

## Lytec MD Service and Maintenance Agreement

### EXHIBIT A

### Terms and Conditions

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#### **Purpose**

This Service Agreement confirms, in writing, the arrangements between you, ("Customer"), and NDCHealth corporation d/b/a McKesson Provider Technologies (hereinafter referred to as "McKesson") regarding the installation, support and maintenance ("Services") of Lytec MD (the Software"). All expectations, requirements, and responsibilities of the Customer are covered in this Statement of Work Agreement.

#### **1. Purchased Services**

McKesson will offer you, the Customer, the Services outlined in Exhibit D below.

#### **2. Scheduling Services**

Services shall be available to Customer during McKesson's standard business hours, which, for the purposes of this Agreement, shall be from Monday through Friday (excluding holidays observed by McKesson), between the hours of 8 a.m. – 6 p.m., Eastern Standard Time.

#### **3. Services Expiration**

The Services shall expire within 90 days of purchase.

Exception: The foregoing notwithstanding, if McKesson is unable to provide the Services within 60 days due to a backlog, the Services will expire within 60 days of original date of its availability.

#### **4. Services Completion**

The Services technical engagement shall be considered completed upon installation of the Software as outlined in Exhibit D below.

The Services training engagement shall be considered completed upon the earlier of expiration or completion of the scope outlined or use of all allocated time as outlined in Exhibit D below, whichever occurs earlier.

#### **5. Customer Responsibilities**

- (a. Customer shall be responsible for ensuring that the Service preferences that it selects in the attached Statement of Work are consistent with the products and/or services that the Customer has actually purchased and paid for through a Sales Representative at the time that it purchased the underlying products related to the Service. McKesson shall not be responsible and Customer shall not be entitled to any service preferences made by Customer hereunder that is not consistent with what the Customer has actually purchased and paid for through their Sales Representative.
- (b. Customer shall collaborate with McKesson to schedule project plan milestones and execute all agreements associated with or that are necessary to effectuate the project plan, within forty eight (48) hours of receiving any such agreement, in order to ensure timeliness of the project plan.
- (c. During the implementation, Customer must ensure the availability of sufficient resources to insure a successful install during Project Duration. Customer Resources Profile includes: Physician, Medical Assistant /Nurse, Office Manager, Receptionist, Technical System Administrator / Hardware / Database Analysts
- (d. Customer shall ensure that its network, hardware and software meet the minimum requirements necessary for the installation, maintenance and support of the Software and the Services.
- (e. Customer shall ensure that the server has a dedicated hard drive or partition (strongly recommended that drive letter is set to P). The installation of the EMR cannot continue without this.
- (f. Customer shall ensure sure that it has access to broadband internet service prior to the installation, support and/or maintenance of the Software and Services.
- (g. Customer shall agree to designate and identify a contact that will be available to McKesson, in person, and onsite, to participate during the implementation of the Services and the Software.

#### **6. Business Associate Agreement**

The parties agree to the obligations set forth in Exhibit C.

**Exhibit B**  
**Maintenance and Support**

1. For the purposes of this Agreement, "Maintenance Services" shall mean support services for only the two most current releases of the Software consisting of problem resolution, and upgrades delivered by McKesson, all in accordance with the McKesson Support Manual for McKesson Products. Maintenance Services do not include: (a) development of custom code or customizations for any Software, (b) support of Software modifications generated by anyone other than McKesson, (c) services to implement upgrades or to correct improper installation or integration of the Software that was not performed by McKesson authorized personnel, (d) system administrator functions, (e) help desk services, or (f) enhancements. Subject to the applicable Maintenance Services fees outlined in the Quote above, McKesson shall provide Maintenance Services to Customer in accordance with the Maintenance Support Manual for McKesson Products.
2. The initial term for the Maintenance Services shall commence on the initial Quote Effective Date and shall continue for a period of three (3) years. The Maintenance Services shall automatically renew for successive one (1) year periods, unless customer notifies McKesson of its intent to cancel the Maintenance Services by written notice sixty (60) days prior to the end of the then current term.
3. Termination shall be effective as of the next annual payment due date, and no refund or credit will apply in the event of early termination of the Maintenance Services. Termination of the Maintenance Services by Customer, for any reason, shall result in the termination of any other subscription services that Customer may have in place with McKesson related to the Software and/or the Services. If Customer desires to reinstate Maintenance Services after termination, Customer shall be required to pay for maintenance for the period during which the Maintenance Services was terminated, in addition to a 10% penalty.
4. McKesson shall provide Customer with access to product updates and upgrades to the Software and the Services. Installation of these upgrades and updates are the customer's responsibility. If Customer needs additional support and/or assistance with the installation of any updates and or upgrades to the Software and/or, Customer shall be required to purchase such additional support from McKesson.
5. Support shall be limited to the then current version of the Software and two (2) prior versions, and shall not include any add-ons.
6. McKesson shall provide telephone support to Customer during McKesson standard business hours, which for the purposes of this Agreement, shall mean Monday – Friday 8AM – 8PM, Eastern Standard Time (excluding holidays observed by McKesson).
7. If in reviewing Customers requests for support, McKesson determines that Customer's request would be better addressed by obtaining additional training, McKesson shall have the right to refuse such support and refer Customer to the appropriate department for additional training. Customer shall be responsible for any additional costs related to such training.
8. Customer shall have the right to request termination of its support by written notice to McKesson via email at [EDICancellations@mckesson.com](mailto:EDICancellations@mckesson.com) or facsimile at 916-267-6283.
9. Customer shall provide to McKesson, up-front, a credit card account to which McKesson shall be authorized to charge recurring charges related to the purchase of additional software or maintenance and support related to the Services and/or the Software.

**EXHIBIT C**  
**BUSINESS ASSOCIATE AGREEMENT:**

**SECTION 1 DEFINITIONS**

“**Breach**” shall have the same meaning given to such term in 42 U.S.C. § 17921(1) and 45 C.F.R. § 164.402.

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

“**Electronic Health Record**” shall have same meaning given to such term in 42 U.S.C. § 17921(5).

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

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

“**Privacy Rule**” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 162 and Part 164, Subparts A and E.

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

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

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

“**Security Incident**” shall have the meaning given to such term in 45 C.F.R. § 164.304, but shall not include, (a) unsuccessful attempts to penetrate computer networks or servers maintained by McKesson and (b) immaterial incidents that occur on a routine basis, such as general “pinging” or “denial of service” attacks.

“**Security Rule**” shall mean the Security Standards at 45 C.F.R. Parts 160 and 162 and Part 164, Subparts A and C.

“**Unsecured PHI**” shall have the same meaning given to such term under 42 U.S.C. § 17931(h), and guidance promulgated thereunder.

Capitalized Terms. Capitalized terms used in this BAA and not otherwise defined herein shall have the meanings set forth in the Privacy Rule, the Security Rule, and the HITECH Act, which definitions are incorporated in this BAA by reference.

**SECTION 2: PERMITTED USES AND DISCLOSURES OF PHI**

2.1 Uses and Disclosures of PHI Pursuant to Agreement. Except as otherwise limited in this BAA, McKesson may use or disclose PHI to perform functions, activities or services for, or on behalf of,

Customer as specified in the Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Customer.

2.2 Permitted Uses of PHI by McKesson. Except as otherwise limited in this BAA, McKesson may use PHI for the proper management and administration of McKesson or to carry out the legal responsibilities of McKesson.

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

2.4 Data Aggregation. Except as otherwise limited in this BAA, McKesson may use PHI to provide Data Aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B), including use of PHI for statistical compilations, reports, research and all other purposes allowed under applicable law.

2.5 De-identified Data. McKesson may create de-identified PHI in accordance with the standards set forth in 45 C.F.R. § 164.514(b) and may use or disclose such de-identified data for any purpose.

2.6 Disclosure Pursuant to Authorization. Without limiting the generality of the foregoing, McKesson reserves the right at its sole discretion to disclose an Individual's PHI in response to and in accordance with a valid authorization executed by such individual that meets the requirements set forth in the Privacy Rule.

### **SECTION 3: OBLIGATIONS OF MCKESSON**

#### **3.1 Appropriate Safeguards.**

3.1.1 Privacy of PHI. McKesson will develop, implement, maintain, and use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the Agreement and this BAA. The safeguards must reasonably protect PHI from any intentional or unintentional use or disclosure in violation of the Privacy Rule and this BAA, and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this BAA.

3.1.2. Security of PHI. McKesson will develop, implement, maintain, and use appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic PHI, as required by the Security Rule. Commencing on February 17, 2010, McKesson will comply with the provisions of 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 relating to implementation of administrative, physical and technical safeguards with respect to Electronic PHI in the same manner that such provisions apply to a HIPAA covered entity. McKesson will also comply with any additional security requirements contained in the HITECH Act that are applicable to a business associate.

3.2 Reporting of Improper Use or Disclosure, Security Incident or Breach. McKesson will report to Customer any use or disclosure of PHI not provided for by the Agreement of which it becomes aware. McKesson will report to Customer any Security Incident of which it becomes aware. McKesson will notify

Customer of any Breach of Unsecured PHI as soon as practicable, and no later than 30 days after discovery of such Breach. McKesson's notification to Customer of a Breach will include: (a) the identification of each individual whose Unsecured PHI has been, or is reasonably believed by McKesson to have been, accessed, acquired or disclosed during the Breach; and (b) any particulars regarding the Breach that Customer would need to include in its notification, as such particulars are identified in 42 U.S.C. § 17932 and 45 C.F.R. § 164.404.

3.3 McKesson's Agents. McKesson will ensure that any agent or subcontractor to whom it provides PHI received from, or created or received by McKesson on behalf of Customer, agrees to restrictions and conditions that are substantially similar to those that apply through this BAA to McKesson with respect to such PHI. McKesson will ensure that any agent, including a subcontractor, to whom it provides Electronic PHI agrees to implement reasonable and appropriate safeguards to protect such information.

3.4 Access to PHI. The parties do not intend for McKesson to maintain any PHI in a Designated Record Set for Customer. To the extent McKesson possesses PHI in a Designated Record Set, McKesson agrees to make such information available to Customer pursuant to 45 C.F.R. § 164.524 and 42 U.S.C. § 17935(e)(1), as applicable, within ten business days of McKesson's receipt of a written request from Customer; provided, however, that McKesson is not required to provide such access where the PHI contained in a Designated Record Set is duplicative of the PHI contained in a Designated Record Set possessed by Customer. If an Individual makes a request for access pursuant to 45 C.F.R. § 164.524 directly to McKesson, or inquires about his or her right to access, McKesson will direct the Individual to Customer.

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

3.6 Documentation of Disclosures. McKesson agrees to document such disclosures of PHI and information related to such disclosures as would be required for Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528, and 42 U.S.C. § 17935(c), as applicable. McKesson will document, at a minimum, the following information ("Disclosure Information"): (a) the date of the disclosure; (b) the name and, if known, the address of the recipient of the PHI; (c) a brief description of the PHI disclosed; (d) the purpose of the disclosure that includes an explanation of the basis for such disclosure; and (e) any additional information required under the HITECH Act and any implementing regulations.

3.7 Accounting of Disclosures. McKesson agrees to provide to Customer, within 20 business days of McKesson's receipt of a written request from Customer, information collected in accordance with Section 3.6 of this BAA, to permit Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528, and 42 U.S.C. § 17935(c), as applicable.

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

3.9 Mitigation. To the extent practicable, McKesson will cooperate with Customer's efforts to mitigate a harmful effect that is known to McKesson of a use or disclosure of PHI not provided for in this BAA.

3.10 Minimum Necessary. McKesson will request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure, in accordance with 42 U.S.C. § 17935(b) and regulations promulgated thereunder.

3.11 Limitation on Marketing. McKesson may use and disclose PHI for marketing purposes only as expressly directed by Customer, and in accordance with 42 U.S.C. § 17936(a). McKesson will not use or disclose PHI for fundraising purposes.

3.12 Limitation on Sale of Electronic Health Records and PHI. McKesson will comply with the prohibition on the sale of Electronic Health Records and PHI set forth in 42 U.S.C. § 17935(d).

3.13 HITECH Act Applicability. McKesson acknowledges that enactment of the HITECH Act amended certain provisions of HIPAA in ways that now directly regulate, or will on future dates directly regulate, McKesson under the Privacy Rule and Security Rule. To the extent not referenced or incorporated herein, requirements applicable to McKesson under the HITECH Act are hereby incorporated by reference into this BAA. McKesson agrees to comply with applicable requirements imposed under the HITECH Act, as of the effective date of each such requirement.

#### **SECTION 4: OBLIGATIONS OF CUSTOMER**

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

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

4.3 Notification of Restrictions to Use or Disclosure of PHI. Customer will notify McKesson of any restriction to the use or disclosure of PHI that Customer has agreed to in accordance with 45 C.F.R. § 164.522 or 42 U.S.C. § 17935(a), to the extent that such restriction may affect McKesson's use or disclosure of PHI. Customer will provide such notice no later than 15 days prior to the effective date of the restriction. If McKesson reasonably believes that any restriction agreed to by Customer pursuant to this Section may materially impair McKesson's ability to perform its obligations under the Agreement or this BAA, the parties will mutually agree upon any necessary modification of McKesson's obligations under such agreements.

4.4 Permissible Requests by Customer. Customer will not request McKesson to use or disclose PHI in any manner that would not be permissible under the Privacy Rule, the Security Rule or the HITECH Act if done by Customer, except as permitted pursuant to the provisions of Sections 2.2, 2.3, 2.4, 2.5 and 2.6 of this BAA.

#### **SECTION 5: TERM AND TERMINATION**

5.1 Term. The term of this BAA will commence as of the Effective Date, and will terminate when all of the PHI provided by Customer to McKesson, or created or received by McKesson on behalf of Customer, is destroyed or returned to Customer or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with Section 5.3.

5.2 Termination for Cause. Upon either party's knowledge of a material breach by the other party of this BAA, such party will provide written notice to the breaching party detailing the nature of the breach

and providing an opportunity to cure the breach within 30 business days. Upon the expiration of such 30 day cure period, the non-breaching party may terminate this BAA and, at its election, the Agreement, if cure is not possible.

### 5.3 Effect of Termination.

5.3.1 Except as provided in Section 5.3.2, upon termination of the Agreement or this BAA for any reason, McKesson will return or destroy all PHI received from Customer, or created or received by McKesson on behalf of Customer, and will retain no copies of the PHI. This provision will apply to PHI that is in the possession of subcontractors or agents of McKesson.

5.3.2 If it is infeasible for McKesson to return or destroy the PHI upon termination of the Agreement or this BAA, McKesson will: (a) extend the protections of this BAA to such PHI; (b) limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as McKesson maintains such PHI; and (c) never disclose such PHI to another McKesson client or third party unless such information has been de-identified in accordance with the standards set forth in 45 C.F.R. § 164.514(b).

## **SECTION 6: SURVIVAL**

The respective rights and obligations of McKesson under Section 5.3 of this BAA will survive the termination of the BAA and the Agreement.

## **SECTION 7: EFFECT OF BAA**

In the event of any inconsistency between the provisions of this BAA and the Agreement, the provisions of the BAA will control. In the event of inconsistency between the provisions of this BAA and mandatory provisions of the Privacy Rule, the Security Rule or the HITECH Act, as amended, or their interpretation by any court or regulatory agency with authority over McKesson or Customer, such interpretation will control; provided, however, that if any relevant provision of the Privacy Rule, the Security Rule or the HITECH Act is amended in a manner that changes the obligations of McKesson or Customer that are embodied in terms of this BAA, then the parties agree to negotiate in good faith appropriate non-financial terms or amendments to this BAA to give effect to such revised obligations. Where provisions of the BAA are different from those mandated in the Privacy Rule, the Security Rule, or the HITECH Act, but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of the BAA will control.

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**EXHIBIT D**

**PURCHASED SERVICES STATEMENT OF WORK  
STANDARD IMPLEMENTATION**

	<b>Service Item Description</b>	<b>Customer Acknowledgement</b>
	<b>Computers / Hardware / Software Installation</b>	
	I understand that the Hardware, Software and Network will be reviewed for readiness before Lytec MD installation can begin.	<b>Customer Initials:</b>
	I understand that my server must have a dedicated hard drive or partition labeled with the Drive letter P for Lytec MD data.	<b>Customer Initials:</b>
	<p><b>I understand:</b></p> <p>1. The Standard Technical Implementation of Lytec MD includes the installation of both the Practice Management and EMR portions of the software,</p> <p>2. The standard implementation includes 1 server, 5 computers, and 1 Lytec Database conversion,</p> <p>3. I must purchase additional services if I want Lytec MD to be installed on additional computers or convert additional Lytec databases.</p>	<p><b>Customer Initials:</b></p> <p>I have purchased services to have Lytec MD installed on ____ computers and to convert ____ Lytec databases</p>
	<b>Configuration and Training</b>	
<b>Included in Standard Implementation</b>	<p><b>I understand:</b></p> <p>1. The Standard Implementation includes 35 hours of total services including Project Management, Technical Installation, Configuration and Training Services.</p> <p>2. The Standard Implementation includes Configuration and Patient Records Training at 1 clinic with no more than 3 providers. <b>Services for additional providers must be purchased separately.</b></p> <p>3. If the training Total Service Hours are depleted before the training topics are completed, I must purchase additional training hours at \$125/hr in order to continue training.</p>	<b>Customer Initials:</b>
	<p><b>Standard Project Outline and Agenda</b></p> <p>Pre-Implementation Call Systems Review Call Technical Installation Project Kickoff Call and Build Preparation Administrative Configuration Training</p> <ul style="list-style-type: none"> <li>- Session 1: Administrative Configuration</li> <li>- Session 2: RX default &amp; Med List, Special Features, Printers, Zoom, Digital Imaging, PRUTILS, customize patient chart &amp; summary, create test patient</li> </ul> <p>Patient Records Overview Training</p> <ul style="list-style-type: none"> <li>- Basic Chart overview – Chart Summary, Messages, Timing, Program Icons Overview</li> </ul> <p>Patient Records Chart Fundamentals Training</p> <ul style="list-style-type: none"> <li>- Session 1: Maintenance Menu Overview, Clinical Elements, Health Maintenance, Flow/Lab/Clinical Templates, Lab Names</li> <li>- Session 2: Patient Records, Templates, Prescription Format, Future Workflow</li> </ul> <p>Patient Records Chart Customization</p> <ul style="list-style-type: none"> <li>- Session 1: Quick Text, Dot Codes, Letter Codes, Labels Markers</li> <li>- Session 2: Note Templates, Electronic Encounter Forms, Ancillary Services included in contract</li> </ul> <p>Build Check and E-Prescribing Training Session</p> <ul style="list-style-type: none"> <li>- Follow-up on configuration build / customer build, E- Prescribing training (if applicable)</li> </ul> <p>Go Live</p>	



	Two Weekly Post Go Live Follow-up Calls	
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## PURCHASED SERVICES STATEMENT OF WORK ADD-ON PRODUCTS

The services below are not included in the Standard Implementation::

- Documentation of Customer specific policy and procedures
- Development of Customer-specific end-user training materials
- Coordination with third-party vendors for interface modification and testing; including interface engine work
- Services related to any equipment not meeting McKesson's specifications.
- Clean-up of duplicate person records
- Specialty specific content including specialty specific note templates
- Back-loading of patient past medical history
- Services to install updated versions of the Lytec MD application ("Upgrade Services")

Below is a list of services that are not included in the Standard Implementation but are available for purchase.

Where indicated, the service is for Software that must be purchased separately from the core Lytec MD program.

Requires additional Software Purchased Separately	Description of Additional Service (not included in Standard Implementation)	Initial here if purchased	Initial here if declined	Notes
	<b>Additional hours of Customization and/or Training</b>			# of extra hours purchased: _____
	<b>Implementation services for additional providers/locations</b>			# of additional: ___ Providers ___ Locations
<b>Yes</b>	<b>Using Dragon Naturally Speaking</b> Configuration and Training to dictate into EMR			
	<b>Order Entry Training</b> Order Categories, Order Facilities, Order Names, Order Trees, Order Types, and Extended Orders, Order Forms, Order Labels, Requisition Forms, Printers			
<b>Yes</b>	<b>Interface Services</b> Service for EMR interfaces such as connections to Labs or Hospitals. Service includes setup, matching criteria, and basic usage training.			# of Lab Interfaces purchased: _____
<b>Yes</b>	<b>ZetaFax Configuration and Training</b>			
	<b>EKG or Spirometry Setup</b>			
	<b>Demographic Conversion and Loading</b> (requires specification review/approval prior to contract)			

**EXHIBIT E**  
**E-PRESCRIBING SERVICES TERMS AND CONDITIONS**

**SECTION 1: DEFINITIONS.**

For all purposes of this Exhibit, the following terms shall have the following meanings:

1.1 “**ePrescribing Services**” shall mean McKesson’s services which enable Customer to transmit and receive prescription data over the SureScripts electronic prescribing network.

1.2 “**McKesson Products**” as used in this Exhibit shall mean all McKesson Software furnished to Customer by McKesson for ePrescribing Services.

1.3 “**Transactions**” shall mean data transmissions transmitted or received by Customer over the SureScripts electronic prescribing network using ePrescribing Services.

1.4 “**McKesson Documentation**” as used in this Exhibit shall mean all Documentation pertaining to McKesson Products and ePrescribing Services supplied by McKesson.

1.5 “**Specifications**” shall mean the specifications relating to the ePrescribing Services.

**SECTION 2: RIGHT TO USE EPRESCRIBING SERVICES.**

Subject to the terms and conditions of this Agreement, McKesson grants to Customer a non-exclusive and nontransferable license and right to use the ePrescribing Services, McKesson Products and McKesson Documentation for Transactions for the term of this Agreement only at physical sites owned or managed by or under the control of Customer for internal purposes only.

**SECTION 3: TERM AND TERMINATION.**

The initial term for ePrescribing Services shall commence on the Contract Supplement Effective Date and continue for a period of three years. The term shall automatically renew for additional one year terms, unless either party gives written notice to the other party at least 90 days prior to the expiration of the then current term of its decision not to renew.

**SECTION 4: ATTORNEY-IN-FACT.**

Customer hereby appoints McKesson as its agent for purposes of effecting electronic Transactions.

**SECTION 5: AUTHORIZED TRANSACTIONS.**

Customer shall guarantee that all Transactions submitted to McKesson by Customer will be on behalf of licensed providers that have executed appropriate written authorizations for such submission, and a true copy of such authorization shall be furnished to McKesson upon request.

**SECTION 6: PRESCRIPTIONS FOR CONTROLLED SUBSTANCES.**

Customer shall not transmit prescriptions for controlled substances using the ePrescribing services unless permitted under applicable state or federal laws or regulations.

**SECTION 7: RETENTION OF RECORDS.**

Customer shall retain records relative to Customer use of ePrescribing Services in accordance with sound business practices. Customer shall grant McKesson access to such records as are reasonably necessary to examine Customer compliance with Customer obligations and ePrescribing Services provided, pursuant to this Agreement, during normal business hours and upon reasonable advance prior notice.

**SECTION 8: NEW SITES OR NEW PROVIDERS.**

Customer shall obtain authorization from McKesson for each Provider who will use ePrescribing Services. Additional Providers will be subject to the terms of this Agreement.

**SECTION 9: REPRESENTATIONS AND WARRANTIES.**

9.1 McKesson warrants that ePrescribing Services and McKesson Products provided hereunder shall perform in all material respects in accordance with the functional specifications set forth in the applicable McKesson Documentation provided to Customer. In the event that a documented and reproducible flaw

inconsistent with this warranty is discovered, McKesson's sole responsibility shall be to use commercially reasonable efforts to correct such flaw in a timely manner. This warranty does not apply to any media or documentation which has been subjected to damage or abuse or to any claim resulting in whole or in part from changes in the operating characteristics of computer hardware or computer operating systems made after the release of the applicable McKesson Product or ePrescribing Service, or which result from problems in the interaction of ePrescribing Services with non-McKesson software or equipment, or from a breach by Customer of any of its obligations hereunder. McKesson disclaims any warranty against loss of data or a failure to transmit or receive data. Customer shall maintain backups and redundant systems.

**SECTION 10: INDEMNITY.**

Customer will defend and hold McKesson harmless from and against any claim or action brought by a third party except claims that, if made by Customer, would describe a breach of this Agreement by McKesson.

**SECTION 11: TERMINATION.**

McKesson may terminate this Agreement and cease providing ePrescribing Services if Customer is in default, becomes insolvent, or fails to pay any charge or fee when due.