, where clinically appropriate, Caremark may obtain Prescriber approval to dispense the original prescription, but to discontinue one or more of the refills indicated. In such situations, the savings realized shall be the Gross Cost of the refill(s) authorized to be discontinued, and such savings realized shall be recognized at the time that the authorization for discontinuation is given. In the event that the discontinued prescription is resumed during the time period during which savings for refill(s) were realized, Caremark shall credit Client for the time period during which savings were realized but the prescription was resumed.

## 2. **CustomCare - Retail.**

In accordance with the CustomCare – Retail program, Caremark will:

- a. Analyze available Plan Participant prescription data, which shall include each Plan Participant's integrated drug history derived from mail service and retail prescriptions. Caremark pharmacist will conduct a comprehensive clinical review of Plan Participant drug history to determine the appropriateness and cost effectiveness of prior drug usage and historical prescribing patterns as identified by Caremark's CustomCare Retail edits and clinical review to identify excessive therapy duration, drug-induced diseases, alternative or appropriate medications for Plan Participant, and possible complications of pre-existing conditions.
- b. Based upon the foregoing analysis, provide the Prescriber, as necessary, with a detailed Prescription history of Plan Participant and letter suggesting modifications to a more appropriate drug therapy, including the use of therapeutic or generic equivalents.
- c. Encourage physician feedback by providing Plan Participant specific response form. All feedback is tracked at a Plan Participant level.
- d. Track and monitor Plan Participant for further clinical review and savings calculations.

Caremark guarantees that the gross savings realized from these services over the Term of the Agreement for CustomCare-Retail will be 200% of the expense to Client for these services over the Term. Any additional savings will be equally shared between Caremark and Client. Savings realized will be calculated as described below. Client will be billed for any additional savings at the end of each Clinical Program Year. In the event Caremark fails to meet the targeted savings, Client will be credited for any guaranteed savings short-fall following the end of the applicable Term, up to the amount of fees paid by Client for CustomCare – Retail services during the Term.

Savings realized shall be calculated as follows: For each intervention letter sent to a Plan Participant's Prescriber suggesting alternative therapy within a particular therapeutic category, a savings period shall be tracked beginning on the first day of the month following the date of the letter and extending for the lesser of (A) the average length of therapy for a therapeutic class or (B) three hundred sixty-five (365) days for non-controlled substances and one hundred eighty (180) days for controlled substances. The savings realized shall be the difference between the expected Gross Cost for all products dispensed in the subject therapeutic category to the Plan Participant during the savings period and the actual Gross Cost for all products dispensed in that therapeutic category to the Participant during the savings period, when the actual Gross Cost is less than the expected Gross Cost. "Gross Cost" means the cost to Client for a prescription drug as set forth in this Agreement, inclusive of the discounted drug cost, dispensing fees and Participant Cost Share, but exclusive of any administrative fee and any credits provided to Client in connection with this program. Expected Gross Cost shall be calculated as the Gross Cost that would have

been incurred had no letter been sent, based upon the drugs being used within the therapeutic category as of the date of the intervention letter.

**3. Savings Achievement.**

Any overachievement of guaranteed savings related to any clinical program will be applied to any underachievement of guaranteed savings of any other clinical program for purposes of calculating Caremark's compliance with the guaranteed savings set forth herein.

**Exhibit G  
List of Plans**

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County self insured Blue Cross Blue Shield Plan

Original to ERIS  
Copy to Doc

COPY

**AMENDMENT No. 1**

This Amendment No. 1, effective July 1, 2008 amends the Amended and Restated Prescription Benefit Services Agreement between Caremark, L.L.C., a California limited liability company ("Caremark") and El Dorado County ("Client") dated July 1, 2007 (the "Agreement").

The parties agree to amend the Agreement as set forth herein.

**1. Section 9.1 (Term) of the Agreement is hereby amended by deleting such section in its entirety and inserting the following in its place:**

**"Term.** The term of this Agreement shall commence on the Effective Date and expire on June 30, 2011 ("Term") subject to earlier termination as hereinafter set forth. **THE TERM SHALL BE AUTOMATICALLY RENEWED FOR ADDITIONAL ONE (1) YEAR PERIODS UNLESS EITHER PARTY SENDS NOTICE OF NON-RENEWAL TO THE OTHER PARTY AT LEAST NINETY (90) DAYS PRIOR TO THE END OF THE ORIGINAL TERM OR ANY SUBSEQUENT ONE-YEAR TERM."**

**2. Section 2 (Caremark Services) of the Agreement is hereby amended by inserting the following as a new Section 2.18 at the end thereof:**

**"2.18 iBenefit Report.** On an annual basis, at Client's request and subject to the fees described in Exhibit A, Caremark shall mail the iBenefit Report to Plan Participants identified by Client. The iBenefit Report is designed to educate Plan Participants about the value of their prescription benefit and highlights certain opportunities for Plan Participants to save out-of-pocket costs based on their specific drug history."

**3. Exhibit A (Financial Terms) of the Agreement is hereby amended by deleting such Exhibit in its entirety and inserting the attached Exhibit A (Financial Terms) in its place.**

**4. Exhibit F (Clinical Service Programs) of the Agreement is hereby amended by deleting such Exhibit in its entirety and inserting the attached Exhibit F (Clinical Service Programs) in its place.**

**5. If any provision of this Amendment is held to be void or unenforceable, the remaining provisions are considered to be severable and their enforceability is not affected or impaired in any way by reason of such law or holding.**

**6. The terms and conditions of the Agreement as amended remain in effect except as otherwise stated herein. All capitalized terms used in this Amendment and not otherwise defined shall have the meanings set forth in the Agreement. In the event that any provision of this Amendment conflicts with any of the provisions set forth in the Agreement, the provisions of this Amendment shall govern and control.**

**7. This Agreement as amended constitutes the entire agreement between the parties with respect to the subject matter hereof; superseding all prior understandings, agreements, contracts or arrangements between the parties, whether oral or written.**

\* \* \* \* \*

Authorized representatives of the parties have signed this Amendment.

CAREMARK, L.L.C.:

Name: [Signature]  
Title: ELPC  
Date: 7-17-08

EL DORADO COUNTY:

Name: [Signature] RUSTY DUPRAY  
Title: Chairman  
Date: 6/24/08

LEGAL  
REVIEW

ATTEST: CINDY KECK, Clerk  
of the Board of Supervisors

By [Signature]  
DEPUTY



## Exhibit A Financial Terms

In order for Caremark to implement the pricing as set forth above by July 1, 2008, this Amendment must be signed by Client and returned to Caremark before June 1, 2008. If Caremark does not receive this executed Amendment by June 1, 2008, the financial terms described in this Exhibit A shall be effective the later of August 1, 2008, or the first day of the month following forty-five (45) days of Caremark's receipt of this executed Agreement.

1. Mail, Retail, Rebates and Specialty Payments.

<b>MAIL</b>	
<b>BRAND</b>	AWP - 24.5% + \$0.00 dispensing fee
<b>GENERIC</b>	AWP - 59% + \$0.00 dispensing fee
<b>ELECTRONIC CLAIM ADMINISTRATION FEE</b>	\$0.00 per Claim
<b>RETAIL</b>	
<b>BRAND</b>	Lower of U&C or AWP-16.5% + \$1.60 dispensing fee
<b>GENERIC</b>	Lowest of U&C or AWP-16.5% + \$1.60 dispensing fee or Caremark MAC + \$1.60 dispensing fee
	<b>Generic effective rate guarantee of AWP-56% (MAC and non-MAC combined) + \$1.60 dispensing fee</b>
<b>ELECTRONIC CLAIM ADMINISTRATION FEE</b>	\$0.00 per Claim
<b>MANUAL CLAIM ADMINISTRATION FEE</b>	\$1.50 per Claim
<b>REBATES*</b>	
	<b>Two Tier Qualifying Plan Design</b>
<b>MAIL</b>	\$20.70 per brand Claim
<b>RETAIL</b>	\$6.18 per brand Claim
	<b>Three Tier Qualifying Plan Design</b>
<b>MAIL</b>	\$21.20 per brand Claim
<b>RETAIL</b>	\$6.72 per brand Claim
<b>SPECIALTY MEDICATIONS</b>	
	AWP - 16.5% + \$0.00 dispensing fee
	Administration Fee \$0.00

\*See Section 5.1 for rebate conditions.

1.1 The pricing set forth above is contingent upon the following assumptions:

- Caremark shall be the exclusive mail service provider.
- Caremark shall be the exclusive specialty provider.
- Rebate guarantees for mail and retail are measured and reconciled in the aggregate.
- Any Specialty Drug rebates received will be retained by Caremark.
- Participating Pharmacy rates may vary and the amount paid to the Participating Pharmacy may not be equal to the amount billed to Client and Caremark shall retain any difference.
- Caremark may exclude the following from any retail pricing guarantee:
  - Specialty Drugs
  - 100% member-paid Plans
  - Generics that enter the market with supply limitations or restrictions that limit marketplace

competition.

- o Compound drugs
- The Participating Pharmacy may collect from the Plan Participant the lower of the applicable Cost Share, or the Participating Pharmacy's Usual and Customary price.
- Client agrees not to participate in any other formulary or similar discount program, or enter into any direct or indirect contracts with pharmaceutical manufacturers with respect to the products and services dispensed to Client's Plan Participants.

A. Shipping fees and/or postage will be increased by any increase in shipping fees and/or postage costs over the term of the Agreement.

B. Caremark may update the Specialty Drugs on the Specialty Drug List. Caremark will provide Client quarterly notifications regarding such updates (each a "Specialty Drug Update") upon request from the Client. Any new Specialty Drug (each a "New Specialty Drug") will be dispensed at the Specialty Drug rate. Should the addition of any New Specialty Drug at the Specialty Drug rate not be satisfactory to either party, the parties shall negotiate mutually agreeable terms for such New Specialty Drug within ninety (90) days of the date of the Specialty Drug Update. The rates noted above do not include ancillary charges such as nursing and per diems (e.g. pumps, supplies, etc.) which may apply to certain infused Specialty Drugs.

2. **Optional Services.** As consideration for the Services selected by Client in accordance with the Agreement, Client will pay to Caremark the fees set forth below:

Prior Authorization/Formulary Exception: \$40.00 per prior authorization

iBenefit Report One report will be mailed annually to each Plan Participant identified by Client and is included in the fees paid by Client under this Exhibit A. (Additional reports are available for \$1.50 per report mailed to each Plan Participant identified by Client.)

3. **Clinical Programs.** As consideration for the clinical Services selected by Client in accordance with this Agreement, Client will pay to Caremark the fees set forth below:

3.1 Base Clinical Services (included in base administrative fee)

Concurrent DUR	No Charge
Physician Profiling	No Charge
Formulary Management	No Charge
Generic Substitution Programs	No Charge

3.2 Additional Clinical Programs:

	<u>Fee</u>	<u>Guaranteed ROI</u>
CustomCare Mail (includes Proactive Generics) *	\$1.50 per mail Rx	300% ROI over 36 months (CCM/CCR combined)
CustomCare Retail*	\$0.30 per retail Rx	300% ROI over 36 months (CCM/CCR combined)

\*Any savings beyond the ROI guarantee will be shared between Caremark and Client at 50%/50%, respectively.

NOTE: For those programs that have a shared savings component over the targeted savings, Client will be billed for any excess savings, as applicable. Any overachievement of guaranteed savings related to any clinical program will be applied to any underachievement of guaranteed savings.

**4. Special Fees.**

4.1 Administrative charges relating to certain services may be charged to Client at Caremark's prevailing rate.

4.2 Miscellaneous Fees.

Paper Submitted Claim (per processed Claim)	\$1.50/Claim
Card Re-issuance	\$0.50/Card
Manual Eligibility Submission	\$1.00/Manual Entry
Client Specific Programming	\$150.00/Hour

4.3 Charges or services not identified in this Exhibit A shall be quoted upon request.

**5. Client Credits:**

This Section 5 of Exhibit A sets forth various rebates and credits to be paid or credited by Caremark to Client (collectively "Client Credits"). It is the intention of the parties that, for purposes of the Federal Anti-Kickback Statute, these Client Credits shall constitute and shall be treated as discounts against the price of drugs within the meaning of 42 U.S.C. 1320a 7b(b)(3)(A).

**5.1 Drug Rebates:**

Caremark will remit to Client in connection with Caremark's PDL a rebate in the amount set forth above in the table in Section 1. No rebate shall be credited for any generic Claim, whether such Claim is filled with a generic drug or by a brand-name drug dispensed in lieu of a generic drug at the generic drug reimbursement rate. This annual rebate credit shall be made within sixty (60) days of the end of each calendar year. This rebate arrangement will be effective the first day of the first calendar quarter following Caremark's receipt of this executed Amendment and will remain in effect until June 30, 2011, and is contingent upon Client's current Plan design parameters, full adoption of and alignment with Caremark's PDL, use of the Caremark mail program including an average ninety (90) days' supply at mail, as well as formulary management and intervention programs for both retail and mail. For subsequent years, rebate arrangements will be determined by annual negotiation of the parties based on projected market estimates. Caremark may adjust the negotiated rebate payments in an equitable manner if: (i) a generic version of a branded product is unexpectedly introduced in the market; or (ii) a branded product is recalled or withdrawn from the market.

To qualify for the two-tier qualifying rebates set forth above in the table in Section 1 of this Exhibit A, the Plan Participants under this Agreement must be covered under a two-tier qualifying Plan design. A two-tier qualifying Plan design consists of an open Plan design with no minimum Cost Share requirement that includes formulary interventions.

To qualify for the three-tier qualifying rebates set forth above in the table in Section 1 of this Exhibit A, the Plan Participants under this Agreement must be covered under a three-tier qualifying Plan design. A three-tier qualifying Plan design consists of at least a \$15.00 Cost Share differential between preferred and non-preferred brand prescriptions, a \$15.00 differential in the minimum Cost Share for coinsurance, or a differential of coinsurance 1.5 times between the preferred and non-preferred brand (for example, if preferred brand coinsurance was 20%, non-preferred brand would need to be 30% to qualify).

6. **Miscellaneous.**

- 6.1 **Plan Participant Cost Share.** Caremark may, but shall not be obligated to, dispense a prescription even if the prescription is not accompanied by the Cost Share. Caremark will credit any amount submitted by Plan Participant in excess of the Plan Participant's Cost Share. In the event a Plan Participant submits to Caremark an insufficient Cost Share and the Plan Participant fails to remit the balance of the Cost Share amount to Caremark within thirty (30) days of Caremark's request, then Caremark shall have the right to invoice Client for, and Client shall have an obligation to pay Caremark, the amount of the uncollected Cost Share(s). Shipping of prescriptions submitted without the appropriate Cost Share may be delayed.

7. **Reservation of Rights.**

- A. Caremark reserves the right to modify or amend the financial provisions in this Amendment in the event of:
- A change in the scope of services to be performed by Caremark or the assumptions upon which the financial provisions included in this Amendment are based and/or any government imposed or industry wide change that would impede Caremark's ability to provide the pricing described in this Amendment, including any prohibition or restriction on Caremark's ability to receive Rebates from pharmaceutical manufacturers;
  - A change in Client's alignment with Caremark's PDL;
  - Implementation or addition of a high deductible health plan/consumer-driven health plan option;
  - Implementation or addition of a one hundred percent (100%) member paid Plan;
  - A greater than twenty percent (20%) change in the total number of Plan Participants from the number provided during pricing negotiations; or
  - A change in the coverage of Medicare eligible Plan Participants, irrespective of the resulting change in total number of Plan Participants, as defined above.
- B. In the event First DataBank, Medi-Span or other nationally available AWP reporting source discontinues the reporting of AWP or changes the manner in which AWP is calculated, then Caremark reserves the right to modify the pricing terms of this Amendment, to be effective as of the date of such discontinuation or change, so as to maintain the parties' relative economic positions under this Amendment as existed immediately before the effective date of such discontinuation in reporting or change in the calculation of AWP, as measured across all products on an aggregate basis. Such modifications may include the utilization of alternate pricing benchmarks.

## Exhibit F Clinical Service Programs

Caremark will provide the following services if selected by Client for an additional fee set forth in Exhibit A.

### I. CustomCare – Mail.

In accordance with the CustomCare Mail program, Caremark will:

- a. Analyze available Plan Participant prescription data to determine the appropriateness and cost effectiveness of current prescriptions that are identified by Caremark's computerized CustomCare Mail edits;
- b. Based upon the foregoing analysis, contact Prescriber, as necessary, to suggest modifications to a more appropriate drug therapy, including the use of therapeutic or generic equivalents; and
- c. dispense prescriptions as authorized by the Prescriber.

Caremark guarantees that the gross savings realized from these services over the Clinical Program Period for both the CustomCare-Mail and the CustomCare Retail programs combined will be 300% of the expense to Client for these programs over the Clinical Program Period. Any additional savings will be equally shared between Caremark and Client. Savings realized will be calculated as described below. Client will be billed for any additional savings at the end of each Clinical Program Year. In the event Caremark fails to meet the targeted savings, Client will be credited for any guaranteed savings short fall following the end of the Clinical Program Period up to the amount of fees paid by Client for CustomCare – Mail during the Clinical Program Period. "Clinical Program Year" means the twelve (12) month period commencing on the start date of the clinical program and each full consecutive twelve (12) month period thereafter that the clinical program is provided. "Clinical Program Period" means the thirty-six (36) month period commencing on the start date of Custom Care-Mail and each full consecutive thirty-six (36) month period thereafter such clinical program is provided.

Savings realized shall be calculated as follows:

- a. Conversions. In those situations where Caremark obtains Prescriber approval to dispense a drug, dosage, or quantity of medication different than that originally prescribed, the savings realized shall be the difference between the Gross Cost of the original prescription and the Gross Cost of the prescription dispensed. Savings shall also be realized for any refills (up to one year in total) of the converted prescription and for any subsequent prescriptions for the converted product written by the same Prescriber for the same Plan Participant. "Gross Cost" means the cost to Client for prescription drug as set for the in this Agreement, inclusive of the discounted drug cost, dispensing fees and Participant Cost Share, but exclusive of any administrative fee and any credits provided to Client in connection with this program.
- b. Discontinued Prescriptions. In certain situations, where clinically appropriate, Caremark may obtain Prescriber approval to not dispense an original prescription received. In such situations, Caremark shall return the prescription to the Plan Participant and the savings realized shall be calculated as the original Gross Cost of the original prescription (not including any refill(s) indicated). In certain situations, where clinically appropriate, Caremark may obtain Prescriber approval to dispense the original prescription, but to discontinue one or more of the refills indicated. In such situations, the savings realized shall be the Gross Cost of the refill(s) authorized to be discontinued, and such savings realized shall be recognized at the time that the authorization

for discontinuation is given. In the event that the discontinued prescription is resumed during the time period during which savings for refill(s) were realized, Caremark shall credit Client for the time period during which savings were realized but the prescription was resumed.

## **2. CustomCare - Retail.**

In accordance with the CustomCare – Retail program, Caremark will:

- a. Analyze available Plan Participant prescription data, which shall include each Plan Participant's integrated drug history derived from mail service and retail prescriptions. Caremark pharmacist will conduct a comprehensive clinical review of Plan Participant drug history to determine the appropriateness and cost effectiveness of prior drug usage and historical prescribing patterns as identified by Caremark's CustomCare Retail edits and clinical review to identify excessive therapy duration, drug-induced diseases, alternative or appropriate medications for Plan Participant, and possible complications of pre-existing conditions.
- b. Based upon the foregoing analysis, provide the Prescriber, as necessary, with a detailed prescription history of Plan Participant and letter suggesting modifications to a more appropriate drug therapy, including the use of therapeutic or generic equivalents.
- c. Encourage physician feedback by providing Plan Participant specific response form. All feedback is tracked at a Plan Participant level.
- d. Track and monitor Plan Participant for further clinical review and savings calculations.

Caremark guarantees that the gross savings realized from these services over the Clinical Program Period for both the CustomCare-Mail and the CustomCare Retail programs combined will be 300% of the expense to Client for these programs over the Clinical Program Period. Any additional savings will be equally shared between Caremark and Client. Savings realized will be calculated as described below. Client will be billed for any additional savings at the end of each Clinical Program Year. In the event Caremark fails to meet the targeted savings, Client will be credited for any guaranteed savings short-fall following the end of the applicable Clinical Program Period, up to the amount of fees paid by Client for CustomCare – Retail services during the Clinical Program Period.

Savings realized shall be calculated as follows: For each intervention letter sent to a Plan Participant's Prescriber suggesting alternative therapy within a particular therapeutic category, a savings period shall be tracked beginning on the first day of the month following the date of the letter and extending for the lesser of (A) the average length of therapy for a therapeutic class or (B) three hundred sixty-five (365) days for non-controlled substances and one hundred eighty (180) days for controlled substances. The savings realized shall be the difference between the expected Gross Cost for all products dispensed in the subject therapeutic category to the Plan Participant during the savings period and the actual Gross Cost for all products dispensed in that therapeutic category to the Participant during the savings period, when the actual Gross Cost is less than the expected Gross Cost. "Gross Cost" means the cost to Client for a prescription drug as set forth in this Agreement, inclusive of the discounted drug cost, dispensing fees and Participant Cost Share, but exclusive of any administrative fee and any credits provided to Client in connection with this program. Expected Gross Cost shall be calculated as the Gross Cost that would have been incurred had no letter been sent, based upon the drugs being used within the therapeutic category as of the date of the intervention letter.

## **3. Prior Authorization/Formulary Exception ("PA/FE").**

Caremark may provide Client with a form of prospective drug utilization review known as the PA/FE Program. Caremark will supply a list of suggested criteria for review, modification, and/or adoption by Client. Client will have final approval over the criteria to be utilized that will be evidenced in writing by Client. Caremark will administer the criteria as approved by Client. No changes will be made to the criteria except pursuant to Client's written request. From time to time, new information on a specific drug therapy will become available. This new information may make it necessary or desirable to modify existing PA/FE criteria. Caremark will notify Client of

changes to the criteria. If Client does not wish to accept the proposed changes to the PA criteria, Client agrees to notify Caremark in writing within ten business days and may terminate this program or adopt the customized criteria for a mutually agreed upon fee. Client shall be deemed to have approved any proposed changes to the criteria unless it timely notifies Caremark in writing of its objection.

Caremark will accept PA/FE requests from physicians and will approve or deny such requests in accordance with the PA/FE criteria approved by Client. Caremark will make clinical pharmacists available to provide professional support to the PA/FE unit as Caremark determines necessary to evaluate PA/FE requests and clarify Client's PA/FE criteria. Caremark's PA/FE unit will notify the physician who submitted the PA/FE request of the coverage determination for such request.

Approvals will be entered in the appropriate Caremark Claim adjudication system. Caremark's clinical pharmacists will review denials on a regular basis to assist Client in determining whether PA/FE criteria and/or processes warrant modification. Denial reports will be furnished to Client upon request for decisions regarding updates to PA/FE criteria. Reports of approvals and denials will be produced on a quarterly basis and included in quarterly reporting to Client.

Client covenants that under no circumstances shall Caremark be responsible or otherwise liable to Client with respect to any and all Losses arising from or as a result of Caremark's decision to authorize or deny coverage of any drug in accordance with the Plan design, except to the extent that any Losses arise from Caremark's failure to apply the Plan design.

#### **4. Savings Achievement.**

Any overachievement of guaranteed savings related to any clinical program will be applied to any underachievement of guaranteed savings of any other clinical program for purposes of calculating Caremark's compliance with the guaranteed savings set forth herein.

**AMENDMENT No. 2**

This Amendment No. 2 ("Amendment"), effective August 1, 2008, amends the Amended and Restated Prescription Benefit Services Agreement between Caremark, L.L.C., a California limited liability company ("Caremark") and El Dorado County ("Client") dated July 1, 2007 (the "Agreement").

The parties agree to amend the Agreement as set forth herein.

1. Exhibit A ("Financial Terms") of the Agreement is hereby amended by deleting the "Retail" section of the table in Section 1 ("Mail, Retail, Rebates and Specialty Payments") and inserting the following in its place:

<b>RETAIL</b>	
<b>BRAND</b>	Lower of U&C or AWP-16.5% + \$1.60 dispensing fee
<b>GENERIC</b>	Lowest of U&C or AWP-16.5% + \$1.60 dispensing fee or Caremark MAC + \$1.60 dispensing fee
	<b>Generic effective rate guarantee (excludes Fentanyl Citrate)** of AWP-56% (MAC and non-MAC combined) + \$1.60 dispensing fee</b>
<b>ELECTRONIC CLAIM ADMINISTRATION FEE</b>	\$0.00 per Claim
<b>MANUAL CLAIM ADMINISTRATION FEE</b>	\$1.50 per Claim

\*\*1,600/1,200/800/600/400/200 mg strengths (lozenge dosage form).

2. If any provision of this Amendment is held to be void or unenforceable, the remaining provisions are considered to be severable and their enforceability is not affected or impaired in any way by reason of such law or holding. The terms and conditions of the Agreement as amended remain in effect except as otherwise stated herein. All capitalized terms used in this Amendment and not otherwise defined shall have the meanings set forth in the Agreement. In the event that any provision of this Amendment conflicts with any of the provisions set forth in the Agreement, the provisions of this Amendment shall govern and control. This Agreement as amended constitutes the entire agreement between the parties with respect to the subject matter hereof; superseding all prior understandings, agreements, contracts or arrangements between the parties, whether oral or written.

\* \* \* \* \*

Authorized representatives of the parties have signed this Amendment.

**CAREMARK, L.L.C.:**

**EL DORADO COUNTY:**

**Name:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_