

MakoRx, LLC
PHARMACY NETWORK AGREEMENT

This **PHARMACY NETWORK AGREEMENT** (the “Agreement”) is made and entered into this on the date MakoRx Care Check-In registration is completed by a user clicking the “Agree and Proceed” button. The Agreement is by and between MakoRx LLC, (“MAKORX”), a North Carolina limited liability company with its principal place of business at 4901 Glenwood Ave, Raleigh, NC 27612 and PHARMACY registered with MakoRx Care Check-In. MAKORX and PHARMACY are each also referred to in this Agreement as a “party” and collectively, the “parties”.

PREMISES

WHEREAS, MAKORX has contracted to provide pharmacy benefit management services on behalf of one or more pharmacy benefit management (PBM) client(s) and / or Plan Sponsor(s);

WHEREAS, MAKORX provides formulary management, claims processing, eligibility verification, network management services and other administrative and reporting services in connection with the administration of various prescription benefit plans and/or groups;

WHEREAS, PHARMACY owns, operates or manages one or more duly licensed pharmacies which provide Covered Prescription Services in the state(s) in which pharmacy operates; and

WHEREAS, MAKORX desires to engage PHARMACY to be a participating pharmacy network provider in the performance and delivery of Covered Prescription Services to eligible Members pursuant to this agreement;

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants, conditions and promises exchanged herein below, MAKORX and PHARMACY hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 “Average Wholesale Price” or “AWP” means the benchmark price established by a nationally available reporting service, as selected by MAKORX based on the 11-digit National Drug Code (“NDC”) of the Covered Medication dispensed by PHARMACY. MAKORX shall update AWP pricing on at least a weekly basis with data received from the pricing source.

1.2 “Affiliate” means, as to either party; (a) any division of a party other than the division(s) with direct responsibility for carrying out the party's obligations under this Agreement, and (b) any corporation or other entity which, directly or indirectly, through one or more intermediaries, controls (i.e., possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract, or otherwise), is controlled by, or is under common control with such party.

1.3 “Brand Drug Product” means a Covered Drug or Medication with a proprietary name or trademark and/or has been determined a Covered “brand” Medication by MAKORX.

1.4 “Claim” shall mean and refer to a PHARMACY’s billing or invoicing following the standards of the National Council for Prescription Drug Programs (“NCPDP”) for a single prescription for Covered

Prescription Services dispensed to a Member enrolled with a plan sponsor or group in accordance with this agreement.

1.5 “Claims Processor” shall mean and refer to MAKORX or a pharmacy Claims Processor with which MAKORX may contract. The Claims Processor shall provide Claims processing, eligibility verification and other mutually agreed upon administrative and reporting services for Plans in connection with the administration of their respective pharmacy benefits.

1.6 “Clean Claim” shall mean and refer to a Claim prepared in the standard format promulgated by the NCPDP which contains all of the information necessary for processing that has been successfully electronically transmitted to MAKORX for processing and a positive response received by PHARMACY.

1.7 “Co-payment” means the amount (which may be expressed as either a percentage of the cost of a specific service or a specific dollar amount) communicated electronically by MAKORX that a Member is obligated to pay for a Covered Medication at the time the Covered Medication is provided, pursuant to his or her Plan, which amount shall be deducted from PHARMACY’S reimbursement hereunder, including any deductibles and/or other ancillary charges.

1.8 “Covered Drugs or Medication or Products” means those pharmaceutical products to which a Member is entitled to receive in accordance with and subject to the terms and conditions of the Plan.

1.9 “Covered Prescription Services” shall mean the services usually and customarily rendered by a pharmacy in the normal course of business, including but not limited to dispensing, counseling, pharmaceutical care, product consultation, and pharmacy services as otherwise defined by the state in which the pharmacy is licensed.

1.10 “Dispensing Fee” shall mean the component of the Prescription Drug Compensation added to the Ingredient Cost and associated with the delivery of Covered Products or Covered Medications.

1.11 “Formulary” shall mean and refer to a standard listing of Covered pharmaceutical products, quantity limits, and clinical guidelines for determining coverage of such products developed by and periodically revised by MAKORX and/or Plans.

1.12 “Generic Drug Product” means a drug identified by its chemical or non-proprietary name considered to be bioequivalent to the Brand Drug Product that has been determined to be a Covered “generic” Medication by MAKORX.

1.13 “Ingredient Cost” shall mean the component of Prescription Drug Compensation associated with the reimbursement of the Covered Medication dispensed.

1.14 “MAC” shall mean the maximum allowable cost at which PHARMACY will be paid for a Covered Medication as established and amended by MAKORX and/or Plans.

1.15 “Member” means an individual who is enrolled with a Plan Sponsor that is entitled to receive Covered Prescription Services.

1.16 “National Average Drug Acquisition Cost” or “NADAC” means the national pricing benchmark of a Covered Medication reflective of the average drug acquisition cost paid by community outpatient pharmacies for the 11-digit NDC, as estimated by CMS from actual drug purchases and published in its weekly updates.

1.17 “Negotiated Price” means the “negotiated price,” established by Plan Sponsor and MAKORX and agreed upon by PHARMACY for Covered Drugs dispensed to Members.

1.18 “Pharmacy Benefit” means the benefit portion that establishes coverage for pharmaceuticals and services on an outpatient basis to qualifying Members.

1.19 “Pharmacy Services Manual” or “PSM” shall mean and refer to those written descriptions of MAKORX’s expectations regarding standards of practice as they relate to the Covered Prescription Services provided by PHARMACY under this Agreement, which includes, without limitation, Claim submission guidelines, description of Covered Drugs and other Covered Prescription Services offered by the Plan Sponsors for which MAKORX provides pharmacy benefit management services, and other policies and procedures by which MAKORX and the Plan Sponsors require PHARMACY to adhere. The PSM is available electronically and is incorporated fully herein to this Agreement. The Plan Sponsor or MAKORX may amend the PSM from time to time in its sole discretion.

1.20 “Plan” shall mean any one or more of the various funded health plans or benefits operated, offered or provided by MAKORX/Plan Sponsors that entitle Members to receive reimbursement for, or payment of, medical expenses, including, without limitation, the Covered Prescription Services.

1.21 “Plan Sponsor” shall mean any health maintenance organization (HMO), insurance company, employer or other organization having principal financial responsibility for payment of Covered Drugs or Medications provided to Members under a Prescription Drug Program for which MAKORX has directly or indirectly agreed to provide pharmacy benefit management and related services.

1.22 “Prescription Drug Compensation” means the actual amount which MAKORX is contractually required to reimburse PHARMACY, on behalf of a Plan Sponsor, for the dispensing of a Covered Drug to a Member, which amount shall be determined in accordance with Exhibit A or Exhibit B, attached hereto. MAKORX may amend the Prescription Drug Compensation from time to time, which amendment shall become effective thirty (30) calendar days after such notice is received by PHARMACY unless, prior to such time, PHARMACY rejects the amendment in writing to MAKORX.

1.23 “Prescription Drug Program” means any group or individual plan, policy, agreement or other arrangement sponsored or issued by a Plan Sponsor and administered by MAKORX pursuant to an agreement between the parties, which includes pharmacy services or benefits related to utilization of pharmaceutical products and any Formulary.

1.24 “PSAO” means a pharmacy services administration organization who has the authority to contract with MAKORX on behalf of multiple, independently owned pharmacies. PSAOs shall distribute all relevant documentation and amendments to this Agreement to all member pharmacies, within five (5) business days of PSAO’s receipt of such documentation or amendment from MAKORX.

1.25 “Rebates” means any discounts, direct or indirect subsidies, rebates, other price concessions and/or direct or indirect remunerations that a Plan Sponsor has elected to apply or take into account in arriving at the Negotiated Price and/or to pass through at the point of sale for a Covered Drug, including, but not limited to, estimated or actual rebates paid by drug manufacturers or Affiliate Rebate Partner.

1.26 “Single Source Generic Drug” (or SSG) means a drug identified by its chemical or generic name, as determined by the United States Adopted Names Council, and accepted by the Federal Food and Drug

Administration (FDA) as an equivalent for those drug products having the same active ingredients. A Single Source Generic Drug is defined as having only one other generic drug source available in the marketplace.

1.27 “Specialty Drugs” means those Covered Medications which are set forth on Exhibit B and may be updated periodically by MAKORX. Specialty Drugs are generally used to treat certain complex and rare medical conditions, require special handling, and are often self-injected or self-administered.

1.28 “Usual and Customary” or “U&C” shall mean the price the PHARMACY would charge a cash-paying customer for the same prescription.

1.29 “Wholesale Acquisition Cost” or “WAC” means the price, as reported by a drug manufacturer, at which wholesalers may purchase drug products from that manufacturer. MAKORX shall update WAC pricing on at least a weekly basis with data received from the pricing source.

1.30 “Affiliate Rebate Partner” means any rebate aggregator that MAKORX uses to obtain Rebates for Plan Sponsor.

ARTICLE 2

PARTICIPATION IN PHARMACY NETWORKS

2.1 Participation in Networks. PHARMACY agrees to participate in all MAKORX PHARMACY networks noted in Exhibit A and Exhibit B of this Agreement and signature accepted addenda. At MAKORX’s discretion, PHARMACY shall be deemed to have accepted participation and corresponding rates in any network in which PHARMACY adjudicates a Claim in that network. MAKORX may from time to time add Plan Sponsors to this Agreement who desire to utilize PHARMACY to this Agreement without written notice to PHARMACY. At any time, Plans may utilize, change, or be removed from networks without written notice to PHARMACY. Plans may or may not utilize all pharmacies in a network.

2.2 Performance Requirements.

2.2.1 Pharmacy Services. PHARMACY agrees to render Covered Prescription Services to Members in accordance with the terms and conditions of this Agreement. PHARMACY shall provide Prescription Services to Members for Covered Products in a timely manner as provided to other patrons and shall not discriminate against an eligible Member.

2.2.2 Prescription Drug Inventory. Each PHARMACY shall maintain an inventory of prescription drugs commonly used in the retail pharmacy setting.

2.2.3 Electronic Claims Transmission. PHARMACY shall be able to transmit Claims by real time, point-of-sale claims adjudication system and receive communications from MAKORX via such real time point-of-sale claims adjudication system in the current National Council of Prescription Drugs Program (NCPDP) standard required format under the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder (HIPAA).

2.2.4 Professional Standards. PHARMACY agrees to comply with the professional standards set forth in Article 4.

ARTICLE 3

RESPONSIBILITIES AND RIGHTS OF MAKORX

3.1 Network. MAKORX shall include PHARMACY as a participating pharmacy provider in available networks. PHARMACY shall be included as a participating pharmacy provider in listings of network pharmacies that provide Covered Prescription Services to Plan Sponsors and their Members. Plan Sponsors retain the right to restrict a PHARMACY's participation in their network.

3.2 Pharmacy Services Manual. MAKORX shall furnish or make available to PHARMACY the current Pharmacy Services Manual.

3.3 Process Claims and Arrange for Payment. MAKORX shall process and arrange for payment of Clean Claims in the manner prescribed by this Agreement and subject to payment of such Claims by the applicable Plan Sponsor. MAKORX may utilize a third-party Claims Processor in the performance of its obligations under this Section.

3.4 Right to Audit. PHARMACY agrees that MAKORX or a third party authorized by MAKORX may, upon request, inspect, review, audit and reproduce, during PHARMACY 's regular business hours and without charge to MAKORX, any of PHARMACY's medical, business, financial and administrative records, including prescription records, all books, contracts, medical records, and patient care documentation, original prescriptions, signature logs (or other evidence allowed by MAKORX as set forth in the Provider Manual), wholesaler, manufacturer and distributor purchase records; prescriber information, patient profiles, and such other records and information relating to Covered Medications provided to Members or performance under this Agreement, as may be required by MAKORX from time to time as further described in the Pharmacy Services Manual.

3.5 Plan Sponsor. MAKORX shall ensure that it maintains contractual arrangements with Plan Sponsors that provide for reimbursement to pharmacies consistent with the terms of this Agreement. MAKORX represents that it has conducted due diligence regarding the financial ability of each Plan Sponsor to fulfill its payment obligations.

3.6 Notice of Delinquent Payment by Plan Sponsor. MAKORX agrees to use its best efforts to ensure that each Plan Sponsor pays MAKORX all amounts due to PHARMACY in a timely fashion. In the event that MAKORX learns of delinquent payment(s) by Plan Sponsor, MAKORX shall notify PHARMACY. Upon such notification, PHARMACY may deny service to some or all of such Plan Sponsor's Members until such time as PHARMACY receives assurances of payment from Plan Sponsor or MAKORX, which PHARMACY deems satisfactory. In the event of non-payment by a Plan Sponsor, MAKORX is not required to commence litigation or other legal proceedings against a Plan to obtain payment.

ARTICLE 4

RESPONSIBILITIES OF PHARMACY

4.1 Participation in Pharmacy Benefits. By execution of this Agreement, PHARMACY, is agreeing to its participation in the Pharmacy Benefits sponsored by covered Plan Sponsors in accordance with the PSM, the terms and conditions of this Agreement, and other applicable laws and regulations. PHARMACY understands and agrees that the continued participation in such pharmacy networks is conditioned upon compliance with their obligations hereunder and the Plan Sponsors' approval.

4.2 Compliance with Plan Specifications, Policies. PHARMACY shall provide Covered Prescription Services to Members in accordance with the applicable Pharmacy Services Manual. In addition, PHARMACY shall comply with the following policies and procedures:

4.2.1 Credentialing Policies.

- (a) PHARMACY, shall submit in an Excel file format a list of participating pharmacies to include fields of information listed in the Pharmacy Demographic Form attached hereto as Exhibit C, and must provide: (i) an accurate and verifiable street address; (ii) accurate and verifiable telephone and facsimile numbers; (iii) hours of operation; (iv) PHARMACY email address; (v) the required licenses, permits, certificates of authority or accreditations of such pharmacies; (vi) insurance information for insurance covering PHARMACY; (vii) the National Provider Identifier (“NPI”); (viii) sales tax information where applicable, and (ix) other information as reasonably requested by MAKORX;
- (b) PHARMACY agrees to update the information identified in Section 4.2.1(a) in a reasonable timeframe after any change to the above-identified information, or upon request by MAKORX.

4.2.2 Accuracy of Data.

- (a) PHARMACY shall be responsible for the accuracy, integrity, completeness and timeliness of data and information submitted by PHARMACY to MAKORX as a result of the provision of Covered Prescription Services to Members, and for any errors in or with respect to such data or information.
- (b) PHARMACY shall be required to correct any errors or inaccuracies in any such data or information within a reasonable period of time.
- (c) PHARMACY shall immediately notify MAKORX of any payment made in error.

4.3 Audits. PHARMACY shall cooperate in good faith with all record requests and audits and shall provide MAKORX, Plans, and their authorized representatives’ access to PHARMACY’s premises and records for such purposes. PHARMACY shall provide MAKORX copies of records requested by MAKORX within twenty-one (21) calendar days from the date of a written request for such records. All records shall be provided at the sole cost and expense of the PHARMACY.

4.3.1 If an audit reveals actions that have resulted in overpayment, overpayment shall become immediately due and owing by the PHARMACY.

4.3.2 If an audit reveals that PHARMACY submitted Claims to MAKORX with information that is inaccurate and/or unverifiable, MAKORX shall be entitled to recover up to the total amount of the Claim.

4.4 Verify Member Eligibility. Prior to furnishing any Covered Prescription Service, PHARMACY shall verify that the individual receiving such Covered Prescription Service is an eligible Member. Such verification shall be performed by the PHARMACY through point-of-service (“POS”) data communication between the PHARMACY and Claims Processor. If any PHARMACY is unable to confirm a Member’s eligibility by POS communication, then the PHARMACY shall call MAKORX’ pharmacy help desk (or equivalent) for verification.

4.5 Professional Standards. PHARMACY shall maintain the following standards throughout the term of this Agreement:

4.5.1 Pharmacy Licenses. PHARMACY's pharmacies under the scope of this Agreement shall be duly licensed under the laws of the state of the pharmacies' geographic locations (and any applicable federal laws) and shall abide by applicable pharmacy laws, rules, regulations, and directives promulgated by such state's Board of Pharmacy, as from time to time may be amended. If the licensure of PHARMACY is suspended or revoked, PHARMACY shall notify MAKORX thereof in writing as soon as PHARMACY learns of such event.

4.5.2 Professional Licenses. All Covered Prescription Services shall be provided by adequately trained and duly licensed personnel at the PHARMACY's pharmacies, in accordance with applicable pharmacy law.

4.5.3 Operations. PHARMACY shall adopt operational processes, procedures, and protocols to furnish Covered Prescription Services to Members in an orderly, efficient, professional, and competent manner.

4.6 Professional Judgment. Nothing in this Agreement shall prohibit PHARMACY's pharmacists from exercising professional judgment in the dispensing of Covered Prescription Services and such pharmacists may refuse to dispense any Covered Drug based upon their professional judgment.

4.7 Electronic Claims Transmission. PHARMACY shall transmit Claims by real time, point-of-sale claims adjudication system and receive communications from MAKORX via such real-time point-of-sale claims adjudication system at its own expense. PHARMACY shall have capabilities to provide and receive data in the most current NCPDP specifications and requirements. Verification of eligibility, drug coverage, and other applicable edits by MAKORX to PHARMACY constitutes authorization for PHARMACY to dispense the Covered Medication to the Member and collect the Co-payment as part of the Covered Prescription Services. PHARMACY shall not waive or discount Member's Co-payment. Such Covered Prescription Services provided by PHARMACY as a result of a positive adjudication shall entitle PHARMACY to reimbursement for those Covered Prescription Services. PHARMACY agrees to obtain the signature of the Member in the PHARMACY's log book or capture and store signature electronically confirming Member's receipt of Covered Medication.

4.8 Claim Denials. In the event a Claim is denied, PHARMACY will evaluate the cause of denial, as necessary contact pharmacy help desk, and exercise professional judgment to provide service. If the cause of denial cannot be resolved, PHARMACY will notify the Member, refer the Member to customer service, if needed, and/or extend an offer to dispense the medication at its U&C price.

4.9 Information Technology. PHARMACY shall possess adequate, appropriate and all information technology necessary to participate in the Plan Sponsors' respective pharmacy benefits, including but not limited to, computer (including all hardware and software), intranet, Internet, telecommunications, voice, information, data, database and technology systems.

4.10 Patient Confidentiality. PHARMACY shall be capable of processing all electronic or other transactions as a result of the Covered Prescription Services in compliance with all applicable provisions of (a) 42 CFR §423.136, Privacy, confidentiality and accuracy of enrollee records, (b) the Health Insurance Portability and Accountability Act of 1996, regulations promulgated thereunder, and related privacy and security laws ("HIPAA"), (c) the Gramm-Leach-Bliley Act, P.L. 106-102 ("GLB Act"), if applicable, and (d) all other state and federal laws or regulations relating to the privacy, confidentiality, security, integrity, transmission or exchange of protected health information ("PHI"), including, but not limited to, any laws and regulations relating to the maintenance, use, transmission (whether via electronic, facsimile or any other means of

transmission), exchange or other activity concerning patient records, confidentiality of medical data or the security and protection of PHI.

4.11 Document Retention and Confidentiality. PHARMACY has instituted reasonable safeguards against the destruction, loss, alteration or unauthorized disclosure of PHI or other Member data, MAKORX data, or Plan Sponsor data that is in its possession or control. PHARMACY shall maintain applicable records and reports for Covered Medications dispensed under this Agreement as required by applicable law.

4.12 Professional Liability Insurance. PHARMACY shall maintain professional liability insurance and general liability insurance in the minimum amounts of One Million Dollars (\$1,000,000) per occurrence and three Million Dollars (\$3,000,000) aggregate coverage that will cover the activities and errors and omissions of PHARMACY and their respective personnel.

ARTICLE 5 **PAYMENT AND BILLING; PRESCRIPTION PRICES**

5.1 Payment for Covered Prescription Services. The parties agree that MAKORX will reimburse PHARMACY for PHARMACY'S provision of Covered Prescription Services the rates set forth in Exhibit A and Exhibit B, including all applicable rate addenda. PHARMACY agrees to accept as payment in full for Covered Prescription Services provided to a Member the amounts provided for in this Agreement, including the applicable Exhibit A and Exhibit B hereto and any rate addenda or amendments entered into or agreed to by the parties on and after the effective date of this Agreement. Claims rates are determined based upon Claim type, such as Brand, Generic, Specialty, and a drug on the MAC list.

5.2 Claims Submission. PHARMACY shall submit Claims for Covered Prescription Services to Claims Processor, in the manner required hereunder, for adjudication, processing, and payment on behalf of the Plan Sponsors. PHARMACY agrees to submit all claims including those where the Member pays 100% of the cost share of the Covered Medication. PHARMACY shall ensure that transmitted Claims information to Claims Processor is in compliance with the then current requirements adopted by the NCPDP as set forth. PHARMACY shall ensure that Claims for Covered Prescription Services to Claims Processor are submitted via real time, point-of-sale communication. PHARMACY must submit Claims for reimbursement no later than ninety (90) days from the date Covered Prescription Services are rendered to Member. At no time shall PHARMACY be required to submit a Claim sooner than thirty (30) days from the date Covered Prescription Services are rendered to Member. PHARMACY shall ensure that all Claims are timely and cooperate with Claims Processor and/or MAKORX in the adjudication and processing of Claims in a timely and efficient manner. PHARMACY must submit all required information for the Claim, which includes but is not limited to: the Member's identification number; quantity of the medication dispensed; days supply dispensed, PHARMACY's NCPDP provider and NPI number; the eleven (11) digit NDC of the actual bottle size, package size, or container from which the medication was dispensed from PHARMACY's stock; the correct DAW code in accordance with NCPDP specifications, the valid prescriber's NPI number; Tax amounts; and the PHARMACY's Usual and Customary charge of the medication dispensed.

5.3 Reimbursement Calculation Based on National Drug Data File. MAKORX currently uses the Average Wholesale Price ("AWP") of a Drug Product, as published in the current edition of MediSpan National Drug Data File or other national drug file chosen by MAKORX on the date Member receives Covered Prescription Services from PHARMACY. A Drug Product's AWP shall be based upon the AWP of the 11 digit National Drug Code ("NDC") of the package size dispensed to the Member. MAKORX shall ensure that AWP is updated no less frequently than every seven (7) days.

5.4 Claim Adjustments. PHARMACY shall electronically adjust all credits, duplicate claims, returned, and unclaimed prescriptions within ten (10) business days after the original fill date. This includes, but is not limited to, reversals, and re-submittals for “return to stock” or partial fills, where the Covered Medication is partially filled and the remainder is not retrieved by the Member in a reasonable period of time, in which case PHARMACY must electronically reverse and resubmit the actual quantity of the Covered Medication received by the Member.

5.5 Coupons. PHARMACY acknowledges that it is the Member’s or PHARMACY’S responsibility to obtain reimbursement from the responsible party for the amount of any coupon accepted by PHARMACY for a Covered Medication, PHARMACY shall: (a) accurately apply all coupons to a Member's claim, including the Copayment, if applicable; and (b) not seek additional reimbursement from Plan Sponsor or any other insurer when such reimbursement would result in PHARMACY being paid more than its contracted rate hereunder.

5.6 Non-Discrimination. PHARMACY shall not refuse to provide services required under any Prescription Drug Program or attempt to disenroll any Member, as further described in the PSM.

5.7 Hold Harmless. PHARMACY shall not, in any event, including, without limitation, non-payment by MAKORX, insolvency of MAKORX, or breach of this Agreement, bill, charge, collect a deposit from, seek compensation or remuneration or reimbursement from, hold responsible, or otherwise have any recourse against any Member or any other person acting on behalf on any Member. PHARMACY agrees that PHARMACY shall not maintain any action at law or equity against a Member to collect sums owed to PHARMACY pursuant to this Agreement. This Section shall survive the termination or expiration of this Agreement regardless of the cause giving rise to such termination and shall be construed to be for the benefit of Members.

5.8 Taxes. If any government authority imposes any taxes, assessments, or similar fees that are separately stated from the sales price and are triggered by the transfer for a consideration of ownership or possession of tangible personal property or the rendering of services including, but not limited to, any sales tax, gross receipts tax, retail occupation tax, health care provider tax, or value-added tax (“Sales Tax”), on the PHARMACY’S provision of Covered Prescription Services to any Member, then PHARMACY may request reimbursement from the Plan Sponsor for such Sales Taxes that are allowed and imposed by applicable law in accordance with the Plan. PHARMACY shall be solely responsible for any other taxes or surcharges associated with its performance under this Agreement. PHARMACY shall transmit the applicable Sales Tax amount that is allowed by law through the online claim system. MAKORX shall bill the Plan Sponsor for any federal, state, or local Sales Tax and will remit to PHARMACY any such taxes collected from Plan Sponsor. PHARMACY shall timely and accurately remit, or cause the PHARMACY to timely and accurately remit, the applicable Sales Tax to the appropriate taxing authority. In no event shall MAKORX or the Plan Sponsor be responsible for determining the applicable Sales Tax rate or calculating the amount of the Sales Tax obligation of the PHARMACY. If the PHARMACY submits an incorrect Sales Tax amount to any government authority, then in no event shall MAKORX be responsible; in this event, the PHARMACY shall be solely responsible for recovering any overpaid Sales Tax and promptly reimbursing MAKORX or the Plan Sponsor on mutually agreed upon terms. In no event, including non-payment by the Plan Sponsor, shall MAKORX be liable for any Sales Tax on any Covered Prescription Services.

5.9 Payment Responsibility; Limitation of Liability. PHARMACY acknowledges and agrees that MAKORX operates only as an intermediary between Plans and PHARMACY with respect to payment due under this Agreement and that Claim payment amounts due hereunder are the sole and exclusive responsibility of Plans. PHARMACY further acknowledges and agrees that MAKORX is not obligated to pay PHARMACY

for Claims relating to a Plan if a Plan fails to provide MAKORX with sufficient funds related to Claims for payment, and MAKORX has no liability to PHARMACY for non-payment or for any delay in payment from a Plan. PHARMACY agrees that it shall have no claim against MAKORX, and shall not seek payment from MAKORX, above or beyond the amount of payments made to MAKORX by the applicable Plan.

5.10 Withhold/Recoupment. PHARMACY shall promptly pay any amounts due hereunder and any payment of portion thereof determined to have been paid in error and thus due and owing to MAKORX and/or Plan. MAKORX shall have the right to deduct the amount of overpayments from amounts due to PHARMACY hereunder,. In the event no such deduction is made, PHARMACY shall pay overpayment to MAKORX within thirty (30) calendar days of the receipt of an invoice. Claims submitted to MAKORX with information that is inaccurate and/or unverifiable are subject to reversal and recovery up to the total amount of the Claim,. MAKORX will not seek recoupment from PHARMACY on claims that were positively adjudicated through the Claims Processor as an error of MAKORX.

5.11 Suspension of Ability to Process Claims and Payments. MAKORX may upon reasonable notice from MAKORX to PHARMACY, temporarily disable PHARMACY's ability to process claims and receive reimbursement payment during an investigation where there is reasonable suspicion of fraud or willful misrepresentation and/or suspension of license MAKORX shall promptly reinstate PHARMACY's ability to process claims and any claims accrued during such investigation will be allowed to adjudicate once the suspicion of fraud, willful misrepresentation, or license suspension has been fully resolved with a determination of no fraud, willful misrepresentation, or license suspension by MAKORX, Plan, or a court of competent jurisdiction.

5.12 Claim Finality. Unless provided otherwise in this Agreement, both parties agree that a Claim and related Prescription Compensation shall be deemed final one year from the date such Claim and related Prescription Compensation was submitted by PHARMACY to MAKORX and shall not be subject to dispute.

ARTICLE 6 **TERM AND TERMINATION**

6.1 Term. This Agreement shall commence upon the date written above ("Effective Date") and shall continue for one year (the "Initial Term"); provided, however, that upon the expiration of the Initial Term, this Agreement shall automatically be renewed for successive one year renewal terms on January 1 of each year (the "Renewal Term", unless otherwise terminated pursuant to the terms set forth in Section 6.2).

6.1.1 Termination With Cause. In the event that a party materially breaches the terms of this Agreement, the non-breaching party may terminate this Agreement if the other party has failed to cure such breach within thirty (30) calendar days after the non-breaching party gives written notice of such breach.

6.1.2 Termination Without Cause. MAKORX may terminate this Agreement without cause by providing PHARMACY thirty (30) calendar days advance written notice. PHARMACY may terminate this Agreement without cause by providing MAKORX sixty (60) calendar days advance written notice.

6.1.3 Immediate Termination. MAKORX may terminate this Agreement immediately, upon the occurrence of any of the following events: (i) MAKORX is in receipt of written confirmation that PHARMACY is closed, abandoned or otherwise no longer doing business; (ii) PHARMACY has not processed any Clean Claims in six (6) months; (iii) PHARMACY joins a PSAO and is then covered by the agreement PSAO holds with MAKORX; (iv) PHARMACY

provides substandard, inferior, contaminated, or adulterated drug products to any Member; (iv) PHARMACY violates any federal, state, or local law; (v) PHARMACY has its license revoked or suspended; (vi) any of the professional standards of Section 4.5 are not maintained; or (vii) PHARMACY is found guilty of fraud or is debarred from participation in any federal or state healthcare program. In any such event, the termination of this Agreement, whether in its entirety or in part, shall be effective upon PHARMACY's receipt of written notice thereof.

6.1.4 Bankruptcy. Either PHARMACY or MAKORX may terminate this Agreement immediately upon delivering written notice to the other party in the event the other party makes an assignment for the benefit of creditors, files a petition in bankruptcy, is adjudicated insolvent or bankrupt, or if a receiver or trustee is appointed with respect to all or a substantial part of a party's property, or a proceeding is commenced against it which will substantially impair its ability to perform hereunder. The other party (to the extent it may lawfully do so) shall not at any time insist upon, plead, or in any manner claim, or take advantage of any stay or extension law that may affect the performance of this Agreement, and hereby expressly waives all benefit or advantage of any such law.

6.2 Remedies. The fact that either party exercises any right of termination it may have under this Agreement shall not prevent such party from seeking any other remedy it may be entitled to in law or equity, nor shall any provision under this Agreement which provides a remedy to a party for the other party's non-performance be deemed to be a sole and exclusive remedy, unless specifically stated as such.

ARTICLE 7

CONFIDENTIALITY, PRIVACY AND SECURITY OF INFORMATION

7.1 Confidentiality. All parties to this Agreement shall maintain the confidentiality of any confidential or proprietary information of the other party, including, but not limited to, any confidential pricing, marketing or product information; Formulary information; in-network PHARMACY lists; information on invoices and reports provided by PHARMACY to MAKORX; this Agreement, its terms, conditions and contents; and any other information designated as confidential or proprietary by the disclosing party (collectively, "Confidential Information"). Such Confidential Information shall not include information that: (a) the other party can show by written records to have been in its possession prior to receiving such information, (b) is now or later becomes available to the public through no fault of the party receiving the information, (c) is received from a third party which had the right to disclose the information, or (d) is approved by the other party for disclosure. Confidential Information shall not be used by or for the benefit of the other party, directly or indirectly, except as may be necessary to carry out this Agreement. Immediately upon the expiration or other termination of this Agreement, each party, upon written request, shall return to the other party any and all copies of the other party's Confidential Information, provided that one copy may be kept for archival purposes pursuant to the confidentiality and disclosure requirements of this Agreement. The obligations of confidentiality in the Agreement shall survive any termination of this Agreement. Notwithstanding the foregoing, the parties may disclose their relationship and the Covered Prescription Services covered by this Agreement as required by law. If a party is compelled by law to disclose Confidential Information of the other party, and/or terms of this Agreement, it will provide written notice to the other party before making such disclosure.

7.2 Privacy and Security of Protected Health Information. PHARMACY shall ensure they comply with the requirements of the HIPAA Privacy Rule, the HIPAA Security Rule and the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), and any other applicable HIPAA Regulations in the performance of this Agreement, and ensures timely access by Members to records and information that pertains to them. PHARMACY shall ensure that any disclosure or release of PHI will be only in accordance with HIPAA, HITECH Act or federal and state laws or under a court order or subpoena. PHARMACY shall notify

MAKORX promptly of any instances of which it is aware in which the PHI is used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the HIPAA Rules or HITECH Act. In the event that PHARMACY performs any function for MAKORX and/or any Plan Sponsor involving the use or disclosure of PHI, other than the provision of Covered Prescription Services to Members, PHARMACY shall execute a business associate agreement with MAKORX.

ARTICLE 8

GENERAL PROVISIONS

8.1 **Severability**. In the event that any provision in this Agreement, shall be found by any government agency, court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be construed and enforced as if it had been narrowly drawn so as not to be invalid, illegal or unenforceable, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

8.2 **Dispute Resolution**. The parties agree that they will attempt in good faith to resolve any dispute that may directly or indirectly arise out of or relate to this Agreement. If the parties are unable to resolve such dispute within thirty (30) calendar days after initial notice, each party may, by notice to the other, have such dispute referred to a senior officer of each party. Such officer shall attempt to resolve the dispute by good faith negotiation within thirty (30) calendar days after receipt of such notice. If the designated officers are not able to resolve such dispute within such thirty (30) calendar-day period, then the dispute shall be submitted, upon the motion of either party, to arbitration to be conducted in accordance with the appropriate rules of the American Arbitration Association (“AAA”) in Natchitoches, North Carolina. All such arbitration proceedings shall be administered by the AAA. The arbitration panel shall consist of three arbitrators. One arbitrator shall be appointed by each party. The third arbitrator, who shall act as chairman of the arbitration panel, shall be appointed by the other two arbitrators. If any arbitration is commenced against any party hereto with respect to the subject matter contained in this Agreement, the party prevailing in such arbitration shall be entitled, in addition to such other relief as may be granted in such proceeding, to a reasonable sum from the non-prevailing parties for attorney's fees, expenses, and costs in such arbitration, which sum shall be determined in such arbitration. The parties agree that the decision of the arbitrators shall be final and binding as to each of them.

8.3 **Notices**. Unless otherwise provided for in the Agreement, written notice must be provided as set forth below. All notices called for hereunder shall be effective upon receipt. Notices required to be given pursuant to this Agreement related to breach, dispute, non-payment by MAKORX, and termination shall be in writing, postage prepaid, and shall be sent by certified mail, return receipt requested, or by an overnight delivery service which provides a written receipt evidencing delivery, to the address listed below. All other notices shall be given in the manner described above, or by facsimile, email, or US Mail, postage prepaid, to the other party at the facsimile, email or mail address designated below.

MAKORX:

Vinay Patel
MakoRx
4901 Glenwood Ave
Raleigh, NC 27612 Phone: (855) 562-5679
Email: vpatel@makomedical.com

PHARMACY:

PHARMACY Name:

Attention:

Address

City, State, Zip Code

Phone:

Email:

8.4 Intellectual Property. Except as otherwise provided herein, MAKORX and PHARMACY agree that it will not use for its own commercial purposes any trademark, service mark, or corporate name of the other party hereto without the prior written consent of the other party, provided, however, that MAKORX may use the PHARMACY's name and the name, address and telephone number in any promotional or advertising brochure, media announcement or other marketing information or benefit information packages in connection with the Covered Prescription Services distributed by MAKORX to Plan Sponsors, Members, or Physicians.

8.5 Independent Contractor. PHARMACY and MAKORX maintain no affiliation or relationship with each other except that of independent parties contracting solely to effectuate the purposes of this Agreement. Neither party nor its employees or agents are employees or agents of the other party.

8.6 Waiver. The failure of either party to enforce at any time or for any period of time any one or more of the provisions hereof shall not be construed to be an ongoing waiver of the other party's responsibilities or obligations under such provision(s) or of the right of such party thereafter to enforce each such provision.

8.7 Governing Law. The laws of the State of North Carolina shall govern this Agreement without giving effect to the conflicts of laws provision thereof.

8.8 Assignment. Neither party shall have the right to assign this Agreement to a third party without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, that MAKORX shall have the right to assign this Agreement without prior written notice to PHARMACY to any Affiliated entity, or in connection with a merger, reorganization, transfer, sale of assets, or a change of control or ownership. Any permitted assignee shall assume all obligations of its assignor under this Agreement.

8.9 Force Majeure. Noncompliance with the obligations hereunder for reasons of force majeure such as acts of God; war or civil commotion; destruction of production facilities and materials; fire, earthquake, hurricane or storm; labor disturbances; failure of public utilities or common carrier; or any other causes beyond the reasonable control of the parties, shall not constitute breach of contract.

8.10 Warranty of Authority. PHARMACY represents and warrants to MAKORX that the individual executing this Agreement on behalf of the PHARMACY has the requisite right, power and authority to enter into this Agreement on behalf of PHARMACY and has been duly authorized to do so by all necessary corporate action; and when this Agreement is executed by such individual, it shall create valid and binding obligations upon PHARMACY, enforceable against PHARMACY in accordance with the terms of this Agreement. MAKORX represents and warrants to PHARMACY that the individual executing this Agreement on behalf of MAKORX has the requisite right, power and authority to enter into this Agreement and has been duly

authorized to do so by all necessary corporate or other action; and when this Agreement is executed by such individual, it shall create valid and binding obligations of MAKORX, enforceable against MAKORX in accordance with the terms of this Agreement.

8.11 Execution. This Agreement may be executed in two or more counterparts and, as so executed, shall constitute one and the same agreement binding on all parties. In addition, for purposes of executing this Agreement, a document (or signature page thereto) signed and transmitted by facsimile machine shall be treated as an original document. The signature of any party thereon, for purposes hereof, shall be considered as an original signature, and the document transmitted shall be considered to have the same binding effect as an original signature on an original document. At the request of either party, any facsimile document shall be re-executed in original form by the party who executed the facsimile document. No party may raise the use of a facsimile machine or telecopier machine as a defense to the enforcement of this Agreement.

8.12 Indemnification.

8.12.1 PHARMACY shall defend, indemnify, and hold harmless MAKORX and its officers, directors, contractors, and employees (“MAKORX Group”), from and against any and all liabilities, losses, settlements, claims, demands, and expenses of any kind (including, but not limited to, reasonable attorneys’ fees and court costs) by non-signatories to this Agreement, which may arise out of the negligence or willful misconduct of PHARMACY in performing the duties and obligations directly or indirectly related to this Agreement or the violation of any material representation or warranty made by PHARMACY directly or indirectly related to this Agreement, regardless of MAKORX Group’s own negligence.

8.12.2 MAKORX shall indemnify and hold harmless PHARMACY, and its officers, directors, and employees from and against any and all liabilities, losses, settlements, claims, demands, and expenses of any kind (including, but not limited to, reasonable attorneys’ fees and court costs) by non-signatories to this Agreement which may result or arise out of the negligence or willful misconduct of MAKORX Group or any of its agents or representatives in performing duties and obligations under this Agreement or the violation of any representation or warranty made by MAKORX under this Agreement.

8.13 Limitation of Liability. Notwithstanding any other provision in this agreement to the contrary, in no event, shall either party be liable to the other party for any incidental, special, consequential or punitive damages as a result of the performance or any default in the performance of their respective obligations under this agreement.

8.14 Amendment. MAKORX may amend this Agreement, Exhibits, and Attachments by providing prior written notice to PHARMACY. Failure of PHARMACY to object in writing to any such proposed amendment within 30 days following receipt of notice will constitute PHARMACY’s acceptance thereof. Notification to MAKORX of rejection of any proposed amendment means that this Agreement will remain in force without proposed amendment.

8.15 Entire Agreement. This Agreement, including the Exhibits attached hereto, contains the entire agreement and understanding between the parties with respect to the provision of Covered Prescription Services to Members. This Agreement supersedes all prior oral or written negotiations, agreements or

understandings between the parties with respect to the subject matter of this Agreement. Except as otherwise provided in this Agreement, this Agreement may only be amended by a dated written instrument executed by both parties.

IN WITNESS WHEREOF, PHARMACY and MAKORX have executed this Agreement.

EXHIBIT A

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (the "Addendum") is entered into between the Client (the "Business Associate") as defined in the underlying Agreement, and MakoRx LLC (collectively the "Covered Entity").

I. DEFINITIONS

For purposes of this Addendum, the following terms shall have the following prescribed meanings.

"Breach" shall have the same meaning as the term "breach" in 45 CFR 164.402.

"Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR 164.501.

"Electronic Media" means electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card, and transmission media used to exchange information already in electronic storage media. Transmission media includes, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media.

"Electronic Protected Health Information" means Protected Health Information that is (i) transmitted by Electronic Media, or (ii) maintained in any medium described as Electronic Media.

"HIPAA" means the security and privacy requirements reflected in 42 U.S.C. 1320d *et. seq.* and such regulations as may be promulgated thereunder from time to time (currently, 45 CFR 164.102 through 164.534).

"HITECH" means the Health Information Technology for Economic and Clinical Health Act of 2009 as reflected in 42 U.S.C. 17921 *et. seq.* and such regulations as may be promulgated thereunder from time to time.

"underlying Agreement" means the Agreement to which this is Exhibit A, between the Covered Entity and the Business Associate, pursuant to which the Business Associate engages in work with the Covered Entity that requires the Parties to enter into this Addendum pursuant to HIPAA.

"Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 160.103.

"Unsecured Protected Health Information" shall have the same meaning as the term "unsecured protected health information" in 45 CFR 164.402.

Terms used but not defined in this Addendum shall have the meaning ascribed to them in HIPAA.

II. PERMITTED AND REQUIRED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

The Business Associate shall be permitted and required to use Protected Health Information only as provided in the underlying Agreement and this Addendum. The Business Associate agrees to use, disclose and request Protected Health Information consistent with HIPAA's minimum necessary requirements. The Business Associate shall not use or further disclose Protected Health Information in any manner that: (a) would violate the terms of this Addendum; or (b) if done by the Covered Entity, would violate HIPAA.

III. RESTRICTIONS ON THE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

Notwithstanding anything in the underlying Agreement to the contrary, the Business Associate shall:

(a) Not use or further disclose Protected Health Information other than permitted or required by this Addendum or required by law, or as permitted by the underlying Agreement to the extent that such use or disclosure does not violate HIPAA or the terms of this Addendum;

- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information, to prevent the use or disclosure of Protected Health Information other than as provided for in this Addendum;
- (c) Report to the Covered Entity any use or disclosure of the Protected Health Information not provided for by this Addendum, or any security incident, of which it becomes aware, without unreasonable delay but in no event later than ten (10) calendar days;
- (d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate agree to the same restrictions and conditions that apply to the Business Associate under this Addendum;
- (e) Make available to an individual Protected Health Information in a Designated Record Set about that individual to the extent required by, and in accordance with, HIPAA;
- (f) Make available an individual's Protected Health Information in a Designated Record Set for amendment by that individual and incorporate any amendments to that individual's Protected Health Information in a Designated Record Set to the extent required by, and in accordance with, HIPAA;
- (g) Make available Protected Health Information required to provide an accounting of disclosures of an individual's Protected Health Information to the extent such accounting is required by, and in accordance with, HIPAA;
- (h) Make its internal practices, books and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services (the "Secretary") (or its delegate) for purposes of determining compliance with HIPAA;
- (i) To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E or 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s);
- (j) Report to Covered Entity any Breach of Unsecured Protected Health Information known or suspected by Business Associate. Notice shall be in writing and provided to the Covered Entity without unreasonable delay, but no later than ten (10) calendar days following the discovery of the Breach. Such notice will include, to the extent possible, the identification of each individual whose Unsecured Protected Health Information has been or is reasonably believed by Business Associate to have been accessed, acquired, used, or disclosed during the Breach. Such notice shall also include the following information: (i) a brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known; (ii) a description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved); (iii) any steps individuals should take to protect themselves from potential harm resulting from the Breach; (iv) a brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches; and (v) contact procedures for obtaining additional information. If requested by the Covered Entity in writing, Business Associate shall provide the notifications to all affected individuals as required by HIPAA and applicable state law, which notifications shall be subject to the Covered Entity's reasonable approval;
- (k) Within twenty (20) days of termination of this Addendum, if feasible, return or destroy (at the Covered Entity's option) all Protected Health Information received from, or created or received by the Business Associate on behalf of, the Covered Entity that the Business Associate or its subcontractors still maintain in any form and retain no copies of such Protected Health Information, and provide simultaneous notification to the Covered Entity of the date of destruction or return. If Business Associate determines that the return or destruction of Protected Health Information is not feasible, within twenty (20) days of termination of this Addendum, Business Associate shall deliver to the Covered Entity a written statement explaining why such return or destruction of all Protected Health Information is not feasible, and the terms of this Addendum shall remain in effect.

IV. PAYMENT OF BREACH EXPENSES AND INDEMNIFICATION

Notwithstanding anything in the underlying Agreement or any other agreement between the parties to the contrary, in the event of a Breach of Unsecured Protected Health Information by Business Associate or any subcontractor, agent, employee, director, member, or other representative of Business Associate, Business Associate shall reimburse the Covered Entity for all reasonable and substantiated costs and expenses incurred by the Covered Entity to satisfy the Covered Entity's obligations under HIPAA/HITECH and the regulations promulgated thereunder to notify individuals and other entities, including, but not limited to, investigation and notification costs, attorney fees, costs and expenses to establish a toll free phone number and call center, and credit monitoring fees (up to one year). The Covered Entity will submit an invoice to Business Associate explaining the costs and expenses incurred by Covered Entity, and Business Associate shall make full payment to the Covered

Entity within 30 days of receipt of the invoice. In addition, Business Associate shall indemnify, defend, and hold harmless the Covered Entity and its affiliates and their respective present and former principals, directors, employees, agents and contractors from and against any claim, cause of action, liability, damage, cost or expense, including but not limited to investigation costs, attorney's fees, court costs, notification to individuals, and mitigation costs, arising out of or in connection with: (a) a breach of this Addendum by Business Associate or its subcontractors; (b) any negligent or wrongful acts or omissions of Business Associate or its subcontractors in the performance of their obligations under this Addendum or HIPAA/HITECH; or (c) any act, omission or determination made by Business Associate related to any statutory, regulatory or contractual breach notification obligations of Business Associate (including a determination regarding whether a use or disclosure of Protected Health Information constitutes a Breach). The provisions of this Section shall survive termination or expiration of this Addendum.

V. AMENDMENT

This Addendum shall automatically be amended to the extent minimally necessary to comply with any changes to HIPAA or HITECH, and no additional signatures of the parties shall be required to effect such amendment. Any other modifications to this Addendum may be accomplished only in writing and only by the mutual consent of the parties.

VI. TERM AND TERMINATION

This Addendum shall become effective as of the Effective Date of the underlying Agreement between the Parties. This Addendum shall remain in effect until the earlier of: (i) the date the Parties mutually agree in writing to terminate this Addendum, or (ii) the date the underlying Agreement is terminated. No separate notice shall be required to terminate this Addendum upon termination of the underlying Agreement.

Notwithstanding anything in the underlying Agreement to the contrary, the Covered Entity may terminate this Addendum and the underlying Agreement upon written notice to the Business Associate if the Covered Entity determines that Business Associate has violated a material provision of this Addendum and Business Associate has not cured the violation within twenty (20) days of written notice by the Covered Entity that such violation has occurred.

VII. RELATIONSHIP TO UNDERLYING AGREEMENT

It is the intent of the parties that the terms of this Addendum be interpreted so as to cause the underlying Agreement to comply with the privacy and security requirements of HIPAA. Accordingly, this Addendum shall amend the underlying Agreement to the extent provided herein regardless of whether this Addendum formally satisfies the requirements of the underlying Agreement for amendment of the underlying Agreement. To the extent any provisions of this Addendum conflict with the terms of the underlying Agreement, this Addendum shall govern.

VIII. MISCELLANEOUS

Insurance. Business Associate shall maintain cyber liability insurance, with limits not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate, to cover first party and third-party liability for data privacy and cybersecurity claims related to data breaches, unauthorized access/use of data, damage/loss/theft of data, invasion of privacy, release of private information, cyber extortion, and business interruption, including any related costs for legal advice, forensic and internal investigations, crisis management, regulatory fines and penalties, credit monitoring, notifications, data recovery, and business income loss and expenses. Such insurance shall cover the term of this Addendum and two years after all PHI is destroyed or returned to Covered Entity.

Limitation of Liability. Notwithstanding anything in the underlying agreement to the contrary, no limitation of liability provision in the underlying agreement or any other agreements between the Parties shall apply to this Addendum.

Mitigation. Business Associate shall, to the extent practicable, mitigate any harm caused by a use or disclosure that is not permitted by this Addendum.

Further Assurances. Each Party will cooperate with the other and execute and deliver to the other Party such other instruments and documents and take such other actions as may be reasonably requested from time to time by the other Party to carry out, evidence and confirm the intended purposes of this Addendum.

Survival. Notwithstanding any contrary provision in this Addendum, the provisions of this Addendum shall continue in force beyond the term of this Addendum to the extent necessary or appropriate to give such provisions their intended effect, unless and until the parties specifically agree in writing to the contrary.

Waiver. The rights and remedies of the Parties are cumulative and not alternative. Neither the failure nor any delay on the part of any Party in exercising any right, power, or privilege under this Addendum shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or exercise of any other right, power or privilege.

Relationship of Parties. None of the provisions of this Addendum is intended to create nor shall be deemed or construed to create any relationship between the parties hereto other than that of independent entities contracting with each other hereunder solely for the purpose of effecting the provisions of this Addendum.

No Third Party Beneficiaries. Nothing herein is intended to give nor shall have the effect of giving, any enforceable rights to any third parties who are not parties hereto or successors or permitted assigns of the Parties hereto, whether such claims are asserted as third party beneficiary rights or otherwise.

Injunctive Relief. Notwithstanding any rights or remedies provided for in this Addendum or the Agreement, Covered Entity retains all rights to seek injunctive relief to prevent or stop unauthorized use or disclosure of Protected Health Information by Business Associate or any subcontractor that received Protected Health Information from Business Associate.

EXHIBIT B

Pharmacy Reimbursement

MAKORX shall utilize the following Participating Pharmacy reimbursement structure for Covered Prescriptions Services, other than Specialty Drugs.

Claims shall be priced at either: the lower of the (1) Usual and Customary, (2) Submitted ingredient cost plus standard dispense fee, OR (3) Applicable price formula described below:

RETAIL OR COMMERCIAL RETAIL

For prescriptions dispensed in quantities to cover 1 – 83 days medication supply

- **BRANDS:**
 - NADAC cost plus \$8.00 Dispensing Fee OR
 - When NADAC cost not available, AWP minus 16.00% plus \$6.50 Dispensing Fee.
- **GENERICS:**
 - NADAC cost plus \$8.00 Dispensing Fee OR
 - When NADAC cost not available, MAC plus 2.00 Dispensing Fee.

For prescriptions dispensed in quantities to cover 84 days or greater medication supply

- **BRANDS:**
 - NADAC cost plus \$9.00 Dispensing Fee OR
 - When NADAC cost not available AWP minus 19.00% plus \$2.00 Dispensing Fee.
- **GENERICS:**
 - NADAC cost plus \$8.00 Dispensing Fee OR
 - When NADAC cost not available, MAC plus \$2.00 Dispensing Fee.

EXHIBIT C
MAKORX SPECIALTY DRUG LISTING AMENDMENT

Claims for Specialty Drugs shall be priced at either the lower of (a) Usual and Customary (b) Submitted ingredient cost plus standard dispense fee, OR (c) the applicable price formula described below:

Specialty Drugs dispensed in quantities to cover 1 – 34 days of medication supply shall be reimbursed at the rate of the

(1) NADAC cost plus 2.00% and \$0.00 dispensing fee

OR

(2) when NADAC cost is not available for Brands, AWP minus 16.00% plus \$0.00 dispensing fee for Brands

OR

(3) when NADAC cost not available for Generics, MAC plus \$2.00 Dispensing Fee

Specialty Drug Listing may be updated periodically and is available upon request.

Exhibit D

NATIONAL RETAIL DISCOUNT NETWORK 100% COPAY

Claims shall be priced at either: the lower of (1) Usual and Customary OR (2) the applicable price formula described below:

Tier 1 prescriptions dispensed

- **GENERICS 1 to 83 days supply:** NADAC cost plus \$3.00 Dispensing Fee or when NADAC cost not available, MAC plus \$3.00 Dispensing Fee.
- **GENERICS 84+ days supply:** NADAC cost plus \$8.00 Dispensing Fee or when NADAC cost not available, MAC plus \$8.00 Dispensing Fee.

For all other prescriptions dispensed in quantities to cover 1 – 83 days medication supply

- **BRANDS:** NADAC cost plus \$13.00 Dispensing Fee or when NADAC cost not available AWP minus 16% plus \$3.00 Dispensing Fee.
- **GENERICS:** NADAC cost plus \$5.00 Dispensing Fee or when NADAC cost not available, MAC plus \$3.00 Dispensing Fee.

For all other prescriptions dispensed in quantities to cover greater than a 84 days medication supply

- **BRANDS:** NADAC cost plus \$13.00 Dispensing Fee or when NADAC cost not available AWP minus 16% plus \$8.00 Dispensing Fee.
- **GENERICS:** NADAC cost plus \$13.00 Dispensing Fee or when NADAC cost not available, MAC plus \$8.00 Dispensing Fee.

A DISCOUNT CARD ACCESS FEE OF UP TO \$2 WILL BE ADDED TO EACH CLAIM. THIS DISCOUNT CARD ACCESS FEE IS TO BE PAID BY THE MEMBER, COLLECTED BY THE PHARMACY, AND REMITTED TO MAKORX IN ACCORDANCE WITH THE MAKORX PHARMACY NETWORK AGREEMENT. THE DISCOUNT CARD ACCESS FEE WILL APPEAR AS A NEGATIVE REMITTANCE.

MAKORX and its clients may use and are hereby granted permission by PHARMACY to use name, trademarks, service marks, trade names and/or symbols on advertising and informational materials to inform Members and the general public that PHARMACY is either a participating or non-participating provider.

Exhibit E

MakoRx Tablet Device and Point of Care Testing Services

A \$99.00 per month membership fee assessed to pharmacy beginning on the month of receiving the tablet and ongoing monthly thereafter.

There is no upfront cost for the tablet hardware but in case of device loss or device damage while tablet is in the possession of the pharmacy there will be a \$250 charge assessed to pharmacy via the payment method established during tablet registration.

Pharmacy will maintain active CLIA waiver certificate as dictated by state and/or federal laws.

Pharmacy will ensure all patients check-in on the MakoRx provided tablet hardware at the pharmacy and complete the scheduled point of care test for each patient per the established instructions for use for each test

Pharmacy will collect the total amount for each test completed from the patient at the point of sale unless total amount collected via the Care Connect site directly by MakoRx.

The total amount for each test is provided to the patient during appointment booking via the Care Connect site.

A \$2.00 MakoRx admin fee and \$10.00 telehealth consult fee is included in the total cost for each point of care testing appointment booked. These fees are paid by the patient (included in total cash price for test), collected by the pharmacy, and remitted to MakoRx via the designated payment method established during tablet registration by pharmacy.

If Pharmacy cancels within 30 minutes of a booked appointment or does not complete a confirmed appointment, MakoRx will add a \$25 charge to the monthly invoice per short notice cancelled appointment or incomplete appointment.

MakoRx provides a monthly invoice with the total amount due from pharmacy for all appointments the previous month.

Exhibit F

Modern Ritual In-Pharmacy Skin Cancer Triaging Service

Modern Ritual will provide pharmacy with a smartphone, professional grade dermatoscope, software, training, digital marketing materials and onboarding

Pharmacy will ensure all patients scheduled for this appointment register on the Modern Ritual smartphone

Pharmacy will take an image of each skin areas patient wants assessed and submit via the app on the smartphone to Modern Ritual

Modern Ritual within 2 business days will to the patient a recommendation on each assessed skin area

A \$55.00 rental fee is invoiced to pharmacy only for each month when 1 or more patients are referred to pharmacy for this service

After the initial patient skin area assessment, pharmacy is invoiced \$45.00 per skin area assessed

In case of Modern Ritual device loss or Modern Ritual device damage while in the possession of the pharmacy there will be a \$550 charge assessed to pharmacy via the payment method established during registration.

Pharmacy will complete all necessary Modern Ritual training on the device and image capture and follow all necessary steps to ensure an accurate image captured for each skin area assessed per patient

Pharmacy will ensure all patients check-in on the MakoRx provided tablet hardware at the pharmacy and complete the scheduled service for each patient

Pharmacy will collect the total amount for this service from the patient at the point of sale unless total amount collected via the Care Connect site directly by MakoRx.

The total amount for this service (\$55.00 per skin area assessed) is provided to the patient during appointment booking via the Care Connect site.