



Statewide Contract Addendum

This addendum is added to and is to be considered part of the subject contract.

Contract Issuance Date: 3/01/2015

Statewide Contract #: SW023A

Contract Title: MMCAP Pharmaceuticals

Addendum Date: July 12, 2018

Addendum #: Nine (9)

This addendum announces the State of Oklahoma has elected to change our Pharmaceutical Wholesale Distributor and has cancelled our contract with Morris & Dickson Co., LLC effective the earlier of July 31, 2018. Our new wholesale distributor is AmerisourceBergen Drug Corporation, which is effective July 12, 2018 through October 31, 2019.

0-5309 AmerisourceBergen Drug Corporation

If you have any questions concerning the addendum contact the contracting officer below.

Theresa Johnson
Statewide Initiatives Contract Officer
Telephone #: (405) 521-2289
theresa.johnson@omes.ok.gov



Notice of Statewide Contract Award

Official signed contract documents are on file with OMES-Central Purchasing.

Contract Title: Pharmaceutical Wholesaler Services Contract

Statewide Contract # : SW 0023A

Contract Issuance Date: 07/12/2018

Total Number of Vendors: 1 *(For details see: Vendor Information Sheet)*

Contract Period: July 12, 2018 through October 31, 2019

Agreement Period: July 12, 2018 through October 31, 2021

Authorized Users: **All State Departments, Boards, Commissions, Agencies and Institutions, in addition to Counties, School Districts and Municipalities which may avail themselves of this contract.**

Contract Priority: Mandatory Statewide

Type of Contract: Pricing for this Contract will be in accordance with MMCAP Cibtract #MMS15003

OMES-CP Contact: Theresa Johnson **Title:** Contracting Officer

Phone: 1 - 405 - 521 - 2289 **Email:** theresa.johnson@omes.ok.gov



Awarded Supplier Information

Supplier Name: AmerisourceBergen Drug Corporation

Supplier ID #: 0000068691

Supplier Address: 1300 Morris Drive

City: Chesterbrook

State: PA

Zip Code: 19807 - 5594

Contact Person Name: Lisa Riedell

Phone #: 1-972-365-7793

Title: Business Development Manager

Fax #: 1-866-366-1534

Email: lriedell@amerisourcebergen.com

Website: www.amerisourcebergen.com

Authorized Location: ☐ Locations list attached as (*attachment title*)

☐ **Address:**

City:

State:

Zip Code:

Contract ID #: 5309

Delivery:

Minimum Order:

P/Card Accepted: ☐ Yes

☐ No

Other:

AMENDMENT NO. 12 TO MMCAP CONTRACT NO. MMS15003

THIS AMENDMENT is by and between the State of Minnesota, through its Commissioner of Administration, on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and AmerisourceBergen Drug Corporation, a Delaware corporation, with its principal offices located at 1300 Morris Drive, Chesterbrook, Pennsylvania 19087-5594 ("WHOLESALER").

MMCAP has a contract with the Wholesaler identified as MMCAP Contract No. MMS15003 ("Original Contract") to provide the services of a pharmaceutical wholesaler to distribute pharmaceuticals, over the counter products, nutritionals, and vaccines to MMCAP members.

Contract Amendment (DALB)

This Amendment will be effective when signed, and continue until the end of the term of the Original Contract.

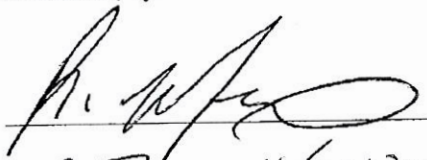
Revision 1: Upon request of the **State of Oklahoma**, Wholesaler will provide pharmaceutical wholesaler distribution services to the State of Oklahoma as their selected wholesaler in accordance with the Contract as of July 12, 2018. At the point in which Attachment E (E-4), is fully executed for the State of Oklahoma, that Attachment E (E-4) will be attached and incorporated into the Contract.

Except as amended, the terms and conditions of the Original Contract and any previous amendments remain in full force and effect.

1. AmerisourceBergen Drug Corporation

This certifies that the appropriate person(s) have executed this Agreement on behalf of the Wholesaler as required by applicable articles, bylaws, resolutions, or ordinances.

By:



Title:

VP. Pharmacy Solutions - LTC

Date:

July 3, 2018

2. STATE OF MINNESOTA FOR MMCAP

In accordance with Minn. Stat. § 16C.03, subd. 3

By:



Title:

SPA Coordinator

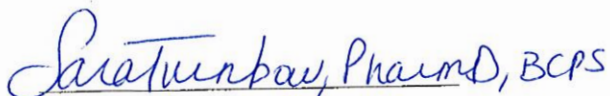
Date:

7-3-2018

3. COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. § 16C.05, subd. 2

By:



Date:

7-3-18



ATTACHMENT E E-4
MEMBER-REQUESTED PARTICIPATION AGREEMENT

Amendment 12

This Member-requested Participation Agreement (MPA) is by and between:

STATE OF OKLAHOMA (MEMBER)

AND

AMERSOURCEBERGEN DRUG CORPORATION (WHOLESALER)

and amends the Contract (MMS15003) between MMCAP and Wholesaler to include the terms set forth herein.

The terms of this MPA are entered into by and between Wholesaler and the State of Oklahoma. Neither the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") nor the State of Minnesota are bound by the terms herein. MMCAP and the State of Minnesota, as a party to the Original Contract, execute this MPA only to signify its approval of the content of this MPA.

Effective Date and Term: This MPA is effective upon final signature, and expires upon the expiration of MMCAP's Contract with Wholesaler (MMS15003) or by any party upon 30 days' written notice to the other parties to this MPA.

Scope: Member desires to access the MMCAP Contract for pharmaceutical wholesaler distribution services with Wholesaler, which is incorporated into this MPA by reference. This MPA is classified as a State of Oklahoma statewide contract and is available to any agency of the State of Oklahoma; any governmental entity specified as a political subdivision of the State of Oklahoma pursuant to the Governmental Tort Claims Act including any associated institution, instrumentality, board, commission, committee, department, or other entity designated to act on behalf of the political subdivision; and entities authorized to utilize contracts awarded, adopted, or otherwise entered into by the State of Oklahoma via a multistate or multi-governmental contract, so long as the entity utilizing the statewide contract under this MPA is a rostered member of MMCAP.

Additional Terms:

The following terms and conditions apply solely to the performance of Wholesaler and Member and solely for facilities designated as applicable by Member. In no respects and under no circumstances will the Additional Terms apply to the State of Minnesota or the MMCAP program. These terms will be enforced by Member. In the event of any conflict between the terms of this MPA and the terms of MMS15003, as between Member and Wholesaler the terms of this MPA shall control.

1. Exemption from Tax

Pursuant to Title 26 of the United States Code and Oklahoma Statutes, 68 O.S. § 1404, 68 O.S. § 1352, and 68 O.S. § 1356, purchases under this MPA are exempt from the assessment of



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Oklahoma sales, use, and excise taxes. Upon request, MMCAP Members located in Oklahoma will provide Wholesaler with a tax exemption certificate. Any taxes of any nature whatsoever payable by the Wholesaler shall not be reimbursed by the Oklahoma MMCAP Member.

2. Payment

Payment will follow the payment terms options available in MMS15003, for the service fee discount matrix in Attachment C, provides for a specific cost of goods discount based on payment term and aggregated state purchase volume. Pursuant to Oklahoma Attorney General Opinion 83-188, interest is the complete statutory remedy allowed by law for late payment in connection with purchases by state agencies; interest for late payment is assessed and paid pursuant to 62 O.S. §34.72.

3. Sovereign Immunity and Invalid Clause

Notwithstanding any other term or provision in this MPA, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on sovereign immunity that otherwise would be available to the State of Oklahoma under applicable law. Any clause that conflicts with laws or regulations of the State or opinions or authority of the Oklahoma Attorney General shall be inapplicable to the State.

4. Termination for Non-Appropriation

The State may terminate this MPA in whole or in part immediately if funds sufficient to pay its obligations under this MPA are not appropriated by the state legislature, federal government, other appropriate governmental entity or received from an intended third party funding source.

5. Termination for Cause

The State may terminate this MPA immediately, in whole or in part, without a forty-five (45) day cure period upon written notice to Wholesaler, if Wholesaler's material breach is reasonably determined (i.) to be an impediment to the function of the State of Oklahoma and detrimental to the State of Oklahoma, (ii.) when conditions preclude the forty-five (45) day notice or when the State determines that an administrative error occurred prior to MPA performance.

The Oklahoma MMCAP Member may terminate a purchase order immediately if Wholesaler's material breach is reasonably determined (i.) to be an impediment to the function of the Oklahoma MMCAP Member Facility or the State of Oklahoma and detrimental to the Oklahoma MMCAP Member or the State of Oklahoma or (ii.) when conditions preclude the forty-five (45) day notice.

If the Contract, certain obligations under the Contract, or this MPA is terminated, the Oklahoma MMCAP Member shall be liable only for payment for products or services delivered and accepted prior to the date of such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. In no event shall an



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Oklahoma MMCAP Member be liable to the Wholesaler for compensation for any products neither requested nor accepted by the Oklahoma MMCAP Member or for any services neither requested by the Oklahoma MMCAP Member nor satisfactorily performed by the Wholesaler. In no event shall the State of Oklahoma's exercise of its right to terminate this MPA for cause relieve the Wholesaler of any liability to the State of Oklahoma or an Oklahoma MMCAP Member for claims arising under this MPA.

The Wholesaler's repeated failure to provide products and/or services, even though provided an opportunity to cure the underlying cause of the failure, shall constitute a material breach of the Wholesaler's obligations, which may result in partial or whole cancellation of this MPA.

6. Compliance with Applicable Oklahoma Laws

In addition to its obligation to comply with all applicable federal, state and local laws, ordinances, rules and regulations set forth in the contract, Wholesaler acknowledges that OAC 260:115-7, part 3 may require Wholesaler to provide a current sales tax permit and verification that Wholesaler is registered with the Oklahoma Secretary of State and of its franchise tax payment status, or provide a valid exemption to any of the above.

7. Management Fee and Contract Usage Reporting.

For Oklahoma MMCAP Member Facilities, Contractor agrees to submit a Contract Usage Report to the State of Oklahoma on a quarterly basis. "Contract Usage Report" shall include the following: (A) the applicable state contract number; (B) report amount(s); (C) reporting period covered; and (D) the applicable state agency name(s). An example of the Contract Usage Report will be shared upon finalization of this MPA. Contract Usage Reports shall also include usage of the MPA by any other governmental entities (i.e. county, city, Higher Education, etc.). Continuous failure to submit Contract Usage Reports as required herein may result in termination of the MPA.

All Contract Usage Reports shall meet the following criteria:

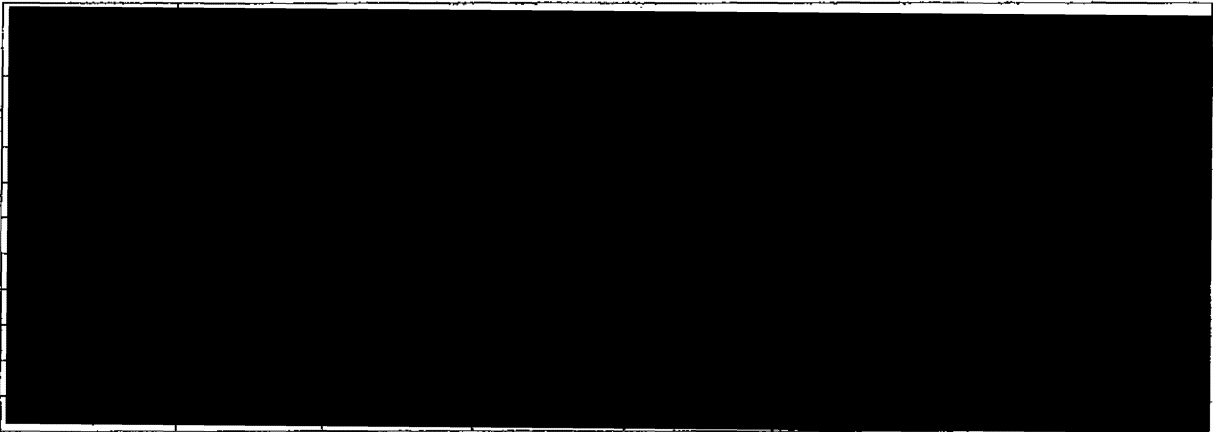
- A. Must be submitted electronically in Microsoft Excel format.
- B. Reports shall be submitted quarterly regardless whether this Addendum has been used during the applicable quarterly reporting period.
- C. Quarterly reporting periods are as follows:
 - i. January 01 through March 31, due May 15th
 - ii. April 01 through June 30, due August 15th
 - iii. July 01 through September 30, due November 15th
 - iv. October 01 through December 31, due February 15th

All Contract Usage Reports shall be delivered to: E-mail: strategic.sourcing@omes.ok.gov.



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For Oklahoma Participating MMCAP Members, the State assesses a state fee in the sum of one percent (1%) on all net sales transacted by any Oklahoma MMCAP Member under this MPA (the "Oklahoma State Fee"). Wholesaler will adjust the service fee matrix by the one percent (1%) fee, which in turn will be reflected in the net price for each item purchased. The Oklahoma State Fee shall not be reflected as a separate line item in Wholesaler's billing to Oklahoma Participating MMCAP Members. Wholesaler shall submit the Oklahoma State Fee on a quarterly basis. Failure to remit the Oklahoma State Fee quarterly may result in cancellation of this MPA.



Pricing information reacted, available to MMCAP members on line.



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Payment of the Oklahoma State Fee shall be made via company check payable to OMES within forty-five (45) calendar days from the completion of the applicable quarterly reporting period set forth above. Wholesaler agrees to notify OMES-Central Purchasing Procurement via the email address set forth above twenty-four (24) hours in advance of Wholesaler's submitting payment of the Oklahoma State Fee.

Oklahoma State Fee shall be mailed to:

Office of Management and Enterprise Services
Attention: Accounts Receivable
5005 North Lincoln Boulevard, Suite 200
Oklahoma City, OK 73105

In no event will Wholesaler retain any amount of money in excess of the compensation to which Wholesaler is entitled and all Fees owed the Oklahoma Office of Management and Enterprise Services shall be paid within 30 calendar days of termination of the Contract for any reason.

The State Purchasing Director reserves the right to modify and/or cancel the Fee at any time. Wholesaler will immediately amend the Contract pricing to reflect any modification or cancellation of the Fee by the State Purchasing Director. In addition, the State Purchasing Director reserves the right to revise collection and reporting requirements in conjunction with implementation of an on-line procurement system.

If the State Purchasing Director does not receive the Wholesaler's payment of the Oklahoma State Fee on or before the Wholesaler's Payment Due Date, the parties agree the Wholesaler must pay the interest on the overdue Fee at the interest rate provided by the State Treasurer based on the average interest rate for 30 day time deposits of State funds during the last calendar quarter of the last preceding fiscal year. (Titles 62, § 41.4a & 4b and 74, § 840.14, and OSF Prompt Payment Rules/Regulations).

For the purposes of this provision, payment of the Oklahoma State Fee will be considered received by the State Purchasing Director on (1) the date of the State Purchasing Director receipt of the EFT confirmation or (2) the date the State Purchasing Director receives the envelope containing a check for the correct amount of the administrative fee, provided the check is not dishonored. If Wholesaler does not submit full payment of the Oklahoma State Fee owed, interest will only be applicable to the portion of the Fee which is outstanding. If Wholesaler makes an error and overpays, the Wholesaler is responsible for alerting the State Purchasing Director in writing of the Wholesaler's discovery of the overpayment. The State Purchasing Director will confirm whether an overpayment has occurred and refund the overpayment amount to the Wholesaler no later than 30 days' following the State Purchasing Director's receipt of



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written notice of the overpayment. The State Purchasing Director will have no responsibility for interest or any other fees with respect to Wholesaler's overpayment of the Oklahoma State Fee.

8. Auditing and Contract Close Out

All sales reports and Fee payments will be subject to audit by the State. Wholesaler must maintain books, records and documents which sufficiently and properly document and calculate all charges billed to the State and all Fees throughout the term of the Contract for a period of at least five years following the date of final payment or completion of any required audit, whichever is later. Wholesaler will permit the Auditor of the State of Oklahoma or any authorized representative of the State of Oklahoma, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Wholesaler for relating to orders, invoices or payments or any other documentation or materials pertaining to the Contract, wherever such records may be located during normal business hours. Wholesaler will not impose a charge for audit or examination of the Wholesaler's books and records. If an audit discloses incorrect billings or improprieties, the State reserves the right to charge the Wholesaler for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.

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This document includes all discussions and negotiations of the parties related to this MPA and the State of Oklahoma and AmerisourceBergen Drug Corporation agree to be bound.

1. STATE OF OKLAHOMA

By: 
Ferris Barger, State Purchasing Director

Date: 7/3/18

2. AMERSOURCEBERGEN DRUG CORPORATION

By: 
Title: VP - PHARMACY SOLUTIONS

Date: JULY 3, 2018

3. State of Minnesota for MMCAP

In accordance with Minn. Stat. § 16C.03, subd. 3

By: 

Date: 7-3-2018

4. Minnesota Commissioner of Administration

In accordance with Minn. Stat. § 16C.05, subd. 2

By: Sara Turnbull, PharmD, BCPS

Date: 7-3-18



CONTRACT

State of Oklahoma

Dispatch via Print

Supplier 0000068691
AMERISOURCEBERGEN DRUG CORPORATION
1300 MORRIS DR
CHESTERBROOK PA 19087-5559
USA

Contract ID 0000000000000000000000005309			Page 1 of 1	
Contract Dates 07/12/2018 to 10/31/2019	Currency USD	Rate Type CRRNT	Rate Date PO Date	
Description: From Req ID - 0900011522		Contract Maximum 0.00		
TYPE: STATEWIDE				

Tax Exempt? Y Tax Exempt ID:736017987

Contract Lines:

Line #	Cat CD / Item ID / Item Desc	UOM	Minimum Order		Maximum / Open	
			Qty	Amt	Qty	Amt
1	73101700 / 1000013554 PHARMACEUTICALS: All Pharmaceutical Products and Supplies Pricing, specifications, Terms and Conditions in accordance with MMCAP Contract #MMS15003 and amendments. State of Oklahoma MPA enclosed.	UN	1.00	0.00	0.00	0.00
	Contract Base Pricing	1.00000	EA	0001		

COMMENTS:

Final = The price is final after adjustments
 Hard = Apply adjustments regardless of other adjustments
 Skip = Skip adjustments if any other adjustments have been applied

Authorized Signature