

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

and

CAREMARKPCS HEALTH, L.L.C.

AGREEMENT NO. #C000718

Amendment No. 4

This FOURTH Amendment (“Fourth Amendment”) to Agreement #C000718, entitled Pharmacy Benefit Services, is entered into by and between New York State Department of Civil Service (“Department” or “DCS”), having its principal office at the Agency Building 1, Empire State Plaza, Albany, NY, 12239 and CaremarkPCS Health, L.L.C. (“Contractor”), a limited liability company authorized to do business in the State of New York with a principal place of business located at One CVS Drive, Woonsocket, Rhode Island 02895, and collectively referred to as “the Parties.”

WHEREAS, on May 29, 2018, the Department of Civil Service issued a Request for Proposal (RFP) entitled, “Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan, and New York State Insurance Fund Workers’ Compensation Prescription Drug Programs,” to secure the services of a qualified organization to provide Program Services as defined in the RFP;

WHEREAS, as a result of the RFP, a contract was awarded to Contractor and assigned the contract number of C000718 (“Contract” or “Agreement”);

WHEREAS, the original Agreement provided for an initial term of five (5) years;

WHEREAS, pursuant to the First Amendment to the Contract, approved by New York State Office of the State Comptroller (OSC) on February 4, 2019, the start date of the Contract was modified to commence on January 8, 2019, through and including December 31, 2023;

WHEREAS, pursuant to the Second Amendment to the Contract, approved by OSC on November 8, 2021, the Contract was amended to incorporate provisions for the administration of the COVID-19 vaccine; update certain Exhibits as noted; as well as other amendments;

Agreement #C000718, Amendment #4: Pharmacy Benefit Services for The Empire Plan, Excelsior Plan and Student Employee Health Plan, Prescription Drug Programs

WHEREAS, pursuant to the Third Amendment to the Contract, approved by OSC on February 10, 2023, the Contract was extended for a one-year period through December 31, 2024;

WHEREAS, the Department has a continued need for such services;

WHEREAS, the Department was granted a single source exemption request by the Office of the State Comptroller (OSC) to extend the Contract with Contractor for a one-year period through December 31, 2025, along with other Contract modifications; and

WHEREAS, Contractor is willing to continue performing such services.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties hereby amend the Agreement as follows:

1. Appendix A, Standard Clauses for New York State Contracts, dated October 2019, is replaced with a new Appendix A, Standard Clauses for New York State Contracts, dated June 2023, attached hereto.
2. Section 2.1.0 of the Agreement is hereby deleted in its entirety and replaced with the following:

“Term: This Agreement, as amended, which services began on January 8, 2019, and continue through December 31, 2024, shall, subject to and effective upon the approval of the New York State Attorney General’s Office (AG) and the New York State Office of the State Comptroller (OSC), be extended on January 1, 2025, through and including December 31, 2025 or upon approval of Department Contract #C000753, whichever occurs first, (“Expiration Date”), unless otherwise terminated in accordance with the provisions of the Agreement.”
3. The Parties agree that for the Term of the Agreement, the following Agreement Sections are modified to reflect updated fees, discounts and guarantees commencing January 1, 2025 (2025 Plan Year):
 - a. Section 12.8.0 “Retail Pharmacy Network Claims,” Section 12.9.0 “Mail Service Pharmacy Process Pricing – Brand Drugs, Generic Drugs, and Compound Drugs,” and Section 12.12.0 “Specialty Pharmacy Process Pricing,” are revised as follows:
 - i. Retail Pharmacy Network Brand Drug Pricing, Section 12.8.2: [REDACTED] - replaces [REDACTED] in Sections: 12.8.2b(1), 12.8.2c, and 12.8.2d.
 - ii. Retail Pharmacy Network Generic Pricing, Section 12.8.3: [REDACTED] - replaces [REDACTED] in Sections: 12.8.3b.

- iii. Retail Pharmacy Network Generic Pricing, Section 12.8.3: [REDACTED] - replaces [REDACTED] in Sections: 12.8.3k, 12.8.3m(1) and 12.9.6c.
 - iv. Mail Service Pharmacy Process - Brand Drug Pricing Section 12.9.5: [REDACTED] replaces [REDACTED] in Section: 12.9.5d.
 - v. Mail Service Pharmacy Process - Generic Drug Pricing, Section 12.9.6: [REDACTED] replaces [REDACTED] in Section: 12.9.6c.
 - vi. Specialty Pharmacy Process Pricing Section, 12.12.0: [REDACTED] replaces [REDACTED] in Agreement Sections: 12.12.7, and 12.12.8.
- b. Section 14.1.0 (Claims Administration Fees) is revised as follows: [REDACTED] replaces [REDACTED] in Section 14.1.0; [REDACTED] replaces [REDACTED] in Agreement Section 14.1.0.
- c. Section 13.8.6 (Minimum Pharma Revenue Guarantee Per Final Paid Claim) of the Agreement is amended to include a new subsection 13.8.6g, as follows:
“13.8.6g [REDACTED] for the Plan Year 2025.”
- d. Agreement Exhibit G, Vaccination Administration Fees, is replaced with a new Exhibit G, attached hereto, reflecting the Vaccination Administration Fees for the 2025 Plan Year.
- e. Article VII: Performance Guarantees of the Agreement is deleted in its entirety and replaced with a new Article VII, which includes four new performance guarantees (7.6, 7.7, 7.8 and 7.9) as follows:

SECTION VII: PERFORMANCE GUARANTEES

The Contractor acknowledges and agrees that failure to perform the Project Service features in such a manner which either meets or exceeds any and/or all of the Performance Guarantee(s), as set forth in Section VII of this Contract, shall result in a corresponding reduction(s) in fee to the Contractor for failure to meet each applicable guarantee.

Upon such determination of amounts due pursuant to this Section, the Department shall notify the Contractor, in writing, and the Contractor shall apply such amounts as a credit against the Monthly Administrative fee within 30-Calendar Days of receiving such notification by the Department.

Failure to meet any Performance Guarantee(s) does not relieve the Contractor of the performance of the activities, duties and obligations as otherwise set forth in the Contract.

7.1 Start-Up Guarantees & Credit Amounts. In recognition that the Contractor is the incumbent vendor, the Start-Up Performance Guarantee and Credit Amount is not applicable.

7.2 Call Center Response Time Guarantee and Credit Amount

7.2.1 Performance Guarantee: The DCS Program's service level standard requires that at least ninety percent (90%) of the incoming calls to the Contractor's telephone line will be answered by a customer service representative within forty-five (45) seconds. Response time is defined as the time it takes incoming calls to the Contractor's telephone line to be answered by a customer service representative. The call center telephone response time shall be reported monthly and calculated quarterly.

7.2.2 Credit Amount: For each .01 to 1.0% of incoming calls to the Contractor's telephone line below the standard of ninety percent (90%) that is not answered by a customer service representative within forty-five (45) seconds, calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] per quarter.

7.3 Call Center Availability Guarantee and Credit Amount

7.3.1 Performance Guarantee: The DCS Program's service level standard requires that the Contractor's telephone line will be operational and available to Enrollees, Dependents, and pharmacies at least ninety-nine and six-tenths percent (99.6%) of the Contractor's Call Center Hours. The call center availability shall be reported monthly and calculated quarterly.

7.3.2 Credit Amount: For each .01 to .25% below the standard of ninety-nine and six-tenths percent (99.6%) that the Contractor's telephone line is not operational and available to Enrollees, Dependents, and Pharmacies during the Contractor's Call Center Hours calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] per quarter.

7.4 Telephone Abandonment Rate Guarantee and Credit Amount

7.4.1 Performance Guarantee: The DCS Program's service level standard requires that the percentage of incoming calls to the Contractor's telephone line in which the caller disconnects prior to the call being answered by a customer service representative will not exceed two and five-tenths percent (2.5%). The telephone abandonment rate shall be reported monthly and calculated quarterly.

7.4.2 Credit Amount: For each .01 to 1.0% of incoming calls to the Contractor's telephone line in which the caller disconnects prior to the call being answered by a customer service representative in excess of two and five-tenths percent (2.5%) calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] per quarter.

7.5 Telephone Blockage Rate Guarantee and Credit Amount

7.5.1 Performance Guarantee: The DCS Program's service level standard requires that not more than one percent (1%) of incoming calls to the customer service telephone line will be blocked by a busy signal. The telephone blockage rate shall be reported monthly and calculated quarterly.

7.5.2 Credit Amount: For each .01 to 1.0% of incoming calls to the Contractor's telephone line that is blocked by a busy signal, in excess of one percent (1%), calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] per quarter.

7.6 Secure Online Customized Website Accuracy Guarantee and Credit Amount

7.6.1 Performance Guarantee: The DCS Program's service level standard requires that all inaccurate information, as reported by DCS, posted on the customized website is corrected within 2 Business Days. Website updates shall be reported monthly for the duration of the Contract and calculated quarterly.

7.6.2 Credit Amount: For each Business Day in excess of the standard 2 Business Days in which the Contractor does not correct all the inaccurate information on the customized website as requested by the Department, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] per quarter.

7.7 Secure Online Customized Website Update Timeliness Guarantee and Credit Amount

7.7.1 Performance Guarantee: The DCS Program's service level standard requires that requested updates, such as posting quarterly Formularies or copayment information, are posted accurately to the customized website within 4 Business Days. Website updates shall be reported monthly for the duration of the Contract and calculated quarterly.

7.7.2 Credit Amount: For each Business Day in excess of the standard 4 Business Days in which the Contractor does not update the customized website with DCS requested updates, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] per quarter.

7.8 Member Communication Support Guarantee and Credit Amount

7.8.1 Performance Guarantee: The DCS Program's service level standard requires that the Contractor mails all forms or letters including, but not limited to; notifications of drug recalls or withdrawals and mid-year formulary changes, within thirty (30) Calendar Days of the Department's requested effective date.

7.8.2 Credit Amount: For each Calendar Day in excess of the standard thirty (30) Calendar Days in which the Contractor does not mail all forms or

letter after the Department's requested effective date, is [REDACTED] per occurrence, calculated quarterly.

7.9 Formulary Coding Accuracy Guarantee and Credit Amount

7.9.1 Performance Guarantee: The Contractor must guarantee that all Department approved DCS Program Formulary(ies) and Drug List(s) decisions are coded and updated correctly for the start of the Plan Year, or as requested by the Department.

7.9.2 Credit Amount: For each instance of incorrect coding, such as coding not updated to reflect Department approved DCS Program Formulary(ies) and Drug List(s) decisions for the start of the Plan Year, or the Contractor applying Book of Business changes to the Plan without DCS approval, is \$ [REDACTED] per occurrence, calculated quarterly.

7.10 Enrollment Management Guarantee and Credit Amount

7.10.1 Performance Guarantee: The Contractor must guarantee 100% of all DCS Commercial Program enrollment records that meet the quality standard for loading will be loaded into the Contractor's enrollment system within twelve (12) hours of release by the Department.

7.10.2 Credit Amount: The amount to be forfeited by the Contractor for each twenty-four-hour (24) period beyond twelve (12) hours from release by the Department in which Commercial Program enrollment records that meet the quality standards for loading are not loaded in the Contractor's enrollment system is [REDACTED].

7.11 Reporting Services & Claim File Guarantee and Credit Amount

7.11.1 Performance Guarantee: The Contractor guarantees that all management reports and claim files listed in Attachment 1, to Amendment 4, including MAC Alert Notices, will be accurate and delivered to the Department no later than their respective due dates inclusive of the date of receipt.

7.11.2 Credit Amount: For each management report or claim file listed in Attachment 1, to Amendment 4, including MAC Alert Notices, that is not received by its respective due date, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] per report or claim file per each Business Day between the due date and the date the accurate management report or claims file is received by the Department, inclusive of the date of receipt.

7.12 Transition and Termination Guarantee and Credit Amount

7.12.1 Performance Guarantee: The Contractor guarantees that they will complete one hundred percent (100%) of the Transition Plan requirements in the time frames stated in Article XVII: "Transition and Termination of Contract" of this Contract, to the satisfaction of the Department.

7.12.2 Credit Amount: The amount to be forfeited by the Contractor for each day, or part thereof, that the Transition Plan requirements are not met is [REDACTED].

7.13 Commercial Retail Pharmacy Network Access Guarantee and Credit Amount

7.13.1 Performance Guarantee: The Contractor guarantees that effective January 1, 2025, and throughout the term of the Agreement:

- a. At least ninety-five percent (95%) of Enrollees in urban areas will have access to a Network Pharmacy. The minimum access guarantee for Enrollees in urban areas is at least one (1) Network Pharmacy, within two (2) miles of an Enrollee's home;
- b. At least ninety-five percent (95%) of Enrollees in suburban areas will have access to a Network Pharmacy. The minimum access guarantee for Enrollees in suburban areas is at least one (1) Network Pharmacy, within five (5) miles of an Enrollee's home; and
- c. At least seventy-five percent (75%) of Enrollees in rural areas will have access to a Network Pharmacy. The minimum access guarantee for Enrollees in rural areas is at least one (1) Network Pharmacy, within fifteen (15) miles of an Enrollee's home.

7.13.2 Credit Amount:

- a. The Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] for each .01 to 1.0% below the ninety-five percent (95%) minimum access guarantee for any quarter in which the Network Pharmacy Access for Urban Areas Guarantee is not met by the Contractor.
- b. The Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] for each .01 to 1.0% below the ninety-five percent (95%) minimum access guarantee for any quarter in which the Network Pharmacy Access for Suburban Areas Guarantee is not met by the Contractor.
- c. The Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] for each .01 to 1.0% below the seventy-five percent (75%) access guarantee for any quarter in which the Network Pharmacy Access for Rural Areas Guarantee is not met by the Contractor.

7.13.3 Measurement of compliance with each access guarantee in Section VII of this Contract will be based on a "snapshot" of the Retail Pharmacy Network taken on the last Day of each quarter within the current Plan Year. The results must be provided in the format specified by DCS in Exhibit B, the Request for Proposals entitled, "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee

Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," unless otherwise specified by DCS. The report is due thirty (30) Days after the end of the quarter.

7.14 Medicare Rx (EGWP) Retail Pharmacy Network Access Guarantee and Credit Amount

7.14.1 Performance Guarantee: The Contractor guarantees that effective January 1, 2025, and throughout the term of the Agreement:

- a. At least ninety-five percent (95%) of EGWP Enrollees in urban areas will have access to a Network Pharmacy. The minimum access guarantee for Enrollees in urban areas is at least one (1) Network Pharmacy, within two (2) miles of an Enrollee's home;
- b. At least ninety-five percent (95%) of EGWP Enrollees in suburban areas will have access to a Network Pharmacy. The minimum access guarantee for Enrollees in suburban areas is at least one (1) Network Pharmacy, within five (5) miles of an Enrollee's home; and
- c. At least seventy-five percent (75%) of EGWP Enrollees in rural areas will have access to a Network Pharmacy. The minimum access guarantee for Enrollees in rural areas is at least one (1) Network Pharmacy, within fifteen (15) miles of an Enrollee's home.

7.14.2 Credit Amount:

- a. The Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] for each .01 to 1.0% below the ninety-five percent (95%) minimum access guarantee for any quarter in which the Network Pharmacy Access for Urban Areas Guarantee is not met by the Contractor;
- b. The Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] for each .01 to 1.0% below the ninety-five percent (95%) minimum access guarantee for any quarter in which the Network Pharmacy Access for Suburban Areas Guarantee is not met by the Contractor; and
- c. The Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] for each .01 to 1.0% below the seventy-five percent (75%) access guarantee for any quarter in which the Network Pharmacy Access for Rural Areas Guarantee is not met by the Contractor.

7.14.3 Measurement of compliance with each access guarantee in Section VII of this Contract will be based on a "snapshot" of the Retail Pharmacy Network taken on the last Day of each quarter within the current Plan Year. The results must be provided in the format specified

by DCS in Exhibit B, the Request for Proposals entitled, "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," unless otherwise specified by DCS. The report is due thirty (30) Days after the end of the quarter.

7.15 Turnaround Time for Nonintervention Mail Service Prescriptions Guarantee & Credit Amount

7.15.1 Performance Guarantee: The Contractor guarantees that at least ninety-seven percent (97%) of all nonintervention mail service Prescriptions will be turned around in two (2) Business Days (not including the date of Prescription receipt). Turnaround time is measured from the day after the Prescription is received by the Mail Service Pharmacy to the date the Prescription is received by the mailing agent.

7.15.2 Credit Amount: For each .01 to 1.0% below ninety-seven percent (97%) percent of all nonintervention mail service Prescriptions not turned around within two (2) Business Days, calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED].

7.16 Turnaround Time for Intervention Mail Service Prescriptions Guarantee & Credit Amount

7.16.1 Performance Guarantee: The Contractor guarantees that at least ninety-eight percent (98%) of all intervention mail service Prescriptions shall be turned around in five (5) Business Days (not including the date of Prescription receipt). Turnaround time is measured from the date the Prescription is received by the mail service Pharmacy to the date the Prescription is received by the mailing agent.

7.16.2 Credit Amount: For each .01 to 1.0% below ninety-eight percent (98%) of all intervention mail service Prescription not turned around within five (5) Business Days, calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED].

7.17 Programs' Claims Processing System Availability Guarantee and Credit Amount

7.17.1 Performance Guarantee: The Contractor guarantees that the DCS Program's online claims processing system be available at least ninety-nine and six-tenths percent (99.6%) of the time excluding periods of scheduled down time which shall be reported in advance to DCS and kept to a minimum, based on a 24-hours a Day, 7 Days a week availability.

7.17.2 Credit Amount: For each .01 to .25% below the standard of ninety-nine and six-tenths percent (99.6%) that the Contractor's online claims

processing system for the DCS Program, based on a 24-hours a Day, 7 Days a week availability, excluding periods of scheduled down time, which shall be reported in advance to DCS and kept to a minimum, is not available, as calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] per each quarter.

7.18 Programs' Claims Processing System Accuracy Guarantee and Credit Amount

7.18.1 Performance Guarantee: The Contractor guarantees that the DCS Program's online claims processing system accurately process claims at the point of service in accordance with the Program's benefits design at least ninety-nine and six-tenths percent (99.6%) of the time excluding periods of scheduled down time which shall be reported in advance to DCS and kept to a minimum, based on a 24-hours a Day, 7 Days a week availability.

7.18.2 Credit Amount: For each .01 to .25% below the standard of ninety-nine and six-tenths percent (99.6%) that the Contractor's online claims processing system for the DCS Program, based on a 24-hours a Day, 7 Days a week availability, excluding periods of scheduled down time, which shall be reported in advance to DCS and kept to a minimum, does not accurately process claims at the point of service in accordance with the DCS Program's benefits design, as calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED] per each quarter.

7.19 Turnaround Time for Claims Adjudication Guarantee and Credit Amount

7.19.1 Performance Guarantee: The Contractor guarantees that at least ninety-nine and six-tenths percent (99.6%) of Enrollee submitted claims that require no additional information in order to be properly adjudicated that are received by the Contractor shall be turned around within ten (10) Business Days. Turnaround time is measured from the date the Enrollee-submitted claim is received in the DCS Programs designated Post Office Box to the date the Explanation of Benefits is received by the mailing agent.

7.19.2 Credit Amount: For each .01 to .25% of Enrollee-submitted claims that require no additional information in order to be properly adjudicated that are received by the Contractor and not turned around within ten (10) Business Days from the date the claim is received in the Contractor's DCS Programs designated Post Office Box to the date the Explanation of Benefits is received by the mailing agent, below the standard of ninety-nine and six-tenths percent (99.6%), as calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED].

7.20 Turnaround Time for Prior Authorizations Guarantee and Credit Amount

7.20.1 Performance Guarantee: The Contractor guarantees that at least ninety-six percent (96%) of Prior Authorization requests that are received by the Contractor will be turned around within two (2) Business Days. Turnaround time is measured from the date all necessary supporting information from the prescriber for the Prior Authorization request is received by the Contractor in the Programs designated Post Office Box to the date the Contractor's response is received by the mailing agent.

7.20.2 Credit Amount: For each .01 to .25% below ninety-six percent (96%) of all Prior Authorizations received by the Contractor not turned around within two (2) Business Days, calculated on a quarterly basis, the Contractor shall credit against the DCS Program's Claims Administration Fee the amount of [REDACTED].

4. The following new sections related to "Prescribing Fees" are added to the Agreement as follows:

a) Article I: Definition Of Terms, is modified to add a new definition "Guaranteed Maximum Prescribing Fee(s) ("prescribing fee(s))" as Section 1.115.0, as follows:

"1.115.0 Guaranteed Maximum Prescribing Fee(s) ("prescribing fee(s))" represents the prescribing fee(s) in Section 12.11.0 of the Contract the Contractor guarantees that the actual average prescribing fee assessed will not exceed. This fee is inclusive of fees for prescribing statutorily authorized medication as well as fees for order statutorily-authorized tests. This Guaranteed Maximum Prescribing Fee(s) is applicable to the Program for Generic and Brand Drugs, calculated separately for certain medications (e.g., oral self-administered contraceptives) only where there is statutory authority for pharmacists, licensed pharmacy technicians, or those named in the law, to prescribe select medications and dispense them in the Retail Pharmacy Network. For purposes of this Agreement, prescribing fees are treated like dispensing fees in Lesser of Logic, the calculation of Cost-Share or Copayment, Discounted Ingredient Cost(s), Ingredient Cost(s), Pass-through Pricing, and in Article XII: DCS Program Claims Reimbursement.

b) Section 12.11.0 "Dispensing Fee" is deleted in its entirety and replaced with a new Section 12.11.0 "Dispensing Fee and Prescribing Fee" as follows:

Section 12.11.0 Dispensing Fee and Prescribing Fee

12.11.1 The Guaranteed Maximum Dispensing Fees and Guaranteed Maximum Dispensing Fees set forth in 12.11.4 and 12.11.8 of this Section must be guaranteed for the term of this Agreement.

12.11.2 Dispensing fees at Retail Network Pharmacies shall be subject to Pass-through Pricing, up to a Guaranteed Maximum Dispensing Fee applied to aggregate claims. Prescribing fee(s), if applicable, at Retail Network

Pharmacies shall be subject to Pass-through Pricing, up to a Guaranteed Maximum Prescribing Fee applied to aggregate claims.

12.11.3 No dispensing fee shall be charged to the DCS Program for any claim that is paid on the basis of the Pharmacy's Usual and Customary price.

12.11.4 The Contractor dispensing fee for Brand Drugs, Generic Drugs and Compound Drugs dispensed by Network Pharmacies shall be Pass-through Pricing, subject to an annual aggregate Guaranteed Maximum Dispensing fee set forth below. The Contractor's Guaranteed Dispensing fees for Brand Drugs, Generic Drugs and Compound Drugs dispensed by the Mail Service Pharmacy Process and the Designated Specialty Pharmacy are set forth below:

12.11.4.1 Retail Network Pharmacy Guaranteed Maximum Dispensing Fee:

█ Per Brand Drug
█ Per Generic Drug
█ Per Compound Drug

12.11.4.2 Mail Service Pharmacy Process Guaranteed Dispensing Fee:

█ Per Brand Drug
█ Per Generic Drug
█ Per Compound Drug

12.11.4.3 Designated Specialty Pharmacy Guaranteed Dispensing Fee:

█ Per Brand Drug
█ Per Generic Drug

12.11.5 The level of dispensing fees achieved as a result of Pass-through Pricing at Retail Pharmacies will be calculated utilizing the following formula:

Total Retail Network Dispensing Fees paid by the DCS Program on an annual basis divided by the number of Final Paid Claims at Retail Network Pharmacies for each of Generic, Brand, and Compound claims.

12.11.6 If the overall aggregate dispensing fees paid, as calculated utilizing the formula set forth in the prior paragraph, are more than the Guaranteed Maximum Dispensing Fee proposed for each of Brand, Generic, and Compound claims at Retail Network Pharmacies, the Contractor shall reimburse the DCS Program the difference between the Dispensing Fee the DCS Program was charged utilizing Pass-through Pricing and the Dispensing Fee the DCS Program would have been charged if the Guaranteed Maximum Dispensing Fee had been obtained.

12.11.7 This calculation shall be performed for each Program Year based on claims

for each incurred year. Specifically, the Contractor shall perform a reconciliation to include claims incurred in each Program Year and paid through June of the following Program Year. The reconciliation shall be submitted to the Department on July 31st. The Contractor shall pay/credit the DCS Program the applicable amount, if any, within 30 Days of the Reconciliation Due Date. If the Departments review of the Contractor's calculations indicates and adjustment to the calculation is required, then the Department reserve the right in its sole discretion to make an adjustment to the Contractor's calculations and adjust the amount due to the DCS Program or to the Contractor. The DCS Programs shall retain the benefit of any cost savings in excess of the Guaranteed Maximum Dispensing Fees set forth in Section 9.6. Any shortfall in the Guaranteed Maximum Dispensing Fees set forth in Section 9.6 cannot be recovered by the Contractor in subsequent years.

- 12.11.8 The Contractor prescribing fee for Brand Drugs and Generic Drugs dispensed by Network Pharmacies shall be Pass-through Pricing, subject to an annual aggregate Maximum Guaranteed Prescribing fee set forth below:

Retail Network Pharmacy Guaranteed Maximum Prescribing Fee:

■ Per Brand Drug
■ Per Generic Drug

- 12.11.9 The level of prescribing fee(s), if applicable, achieved as a result of Pass-through Pricing at Retail Pharmacies will be calculated utilizing the following formula:

Total Retail Network Prescribing Fees (if applicable) paid by the DCS Program on an annual basis divided by the number of Final Paid Claims at Retail Network Pharmacies for each of Generic, and Brand claims.

- 12.11.10 If the overall aggregate prescribing fees, if applicable, paid, as calculated utilizing the formula set forth in the prior paragraph, are more than the Guaranteed Maximum Prescribing Fee proposed for each of Brand, and Generic claims at Retail Network Pharmacies, the Contractor shall reimburse the DCS Program the difference between the Prescribing Fee the DCS Program was charged utilizing Pass-through Pricing and the Prescribing Fee, if applicable, the DCS Program would have been charged if the Guaranteed Maximum Prescribing Fee had been obtained.
- 12.11.11 This calculation shall be performed for each Program Year based on claims for each incurred year. Specifically, the Contractor shall perform a reconciliation to include claims incurred in each Program Year and paid through June of the following Program Year. The reconciliation shall be submitted to DCS on July 31st. The Contractor shall pay/credit the DCS

Program the applicable amount, if any, within 30 Days of the Reconciliation Due Date. If the DCS review of the Contractor's calculations indicates and adjustment to the calculation is required, then the Department reserves the right in its sole discretion to make an adjustment to the Contractor's calculations and adjust the amount due to the DCS Program or to the Contractor. The Program shall retain the benefit of any cost savings in excess of the Guaranteed Maximum Prescribing Fees set forth in Section 12.11.8. Any shortfall in the Guaranteed Maximum Prescribing Fees set forth in Section 12.11.8 cannot be recovered by the Contractor in subsequent years.

5. The following new Section 6.21.0, Consolidated Appropriations Act, is added to the Agreement as follows:

Section 6.21.0 Consolidated Appropriations Act

The Consolidated Appropriations Act (CAA) requires all applicable health plans conduct and document a Non-Quantitative Treatment Limitation (NQTL) comparative analysis as well as submit prescription drug spending information, known as RxDC Reporting. During the Term of the Agreement, including any extensions thereto, the Contractor will be responsible for the following:

- a. Conducting and documenting a Non-Quantitative Treatment Limitation (NQTL) comparative analysis to verify that the Plan is compliant with the Mental Health Parity and Addiction Equity Act. The analysis is included in the Administration Fee and not charged separately.
 - b. Collecting and reporting on prescription drug information (RxDC Reporting). This collection and reporting must be included in the Administration Fee and not charged separately.
 - c. Ensuring the Contractor is in compliance with all other provisions of the CAA. “
6. The following modification is made to the introductory paragraph to “Section XII: DCS Program Claims Reimbursement:”

The following sentence is deleted: “The DCS Program shall be charged for dispensed drugs consistent with the provisions of this Article XII.”

And replaced as follows:

“During the Term of the Agreement, including any extensions thereto, the DCS Program shall be charged for dispensed drugs consistent with the provisions of Section XII of the Agreement. The Contractor may exclude from all applicable retail pricing and dispensing fee guarantees specified in this Section, but not from Pharma Revenue Guarantees specified in Section XIII: 100% Pharma Revenue Guarantee, any claims where the Contractor is required to comply with law or regulation which mandates that the claim is adjudicated according to a specific pricing methodology (e.g., National Average Drug

Acquisition Cost) and/or with a specified dispensing fee, not agreed to under this Agreement.

7. Article I: Definition Of Terms, is modified to add a new definition “The Excelsior Plan” as Section 1.116.0, as follows:

“1.116.0 **The Excelsior Plan** is a three-level formulary for employees enrolled in the Excelsior Plan. The Department will discontinue the Excelsior Plan option for all NYSHIP Participating Agencies effective January 1, 2025, and the Contractor will not be responsible for administering the Excelsior Plan after it is discontinued. “

8. Article I: Definition of Terms Section 1.87.0 Pharma Revenue, is deleted in its entirety and replaced with a new definition of “Pharma Revenue” as follows:

“1.87.0 **Pharma Revenue**” means any and all revenues generated from agreements between the pharmaceutical manufacturers and the Contractor and/or its Key Subcontractor or any Affiliate of the Contractor or its Key Subcontractor which relate to Program utilization and/or Pharmacy Benefit Management Services provided under the Agreements. Such revenues include but are not limited to revenues described as: formulary rebates; market share rebates; administrative fees; AWP caps; inflation protection program; or by any other name including all other revenues collected by Contractor and/or its Key Subcontractor or Affiliate from pharmaceutical manufacturers and attributable to Program utilization. Contractor and/or its Key Subcontractor or Affiliate may not count Federal monies toward the Minimum Pharma Revenue Guarantee. Federal monies for purposes of this definition include the Manufacturer Discount Program, the CMS Direct Monthly Subsidy, the Catastrophic Reinsurance Subsidy, the Low-Income Cost Share Subsidy, and the IRA Subsidy.”

9. Except as expressly amended herein, all terms and conditions of Agreement #C000718, as amended, shall remain in full force and effect.

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APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

June 2023

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller's approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-

e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due

and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00

whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business and Technology Development
625 Broadway
Albany, New York 12245
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development

Division of Minority and Women's Business Development
633 Third Avenue 33rd Floor
New York, NY 10017
646-846-7364
email: <mailto:mwbebusinessdev@esd.ny.gov>
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

Exhibit G, Vaccination Administration Fees for 2025 Plan Year

Administration Fees for seasonal and non-seasonal vaccines dispensed through the Vaccination Network shall be billed to the DCS Program on a Pass-through basis.

Seasonal* Vaccines	Maximum Administration Fee
<u>Standard Influenza</u> Quadrivalent Inactivated Influenza Vaccine (IIV4): Afluria, Fluarix, FluLaval, Fluzone	■
<u>Cell Culture-based Influenza</u> Quadrivalent Cell Culture-based Inactivated Influenza Vaccine (ccIIV4): Flucelvax	■
<u>Intranasal Influenza</u> Quadrivalent Live Attenuated Influenza Vaccine (LAVI4): FluMist	■
<u>Recombinant Influenza</u> Quadrivalent Recombinant Influenza Vaccine (RIV4): Flublok	■
<u>Adjuvanted Influenza</u> Quadrivalent Adjuvanted Inactivated Influenza Vaccine (aIIV4): Fluad	■
<u>High Dose Influenza</u> Quadrivalent High Dose Inactivated Influenza Vaccine (HD-IIV4): FluZone HD	■

*Seasonal means August through April

COVID-19 Vaccine	Maximum Administration Fee
COVID-19 Vaccine	■

Non-Seasonal Vaccines	Maximum Administration Fee
Diphtheria, Tetanus	■
Diphtheria, Tetanus TOX-AC PERT, AD-Polio, IPV-HIB-Hepatitis B RECMB	■
Diphtheria, Tetanus, Pertussis	■
Diphtheria, Tetanus, Pertussis, Haemophilus B	■
Diphtheria, Tetanus, Pertussis, Inactivated Poliovirus	■
Diphtheria, Tetanus, Pertussis, Inactivated Poliovirus, Haemophilus B	■
Diphtheria, Tetanus, Pertussis, Inactivated Poliovirus, Hepatitis B	■
Diphtheria, Tetanus, Toxoids	■
Haemophilus B	■
Hepatitis A	■
Hepatitis A & B	■

Non-Seasonal Vaccines	Maximum Administration Fee
RSV	■
mpox	■
Hepatitis B	■
Human Papillomavirus	■
Inactivated Poliovirus	■
Measles, Mumps, Rubella	■
Measles, Mumps, Rubella, Varicella	■
Meningococcal	■
Pneumonia	■
Rotavirus	■
Tetanus	■
Haemophilus B Polysac Conj.- Hepatitis B	■
Varicella	■
Zoster	■

Attachment 1: Program Reporting

Report	Brief Description	Frequency	Due Date
Annual Financial Summary Report	The Contractor must submit an annual report of the DCS Program's charges and credits no later than seventy-five (75) Days after the end of each Calendar Year. These statements must detail, at minimum, the claims paid during the year, claims administration costs, performance credits, audit credits, drug settlement proceeds, rebates (earned and paid), and coordination of benefit (COB) savings. Such detail must include all charges by the Contractor to the DCS Program.	Annual	75 Days after each Calendar Year
Annual Rate Renewal Report	The Contractor must submit an Annual Premium Renewal no later than September 1st of each Calendar Year. This renewal package must detail all assumptions utilized to back up the rate renewal request, including, but not limited to: paid claim amounts, administration fees, projected Pharma Revenue, COB recoveries, changes in enrollment, changes in the Specialty Pharmacy Process Drug List as well as changes in the Flexible Formularies.	Annual	Before September 1 st each year
Annual Mail Service Pharmacy Process Satisfaction Survey Summary Report	The Contractor must submit a report which details, in summary form, the results of Enrollee satisfaction surveys designed to evaluate the level of DCS Program Enrollee satisfaction with the Mail Service Pharmacy Process. The surveys should cover areas of order processing, quality of services, and timeliness. The format of the survey instrument and reports is subject to NYS input and approval. The report is due annually, on May 1st of the year following the Calendar Year being surveyed. The report must include Enrollee comments and an accounting and resolution of any Enrollee issues.	Annual	May 1 st
Annual Summary Reporting	The Contractor must prepare and present an annual report that details DCS Program performance, industry trends and anticipated market developments including the introduction of generics and potential new product developments. This presentation should include comparisons of the DCS Program to Book of Business statistics, and other similar plan statistics. Clinical, financial and service issues as well as strategies and opportunities for plan savings are to be comprehensively addressed. In addition, the Contractor should be proactive by reporting any areas that need improvement, potential problem areas, and any solutions that can be implemented.	Annual	August after the end of a complete Calendar Year

Report	Brief Description	Frequency	Due Date
Annual Report of Claims and Credits Paid by Agency	The Contractor must submit a report, in a format acceptable to and approved by the Department, that details claims and credits paid by agency. The report must accurately reflect only Final Paid Claims.	Annual	30 days after the end of Calendar Year
Mail Service Pharmacy Process Accuracy Annual Report	The Contractor is required to submit an annual report that provides a breakdown of the various errors and calculates the accuracy rate of transactions processed using the Contractor's Mail Service Pharmacy Process. The Contractor is required to work out the final format of this report with the Department.	Annual	30 days after the end of Calendar Year
Rebate True-Up File	The Contractor is required to transmit computerized file via secure transfer containing a yearly true-up of rebate records in a format specified by the Department. The true-up rebate file must match all the billing records provided by the Contractor in the bi-weekly pharmacy billing files.	Annual	150 Days after the end of the Calendar Year.
Catastrophe Reinsurance Reconciliation Report	The Contractor is required to submit an annual reconciliation of the Catastrophe Reinsurance receipts for the EGWP by December 31st of the year following year of Incurral.	Annual	By December 31 st of the year following year of Incurral
Top 100 Brand and Generic Drugs – Retail Pharmacy Report	The Contractor is required to submit a semi-annual report that details the top 100 brand name and top 100 Generic Drugs dispensed to Enrollees of the DCS Program through the Contractor's Retail Pharmacy Network sorted by drug spend and script count. The report should include fields such as: drug name, indication of use (i.e., cholesterol, diabetes, etc.), preferred drug indicator, number of Rx's, number of Enrollees utilizing the drug, Rx cost, average cost per script, average Copayment, and average Days' supply. This report must be in a format acceptable to and approved by the Department. The numbers should be submitted on a year-to-year comparison basis. Any trends or abnormalities should be submitted in a narrative.	Semi-Annual	60 Days after the end of the 2 nd and 4 th quarters

Report	Brief Description	Frequency	Due Date
Top 20 Therapeutic Categories Report	The Contractor is required to submit a semi-annual report that details the top 20 therapeutic categories by drug spend and by formulary (broken down by drug) utilized by Enrollees of the DCS Program (combined retail, mail service and specialty Network Pharmacy). The report should include fields such as: drug name, number of Rx's, number of members utilizing the drug, Rx cost, average cost per script, preferred drug indicator, average Copayment, and average Days' supply. This report must be in a format acceptable to and approved by the Department. The numbers should be submitted on a year-to-year comparison basis. Any trends or abnormalities should be submitted in a narrative.	Semi-Annual	60 Days after the end of the 2 nd and 4 th quarters
Top 100 Brand Name and Generic Drugs – Mail Service Pharmacy Report	The Contractor is required to submit a semi-annual report that details the top 100 brand name and top 100 Generic Drugs dispensed to Enrollees of the DCS Program through the Contractor's Mail Service Pharmacy Process sorted by drug spend and script count. The report should include fields such as: drug name, indication of use (i.e., cholesterol, diabetes, etc.), preferred drug indicator, number of Rx's, number of members utilizing the drug, Rx cost, average cost per script, preferred drug indicator, average Copayment, and average Days' supply. This report must be in a format acceptable to, and approved by, the Department. The numbers should be provided on a year-to-year comparison basis. Any trends or abnormalities should be provided in a narrative.	Semi-Annual	60 Days after the end of the 2 nd and 4 th quarters
Top 100 Specialty Drugs – Specialty Pharmacy Report	The Contractor is required to submit a semi-annual report that details the top 100 Specialty Drugs/Medications dispensed to Enrollees of the Program through the Contractor's Designated Specialty Pharmacy sorted by drug spend and script count. The report should include fields such as: drug name, indication of use (i.e., cholesterol, diabetes, etc.), preferred drug indicator, number of Rx's, number of members utilizing the drug, Rx cost, average cost per script, preferred drug indicator, average Copayment, and average Days' supply. This report must be in a format acceptable to, and approved by, the Department. The numbers should be provided on a year-to-year comparison basis. Any trends or abnormalities should be provided in a narrative.	Semi-Annual	60 Days after the end of the 2 nd and 4 th quarters
Quarterly Financial Summary Reports	The Contractor must submit quarterly financial reports which present the DCS Program's experience for the most recent quarter (based on a Calendar Year) and the experience from the beginning of the Calendar Year to the end of the quarter being reported. The quarterly reports must also include projections of:	Quarterly	15 Days after the end of the reporting period

Report	Brief Description	Frequency	Due Date
	<ul style="list-style-type: none"> • annual financial performance; • assessment of DCS Program costs; • incurred claim triangles; • Pharma Revenue; • coordination of benefit recoveries; • audit recoveries; • drug settlement and litigation recoveries; • administrative expenses; • premium projection for subsequent plan year, trend statistics; and • such other information as the Department deems necessary. 		
Quarterly Performance Guarantee Report	The Contractor must submit quarterly the DCS Program's Performance Guarantee report that details the Contractor's compliance with all of the Contractor's proposed Performance Guarantees. The report should include the areas of: Start-up; system availability; customer service (telephone availability, response time, blockage rate, abandonment rate, website accuracy and website update timeliness); claims processing; management reports and claim files; enrollment; mail service turnaround; and Pharmacy composition and access. This report must be in a format acceptable to, and approved by, the Department. Documentation of compliance should be included with this report.	Quarterly	30 Days after the end of a quarter
Quarterly Network Access	The Contractor must submit a measurement of the Network access in a format acceptable to, and approved by, the Department, based on a "snapshot" of the network taken on the last day of each quarter.	Quarterly	30 Days after the end of a quarter
Quarterly Audit Report	The Contractor must submit a quarterly audit report detailing audits planned, audits initiated, audits in progress, audits completed, audit findings, audit recoveries, and any other enforcement action by the Contractor. The report should include fields such as Pharmacy name, NABP number, recovery amounts, audit method or type, and basis for and method of recovery. This report must be in a format acceptable to, and approved by, the Department.	Quarterly	30 Days after the end of a quarter
Quarterly Coordination of Benefits Report	The Contractor must submit a report that details the amount of recoveries received as a result of coordinating benefits with other Plans including Medicare. The Contractor's report should identify the COB source, the Enrollee, the original claim amounts, and the amount received from the other insurance carriers or Medicare. The Contractor is required to work out the final format of this report with the Department.	Quarterly	30 Days after the end of a quarter

Report	Brief Description	Frequency	Due Date
Quarterly Rebate and Other Pharma Revenue Report	The Contractor is required to submit a quarterly rebate and other Pharma Revenue report detailing the total rebates and other Pharma Revenue received from the Contractor during the quarter. The report must include breakdowns by each manufacturer and drug with quarterly and year-to date numbers, as well as any adjustments that are performed. This report must be in a format acceptable to, and approved by, the Department. The Contractor's process for documenting rebates and other Pharma Revenue by manufacturer and issuing the payment of rebates and other Pharma Revenue to the Program should not exceed sixty (60) Days from the end of the quarter in which the initial claims were processed. This report is due at the time the rebates and other Pharma Revenue are paid to the Program.	Quarterly	Report is due at the time the rebates and other Pharma Revenue are paid to the Program
Quarterly Participating Agency Claims	The Contractor is required to submit a quarterly report that details claims by Participating Agency. This report must be in a format acceptable to, and approved by, the Department.	Quarterly	30 Days after the end of a quarter
Quarterly Generic Appeals and Prior Authorization and Medical Exception Report	The Contractor is required to submit a quarterly report that provides the number of generic appeals, prior authorization requests, and medical exception by individual drug. The report must include numerical breakdowns on the number of generic appeals, prior authorization and medical exception requests made by the individual drug as well as the success/declination rate of these requests. This report must be in a format acceptable to, and approved by, the Department	Quarterly	30 Days after the end of a quarter
Quarterly Rebate File	This report's information is rolled up into the Quarterly Pharma and Other Revenue Report. Each quarter the Contractor is required to transmit a computerized file via secure transfer containing prescription rebate information for all earned rebates in a format specified by the Department. The pharmacy rebate records in the Rebate File must match all prescriptions billed to the Department by the Contractor.	Quarterly	150 Days after the end of a quarter
Quarterly Website Analytics Report	The Contractor is required to submit a quarterly report that provides comprehensive performance information for the Contractor's customized DCS Program website. The report must include summarized and detailed website performance information and statistics, as well as proposed modifications to the layout and design of the website to improve communications with Enrollees.	Quarterly	30 Days after the end of a quarter

Report	Brief Description	Frequency	Due Date
Quarterly EEO Workforce Utilization Compliance Report	The Contractor is required to submit a quarterly report identifying the work force utilized on the Contract in accordance with State and Federal statutory and constitutional non-discrimination provisions. This report must be in a format acceptable to, and approved by, the Department. Form EEO 101, as amended by NYS EO 162, Workforce Utilization Compliance Report is due ten (10) Days after the end of the quarter.	Quarterly	10 Days after the end of a quarter
Specialty Drug Proposals	The Contract shall provide the Department and OER with information on Exclusive Specialty and Specialty Guideline Management Quarterly Proposals. Information will include, but is not limited to: Drug Name, Manufacturer, Therapy Class, Indications, Route of Administration/Dose, Drug Cost/AWP Estimate, Specialty Acquisition Cost, Utilization (Prior 6 months), If the Drug is used to: Treat Patients with Rare, Complex, Chronic or Life-Threatening Conditions, requires Special Handling or Administration, Requires Intensive Patient Monitoring/Testing or Patient Education, is a BioTech Drug, has REMS, carries a Black Box Warning, or is Limited Distribution.	Quarterly	In Advance of January, April, July and October Formulary Updates
Monthly Report of Paid Claims by Month of Incurral	The Contractor is required to submit a monthly report that provides summarized paid claims by month of Incurral. This report must be in a format acceptable to, and approved by, the Department.	Monthly	30 Days after the end of a month
Monthly Report of Paid Claims by Pharmacy and Rx Type	The Contractor is required to submit a monthly report that provides summarized paid claims by Pharmacy type by Rx type. This report must distinguish reversals and allow the Department to verify Guaranteed Discounts and Guaranteed Minimum Discounts. This report must be in a format acceptable to, and approved by, the Department.	Monthly	30 Days after the end of a month
Monthly Report of Empire Plan MAC List(s)	Each month the Contractor is required to submit an updated Program MAC List(s) that details all the drugs included on the Program MAC List(s) and the corresponding prices used to charge the DCS Program. The following information shall be included: GPI, drug name, form, strength, reference product, FDA rating, date the product was initially placed on the MAC List(s), initial MAC price, previous MAC price, current MAC price, effective date of current MAC price and the change in price from previous Program MAC List(s). Drugs that are added or deleted from the Program MAC List(s) shall be clearly marked or highlighted. The Contractor is required to submit this report in a format acceptable to, and approved by, the Department.	Monthly	30 Days after the end of a month

Report	Brief Description	Frequency	Due Date
Monthly Report of Generic and Brand Effective Rate, Specialty, and Mail Service Drug Performance	<p>Each month the Contractor is required to submit a summary by month of performance of the Generic and Brand Effective Rates, Specialty Drugs/Medications, and Mail Service Pharmacy Process Brand Drug claims. The following information should be included for the Generic and Effective Rates – number of claims, Ingredient Cost, Dispensing Fee, Total AWP, Actual Discount, Target Rate, Performance Penalty, Average Dispensing Fee, Target Dispensing Fee, Dispensing Fee Penalty. Specialty – Number of Claims, Ingredient Cost, Dispensing Fee, Total AWP, Actual Discount, Target Rate, Performance Penalty.</p> <p>Mail Service Pharmacy Process Brands – Number of Claims, Ingredient Cost, Dispensing Fee, Total WAP, Actual Discount, Target Rate, Performance Penalty. The Contractor is required to submit this report in a format acceptable to, and approved by, the Department.</p>	Monthly	30 Days after the end of a month
MAC Savings Report	<p>Each month the Contractor is required to submit a year-to-date and annualized savings projection of the MAC price increases and decreases, based on expected utilization. The following information shall be included: GPI, Drug Name, Strength, Initial MAC Price, Current Price, Quantity Filled, Actual Savings, Annual Savings. The Contractor is required to submit this report in a format acceptable to, and approved by, the Department.</p>	Monthly	30 Days after the end of a month
Program Customer Service Monthly Reports	<p>Each month the Contractor is required to submit a customer service report that measures the Contractor's customer service performance including customer service availability, customer service telephone response time, the telephone abandonment rate, the telephone blockage rate, claims processing, enrollment, and mail service turnaround. The Contractor is required to submit this reports in a format acceptable to, and approved by, the Department.</p>	Monthly	15 days after the end of the month
Low Income Subsidy (LIS)	<p>Each month the Contractor is required to submit a LIS report to the Department through SFTP no later than fifteen (15) Business Days from the date the Contractor receives the subsidy payment from CMS. The report must include the following information regarding payments made by the Contractor to LIS Enrollees: 1) NYSHIP Enrollee's name; 2) NYSHIP Enrollee's social security number; 3) LIS eligible individual's name; 4) LIS eligible individual's social security number; 5) LIS eligible individual's date of birth; 6) LIS eligibility start date; 7) LIS eligibility end date; 8) Monthly subsidy amount received from CMS for the LIS individual; 9) Dual Eligibility indicator; 10) Date LIS payment received from CMS</p>	Monthly	No later than 15 Business Days from the date the Contractor receives the subsidy payment from CMS

Report	Brief Description	Frequency	Due Date
	(MM/DD/YYYY); 11) LIS payment/adjustment start date; 12) LIS payment adjustment end date; 13) LIS adjustment reason code/description; and, 14) LIS eligible individual's Medicare identification number (HICN) and/or Medicare Beneficiary Identifier (MBI).		
Medi-Span Prescription Drug industry pricing source material	The Contractor shall provide the Department with access and monthly updates to the Medi-Span Prescription Drug industry reference material for drug classification and drug pricing that the Contractor will be utilizing for the Program;	Monthly	As Requested
Pharmacy Program Monthly Status Report	The Contractor is required to provide summarized information on: Production Statistics, Performance Guarantees, Customer Care Statistics, Mail Order Pharmacy Statistics, Prior Authorization Statistics, Appeals and Clinical Review Statistics, Top Therapeutic Classes by Commercial and EGWP, Top Drugs by Total Drug Cost and by Volume for Commercial and EGWP.	Monthly	30 Days after the end of a month
Pharmacy Terminations	Shows in and out of state pharmacy removals due to Contract Violations and Audit Terms.	Monthly	1st week of Month
Detailed Claim File Data Custom State Feed & Cycle Summary	<p>The Contractor must transmit to the Department and/or its Decision Support Service (DSS) vendor a computerized file via secure transfer, as specified by the Department, containing detailed claim records in a format acceptable to, and approved by, the Department, to support the bi-weekly invoice. The Department requires that all claims processed, reversed and adjusted be included in claims data. The file must facilitate reconciliation of claim payments to amounts charged to the DCS Program and include the current status of the claim (i.e., fields identifying claims as paid, adjusted, reversed). A rejected claim file is also required upon request by the Department.</p> <p>The Contractor is required to: Securely forward the required claims data on a claims processing cycle basis to the Department and/or its DSS vendor within fifteen (15) Days after the end of each claims processing cycle; and</p>	Bi-Weekly	Within 15 Days after the end of each claims processing cycle

Report	Brief Description	Frequency	Due Date
	<p>Submit a summarized report by claims processing cycle broken down by drug type (generic/brand) utilizing the fields and the format specified by, and acceptable to, the Department. Based upon the analysis of the information contained in the report, any important programmatic information, trends or abnormalities should be provided in a narrative.</p>		
<p>MAC Alert Notice</p>	<p>The Contractor is required to submit a report of the financial impact of enforcing mandatory generic substitution via a "MAC Alert Notice" utilizing a format acceptable to, and approved by, the Department. This report must be submitted in accordance with the time frames specified in the Agreement.</p>	<p>As needed</p>	<p>Timelines specified in Agreement</p>