



SOUTH SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

Agenda Item Summary

Meeting Date: July 18, 2018

Purpose: ☐ Presentation/Report ☐ Recognition ☐ Discussion/ Possible Action

☐ Closed/Executive Session ☐ Work Session ☐ Discussion Only ☒ Consent

From: Juan C. Zamora, CFO

Item Title: Approval of Express Script, Inc. Pharmacy Benefit Management (PBM) Agreement

Description:

The District issued RFP 2018-02 to solicit proposals for the District's Fully Insured and Self-Funded medical, prescription drug coverage and stop loss coverage. The District retained the services of Gallagher Consulting to assist in analyzing submitted proposals. The insurance committee met on March 22, May 7, May 17, May 24 and June 1, 2018 to review all submitted proposals.

Recommendation:

Administration recommends that the prescription drug coverage for the district's self-funded health insurance program be awarded to RFP 2018-02 to Express Scripts, Inc. as the Prescription Benefit Management (PBM).

District Goal/Strategy:

Strategy 5 We will promote and ensure a safe and secure learning environment for all students.

Funding Budget Code and Amount:

CFO Approval

Amount is included as part of the \$5,010,390.00 previously Board Approved

APPROVED BY:

SIGNATURE

DATE

Chief Officer:

7-10-18

Superintendent:

7-10-2018

EXPRESS SCRIPTS, INC.
PHARMACY BENEFIT MANAGEMENT AGREEMENT

This Pharmacy Benefit Management Agreement ("Agreement") is effective as of November 1, 2018 ("Effective Date") and is entered into by and between Express Scripts, Inc., a Delaware corporation ("ESI"), and South San Antonio Independent School District, organized under the laws of the state of Texas ("Sponsor"). Sponsor has engaged ESI to provide on an exclusive basis, either directly or through its subsidiaries, pharmacy benefit management services, including, among other things, pharmacy network contracting; pharmacy claims processing; mail and specialty drug pharmacy; cost containment, clinical, safety, adherence, and other like programs; and formulary administration ("PBM Services") pursuant to the terms described in this Agreement.

1. DEFINITIONS

- 1.1. "Ancillary Supplies, Equipment, and Services" or "ASES" means ancillary supplies, equipment, and services provided or coordinated by ESI Specialty Pharmacy in connection with ESI Specialty Pharmacy's dispensing of Specialty Products.
- 1.2. "Average Wholesale Price" or "AWP" means the average wholesale price of a prescription drug as identified by drug pricing services such as Medi-Span or other source recognized in the retail prescription drug industry selected by ESI (the "Pricing Source"). If the Pricing Source discontinues the reporting of AWP or Multi-Source Indicator code identifiers or materially changes the manner in which AWP is calculated or its Multi-Source Indicator code identifiers are reported, then ESI reserves the right to make an equitable adjustment as necessary to maintain the parties' relative economics and the pricing intent of this Agreement.
- 1.3. "Brand/Generic Algorithm" or "BGA" means ESI's standard and proprietary brand/generic algorithm, a copy of which may be made available for review by Sponsor or its Auditor upon request. The purposes of the algorithm are to stabilize products "flipping" between brand and generic status and to reduce Sponsor, Member and provider confusion due to fluctuations in brand/generic status. Sponsor or its Auditor may audit ESI's application of its BGA to confirm that ESI is making brand and generic drug determinations consistent with such algorithm.
- 1.4. "Brand Drug" means a prescription drug identified as such in ESI's master drug file using indicators from First Databank (or other source nationally recognized in the prescription drug industry) on the basis of a standard Brand/Generic Algorithm, a copy of which may be made available for review by Sponsor or its Auditor upon request.
- 1.5. "Copayment" means that portion of the charge for each Covered Drug dispensed to the Member that is the responsibility of the Member (e.g., copayment, coinsurance and/or deductible). Sponsor will communicate the applicable Copayment on the Set-Up Forms. A Member's Copayment charged for a Covered Drug will be the lesser of the applicable Copayment, AWP discount (e.g. MAC price for Generic Drugs), or U&C.
- 1.6. "Covered Drug(s)" means those prescription drugs, supplies, Specialty Products and other items that are covered under the Plan, each as indicated on the Set-Up Forms.
- 1.7. "Eligibility Files" means the list submitted by Sponsor to ESI in reasonably acceptable electronic format indicating persons eligible for drug benefit coverage services under the Plan.
- 1.8. "ESI National Plus Network" means ESI's broadest Participating Pharmacy network.
- 1.9. "ESI Mail Pharmacy" means a pharmacy owned or operated by ESI or one or more of its affiliates, other than an ESI Specialty Pharmacy, where prescriptions are filled and delivered to Members via mail delivery service.
- 1.10. "ESI Specialty Pharmacy" means Accredo Health Group, Inc., Express Scripts Specialty Distribution Services, Inc., or another pharmacy or home health agency owned or operated by ESI or its affiliates that primarily dispenses Specialty Products. When the ESI Mail Pharmacy dispenses a Specialty Product, it shall be considered an ESI Specialty Pharmacy hereunder.

- 1.11. "Exclusive or Limited Distribution Product" means a Specialty Product that is not generally available from most or all pharmacies but is restricted to select pharmacies as determined by a pharmaceutical manufacturer.
- 1.12. "Extended Days' Supply" shall mean any supply of a covered drug exceeding 31 days.
- 1.13. "Formulary" means the list of FDA-approved prescription drugs and supplies developed by ESI's Pharmacy and Therapeutics Committee and/or customized by Sponsor, and which is selected and/or adopted by Sponsor. The drugs and supplies included on the Formulary will be modified by ESI from time to time as a result of factors, including, but not limited to, medical appropriateness, manufacturer Rebate arrangements, and patent expirations. Additions and/or deletions to the Formulary are hereby adopted by Sponsor, subject to Sponsor's discretion to elect not to implement any such addition or deletion through the Set-Up Form process, any such election shall be considered a Sponsor change to the Formulary.
- 1.14. "Generic Drug" means a prescription drug, whether identified by its chemical, proprietary, or non-proprietary name, that is therapeutically equivalent and interchangeable with drugs having an identical amount of the same active ingredient(s) and approved by the FDA, and which is identified as such in ESI's master drug file using indicators from First Databank (or other source nationally recognized in the prescription drug industry) on the basis of a standard Brand/Generic Algorithm, a copy of which may be made available for review by Sponsor or its Auditor upon request.
- 1.15. "MAC List" means a list of prescription drugs or supplies subject to maximum reimbursement payment schedules developed or selected by ESI.
- 1.16. "Manufacturer Administrative Fees" means those administrative fees paid by manufacturers to ESI in connection with ESI's invoicing, allocating and collecting the Rebates under the Rebate program.
- 1.17. "Maximum Reimbursement Amount" or "MRA" means the maximum unit ingredient cost payable by Sponsor for a drug on the MAC List based on maximum reimbursement payment schedule(s) developed or selected by ESI. The application of MRA pricing may be subject to certain "dispensed as written" (DAW) protocols and Sponsor defined plan design and coverage policies.
- 1.18. "Member" means each person who Sponsor determines is eligible to receive prescription drug benefits as indicated in the Eligibility Files.
- 1.19. "Member Submitted Claim" means a paper claim submitted by a Member for Covered Drugs dispensed by a pharmacy for which the Member paid cash.
- 1.20. "Participating Pharmacy" means any licensed retail pharmacy with which ESI or one or more of its affiliates has executed an agreement to provide Covered Drugs to Members, but shall not include any mail order or specialty pharmacy affiliated with any such Participating Pharmacy. Participating Pharmacies are independent contractors of ESI.
- 1.21. "PMPM" means per Member per month fee, if applicable, as determined by ESI from the Eligibility Files.
- 1.22. "Plan" means any plan of insurance or self-insurance, including an administrative services only arrangement, sponsored or administered by Sponsor or a subsidiary or affiliate of Sponsor which offers or provides a prescription drug benefit.
- 1.23. "Prescription Drug Claim" means a Member Submitted Claim, Subrogation Claim or claim for payment submitted to ESI by a Participating Pharmacy, ESI Mail Pharmacy, or ESI Specialty Pharmacy as a result of dispensing Covered Drugs to a Member.
- 1.24. "Rebates" mean retrospective formulary rebates that are paid to ESI pursuant to the terms of a formulary rebate contract negotiated independently by ESI and directly attributable to the utilization of certain Covered Drugs by Members. For sake of clarity, Rebates do not include, for example, Manufacturer Administrative Fees; product discounts or fees related to the procurement of prescription drug inventories by ESI Specialty Pharmacy or the ESI

Mail Pharmacy; inflation protection amounts; fees received by ESI from pharmaceutical manufacturers for care management or other services provided in connection with the dispensing of products; or other fee-for-service arrangements whereby pharmaceutical manufacturers generally report the fees paid to ESI or its wholly-owned subsidiaries for services rendered as “bona fide service fees” pursuant to federal laws and regulations (collectively, “Other Pharma Revenue”). Such laws and regulations, as well as ESI’s contracts with pharmaceutical manufacturers, generally prohibit ESI from sharing any such “bona fide service fees” earned by ESI, whether wholly or in part, with any ESI client.

- 1.25. “Set-Up Forms” means any standard ESI document or form, which when completed by Sponsor (electronic communications from Sponsor indicating Sponsor’s approval of a Set-Up Form shall satisfy the foregoing), will describe the essential benefit elements and coverage rules adopted by Sponsor for its Plan.
- 1.26. “Specialty Product List” means the list of Specialty Products applicable to Sponsor and maintained and updated by ESI from time to time. The Specialty Product List is available to Sponsor upon request.
- 1.27. “Specialty Products” means those injectable and non-injectable drugs on the Specialty Product List. Specialty Products, which may be administered by any route of administration, are typically used to treat chronic or complex conditions, and typically have one or more of several key characteristics, including frequent dosing adjustments and intensive clinical monitoring to decrease the potential for drug toxicity and increase the probability for beneficial treatment outcomes; patient training and compliance assistance to facilitate therapeutic goals; limited or exclusive product availability and distribution (if a drug is only available through limited specialty pharmacy distribution it is always considered a Specialty Product); specialized product handling and/or administration requirements.
- 1.28. “Subrogation Claim” means subrogation claims submitted by any state or a person or entity acting on behalf of a state under Medicaid or similar United States or state government health care programs, for which Sponsor is deemed to be the primary payor by operation of applicable federal or state laws.
- 1.29. “Usual and Customary Price” or “U&C” means the retail price charged by a Participating Pharmacy for the particular drug in a cash transaction on the date the drug is dispensed as reported to ESI by the Participating Pharmacy.

2. PBM SERVICES

- 2.1. Eligibility/Set Up. Sponsor will submit completed Set-Up Forms and Eligibility Files (initial and updated) on a mutually determined basis, which ESI will accurately implement. Changes to the Set-Up Forms must be communicated to ESI in writing on ESI’s standard forms or other mutually agreed upon method. Eligibility performed manually by ESI for Sponsor, or material changes to the Eligibility File processes requested by Sponsor during the term may be subject to additional fees. Sponsor will be responsible for all Prescription Drug Claims during the period of the Member’s eligibility as indicated on the Eligibility File including for retroactively termed Members, except in the event of ESI does not accurately implement the Eligibility File.
- 2.2. Pharmacy Network.
 - a. Participating Pharmacies. ESI will maintain a network(s) of Participating Pharmacies. ESI maintains multiple networks and subnetworks, and periodically consolidates networks or migrates clients to other networks and subnetworks. Participating Pharmacies are independent contractors of ESI and as such ESI does not direct or exercise any control over the Participating Pharmacies or the professional judgment exercised by any pharmacist in dispensing prescriptions or otherwise providing pharmaceutical related services at a Participating Pharmacy. ESI shall have no liability to Sponsor, any Member or any other person or entity for any act or omission of any Participating Pharmacy or its agents or employees.
 - b. ESI Mail Pharmacy. Subject to applicable law, ESI will make Members aware of the ability to fill their prescriptions through the ESI Mail Pharmacy, communicate any applicable cost savings, and provide supporting services (e.g. pharmacist consultation) in connection with any prescription dispensed by the ESI Mail Pharmacy. ESI may suspend ESI Mail Pharmacy services to a Member who is in default of any Copayment amount due ESI.

- c. Specialty Products and ASES. Subject to applicable law, ESI will make Members aware of the ability to fill their prescriptions through the ESI Specialty Pharmacy, communicate any applicable cost savings, and provide supporting services (e.g. pharmacist consultation) in connection with any prescription dispensed by the ESI Specialty Pharmacy. The ESI Specialty Pharmacy will be Sponsor's exclusive specialty pharmacy, in other words, all Specialty Products, dispensed to a Member must be dispensed by the ESI Specialty Pharmacy, other than Exclusive or Limited Distribution Products not available at the ESI Specialty Pharmacy. In no event will the ESI Mail Pharmacy or Participating Pharmacy pricing specified in the Agreement apply to Specialty Products.
 - i. ESI will notify Sponsor monthly of any new Specialty Products that are introduced to the market on or after the Effective Date of this Agreement. If Sponsor has expressly excluded a specific therapy class or product, Specialty Products in those classes will automatically be excluded from coverage and will reject as "NDC Not Covered". If Sponsor later desires to cover otherwise excluded Specialty Products, Sponsor must notify ESI in writing that it desires to cover the Specialty Product before ESI may adjudicate the Specialty Product as a Covered Drug. Sponsor must notify ESI in writing if it wants to exclude any Specialty Product from coverage. The exclusion will be implemented within seven (7) business days after the date of ESI's receipt of such notification. ESI will not retroactively deny Prescription Drug Claims processed prior to ESI's implementation of the exclusion as provided above and Sponsor will be responsible for the payment of such Prescription Drug Claims processed prior to the rejection of coverage.
 - ii. ESI may provide ASES that is necessary for the proper administration of a Specialty Product. Sponsor will be billed for such ASES as set forth in Exhibit A.

2.3. Claims Processing.

- a. Claims Processing
 - i. ESI will perform claims processing services for Covered Drugs dispensed by Participating Pharmacies, ESI Mail Pharmacy and ESI Specialty Pharmacy.
 - ii. If elected by Sponsor, ESI will, for an applicable fee, process Member Submitted Claims in accordance with the rules in the Set-Up Forms and ESI's standard procedures.
 - iii. If authorized by Sponsor on the Set-Up Forms, ESI will, for an applicable fee, process Subrogation Claims in accordance with applicable federal and state laws. If Sponsor does not authorize ESI to process Subrogation Claims, ESI will reject any Subrogation Claims and refer claimants to Sponsor, in accordance with applicable federal and state laws.
 - iv. ESI will defer to Sponsor or its third party designee (as applicable) regarding the coverage of any claim under a Plan. In other words, the Sponsor will have the final responsibility for all decisions with respect to coverage of a Prescription Drug Claim and the benefits allowable under the Plan, including determining whether any rejected or disputed claim will be allowed.
- b. Prior Authorization. ESI will, for an applicable fee, provide prior authorization ("PA") services as specified and directed by Sponsor for drugs designated on the Set-Up Forms. Prior authorized drugs must meet Sponsor-approved guidelines ("Guidelines") before they are deemed to be Covered Drugs. Unless Sponsor otherwise directs, Sponsor hereby authorizes coverage for an otherwise excluded use in the event of co-morbidities, complications and other factors not otherwise expressly set forth in the Guidelines. In determining whether to authorize coverage of such drug under the PA program, ESI will apply only the Guidelines and will rely upon information about the Member and the diagnosis of the Member's condition provided by the prescriber. If prior authorization for a medication is not immediately available, a 72-hour emergency supply may be dispensed when the pharmacist on duty recommends it as clinically appropriate and when the medication is needed without delay. ESI will not

make a determination of medical necessity, make diagnoses or substitute ESI's judgment for the professional judgment and responsibility of the prescriber.

2.4 **Claims for Benefits.** If applicable, ESI will process initial "claims for benefits" for Member Submitted Claims and PA requests consistent with the ERISA claims rules set forth in 29 CFR Part 2560 (or applicable state law if a non-ERISA plan) ("Claims Rules"). Sponsor may elect to have ESI perform appeals services in connection with denied "claims for benefits" in exchange for an applicable fee, or facilitate such services through Sponsor or a third party of Sponsor's choice. If Sponsor elects to conduct its own appeals or facilitate through a third party, ESI will route Member appeals to Sponsor or other Sponsor designated entity. If Sponsor elects to have ESI perform appeals services, Sponsor agrees that ESI may perform such services through a third-party contracted with ESI for the performance of appeals (the "UM Company"). Through its contract with ESI, the UM Company has agreed to be, and will serve as, the named fiduciary for its performance of such appeals. ESI also agrees to accept fiduciary status solely with respect to its performance of any appeal.

a. **UM Company.** In the event ESI performs appeals services, or facilitates the performance of appeals services through a UM Company, ESI or the UM Company, as applicable, will be responsible for conducting the appeal on behalf of Sponsor in accordance with the Claims Rules. ESI represents to Sponsor that UM Company has contractually agreed that: (A) UM Company will conduct appeals in accordance with the Claims Rules and Sponsor's plan, (B) Sponsor is a third party beneficiary of UM Company's agreement with ESI (a copy of which is available upon request) and the remedies set forth therein, and (C) UM Company will indemnify Sponsor for third party claims caused by the UM Company's negligence or willful misconduct in providing the appeal services.

b. **External Review Services.** ESI will not conduct any external review services (as defined in the Patient Protection and Affordable Care Act of 2010 and its implementing regulations (the "ACA")); provided, however, Sponsor may elect to have UM Company facilitate the provision of external review services through UM company contracted IROs (as such term is defined in the ACA), for the applicable fees. Sponsor must execute a standard ESI External Appeals Services Set-Up Form, which may be requested through ESI Account Management, in order to receive such services from UM Company.

2.5 **Account Management.**

a. **Account Team.** ESI will provide account team support for Sponsor. The account team will be Sponsor's primary point of contact with ESI.

b. **Sponsor/Member Call Center.** ESI will provide toll-free telephone, IVR and Internet support to assist Sponsor, Sponsor's agents and Members with Member eligibility and benefits verification, location of Participating Pharmacies or other related Member concerns.

2.6 **Formulary Support and Rebate Management.**

a. **Formulary Adherence and Clinical Programs.** ESI may provide clinical, safety, adherence, and other like programs as appropriate. ESI will not implement any program for which Sponsor may incur an additional fee without Sponsor's prior written approval and election of such program.

b. **Rebates.** Subject to the remaining terms of this Agreement, ESI will pay to Sponsor the amounts set forth on Exhibit A.

2.7 **Exclusivity.** During the Term, ESI will be Sponsor's exclusive provider of PBM Services for Sponsor's Plans offering a prescription benefit. The financial terms set forth in Exhibit A are conditioned on that exclusivity.

2.8 **Sponsor Audits.** Provided that this Agreement has been executed and Sponsor is current in the payment of invoices under this Agreement, Sponsor may, upon no less than thirty (30) days prior written request, audit ESI's provision of services hereunder, the scope of which shall be to verify compliance with the financial terms of this Agreement, on an annual basis consistent with the Audit Protocol set forth in Exhibit B. Sponsor may use an independent third

party auditor ("Auditor"), so long as such Auditor is not engaged in providing services for Sponsor or otherwise that conflict with the scope or independent nature of the audit (as determined by ESI acting reasonably and in good faith), and provided that Sponsor's Auditor executes a mutually acceptable confidentiality agreement. Any request by Sponsor to permit an Auditor to perform an audit will constitute Sponsor's direction and authorization to ESI to disclose PHI to the Auditor.

- 2.9 Performance Standards. ESI will conform to the performance standards set forth on Exhibit E hereto. The payments set forth in Exhibit E will be Sponsor's sole monetary remedy for any failure by ESI to meet a performance standard in addition to any correction or reimbursement associated with payment or billing errors.

3 FEES, BILLING AND PAYMENT

- 3.1 Fees. In consideration of the PBM Services provided by ESI, Sponsor will pay the applicable claims reimbursement amounts ("Claims Reimbursements") and other administrative fees ("Administrative Fees") pursuant to the terms set forth on Exhibit A ("Claims Reimbursements," "Administrative Fees" and any other charge or fee that is the responsibility of Sponsor as may be described elsewhere in this Agreement are hereinafter referred to collectively as "Fees").

- 3.2 Billing and Payment. Sponsor will pay ESI as set forth in Exhibit A.

- 3.3 Deposit. If, at any time: (i) Sponsor has two or more invoices past due and outstanding, or (ii) ESI has reasonable grounds to believe Sponsor may be delinquent in payment of fees based on Sponsor's financial data (e.g., persistent negative cash flow, bankruptcy or insolvency), ESI may require that the Sponsor provide to ESI a deposit in an amount equal to the average of the last three (3) months of billing history as the basis for determining the one (1) month deposit amount or, if three (3) months billing history is not available, the most recent month of billing history as the basis. ESI will retain the deposit until the earlier of termination of this Agreement (following any run-off period), or six (6) consecutive months of timely payments of all Fees following submission of the deposit, and may apply the deposit to delinquent fees until return of the deposit.

4 HIPAA AND CONFIDENTIAL INFORMATION

- 4.1 HIPAA. The parties agree that (a) as relates to use and disclosure of PHI, electronic transaction standards and security of electronic PHI under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended, they are subject to the terms of the Business Associate Agreement set forth in Exhibit C and (b) ESI Specialty Pharmacy and ESI Mail Pharmacy are acting as covered entities under HIPAA and not as business associates to the Plan and shall abide by all HIPAA requirements accordingly.

- 4.2 Confidential Information.

- a. Each party agrees that the terms of this Agreement and information of the other party, including, but not limited to the following, will constitute confidential and proprietary information ("Confidential Information"): (i) with respect to ESI: ESI's reporting and other web-based applications, eligibility and adjudication systems, system formats and databanks (collectively, "ESI's Systems"), clinical or formulary management operations or programs, fraud, waste and abuse tools and programs, anonymized claims data (de-identified in accordance with HIPAA); ESI Specialty Pharmacy and ESI Mail Pharmacy data; information and contracts relating to Rebates and Manufacturer Administrative Fees, prescription drug evaluation criteria, drug pricing information, and Participating Pharmacy agreements; and (ii) with respect to Sponsor: Participating Pharmacy Sponsor and Member identifiable health information and data, Eligibility Files, Set-Up Form information, business operations and strategies. Neither party will use the other's Confidential Information, or disclose it or this Agreement to any third party (other than Sponsor attorneys and accountants), at any time during or after termination of this Agreement, except as specifically contemplated by this Agreement or upon prior written consent, which will not unreasonably be withheld. Upon termination of this Agreement, each party will cease using the other's Confidential Information, and all such information will be returned or destroyed upon the owner's direction. Confidential Information does not include information which is or becomes generally available to the public; was within the recipient's possession or knowledge prior to its being furnished to the recipient

pursuant to this Agreement, or is independently developed by the recipient under circumstances not involving a breach of this Agreement.

- b. Sponsor will not, and will not permit any third party acting on Sponsor's behalf to, access, attempt to access, test or audit ESI's Systems or any other system or network connected to ESI's Systems. Without limiting the foregoing, Sponsor will not: access or attempt to access any portion or feature of ESI's Systems, by circumventing ESI's Systems access control measures, either by hacking, password "mining" or any other means; or probe, scan, audit or test the vulnerability of ESI's Systems, nor breach the security or authentication measures of ESI's Systems.

5. COMPLIANCE WITH LAW, FIDUCIARY ACKNOWLEDGMENTS, FINANCIAL DISCLOSURE

- 5.1 **Compliance with Law; Change in Law.** Each party shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits. Sponsor shall be responsible for any governmental or regulatory charges and taxes imposed upon or related to the services provided hereunder. With respect to any Plan that is subject to the provisions of ERISA, Sponsor (or the plan sponsor if a party other than Sponsor) shall ensure that its activities in regard to such program are in compliance with ERISA, and shall be responsible for disclosing to Members any and all information relating to the Plan and this Agreement as required by law to be disclosed, including any information relating to Plan coverage and eligibility requirements, commissions, rebates, discounts, or provider discounts. If there is a new or change in federal or state laws or regulations or the interpretation thereof, or any government, judicial or legal action that, among other things, materially burdens ESI, requires ESI to increase payments or shorten payment times for Covered Drugs to Participating Pharmacies, or materially changes the scope of services hereunder (a "Change in Law"), then there shall be an appropriate modification of the services, reimbursement rates, Administrative Fees and/or Rebates hereunder.
- 5.2 **Fiduciary Acknowledgements.** ESI offers pharmacy benefit management services, products and programs for consideration by all clients, including Sponsor. The general parameters of these products and the systems that support these products, have been developed by ESI as part of ESI's administration of its business as a PBM. The parties agree that they have negotiated the financial terms of this Agreement in an arm's-length fashion. Sponsor acknowledges and agrees that, except for the limited purpose set forth in Section 2.3(c), neither it nor the Plan intends for ESI to be a fiduciary (as defined under ERISA or state law) of the Plan, and, except for the limited purpose as set forth in Section 2.3(c), neither will name ESI or any of ESI's wholly-owned subsidiaries or affiliates as a "plan fiduciary." Sponsor further acknowledges and agrees that neither ESI nor any of ESI's wholly-owned subsidiaries or affiliates: (a) have any discretionary authority or control respecting management of the Plan's prescription benefit program, or (b) exercise any authority or control respecting management or disposition of the assets of the Plan or Sponsor. Sponsor further acknowledges that all such discretionary authority and control with respect to the management of the Plan and plan assets is retained by Sponsor or the Plan. Upon reasonable notice, ESI will have the right to terminate PBM Services to any Plan (or, if applicable, Members) located in a state requiring a pharmacy benefit manager to be a fiduciary to Sponsor, a Plan, or a Member in any capacity.
- 5.3 **Disclosure of Certain Financial Matters.** In addition to the Fees paid to ESI by Sponsor, ESI and ESI's wholly-owned subsidiaries or affiliates derive revenue in one or more of the ways as further described in the Financial Disclosure to ESI PBM Clients set forth in Exhibit D hereto ("Financial Disclosure"), as updated by ESI from time to time. The revenues described in the Financial Disclosure are not direct or indirect compensation to ESI from Sponsor for services rendered to Sponsor or the Plan under this Agreement. In negotiating any of the fees and revenues described in the Financial Disclosure or in this Agreement, ESI and ESI's wholly-owned subsidiaries and affiliates act on their own behalf, and not for the benefit of or as agents for Sponsor, Members or the Plan. ESI and ESI's wholly-owned subsidiaries and affiliates retain all proprietary rights and beneficial interest in such fees and revenues described in the Financial Disclosure and, accordingly, Sponsor acknowledges that neither it, any Member, nor the Plan, has a right to receive, or possesses any beneficial interest in, any such fees or revenues; provided, that ESI will pay Sponsor amounts equal to the amounts expressly set forth on Exhibit A.

6. TERM AND TERMINATION, DEFAULT, REMEDIES

- 6.1 **Term.** The Term of this Agreement will be as set forth in Exhibit A-1.

6.2 Termination.

- a. Breach or Default. Either party may give the other written notice of a material, substantial and continuing breach of this Agreement. If the breaching party has not cured said breach within thirty (30) days from the date such notice was sent, this Agreement may be terminated at the option of the non-breaching party. If the amount of time commercially reasonable for the breach to be cured is longer than thirty (30) days, this Agreement may not be terminated by the non-breaching party pursuant to this provision until such commercially reasonable period of time has elapsed; provided, however, that in no event will such period exceed sixty (60) days.
- b. Non-Payment. Notwithstanding anything to the contrary herein, ESI (and its wholly-owned subsidiaries) may terminate or suspend their performance hereunder and cease providing or authorizing provision of Covered Drugs to Members upon forty-eight (48) hours written notice if Sponsor fails to pay ESI. ESI will attempt collection through written and verbal communications with Sponsor prior to sending the notice described herein.
- c. Obligations Upon Termination. Upon notice of termination of this Agreement, the parties will mutually develop a run-off plan providing for: (i) Sponsor notification to Members of the timing of any transition to a successor pharmacy benefit manager at least thirty (30) days prior to the effective date of such termination; (ii) ESI's provision of open ESI Mail Pharmacy refill files and standard claims data and PA files for transition to the successor pharmacy benefit manager in accordance with then existing industry protocol; and (iii) whether Sponsor elects for ESI to process Participating Pharmacy or Member Submitted Claims for prescriptions filled during the Term but filed with ESI after the effective date of termination ("Termination Date"). Sponsor will continue to pay ESI in accordance with this Agreement for any Fees for PBM Services provided during the term and any run-off period. ESI will continue filing for Rebates for claims incurred prior to the Termination Date and will, subject to final reconciliation of any outstanding amounts owed by Sponsor to ESI, pay Sponsor Rebates for such claims in accordance with the Rebate payment schedule set out herein. Notwithstanding anything in this Agreement to the contrary, ESI shall not be obligated to provide post-transition services following the transition to the successor pharmacy benefit manager and conclusion of the run-off period, including, but not limited to, the provision of continued data reporting, reporting, consultation, or analysis.

6.3 Remedies.

- a. Remedies Not Exclusive. A party's right to terminate this Agreement under Section 6 will not be exclusive of any other remedies available to the terminating party under this Agreement or otherwise, at law or in equity.
- b. Force Majeure. Neither party will lose any rights under this Agreement or be liable in any manner for any delay to perform its obligations under this Agreement that are beyond a party's reasonable control, including, without limitation, any delay or failure due to riots, earthquakes, storms, floods or other extreme weather conditions, fires, acts of terrorism, epidemics, embargoes, war or other outbreak of hostilities, government acts or regulations, the failure or inability of carriers, suppliers, or telecommunications providers to provide services necessary to enable a party to perform its obligations hereunder, or any other reason where failure to perform is beyond the party's reasonable control, and is not caused by the negligence, intentional conduct or misconduct of the defaulting party; *provided, however*, that this clause may not be invoked to excuse a party's payment obligations hereunder. ESI represents that it maintains and continually updates a business continuity plan designed to mitigate any disruption to the services provided by ESI under this Agreement.
- c. Limitation of Liability. Except for the indemnification obligations set forth in Section 6.3(d), each party's liability to the other hereunder will not exceed the actual proximate losses or damages caused by breach of this Agreement. In no event will either party or any of their respective affiliates, directors, employees or agents, be liable for any indirect, special, incidental, consequential, exemplary or punitive damages, or

any damages for lost profits relating to a relationship with a third party, however caused or arising, whether or not they have been informed of the possibility of their occurrence.

d. Indemnification.

- i. ESI will indemnify and hold Sponsor harmless from and against any loss, cost, damage, expense or other liability, including, without limitation, reasonable costs and attorney fees ("Costs") incurred in connection with any and all third party claims, suits, investigations or enforcement actions ("Claims") which may be asserted against, imposed upon or incurred by Sponsor and arising as a result of (A) ESI's negligent acts or omissions or willful misconduct (including those of the ESI Mail Pharmacy and ESI Specialty Pharmacy), or (B) ESI's breach of this Agreement.
- ii. Sponsor will indemnify and hold ESI harmless to the extent permitted by law from and against any Costs for Claims which may be asserted against, imposed upon or incurred by ESI and arising as a result of (A) Sponsor's negligent acts or omissions or willful misconduct, benefit design and coverage decisions, or breach of this Agreement, or (B) any improper use Sponsor, an Auditor or Vendor may make of PHI or ESI System access provided to such party.
- iii. As a condition of indemnification, the party seeking indemnification will notify the indemnifying party in writing promptly upon learning of any Claim for which indemnification may be sought hereunder, and will tender the defense of such claim to the indemnifying party. No party will be obligated to indemnify the other with respect to any claim settled without the written consent of the other.

6.4 Survival. The parties' rights and obligations under Sections 3, 4 and 5; and Sections 6.2(c), 6.3, 6.4, 7.2, 7.3, 7.4 and 7.6 will survive the termination of this Agreement.

7. MISCELLANEOUS

7.1 Notice. Any notice or document required or permitted to be delivered pursuant to this Agreement must be in writing and properly addressed to the other party at the address set forth below, or at such other address as such party will specify from time to time by written notice delivered in accordance herewith:

Express Scripts, Inc.
Attn: Senior Vice President of Account Management
One Express Way
St. Louis, Missouri 63121
With copy to: Legal Department

South San Antonio Independent School District
Attn: ~~Peggy Lee-Gonzalez~~ JC Zamora
5622 Ray Ellison Drive
San Antonio, Texas 78242

7.2 Independent Parties. No provision of this Agreement is intended to create or will be construed to create any relationship between ESI and Sponsor other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement.

7.3 Integration; Amendments. This Agreement and any Exhibits hereto constitute the entire understanding of the parties hereto and supersedes any prior oral or written communication between the parties with respect to the subject matter hereof. If there is a separate Business Associate Agreement between the parties, such an agreement will be incorporated herein for all applicable purposes. No modification, alteration, or waiver of any term, covenant, or condition of this Agreement will be valid unless in writing and signed by the parties or the agents of the parties who are authorized in writing, except as may be otherwise permitted pursuant to the terms and conditions of this Agreement or any Exhibit hereto.

- 7.4 Choice of Law. This Agreement will be construed and governed in all respects according to the laws in the State of Texas, without regard to the rules of conflict of laws thereof.
- 7.5 Waiver. The failure of either party to insist upon the strict observation or performance of this Agreement or to exercise any right or remedy will not be construed as a waiver of any subsequent breach of this Agreement or impair or waive any available right or remedy.
- 7.6 Trademarks. Each party acknowledges each other party's sole and exclusive ownership of its respective trade names, commercial symbols, trademarks, and servicemarks, whether presently existing or later established (collectively "Marks"). No party shall use the other party's Marks in advertising or promotional materials or otherwise without the owner's prior written consent.
- 7.7 Taxes and Assessments. Any applicable sales, use, excise, or other similarly assessed and administered tax, surcharge, or fee imposed on items dispensed, or services provided hereunder, or the fees or revenues generated by the items dispensed or services provided hereunder, or any other amounts ESI or one or more of its subsidiaries or affiliates may incur or be required to pay arising from or relating to ESI's or its subsidiaries' or affiliates' performance of services as a pharmacy benefit manager, third-party administrator, or otherwise in any jurisdiction, will be the sole responsibility of Sponsor or the Member._
- 7.8 Third Party Beneficiary Exclusion. This Agreement is not a third party beneficiary contract, nor will this Agreement create any rights on behalf of Members against ESI. Sponsor and ESI reserve the right to amend, cancel or terminate this Agreement without notice to, or consent of, any Member.
- 7.9 Authority to Contract. Sponsor hereby represents and warrants that it has obtained due and proper authority to enter into this Agreement through its governing body.

IN WITNESS WHEREOF, the undersigned have executed this Pharmacy Benefit Management Agreement as of the day and year below set forth.

EXPRESS SCRIPTS, INC.

SOUTH SAN ANTONIO INDEPENDENT SCHOOL
DISTRICT

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Federal ID Number: _____

Date: _____

EXHIBIT A

PRICING TERMS AND PHARMACY PROGRAM FEES

Exhibit A-1

Billing, Payment, and Miscellaneous Pricing Terms

Exhibit A-2

Claims Reimbursement Rates

Exhibit A-3

Rebates

Exhibit A-4

Administrative Services and Clinical Program Fees

Exhibit A-5

Inflation Protection Program

Exhibit A-1

Term, Billing, Payment, and Miscellaneous Pricing Terms

1. **TERM.** This Agreement will commence as of the Effective Date and will continue for a period of three (3) years ("Initial Term"). The Initial Term plus any renewal terms will be known as the Term ("Term"). Thereafter, this Agreement will automatically renew with the same terms and conditions as set forth herein for successive one (1) year renewal terms, subject to the right of termination as otherwise provided herein. Not less than ninety (90) days prior to the end of the Initial Term or any renewal term of this Agreement either party may notify the other party in writing that it desires to terminate this Agreement effective as of the end of the then current term.
 - a. **Termination Without Cause.** Following the initial twelve (12) months of this Agreement (but not before), either party may terminate this Agreement for any reason or for no reason upon ninety (90) days prior written notice of such termination to the other party.
2. **BILLING AND PAYMENT.**
 - a. **Billing.** ESI will invoice Sponsor weekly for all applicable Fees.
 - b. **Payment.** Sponsor will pay ESI by wire, ACH transfer or pre-authorized debit within two (2) days from the date of Sponsor's receipt of each ESI invoice. Sponsor will be responsible for all costs of collection, and agrees to reimburse ESI for such costs and expenses, including reasonable attorneys' fees. All amounts not paid by the due date thereof will bear interest at the rate of 1.5% per month or, if lower, the highest interest rate permitted by law. ESI may apply amounts otherwise owed to Sponsor against any unpaid Fees.
3. **PHARMACY MANAGEMENT FUND ("PMF")**
 - a. ESI will provide up to \$15.00 per Member implemented as of the Effective Date to reimburse the actual, fair market value of: (i) expense items and services related to transitioning, administering, and implementing the pharmacy benefit initially and throughout the term, such as, custom ID Cards, IT programming, custom formulary letters, member communications, and benefit set-up quality assurance; and/or (ii) mutually agreed upon expense items and services related to implementation of additional clinical or other similar programs provided by ESI throughout the Term; in either case subject to submission of adequate documentation to support reimbursement within 180 days of incurring the applicable expense. Both Sponsor and ESI (upon agreement from Sponsor) may use the PMF to cover the fair market value of expenses for projects requiring joint resources. All reimbursement under the PMF is subject to ESI's standard PMF business practices for all clients.
 - b. Sponsor represents and warrants that: (i) it will only request reimbursement under the PMF for its actual expenses incurred in transitioning, administering, and implementing the pharmacy benefit managed by ESI hereunder, and/or the additional clinical or other similar program provided by ESI throughout the Term; (ii) that the applicable service, item or program was actually performed or provided; (iii) the amount of the reimbursement is equal to or less than the reasonable fair market value of the actual expenses incurred by Sponsor; (iv) it will notify and disclose the amount and the terms of any PMF reimbursements to Members and other third parties to the extent required by applicable laws and regulations. In addition, if the Sponsor and the Plan are subject to ERISA, Sponsor represents and warrants that it will only request reimbursement under the PMF for items or services for which Sponsor, in the absence of the PMF, would be allowed reimbursement from the Plan (i.e., not "settlor functions").
 - c. Sponsor shall comply with all applicable federal and state requirements, including, but not limited to, all applicable federal and state reporting requirements with respect to any expense, item or service reimbursed under this section. ESI reserves the right to periodically audit the books and records of

Sponsor on-site, during normal business hours and after giving reasonable advance notice, for the purposes of verifying Sponsor's compliance with the PMF requirements set forth in this Agreement.

- d. ESI intends to amortize the PMF over the Initial Term of the Agreement on a straight-line basis. In the event of a termination of this Agreement for any reason other than ESI's uncured material breach prior to the expiration of the Initial Term, Sponsor will reimburse ESI an amount equal to any paid but unamortized portion of the PMF. Reimbursement to ESI by Sponsor pursuant to this Section will not be in lieu of any other rights or remedies ESI may have in connection with the termination of this Agreement, including monetary or other damages. PMF reimbursements shall not be paid prior to the Effective Date of this Agreement and are not payable until this Agreement is executed. Sponsor will have no right to interest on, or the time value of, any PMF, and unused funds shall be retained by ESI.
4. **THIRD PARTY PAYMENTS.** Sponsor hereby directs and authorizes ESI to facilitate the payment of a quarterly fee of \$1.75 per Prescription Drug Claim to Gallagher. ESI will pay a \$25,000 upfront fee payment to Gallagher within thirty (30) days of being invoiced by Gallagher. Once an amount equal to the \$25,000 fee payment has been covered by the \$1.75 Prescription Drug Claim amount due to Gallagher, ESI will continue to facilitate the Prescription Drug Claim fee on a quarterly basis within forty-five (45) days after the end of each quarter, on behalf of Sponsor for Gallagher and related services Gallagher provides to Sponsor. ESI agrees to facilitate the fees subject to the following:
- a. Sponsor has executed this Agreement or Acknowledgment Letter, and Sponsor is current in its payment obligations to ESI. ESI understands that Sponsor may direct ESI to cease paying fees, and Sponsor shall hold ESI harmless with respect to any dispute between Sponsor and Gallagher regarding the fees if ESI has paid such fee in accordance with the terms above.
 - b. Sponsor hereby confirms that the fees are fair and reasonable, commensurate with other standard fees in the industry and not in violation of any law or regulation. ESI will not pay per prescription fees on Medicare subsidy utilization.
5. **PRICING CONDITIONS.** The pricing terms contained in Exhibit A are conditioned upon:
- a. no Members in a 100% co-payment plan (plans where Sponsor has no liability for the payment of pharmacy claims); and
 - b. no greater than 20% of total utilization for all Plans attributable to a consumer driven health plan (CDHP).
6. **CERTAIN EVENTS.** In the event one or more of the following occurs (whether between the date of the proposal and the Effective Date, or during the Term), ESI will have the right, upon notice, to make an equitable adjustment to the rates, Administrative Fees and/or Rebates, solely as necessary to return ESI to its contracted economic position as of the effective date of such event:
- a. There is a material change in the size, demographics or gender distribution of Sponsor's Membership compared to data provided by Sponsor;
 - b. Sponsor changes its Formulary, benefit designs, implements OTC plans, clinical or trend programs or otherwise takes an action that has the effect of lowering the amount of Rebates earned hereunder or materially impacting any guarantee;
 - c. Sponsor elects to use on-site clinics or pharmacies to dispense prescription drugs to Members which materially reduces Rebates and/or the number of Covered Drug claims submitted to ESI;
 - d. Rebate revenue is materially decreased because Brand Drugs move off-patent to generic status, due to another action by a manufacturer, or due to a Change in Law; or

- e. Specialty pricing is based on a biosimilar product coming to market within the Rheumatoid Arthritis therapeutic category by March 31, 2020. If no biosimilar product comes to market by the specified date, Rebate and pricing guarantees will be equitably adjusted.

Exhibit A-2

Claims Reimbursement Rates

Sponsor will pay to ESI for each Prescription Drug Claim dispensed or processed pursuant to the terms of this Agreement. Sales or excise tax or other governmental surcharge, if any, will be the responsibility of Sponsor.

1. BASE ADMINISTRATIVE FEES.

- 1.1. Sponsor will pay ESI the following base Administrative Fees on all claims processed by ESI under this Agreement. These shall be in addition to any other Administrative Fees set forth in this Agreement.

	Per Prescription Drug Claim
Commercial	Year 1: \$0.00 Year 2: \$0.00 Year 3: \$0.00

2. PARTICIPATING PHARMACY AND ESI MAIL PHARMACY AVERAGE AGGREGATE ANNUAL INGREDIENT COST AND DISPENSING FEE GUARANTEES (DOES NOT APPLY TO SPECIALTY PRODUCTS).

a. ESI National Plus Network

ESI National Plus Network Smart 90 Walgreens (Mandatory)		1-83 Day Supply	84-90 Day Supply
Brands	Average Annual Ingredient Cost Guarantee	AWP-18.25%	Year 1: AWP-24.50% Year 2: AWP-24.75% Year 3: AWP-25.00%
	Dispensing Fee/Rx Guarantee	\$0.65	\$0.00
Generics	Average Annual Ingredient Cost Guarantee	Year 1: AWP-82.00% Year 2: AWP-82.50% Year 3: AWP-83.00%	Year 1: AWP-85.50% Year 2: AWP-86.00% Year 3: AWP-86.50%
	Dispensing Fee/Rx Guarantee	\$0.65	\$0.00

1.2. ESI MAIL PHARMACY PRICING (DOES NOT APPLY TO SPECIALTY PRODUCTS)

A. Commercial Ingredient Cost and Dispensing Fee Guarantees (Does not apply to Specialty Products)

ESI Mail Pharmacy		
Brands	Average Annual Ingredient Cost Guarantee	Year 1: AWP-24.50% Year 2: AWP-24.75% Year 3: AWP-25.00%
	Dispensing Fee/Rx Guarantee¹	\$0.00
Generics	Average Annual Ingredient Cost Guarantee	Year 1: AWP-85.50% Year 2: AWP-86.00% Year 3: AWP-86.50%
	Dispensing Fee/Rx Guarantee¹	\$0.00

¹Dispensing fee guarantees are inclusive of shipping and handling. If carrier rates (i.e., U.S. mail and/or applicable commercial courier services) increase during the term of this Agreement, the dispensing fee guarantee will be increased to reflect such increase(s).

Option: National Network (1-83 Days' Supply) – Either Walgreens or CVS must be chosen as the anchor pharmacy. (The other will not be included in the network.)

The National Network offer, for all tiers, will be improved by the following, if this option is chosen:

National Network (1-83 Days' Supply)	
Brand Discount	+ 0.75%
Brand Dispensing Fee	-\$0.20
Generic Dispensing Fee	-\$0.20

3. SPECIALTY PRODUCT PRICING

- 3.1. Dispensing Fee for Specialty Products dispensed at Participating Pharmacy. There will be a dispensing fee of \$0.75 for Specialty Products dispensed through Participating Pharmacies.
- 3.2. Average Annual Ingredient Cost and Dispensing Fee Guarantees. The following pricing guarantees shall apply to Specialty Products.

ESI Specialty Pharmacy	
	Exclusive ¹
Average Annual Ingredient Cost Guarantee	AWP-19.00%

¹This guarantee shall only apply to Plans for which the ESI Specialty Pharmacy is the exclusive pharmacy that may fill Specialty Products for Members, other than Exclusive or Limited Distribution Products not available at the ESI Specialty Pharmacy. The exclusive pricing offer for Sponsor is applicable if the specialty mail penetration based on aggregate spend is greater than 50%. The aggregate drug spend will be measured at the end of each calendar year for each line of business to determine if Sponsor qualifies for exclusive specialty pricing.

- 3.3. The Specialty Pricing offered assumes a days' supply consistent with the ESI Specialty Pharmacy Clinical Days' Supply Program.
- 3.4. ASES. For Specialty Products needing an additional charge to cover costs of all ASES required to administer the Specialty Products, the following standard per diem and nursing fee rates shall apply. Unless otherwise set forth in an agreement directly between ESI Specialty Pharmacy and Sponsor or a Plan, if a Specialty Product dispensed or ASES provided by ESI Specialty Pharmacy is billed to Sponsor or a Plan directly by ESI Specialty Pharmacy instead of being processed through ESI, Sponsor or Plan will timely pay ESI Specialty Pharmacy for such claim pursuant to the rates above and within thirty (30) days of Sponsor's, Plan's, or its designee's, receipt of such electronic or paper claim from ESI Specialty Pharmacy. ESI Specialty Pharmacy shall have 360 days from the date of service to submit such electronic or paper claim.

Therapeutic Class	Brand Name	Nursing & Per Diem
Immune Deficiency	All	\$65.00 / Infusion
Metabolic Disorder	All	\$65.00 / Infusion
PAH	Flolan, Veletri and Remodulin	\$65.00 / Day
PAH	Epoprostenol Sodium (Generic Flolan)	\$65.00 / Day
PAH	Ventavis	\$65.00 / Day

PAH	Tyvaso	\$30.00 / Day
Pulmonary	All	\$55.00 / Infusion
Nursing Rates	All drugs / therapies requiring nursing	\$150.00 per Initial Visit up to two(2) hours / \$75.00 per additional hour or a fraction thereof

4. COMPOUND DRUG PRICING.

Compounds and Other Products (not listed elsewhere)	Lesser of U&C or combined AWP plus service fee
--	--

5. GENERAL PRICING TERMS. The following terms are applicable to all pricing terms set forth in this Agreement.

- 5.1. Calculation of Ingredient Cost Guarantees. ESI will guarantee an average aggregate annual discounts to Sponsor to be calculated as follows:

[1-(total discounted AWP ingredient cost (including any retrospective pharmacy payments) but excluding dispensing fees and ancillary charges, and prior to application of Copayments) of applicable Prescription Drug Claims for the annual period divided by total undiscounted AWP ingredient cost (both amounts will be calculated as of the date of adjudication) for the annual period]]. Discounted ingredient cost will be the lesser of MAC (as applicable), U&C or AWP discount.

- 5.2. Calculation of Dispensing Fee Guarantees. ESI will guarantee an average aggregate annual per Prescription Drug Claim dispensing fee to Sponsor to be calculated as follows:

[total dispensing fee of applicable claims for the annual period divided by total claims for the annual period]. Dispensing fees will be calculated using the lesser of MRA (as applicable), U&C, or AWP discount adjudication methodology.

- 5.3. Pricing is based on the total Members participating through the Agreement. For purposes of determining which pricing applies for the first contract year during this Agreement, the number of Members implemented as of the Effective Date of this Agreement will be determinative. Thereafter, ESI will calculate, within 30 days prior to the end of each contract year, the average monthly Members for that particular contract year (sum of Members on the first day of each month during the contract year, divided by twelve). The calculation shall be based solely on the information then contained in the Eligibility Files. The average monthly count will be used to establish which lives pricing tier for the next contract year will apply. Any change in pricing due to the calculation will not become effective until the first day of the next contract year and will not be applied retroactively.

- 5.4. MNOY Guarantee Methodology. Notwithstanding anything in this Agreement to the contrary, the generic guarantees will include only those Prescription Drug Claims that processed to Sponsor for payment purposes under Sections 2 and 3 above where the underlying prescription drug product was identified by Medi-Span as having a Multi-Source Indicator code identifier of "Y" on the date dispensed (or was identified by Medi-Span as having a Multi-Source Indicator identifier of an "M," "N," or "O" on the date dispensed, but was substituted and dispensed by the ESI Mail Pharmacy as its "house generic"), unless such Prescription Drug Claim is identified in the "Exclusions" section. The brand guarantees will include only those Prescription Drug Claims that processed to Sponsor for payment purposes under Sections 2 and 3 above where the underlying prescription drug product was identified by Medi-Span as having a Multi-Source Indicator code identifier of "M," "N," or "O" on the date dispensed (except in cases where the underlying prescription drug product was substituted and dispensed by the pharmacy as its "house generic"), unless such Prescription Drug Claim is identified in the "Exclusions" section. The application of brand and generic pricing may be subject to certain "dispensed as written" (DAW) protocols and Sponsor or Plan defined plan design and coverage policies for adjudication and Member Copayment purposes.

- 5.5. **Guarantee Reconciliation Period.** The ingredient cost and dispensing fee guarantees under this Agreement will be measured and reconciled on an annual basis within ninety (90) days and for Specialty Product guarantee one hundred eighty (180) days of the end of each contract year. ESI will pay the shortfall, if any, between Sponsor's net cost and the applicable guarantee, excluding claims with \$0 cost to Sponsor. The guarantees are annual guarantees - if this Agreement is terminated prior to the completion of the then current contract year (hereinafter, a "Partial Contract Year"), then the guarantees will not apply for such Partial Contract Year. To the extent Sponsor changes its benefit design or Formulary during the term of the Agreement, the guarantee will be equitably adjusted if there is a material impact on the discount achieved.
- 5.6. **Exclusions.** The following will be excluded from all ingredient cost and dispensing fee guarantees under this Agreement: Specialty Products (other than specialty guarantee, if any), coordination of benefit claims, no bill/no remit, 340B Claims, Subrogation Claims, claims dispensed from an on-site or Sponsor or Plan owned pharmacy, long term care pharmacy claims, home infusion claims, I/T/U claims, Member Submitted Claims, compounds, OTCs, vaccines, and biosimilar products (other than Specialty Product guarantee, if applicable). Additionally, claims dispensed in Puerto Rico, Guam, Northern Mariana Islands, Virgin Islands, Hawaii, Massachusetts, Alaska, and rural pharmacies will be excluded from the guarantees.
- 5.7. **Adjudication Rates.** If no adjudication rates are specified herein, each claim will be adjudicated to Sponsor at the applicable ingredient cost, and will be reconciled to the applicable guarantee as set forth herein. The discounted ingredient cost will be the lesser of MAC (as applicable), U&C or the applicable AWP discount.¶
- 5.8. **Conditions Applicable to Extended Days' Supply Pricing.** The Extended Days' Supply pricing set forth in this Agreement shall be subject to certain requirements, as set forth in this Section. Extended Days' Supply shall mean; for all lines of business other than Medicare or EGWP, any supply of a covered drug of 84 days or greater.
- a. **Walgreens Smart90 (Exclusive).** Certain Participating Pharmacies have agreed to participate, together with the ESI Mail Pharmacy, in the ESI "Smart90 Walgreens Network" extended 84-90 days' supply network for maintenance drugs (such Participating Pharmacies and the ESI Mail Pharmacy are hereinafter collectively referred to as "ESI's Smart90 Walgreens Network"). Pricing in the 84-90 days' supply column set forth in this Agreement is applicable only if Sponsor implements a plan design that requires Members: (i) to fill maintenance drugs (based on ESI's standard list of identified maintenance drugs) in extended 84-90 days' supply quantities only (i.e., no 30 day fills except for initial courtesy fill(s)); and (ii) to fill such extended days' supply at either the ESI Mail Pharmacy or a Participating Pharmacy in the ESI Smart90 Walgreens Network (i.e., Sponsor must implement a plan design whereby Members who fill maintenance drugs for less than an extended 84-90 days' supply or who fill an extended 84-90 days' supply at a Participating Pharmacy other than an ESI Smart90 Walgreens Network Participating Pharmacy do not receive benefit coverage under the Plan for such prescription). If no such plan design is implemented, the pricing for such days' supply will be the same as for Prescription Drug Claims for less than an 84 days' supply, and pricing for an 84-90 days' supply as set forth in this Agreement shall not apply, even if an ESI Smart90 Walgreens Network Participating Pharmacy is used. The co-payment amount must also be level between the ESI Smart90 Walgreens Network and the ESI Mail Pharmacy. If a regulatory body enacts a law, regulation, or other guidance that prohibits the Walgreens Smart90 Program, ESI will adjust Sponsor's rates accordingly.

Option: Smart90 Walgreens Network – Voluntary

- b. **Walgreens Smart90 (Voluntary).** Certain Participating Pharmacies have agreed to participate, together with the ESI Mail Pharmacy, in the ESI "Smart90 Walgreens Network" extended 84-90 days' supply network for maintenance drugs (such Participating Pharmacies and the ESI Mail Pharmacy are hereinafter collectively referred to as "ESI's Smart90 Walgreens Network"). Pricing in the 84-90 days' supply column set forth in this Agreement is applicable only to fill such extended days' supply at either the ESI Mail Pharmacy or a Participating Pharmacy in the ESI Smart90 Walgreens Network (i.e., Sponsor

must implement a plan design whereby Members who fill an extended 84-90 days' supply at a Participating Pharmacy other than an ESI Smart90 Walgreens Network Participating Pharmacy do not receive benefit coverage under the Plan for such prescription). If no such plan design is implemented, the pricing for such days' supply will be the same as for Prescription Drug Claims for less than an 84 days' supply, and pricing for an 84-90 days' supply as set forth in this Agreement shall not apply, even if an ESI Smart90 Walgreens Network Participating Pharmacy is used. The co-payment amount must also be level between the ESI Smart90 Walgreens Network and the ESI Mail Pharmacy, and the co-payment for 84-90 days' supply cannot exceed 2.5 times the co-payment for less than 83 day retail days' supply. If a regulatory body enacts a law, regulation, or other guidance that prohibits the Walgreens Smart90 Program, ESI will adjust Sponsor's rates accordingly.

The Smart90 Walgreens Network rates, for all tiers, will be reduced by the following, if this option is chosen:

Smart90 Walgreens Network 84-90 Days' Supply	
Brands	-0.50%
Generics	-1.00%

- c. Certain participating pharmacies have agreed to participate, together with the Mail Service Pharmacy, in the Express Scripts' "Smart90 Walgreens Network" extended (84-90) days' supply network for maintenance drugs (such participating pharmacies and the Mail Service Pharmacy are hereinafter collectively referred to as "Express Scripts' Smart90 Walgreens Network"). Pricing in the 84-90 Days' Supply column set forth in the Pricing Supplement is applicable only to fill such extended days' supply at either the Mail Service Pharmacy or a participating pharmacy in the Express Scripts Smart90 Walgreens Network (i.e., Texas Association of School Boards Pharmacy Collective must implement a plan design whereby members who fill an extended (84-90) days' supply at a participating pharmacy other than an Express Scripts Smart90 Walgreens Network participating pharmacy do not receive benefit coverage under the Plan for such prescription). If no such plan design is implemented, the pricing for such days' supply will be the same as for prescription drug claims for less than an 84 days' supply, and pricing for an 84-90 days' supply as set forth in the Pricing Supplement shall not apply, even if an Express Scripts Smart90 Walgreens Network participating pharmacy is used. The co-payment amount must also be level between the Smart90 Walgreens Network and the Express Scripts Mail Order Pharmacy, and the co-payment for 84-90 day fills cannot exceed 2.5 times the co-payment for <83 day retail fills.

- 5.9. Member Liability. At the ESI Mail Pharmacy and ESI Specialty Pharmacy, Sponsor will be responsible for any unpaid Member Copayment amounts if payment has not been received from the Member within one hundred twenty (120) days following dispensing. Sponsor will be billed in accordance with the claims billing and payment terms.

6. VACCINE CLAIMS (NO VACCINE CLAIMS WILL BE INCLUDED IN ANY PRICING OR REBATE GUARANTEE SET FORTH IN THE AGREEMENT).

6.1. General Terms applicable to Vaccine Claims

- A. "Vaccine Claim" means a claim for a Covered Drug which is a vaccine.
- b. "Vaccine Vendor Transaction Fee" means the data interchange fee that ESI is charged by its third party vendor to convert Vaccine Claims submitted electronically by physicians to NCPDP 5.1 format in order for ESI to process the claim.
- c. Vaccine Claims shall adjudicate at the lower of U&C or the amounts shown in the table below. In the case of Vaccine Claims, the U&C shall be the retail price charged by a Participating Pharmacy for the

particular vaccine, including administration and dispensing fees, in a cash transaction on the date the vaccine is dispensed as reported to ESI by the Participating Pharmacy.

- d. The Vaccine Administration Fee for Vaccine Claims for Members enrolled in Sponsor's Medicaid programs, if any, will be capped at the maximum reimbursable amount under the state Medicaid program in which the Member is enrolled.
- e. All Vaccine Claims will be subject to any Administrative Fees set forth in the Agreement.
- f. Vaccine Claims will be charged a program fee of \$2.50 per Vaccine Claim (except for Medicare Part D covered Vaccine Claims, if applicable). The Vaccine Program Fee will be billed separately to Sponsor as part of the administrative invoice according to the billing frequency set forth in this Agreement.

6.2. Commercial (Including Medicaid and Exchange, if applicable)

	Participating Pharmacy INFLUENZA	Participating Pharmacy ALL OTHER VACCINES	Member Submitted Vaccine Claims (excluding foreign claims)
Vaccine Administration Fee	Pass-Through (capped at \$15 per vaccine claim)	Pass-Through (capped at \$20 per vaccine claim)	Submitted amount
Ingredient Cost	Participating Pharmacy Ingredient Cost as set forth in the Agreement	Participating Pharmacy Ingredient Cost as set forth in the Agreement	Submitted amount
Dispensing Fee	Participating Pharmacy Dispensing Fee as set forth in the Agreement	Participating Pharmacy Dispensing Fee as set forth in the Agreement	Submitted amount
Administrative Fee/Vaccine Claim	Administrative Fee per Prescription Drug Claim as set forth in the Agreement		Administrative Fee per Prescription Drug Claim (plus manual claim administrative fee) as set forth in the Agreement
Vaccine Program Fee	\$2.50 per vaccine claim		N/A

EXHIBIT A-3

Rebates

1. NON-SPECIALTY REBATE AMOUNTS

1.1. Subject to the conditions set forth in this Agreement, ESI will pay to Sponsor an amount equal to the greater of:

- a. 100% of the Rebates received by ESI; or subject to Sponsor meeting the Plan design conditions identified in the table below, the following guaranteed amounts:

Formulary:	National Preferred Formulary		
	Participating Pharmacies		ESI Mail Pharmacy
Days' Supply	1-83	84-90	
Per Brand Claim (non-Specialty Products)	Year 1: \$150.00 Year 2: \$155.00 Year 3: \$160.00	Year 1: \$150.00 Year 2: \$155.00 Year 3: \$160.00	Year 1: \$450.00 Year 2: \$465.00 Year 3: \$480.00

Formulary:	Basic Formulary					
Copayment Design:	Less than \$15 Copayment differential			Minimum \$15 Copayment differential		
	Participating Pharmacies		ESI Mail Pharmacy	Participating Pharmacies		ESI Mail Pharmacy
Days' Supply	1-83	84-90		1-83	84-90	
Per Brand Claim (non-Specialty Products)	Year 1: \$97.50 Year 2: \$100.75 Year 3: \$104.00	Year 1: \$97.50 Year 2: \$100.75 Year 3: \$104.00	Year 1: \$292.50 Year 2: \$302.25 Year 3: \$312.00	Year 1: \$120.00 Year 2: \$124.00 Year 3: \$128.00	Year 1: \$120.00 Year 2: \$124.00 Year 3: \$128.00	Year 1: \$360.00 Year 2: \$372.00 Year 3: \$384.00

1.2. EXCLUSIONS

Member Submitted Claims, Subrogation Claims, biosimilar products, staff model/hospital pharmacy, vaccines, OTC products, claims older than 180 days, 340b pharmacies, and claims pursuant to a 100% Member Copayment plan are not eligible for the guaranteed Rebate amounts set forth in Section 1.1 above.

1.3. REBATE PAYMENT TERMS

Subject to the conditions set forth herein, ESI shall pay Sponsor the guaranteed amounts set forth above within approximately one hundred and fifty (150) days following the end of each calendar quarter.

2. SPECIALTY REBATE AMOUNTS

- 2.1. Subject to the conditions set forth in this Agreement and Sponsor meeting the Plan design conditions identified in the table below, ESI will pay to Sponsor the following guaranteed amounts:

Formulary:	National Preferred Formulary	
	ESI Specialty Pharmacy - Open	ESI Specialty Pharmacy - Exclusive
Per Brand Claim (Specialty Products)	Year 1: \$475.00 Year 2: \$525.00 Year 3: \$575.00	Year 1: \$1,000.00 Year 2: \$1,100.00 Year 3: \$1,200.00

Formulary:	Basic Formulary
Copayment Design:	Less than \$15 Copayment differential

	ESI Specialty Pharmacy - Open	ESI Specialty Pharmacy - Exclusive
Per Brand Claim (Specialty Products)	Year 1: \$275.00 Year 2: \$325.00 Year 3: \$375.00	Year 1: \$375.00 Year 2: \$425.00 Year 3: \$475.00

Formulary:	Basic Formulary	
Copayment Design:	Greater than \$15 Copayment differential	
	ESI Specialty Pharmacy - Open	ESI Specialty Pharmacy - Exclusive
Per Brand Claim (Specialty Products)	Year 1: \$325.00 Year 2: \$375.00 Year 3: \$425.00	Year 1: \$425.00 Year 2: \$475.00 Year 3: \$525.00

2.2. EXCLUSIONS

Member Submitted Claims, Subrogation Claims, biosimilar products, staff model/hospital pharmacy, vaccines, OTC products, claims older than 180 days, 340b pharmacies, and claims pursuant to a 100% Member Copayment plan are not eligible for the guaranteed Rebate amounts set forth in Section 2.1 above.

2.3. REBATE PAYMENT TERMS

Subject to the conditions set forth herein, ESI shall pay Sponsor the guaranteed amounts set forth above within approximately one hundred and fifty (150) days following the end of each calendar quarter.

3. CONDITIONS (APPLIES TO ALL REBATES)

- 3.1. ESI contracts for Rebates, if indicated to be paid above, on its own behalf and for its own benefit, and not on behalf of Sponsor. Accordingly, ESI retains all right, title and interest to any and all actual Rebates received. ESI will pay Sponsor amounts equal to the Rebate amounts allocated to Sponsor, as specified above, from ESI's general assets (neither Sponsor, its Members, nor Sponsor's plan retains any beneficial or proprietary interest in ESI's general assets). Sponsor acknowledges and agrees that neither it, its Members, nor its Plan will have a right to interest on, or the time value of, any Rebate payments received by ESI during the collection period or moneys payable under this Section. No amounts for Rebates will be paid until this Agreement is executed by Sponsor. ESI will have the right to apply Sponsor's allocated Rebate amount to unpaid Fees.
- 3.2. ESI reserves the right to adjust the Rebate guarantees if Rebate revenue is materially decreased because Brand Drugs move off-patent to generic status or due to a Change in Law. Any Rebate guarantees apply only to claims where Sponsor incurs a claims cost.
- 3.3. Sponsor acknowledges that it may be eligible for Rebate amounts under this Agreement only so long as Sponsor, its affiliates, or its agents do not contract directly or indirectly with anyone else for discounts, utilization limits, rebates or other financial incentives on pharmaceutical products or formulary programs for claims processed by ESI pursuant to the Agreement, without the prior written consent of ESI. In the event that Sponsor negotiates or arranges for Rebates or similar discounts for any Covered Drugs hereunder, but without limiting ESI's right to other remedies, ESI may immediately withhold any Rebate amounts earned but not yet paid to Sponsor. To the extent Sponsor knowingly negotiates and/or contracts for discounts or rebates on claims for Covered Drugs without prior written approval of ESI, such activity will be deemed to be a material breach of this Agreement, entitling ESI to suspend payment of Rebate amounts hereunder and to renegotiate the terms and conditions of this Agreement.
- 3.4. Under its Rebate program, ESI may implement ESI's Formulary management programs and controls, which may include, among other things, cost containment initiatives, and communications with Members, Participating Pharmacies, and/or physicians. ESI reserves the right to modify or replace such programs from

time to time. Guaranteed Rebate amounts, if any, set forth herein, are conditioned on adherence to various Formulary management controls, benefit design requirements, claims volume, and other factors stated in the applicable pharmaceutical manufacturer agreements, as communicated by ESI to Sponsor from time to time. If any government action, change in law or regulation, change in the interpretation of any law or regulation, or any action by a pharmaceutical manufacturer has an adverse effect on the availability of Rebates, then ESI may make an adjustment to the Rebate terms and guaranteed Rebate amounts, if any, hereunder.

Exhibit A-4

Administrative Services and Clinical Program Fees

I. Administrative Services

PBM Services
Customer service for members Electronic/online eligibility submission Standard coordination of benefits (COB) (reject for primary carrier) Electronic claims processing Plan set-up Software training for access to our online system(s) FSA eligibility feeds
Network Pharmacy Services
Pharmacy help desk Pharmacy network management Pharmacy reimbursement Network development (upon request)
Home Delivery Services
Benefit education Prescription delivery — standard
Reporting Services
Web-based Sponsor reporting — produced by ESI Web-based Sponsor reporting — produced by Sponsor Ad hoc desktop parametric reports Claims detail extract file electronic (NCPDP) Load 12 months claims history for clinical reports and reporting Annual Strategic Account Plan report Billing reports Inquiry access to claims processing system
Website Services
Sponsor Website — eService Delivery (Eligibility, Claims, and Benefit Administration), Coverage Management and Appeals, Eligibility File Transfer, Reporting Solutions and Resources Area. My Rx Choices — Helps members make informed medication choices based on cost, health, and safety. Member website portion only. Express-Scripts.com for Members — Access to benefit, drug, health, and wellness information; prescription ordering capability; and customer service. Online Benefit Management — eService web-based application with Claims History, Eligibility Maintenance, and Prior Authorization Add. Mobile App for Members — Includes My Rx Choices, My Medicine Cabinet, Pharmacy Care Alerts, Refills and Renewals, and virtual prescription ID card.
Implementation Package and Member Communications
Member replacement cards printed via web Implementation support New member packets (includes two standard resin ID cards)
Clinical
Concurrent Drug Utilization Review (DUR) Overrides <ul style="list-style-type: none"> • Sponsor requested overrides • Lost/stolen overrides • Vacation supplies

Optional PBM Services

PBM Services	Fees
Manual Submissions	

Manual/hardcopy eligibility submission	\$10.00/update
Member Submit Fee	\$3.00 per claim
Medicaid Subrogation Claims	\$3.00 per paid claim
Medicare Subrogation Claims	\$3.00 per paid claim
Communication with physicians and/or members (e.g., program descriptions, notifications, formulary compliance, non-Medicare EOBs, etc.)	\$1.35/letter plus postage
Medicare Explanation of Benefits (EOB)	\$1.75/letter plus postage
Electronic Medicare Part D EOB	
Electronic Medicare EOB is an e-mail notification to the member informing them at the time of EOB production that their Medicare Part D Explanation of Benefits is available for viewing. Members can opt in/opt out at any time. Electronic EOB includes:	\$0.95/EOB
<ul style="list-style-type: none"> Email notification to the member Solicitation e-mail sent to registered members Prominent Web messaging 	
Reporting Services	
Custom ad hoc reporting – applies for reporting outside of self-services reporting tool	\$150/hour, with a minimum of \$500
Replacement Member Communication Packets	
Member-requested replacement packets	\$1.50 + postage per packet
Sponsor-requested re-carding	\$1.50 + postage per packet
Communication Fee	
Mail (EHD, SHD & HDE) Programs	No charge for electronic communications
Announcement Letters and Communications after each Courtesy Fill	Postage (on-going fee) for mailed communications
Smart90 – Exclusive Option	No charge for electronic communications
Announcement Letters and Communications after each Courtesy Fill	Postage (on-going fee) for mailed communications
Smart90 – Voluntary Option	No charge for electronic communications
Announcement Letters	Postage (on-going fee) for mailed communications
Cost Exceeds Maximum	
ESI-Managed Cost Exceeds Maximum (CEM) edit (For non-compound drugs)	\$10,000 CEM limit – included in pricing Custom CEM limit less than \$10,000 - \$0.01PMPM fee
ESI -Managed Cost Exceeds Maximum (CEM) edit (For compound drugs)	Included in pricing
Sponsor-Managed Cost Exceeds Maximum (CEM) edit (For non-compound and compound drugs)	Included in pricing
Reviews and Appeals Management	
Initial Determinations and Level 1 Non-urgent Appeals under the UM Program. Examples: prior authorization, step therapy, quantity reviews	UM PMPM charge OR \$55 per initial determination* UM charge
Initial Determinations and Level 1 Non-urgent Appeals for benefit reviews. Examples: copay review, plan excluded drug coverage review, administrative plan design review	\$55 per initial determination*
Additional Reviews for Initial Determinations. Additional reviews that require obtaining and reviewing medical records/chart notes by a provider, including but not limited to, a nurse or pharmacist	\$70.00 per review (incremental to initial determination fees above)
Level 2 and Urgent Appeal Service for UM, formulary, and benefit reviews - final internal appeals	\$10 per initial determination*
External Reviews - facilitated by UM company, reviewed by independent review organizations	\$800 per review
Medicare Part B Solution	
Integrated Retail & Mail Program	\$0.42 PMPM for Medicare B - qualified members
Retail Only Program	\$0.20 PMPM for Medicare B - qualified members
Program Introductory Letter	\$0.64 / letter + postage
Electronic Prescribing	

Pass-through charge for ePrescribing Eligibility and Formulary transaction fees charged to Sponsor at ESI's preferred rate with data switch such as Surescripts.	
Custom Laser Messaging	
Each custom laser messaging campaign will run for 3 months and will consist of member targeting based on the Sponsor's pain point, Consumerology messaging consultation by the Express Scripts Lab, launch of a 90-day custom campaign, to the agreed upon targeted members, and reporting on any key insights or operational metrics from the campaign. The fee is \$40,000 per custom message. A 20% discount will be provided for subsequent 3 month extensions of an active campaign.	
Member Grievances	
Includes: (i) researching grievances related to the Part D benefit, (ii) communicating resolution back to the member, (iii) providing oversight reporting services to Sponsor, and (iv) providing data required for CMS reporting.	\$0.15 PMPM
Retiree Drug Subsidy (RDS)	
RDS enhanced service (ESI sends reports to CMS on behalf of Sponsor) RDS standard service (ESI sends reports to Sponsor)	\$1.12 PMPM for Medicare-qualified members with a minimum annual fee of \$7,500 \$0.62 PMPM for Medicare-qualified members with a minimum annual fee of \$5,000
• Notice of Creditable Coverage	\$1.35/letter + postage

* Initial determination – this is the first review of drug coverage based on the plan's conditions of coverage. Initial determinations are also referred to as initial reviews, coverage reviews, prior authorization reviews, UM reviews, or benefit reviews.

- The Level 2 and Urgent Appeal Service is an optional service for Sponsors to enroll in and there is an incremental fee of \$10 per initial determination.
- Level 2 and Urgent Appeals are not included in the UM package fees.
- The Level 2 and Urgent Appeal Service fee is not charged per appeal. It is charged for each initial review. This allows Sponsor to better estimate their appeal costs since it is based on the number of initial determinations. The fees cover the legal and operational costs involved with handling final and binding appeal reviews, which includes, but is not limited to: staffing of clinical professionals and supportive personnel, notifications to patients and prescribers, and maintaining a process aligned with state and Federal regulations
- Charges for the Level 2 and Urgent Appeal Service are billed on the monthly admin invoice for completed initial determination for UM, formulary, and benefit reviews. No subsequent charges are incurred when cases are appealed.
- Appeals can be deemed urgent at Level 1 or Level 2. Urgent appeal decisions are final and binding. If a Level 1 Appeal is processed as urgent, there is no Level 2 appeal.

Comprehensive Consumer Directed Health (CDH) Solution

PBM Services	Fees
Required Services and Fee for all CDH Enrollees	
Services <ul style="list-style-type: none"> • Technical Bi-directional data exchange; dedicated operations; 24-hour-a-day, seven-day-a-week monitoring and quality control; performance reporting; and analytics • Decision Support Dedicated CDH member services, Prescription Benefit Review Statements, Retail Pricing Transparency • Member Adherence ScreenRx Preventive Medications • Member Education Proactive, personalized member communications open enrollment tools and member communications library, robust online features, and preventive care proactive, personalized member communications 	Advanced Data Integration, Member Decision Support, Member Adherence and Member Education \$0.48 PMPM
If Sharing Data Only - Required Service and Fee for all Non-CDH Enrollees	

Combined Benefit Management Services to manage combined medical-pharmacy benefits that are not a consumer-directed health (CDH) plan. Services include ongoing management of the data exchange platform with the medical vendor/TPA, production monitoring and quality control, and designated operations team. Combined benefit types may include deductible, out of pocket, spending account, and lifetime maximum.	\$0.10 PMPM per combined accumulator up to maximum of \$0.20 PMPM for existing connection with medical carrier or TPA. Fees to establish connection with new medical carrier or TPA are quoted upon request.
---	---

Charges would be in addition to any pricing adjustments if greater than 10 percent of Sponsor's total utilization for all Plans is attributable to a CDHC.

Additional services will be quoted upon request. Postage charges are not included and will be billed to Sponsor.

II. Clinical/Trend Programs.

ESI offers a comprehensive suite of trend and integrated health management programs. These offerings may change or be discontinued from time to time as ESI updates its offerings to meet the needs of the marketplace.

The programs (and corresponding pricing and guarantees) outlined in this section represent a sampling of the programs currently offered by ESI to its clients. ESI may offer additional programs, as well as savings guarantees, under certain conditions. Information concerning such programs, guarantees, and fees, if applicable, is available on request. In addition, the ESI Account Management Team will periodically discuss new programs, guarantees, and fees with Sponsor, which Sponsor may adopt through ESI's standard Set-Up Form process.

Sponsor will select clinical/trend programs during implementation by checking selected options on the Clinical Addendum and on the applicable Set-Up Form. Such Set-Up Forms are incorporated herein by reference as and when executed by the parties. A complete list representing the programs adopted by Sponsor (and corresponding pricing and guarantees) as of the Effective Date is outlined in the Clinical Addendum (executed separately by Sponsor).

Health Choices and Drug Choices

Health Choices	Fee
Concurrent DUR	No charge (included in base offering)
ScreenRx	\$0.25 PMPM
ExpressAlliance	<u>Web Access: Priced on request (Less than 8,000 lives)</u> <u>Web Access: \$0.04 PMPM (8,000 lives minimum)</u> Secure, online access to real-time, patient eligibility, medication history, clinical gaps in care, and potential savings opportunities <u>Advantage: \$0.10 PMPM (15,000 lives minimum)</u> Same as Web Access, plus high-value, flexible targeting options at population level with prioritized recommendations based on clinical severity, and continuous program monitoring and reporting <u>Advantage Plus: \$0.15 PMPM (15,000 lives minimum)</u> All of the above, plus enhanced specialist pharmacist services for nurses, including weekly case screenings, educational services, and grand round case reviews <u>Just Diagnosed (New to therapy) data feed: \$5,000 set up and \$500 per month</u> Single sign on: Client specific priced upon request
RationalMed	\$0.35 PMPM
Personal Medication Coach	Client-specific, priced upon request
Pharmacogenomics	2C9/ VKORC1 Warfarin Testing: \$450 per completed test 2C19 Clopidogrel (Plavix) Testing: \$480 per completed test HLA-B*5701 Abacavir Testing: \$625 per completed test CCRS Maraviroc (Selzentry) Testing: \$2,800 per completed test BCR-ABL Gleevec, Sprycel, Tasigna Testing: \$660 per completed test Entire Pharmacogenomic Portfolio: \$0.04 PMPM
Basic Retrospective DUR	\$0.05 PMPM

Advanced Retrospective DUR: includes all rule categories within the Basic Module plus expanded rule sets.	\$0.10 PMPM																								
Seniors Retrospective DUR: Health and safety drug issues for members 65+ years of age.	\$0.04 PMPM																								
Retrospective Bundle: Advanced and Senior Modules	\$0.11 PMPM																								
Physician Report Card	<div>For clients that select up to 5 clinical pages:</div> <table><tr><th>Number of lives</th><th>Pricing Per Quarter</th><th>Number of Reports Mailed</th></tr><tr><td>Up to 50,000</td><td>\$3,000</td><td>up to 600 reports</td></tr><tr><td>50,000 to 150,000</td><td>\$5,500</td><td>up to 1,200 reports</td></tr><tr><td>150,000+</td><td>\$7,500</td><td>up to 1,800 reports</td></tr></table> <div>For clients that select 6 to 10 clinical pages:</div> <table><tr><th>Number of lives</th><th>Pricing Per Quarter</th><th>Number of Reports Mailed</th></tr><tr><td>Up to 50,000</td><td>\$4,500</td><td>up to 600 reports</td></tr><tr><td>50,000 to 150,000</td><td>\$8,500</td><td>up to 1,200 reports</td></tr><tr><td>150,000+</td><td>\$12,000</td><td>up to 1,800 reports</td></tr></table>	Number of lives	Pricing Per Quarter	Number of Reports Mailed	Up to 50,000	\$3,000	up to 600 reports	50,000 to 150,000	\$5,500	up to 1,200 reports	150,000+	\$7,500	up to 1,800 reports	Number of lives	Pricing Per Quarter	Number of Reports Mailed	Up to 50,000	\$4,500	up to 600 reports	50,000 to 150,000	\$8,500	up to 1,200 reports	150,000+	\$12,000	up to 1,800 reports
Number of lives	Pricing Per Quarter	Number of Reports Mailed																							
Up to 50,000	\$3,000	up to 600 reports																							
50,000 to 150,000	\$5,500	up to 1,200 reports																							
150,000+	\$7,500	up to 1,800 reports																							
Number of lives	Pricing Per Quarter	Number of Reports Mailed																							
Up to 50,000	\$4,500	up to 600 reports																							
50,000 to 150,000	\$8,500	up to 1,200 reports																							
150,000+	\$12,000	up to 1,800 reports																							
Physician Consultation / Academic Detailing (powered by MediCUBE)	<div>\$1.25 PMPY with a minimum of \$125,000 per year + \$300,000/year for MediCUBE + a dedicated clinical pharmacist</div> <div>A digital file of the Physician Report for the use of the clinical support person or clinical is included in both options.</div>																								
Mango Health Solution	<div>Enrolled Lives</div> <table><tr><td>0 – 50,000</td><td>\$30 PPPM</td></tr><tr><td>50,000 – 250,000</td><td>\$27 PPPM</td></tr><tr><td>250,000+</td><td>\$25 PPPM</td></tr></table> <div>“Enrolled Lives” is defined as the number of members in the entire enrolled population. “Participant” - AKA ‘User’ - is defined as (1) a member that takes a clear action in the Mango Health app during the month, or (2) a member who receives a Mango Health TRC Coach outbound call during the given month.</div> <div>There are no additional fees outside of this cost unless client customization of the app is requested.</div>	0 – 50,000	\$30 PPPM	50,000 – 250,000	\$27 PPPM	250,000+	\$25 PPPM																		
0 – 50,000	\$30 PPPM																								
50,000 – 250,000	\$27 PPPM																								
250,000+	\$25 PPPM																								
Physician Care Alerts	<table><tr><td>Adherence (Diabetes, Hypertension, Cholesterol)</td><td>\$0.03 PMPM</td></tr><tr><td>Therapy omission</td><td>\$0.03 PMPM</td></tr><tr><td>High-Risk medications</td><td>\$0.03 PMPM</td></tr></table> <div>Physician Care Alert Package: \$0.07 PMPM</div> <div>Adherence (Diabetes, Hypertension, Cholesterol)</div> <div>• Therapy Omission</div> <div>• High-Risk Medications</div> <div>Please note if implemented with ScreenRx discount may apply on a client-by-client basis.</div>	Adherence (Diabetes, Hypertension, Cholesterol)	\$0.03 PMPM	Therapy omission	\$0.03 PMPM	High-Risk medications	\$0.03 PMPM																		
Adherence (Diabetes, Hypertension, Cholesterol)	\$0.03 PMPM																								
Therapy omission	\$0.03 PMPM																								
High-Risk medications	\$0.03 PMPM																								

Advanced Opioid Management	<p>Sponsor specific – \$0.39 PMPM</p> <p>Program Components:</p> <p>Proactive Opioid Member Education Letter (not available for Medicaid lives)</p> <p>Opioid Neuroscience Pharmacist Outreach (TRC)</p> <p>Opioid Physician Care Alerts</p> <p>Drug Deactivation Disposal Bags</p> <p>Enhanced FWA with auto Lock-in (Auto lock-in not available for Medicaid lives)</p> <p>Enhanced Prior Authorization (Long Acting Opioids)</p> <p>First Fill - 7 Days' Supply Limit (Short Acting Opioids)</p> <p>Morphine Equivalent Dose Edit (MEQD)</p>
MediCube	\$1.25 PMPY with a minimum of \$125,000 per year for MediCUBE + clinical support
Livongo for Diabetes	\$67 per participating patient per month

Drug Choice Programs	Fee
Formulary Notification	No charge for standard
Drug Conversion Program at Home Delivery	No charge (included in base offering)
My RxChoices	No charge (included in base offering)
Enhanced Fraud, Waste, & Abuse	<p>30,000-499,999 lives: \$0.05 PMPM</p> <p>12,000 - 29,999 lives: \$0.07 PMPM</p> <p>≤12,000 lives: \$10,000 annual fee</p> <p>≤12,000 lives: \$4,000 annual fee (no quarterly consultations/reports; otherwise the same as \$10,000 option)</p>
Enhanced Pharmacy Audit Program	<p>Option 1: \$0.03/claim</p> <p>If the amount of recoveries for Client made through the Enhanced Pharmacy Audit Services, measured on an annual aggregate basis ("Total Recoveries"), are less than the total amount of fees paid by the Client for the Enhanced Pharmacy Audit Services (measured on an annual aggregate basis) ("Total Fees"), Express Scripts will reimburse Client in an amount equal to the difference between the Total Fees and the Total Recoveries.</p> <p>Option 2: \$0.04/claim</p> <p>For the clients that are not eligible for the ROI guarantee, but that have greater than 500,000 lives</p> <p>Option 3: \$0.06/claim</p> <p>For the clients that are not eligible for the ROI guarantee and have under 500,000 lives</p>
Value Based Insurance Design (VBID)	<p><u>Members enrolled using automated file</u></p> <p>Standard file layout/clinical rules</p> <p>Install set up: \$15,000 per vendor or vendor change</p> <p>Maintenance: \$500 per month (\$750/month if quarterly eligibility reporting is requested)</p> <p>Standard file layout/custom rules: Client specific, priced upon request</p> <p>Eligibility Reporting: \$1,000 per ad hoc report</p> <p><u>Manual set up</u></p> <p>Standard Clinical Rules</p> <p>Install set up: \$5,000 per vendor or vendor change</p> <p>Maintenance: \$500 per month (\$750/month if quarterly eligibility reporting is requested)</p> <p>Custom Rules: Client specific, priced upon request</p> <p>Eligibility Reporting: \$1,000 per ad hoc report</p>

ACA Statin Trend Management Solution	\$0.03 PMPM
--------------------------------------	-------------

Drug Choice Programs		
<p>Drug Choice Programs — UM Packages</p> <p>Our UM Package building-block approach aggregates medications into lists and packages</p> <p><i>Limited UM Package</i> — delivers plan savings with minimal member impact</p> <p><i>Advantage UM Package</i> — same as Limited, adding chronic disease states and a broad specialty offering</p> <p><i>Advantage Plus UM Package</i> — same as Advantage, adding undermanaged medication classes for select chronic diseases</p> <p><i>Unlimited UM Option</i> — allows implementation of any current and/or future UM program</p> <p>Lists can be purchased individually and packages can be tailored to meet client needs.</p> <p>Some modules are available on an ala carte basis.</p> <p><i>Please note: UM Bundle pricing and per review pricing are no longer offered</i></p>		
Standard Pricing		
Client specific recommended programs	Fee	Guarantee
Limited UM Package	\$0.27 PMPM	\$1.28 PMPM
<u>Prior Authorization</u>		
Limited Prior Authorization List	\$0.06 PMPM	\$0.18 PMPM
Proactive Prior Authorization List	\$0.05 PMPM	N/A
<u>Drug Quantity Management</u>		
Limited Drug Quantity Management List	\$0.10 PMPM	\$0.30 PMPM
<u>Step Therapy</u>		
Limited Step Therapy List	\$0.20 PMPM	\$0.60 PMPM
Advantage UM Package	\$0.68 PMPM	\$3.20 PMPM
Everything in the Limited UM Package Plus:		
<u>Prior Authorization</u>		
Advantage Prior Authorization List	\$0.20 PMPM	\$0.60 PMPM
Nonessential Therapy Prior Authorization List	\$0.10 PMPM	\$0.30 PMPM
<u>Drug Quantity Management</u>		
Advantage Drug Quantity Management List	\$0.10 PMPM	\$0.30 PMPM
<u>Step Therapy</u>		
Preferred Specialty Management	\$0.12 PMPM	N/A
Advantage Step Therapy List	\$0.06 PMPM	\$0.18 PMPM
Advantage Plus UM Package	\$1.02 PMPM	\$4.80 PMPM
Everything in the Advantage UM Package Plus:		
<u>Prior Authorization</u>		
Advantage Plus Prior Authorization List	\$0.06 PMPM	\$0.18 PMPM
Pharmacogenomics Prior Authorization List	\$0.10 PMPM	N/A
Oncology Package	\$0.15 PMPM	N/A
<u>Drug Quantity Management</u>		
Advantage Plus Drug Quantity Management List	\$0.03 PMPM	\$0.09 PMPM
<u>Step Therapy</u>		
Advantage Plus Step Therapy List	\$0.06 PMPM	\$0.18 PMPM

Unlimited UM Option	\$1.23 PMPM	N/A
Everything in the Advantage Plus UM Package Plus:		
<u>Prior Authorization</u>		
Adjunctive Specialty PA List	\$0.05 PMPM	N/A
Optional Prior Authorization	Varies by individual module	N/A
<u>Step Therapy</u>		
Optional Step Therapy Modules	Varies by individual module	N/A

*Guarantees (packages only): <1,000 lives – no guarantee, 1,001 – 2,500 – 1:1 guarantee, 2,501 – 5,000 – 2:1 guarantee, >5,000 lives 4:1 guarantee.
Note: Closed formulary or 100% tier 3 copay clients do not qualify for guarantees

Guarantees (lists) apply to clients with 10,000+ lives. Unlimited option fee allows clients to implement any available UM program over the life of their contract. Individual list guarantees still apply for clients with 10,000+ lives. If client chooses Unlimited option and implements all elements of the Advantage Plus Package, The Advantage Plus guarantee applies.

Please note: Prior Authorization must be implemented without grandfathering to receive guarantee. Some programs may impact Rebates.

Exhibit A-5

Inflation Protection Program

1. **Inflation Protection Program.** Under the program, ESI will pay to Sponsor \$2.00 per formulary brand drug claim for your commercial population (the "Sponsor Inflation Payment"). Subject to the conditions set forth herein, ESI shall pay Sponsor the Sponsor Inflation Payment within approximately one hundred and eighty (180) days following the end of each calendar quarter for utilization occurring during such quarter. Non-formulary claims will be excluded.
2. **For the purposes of the Inflation Protection Program, the following definitions will apply:**
 - 2.1. "Adjusted Base AWP" shall mean the PCYA adjusted to account for total quantity changes between the prior year and the current year. Adjusted Base AWP will be calculated as follows (PCYA / Prior Year Brand Quantities) * Current Year Brand Quantities.
 - 2.2. "Current Calendar Year AWP" or "CCYA" shall be equal to the aggregate weighted average Brand Drug AWP amount for the calendar year for which the Inflation Guarantee is being calculated, adjusted for the previous year's dispensed Brand Drug quantities. CCYA shall be calculated as the sum of the average unit AWP for each Brand Drug dispensed in the current calendar year multiplied by the quantities of each such Brand Drug dispensed in the preceding calendar year.
 - 2.3. "Current Year Brand Quantities" shall be equal to the aggregate quantities of each Brand Drug used in the calculation of CCYA dispensed during the calendar year for which the Inflation Guarantee Payment is being calculated.

- 2.4. "Calendar Year Inflation Rate" or "CYIR" shall be expressed as a percentage, and calculated as $(CCYA/PCYA) - 1$.
- 2.5. "Effective Discount" is the effective discount Sponsor has received (including the impact of Rebates and Manufacturer Administrative Fees (if applicable)) on Brand Drugs dispensed during the calendar year for which the Inflation Guarantee is being calculated. The Effective Discount will be expressed as a percentage and calculated as $(\text{Net Ingredient Cost paid by Sponsor for all Brand Drugs in the applicable calendar year} - \text{Rebates received by Sponsor}) / \text{Aggregate AWP for all Brand Drugs dispensed in the applicable year}$.
- 2.6. "Prior Calendar Year AWP" or "PCYA" shall be equal to, for the same Brand Drug NDCs used for the "CCYA" calculation, the average Brand Drug AWP amount for such NDCs during the calendar year immediately preceding the calendar year for which the Inflation Guarantee payment is being calculated.
- 2.7. "Prior Year Brand Quantities" shall be equal to the aggregate quantities of each Brand Drug used in the calculation of CCYA dispensed during the calendar year prior to the year for which the inflation guarantee is being calculated.

3. Terms and Conditions of the Inflation Protection Program

- 3.1. In order to be eligible for the Inflation Rate Guarantee payment for a given calendar year, Sponsor must, on average, meet the specified formulary compliance percentage on its total utilization for the calendar year. If Sponsor makes material changes to its Formulary or benefit design that negatively impact ESI's ability to control inflation relative to Sponsor's Formulary drug mix, then ESI reserves the right to make an equitable adjustment to the Inflation Guarantee.
- 3.2. The following claims will be excluded from all calculations related to the Inflation Protection Program: Medicare claims, Medicaid claims, any other government health care program claims, OTCs, member submitted claims, subrogation claims, compounds, Generic Drugs, claims submitted by Sponsor owned, in-house, or on-site pharmacies, 340B claims, claims submitted through a 100% member cost-share program, biosimilar products, drugs where the quantity or packaging has been changed by the manufacturer from the past year, and drugs for which there was no utilization in the calendar year prior to the calendar year for which the Inflation Guarantee payment is being determined.
- 3.3. ESI's Inflation Protection Program, and the underlying economics, is separate and apart from, any Rebates/Total Rebates paid to Sponsor and the amounts described above will be paid to Sponsor in addition to any Rebate/Total Rebate payments to which Sponsor is entitled. ESI contracts for inflation payments from manufacturers for its own account and ESI may realize positive margin between amounts paid to Sponsors and amounts received from pharmaceutical manufacturers. Conversely, ESI may realize negative margin if inflation payments from manufacturers are less than payments due to Sponsor. Sponsor will not be entitled to receive any amounts related to drug price inflation or a related guarantee other than as set forth above.
- 3.4. No payments will be made to Sponsor unless Sponsor has an executed PBM agreement with ESI.
- 3.5. ESI has structured the terms of this program to comply with certain exceptions and safe harbors to the Federal Anti-Kickback Statute (42 U.S.C. §1320a-7b(b)), including the discount exception (42 U.S.C. § 1320a-7b(b)(3)(A) and safe harbor (42 C.F.R. § 1001.952(h)). ESI will treat any reimbursement made to Sponsor hereunder as retrospective discounts on the price of the product paid by Sponsor. ESI will fully and accurately report such discounts on the payment advice submitted to Sponsor. ESI hereby informs Sponsor that it may be required by law to properly disclose and appropriately reflect (in any costs claimed or charges made) all such discounts. Further, ESI will refrain from taking any action that would impede or frustrate Sponsor in any such disclosure requirements. Sponsor may be required to provide information on the discount furnished to Sponsor to the Secretary of Health and Human Services, or any state or other governmental agency, upon request. ESI will comply with all applicable reporting and disclosure obligations.

EXHIBIT B

AUDIT PROTOCOL

1. AUDIT PRINCIPLES

ESI recognizes the importance of its clients ensuring the integrity of their business relationship by engaging in annual audits of their financial arrangements with ESI, and, where applicable (i.e. Medicare Part D), by auditing compliance with applicable regulatory requirements. ESI provides this audit right to each and every client. In granting this right, ESI's primary interest is to facilitate a responsive and responsible audit process. In order to accomplish this goal, for all clients, ESI has established the following Protocol. Our intent is in no way to limit Sponsor's ability to determine that ESI has properly and accurately administered the financial aspects of the Agreement or complied with applicable regulatory requirements, but rather to create a manageable process in order to be responsive to our clients and the independent auditors that they may engage.

2. AUDIT PREREQUISITES

A. There are four components of your arrangement with ESI eligible for audit on an annual basis (calendar year) from February through October:

- Retrospective Claims
- Rebates (subsequent to true up)
- Performance Guarantees (subsequent to true up)
- Compliance with Regulatory Requirements (i.e. Medicare Part D)

Balancing the need to adequately support the audit process for all ESI clients, with an efficient allocation of resources, clients who choose to audit one or more components of the arrangement must do so for all lines of business, as applicable, through a single annual audit.

B. ESI will provide all data reasonably necessary for Sponsor to determine that ESI has performed in accordance with contractual terms. ESI will provide the retrospective claims and benefit information in no more than thirty (30) days from audit kickoff call and having an executed confidentiality agreement. Our pledge to respond within the foregoing timeframe is predicated on a good faith and cooperative effort between Sponsor and/or its Auditor and ESI.

C. ESI engages a national accounting firm, at its sole cost and expense, to conduct a SSAE 18, SOC 1 audit on behalf of its clients. Upon request, ESI will provide the results of its most recent SSAE 18, SOC 1 audit. Testing of the areas covered by the SSAE 18, SOC 1 is not within the scope of Sponsor's audit rights (i.e., to confirm the financial aspects of the Agreement) and is therefore not permitted. However, if requested, ESI will explain the SSAE 18, SOC 1 audit process and findings to Sponsor in order for Sponsor to gain an understanding of the SSAE 18, SOC 1.

3. AUDITS

A. The initial audit period for a retrospective claims, rebates and performance guarantee audit cover a timeframe not to exceed twenty-four (24) months immediately preceding the request to audit (the "Audit Period"). This Audit Period allows a reasonable amount of time for both parties to conclude the audit before data is archived off the adjudication system.

B. CMS generally modifies its requirements for administering the Medicare Part D annually. For this reason, the initial audit period for a Medicare Part D compliance audit cover a timeframe is not to exceed the twelve (12) months immediately preceding the request to audit (collectively, the "Medicare Part D Audit Period"). This Medicare Part D Audit Period is intended to assist our clients with the CMS annual oversight requirements.

C. When performing a Rebate audit, Sponsor may perform an on-site review of the applicable components of manufacturer agreements, selected by Sponsor, as reasonably necessary to audit the calculation of the Rebate payments made to Sponsor by ESI. Our ability to drive value through the supply chain and in our negotiations with manufacturers is dependent upon the strict confidentiality and use of these agreements. Providing access to these agreements to third parties that perform services in the industry beyond traditional financial auditing jeopardizes our ability to competitively drive value. For this reason, unless otherwise agreed by the Parties, access to and audit of manufacturer agreements is restricted to a mutually agreed upon CPA accounting firm whose audit department is a separate stand-alone division of the business, which carries insurance for professional malpractice of at least Two Million Dollars (\$2,000,000).

D. The Sponsor may select an initial number of manufacturer contracts to enable Sponsor to audit fifty percent (50%) of the total rebate payments due to Sponsor for two (2) calendar quarters during the twenty-four (24) month period immediately preceding the audit (the "Rebate Audit Scope and Timeframe").

E. If you have a Pass-Through pricing arrangement for Participating Pharmacy claims, ESI will provide the billable and payable amount for a sampling of claims provided by you or your auditor (i.e., ESI will provide the actual documented claim record) during the audit to verify that ESI has administered such Pass-Through pricing arrangement consistent with the terms of the Agreement. If further documentation is required, ESI may provide a sample of claims remittances to the Participating Pharmacies to demonstrate ESI's administration of Pass-Through pricing. In any instance where the audit demonstrates that

the amount billed to you does not equal the Pass-Through amount paid to the Participating Pharmacy, Sponsor's Auditor may perform an on-site audit of the applicable Participating Pharmacy contract rate sheet(s).

4. AUDIT FINDINGS

- A. Following Sponsor's initial retrospective claims audit, Sponsor (or its Auditor) will provide ESI with suspected errors, if any. In order for ESI to evaluate Sponsor's suspected errors, Sponsor shall provide an electronic data file in a mutually agreed upon format containing up to 300 claims for further investigation by ESI. ESI will respond to the suspected errors in no more than sixty (60) days from ESI's receipt of such findings. Our pledge to respond within the foregoing timeframe is predicated on a good faith and cooperative effort between Sponsor and/or its Auditor and ESI.
- B. Following Sponsor's initial rebate and performance guarantee audit, Sponsor's Auditor will provide ESI with suspected errors, if any. ESI will respond to the suspected errors in no more than sixty (60) days from ESI's receipt of such findings. Our pledge to respond within the foregoing timeframe is predicated on a good faith and cooperative effort between Sponsor and/or its Auditor and ESI.
- C. Following Sponsor's initial audit of Medicare Part D compliance, Sponsor (or its Auditor) will provide ESI with suspected non-compliant issues, if any. In order for ESI to evaluate Sponsor's suspected errors, Sponsor shall provide ESI with specific regulatory criteria and Medicare Part D program requirements used to cite each suspected non-compliant issue. ESI will respond to the suspected errors in no more than thirty (30) days from ESI's receipt of the findings. Our pledge to respond within the foregoing timeframe is predicated on a good faith and cooperative effort between Sponsor and/or its Auditor and ESI.

5. FINAL REPORT

- A. Upon receipt and review of ESI's responses to Sponsor (or its Auditor), Sponsor (or its Auditor) will provide ESI with a written report of findings and recommendations. ESI will respond to the audit report in no more than thirty (30) days from ESI's receipt of the report. Our pledge to respond within the foregoing timeframe is predicated on a good faith and cooperative effort (i.e., no new issues noted) between Sponsor and/or its Auditor and ESI.
- B. Sponsor agrees that once audit results are accepted by both parties, the audit shall be considered closed and final. To the extent the mutually accepted audit results demonstrate claims errors, ESI will reprocess the claims and make corresponding adjustments to Sponsor through credits to a future invoice(s). If we are unable to reprocess claims and issue corresponding credits to Sponsor through this process, ESI will make adjustments to Sponsor via a check or credit.
- C. New audits cannot be initiated until all parties have agreed that the prior audit is closed.

6. AUDITS BY GOVERNMENT ENTITIES

- A. In the event CMS, the OIG, MEDIC, or another government agency has engaged in an audit of Sponsor and/or its "first tier" and "downstream entities", Sponsor shall contact the ESI Account Management team and provide a written copy of the audit notice or request from the government agency promptly upon receipt.
- B. Sponsor agrees that CMS may have direct access to ESI's and any such "downstream entity's" pertinent contracts, books, documents, papers, records, premises and physical facilities, and that ESI and such "downstream entity" will provide requested information directly to CMS unless otherwise agreed upon by ESI and Sponsor.
- C. Following the government audit of Sponsor and its "first tier" and "downstream entities", Sponsor shall provide ESI with a written report of suspected non-compliant issues noted in the government audit that relate to services provided by ESI, if any. If there are such findings, ESI will work with Sponsor and/or government agency to respond to any suspected non-compliant issues.
- D. Support for all such audits by government entities will be subject to ESI's standard charges. All such fees shall be reasonable and based on ESI's costs for supporting such audits.

7. CONFIDENTIALITY

ESI's contracts are highly confidential and proprietary. For this reason, ESI only permits on-site review rather than provide copies to our clients. During on-site contract review, Sponsor (or its Auditor) may take and retain notes to the extent necessary to document any identified errors, but may not copy (through handwritten notes or otherwise) or retain any contracts (in part or in whole) or related documents provided or made available by ESI in connection with the audit. ESI will be entitled to review any notes to affirm compliance with this paragraph.

EXHIBIT C

BUSINESS ASSOCIATE AGREEMENT

Express Scripts, Inc. and one or more of its subsidiaries ("ESI"), and Sponsor or one of its affiliates ("Sponsor"), are parties to an agreement ("PBM Agreement") whereby ESI provides certain pharmacy benefit management services to the Sponsor's prescription drug plan (Sponsor and Sponsor's prescription drug plan collectively referred to hereinafter as "Plan"). The PBM Agreement addresses the parties' rights and obligations concerning the use and disclosure of patients' protected health information. The HIPAA Rules (as defined below) require ESI and Plan to enter into a "business associate agreement" to comply with applicable sections of the HIPAA Rules.

1. Definitions.

- (a) "Breach" shall have the same meaning as the term "breach" in 45 C.F.R. § 164.402.
- (b) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
- (c) "Electronic Health Record" shall mean an electronic record of health-related information on an Individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- (d) "Electronic PHI" shall have the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103.
- (e) "HIPAA Rules" means the collective privacy, transaction and code sets, and security regulations promulgated pursuant to the Health Insurance Portability and Accountability Act, as codified at 45 C.F.R. Parts 160, 162 and 164, as amended from time to time.
- (f) "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).
- (g) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subpart A and Subpart E, as amended from time to time.
- (h) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by ESI from or on behalf of Plan.
- (i) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- (j) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- (k) "Security Incident" shall have the same meaning as "security incident" in 45 C.F.R. § 164.304.
- (l) "Security Standards" shall mean the Security Standards, 45 C.F.R. Part 164, Subpart C, as amended from time to time.
- (m) "Transactions Standards" shall mean the Standards for Electronic Transactions, 45 C.F.R. Part 162, Subpart I, as amended from time to time.
- (n) "Unsecured PHI" shall have the same meaning as the term "unsecured protected health information" in 45 C.F.R. § 164.402.

Capitalized terms used, but not otherwise defined, in this Business Associate Agreement shall have the same meaning as those terms in the HIPAA Rules.

2. General Use and Disclosure Provisions. ESI and Plan acknowledge and agree as follows:

- (a) *Use or Disclosure.* ESI agrees not to use or further disclose PHI other than as expressly permitted or required by this Business Associate Agreement or the HIPAA Rules or as Required by Law.
- (b) *Minimum Necessary.* ESI will take reasonable efforts to limit requests for, use and disclosure of PHI to the minimum necessary to accomplish the intended request, use or disclosure.

(c) *Specific Use or Disclosure Provisions.* Except as otherwise limited in this Business Associate Agreement, ESI may use and disclose PHI to properly provide, manage and administer the services required under the PBM Agreement and consistent with applicable law to assist Plan in its operations, as long as such use or disclosure would not violate the HIPAA Rules if done by Plan, or such use or disclosure is expressly permitted in (i) through (iii) below:

- (i) ESI may use PHI for the proper management and administration of ESI or to carry out ESI's legal responsibilities.
- (ii) ESI may disclose PHI to third parties for the proper management and administration of ESI or to carry out the legal responsibilities of ESI provided that the disclosures are Required by Law, or ESI obtains reasonable assurances from the person to whom the information is disclosed that: (A) the information will remain confidential, (B) the information will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and (C) the person notifies ESI of any instances of which it is aware in which the confidentiality of the information has been breached.
- (iii) ESI may use PHI to perform Data Aggregation services on behalf of Plan as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (iv) ESI may use or disclose PHI on behalf of Plan or as Plan would otherwise be permitted pursuant to HIPAA and other applicable law.

(d) *Reporting.* ESI agrees to promptly notify the Plan if ESI has knowledge that PHI has been used or disclosed by ESI in a manner that violates this Business Associate Agreement. To the extent that ESI creates, receives, maintains or transmits Electronic PHI, ESI agrees to report promptly to the Plan any successful Security Incident, as determined by ESI, involving Plan PHI of which ESI becomes aware. ESI shall comply with 45 C.F.R. § 164.402 and shall, following the discovery of a Breach of Unsecured PHI, notify the Plan of such Breach, in accordance with 45 C.F.R. § 164.410.

(e) *Safeguards.* ESI agrees to use appropriate safeguards, consistent with applicable law, to prevent use or disclosure of PHI in a manner that would violate this Business Associate Agreement. ESI shall provide Plan with such information concerning such safeguards as Plan may reasonably request from time to time. To the extent that ESI creates, receives, maintains or transmits Electronic PHI, ESI agrees to use appropriate administrative, physical and technical safeguards, and comply with the Security Standards, to protect the confidentiality, integrity and availability of the Electronic PHI that ESI creates, receives, maintains or transmits on behalf of Plan.

(f) *Mitigation.* ESI agrees to mitigate, to the extent practicable, any harmful effect that is known to ESI of a use or disclosure of PHI by ESI in violation of this Business Associate Agreement or the PBM Agreement.

(g) *Subcontractors and Agents.* ESI agrees to ensure that any agent, including a Subcontractor, to whom it provides PHI received from, or created or received by ESI on behalf of Plan, agrees, in writing, to the same restrictions, terms and conditions that apply through this Agreement to ESI with respect to such information, including the requirement that it implement reasonable and appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164, to protect any Electronic PHI that is disclosed to it by ESI.

(h) *Access.* Within fifteen (15) business days of a request by Plan, ESI shall provide access to Plan to PHI in a Designated Record Set in order to meet the requirements under 45 C.F.R. § 164.524. If ESI receives a request directly from an Individual, or if requested by Plan that access be provided to the Individual, ESI shall provide access to the Individual to PHI in a Designated Record Set within thirty (30) days in order to meet the requirements under 45 C.F.R. § 164.524.

(i) *Amendment.* Within sixty (60) days of a request by Plan or subject Individual, ESI agrees to make any appropriate amendment(s) to PHI in a Designated Record Set that Plan directs or agrees to pursuant to 45 C.F.R. § 164.526.

(j) *Accounting.* Within thirty (30) days of a proper request by Plan, ESI agrees to document and make available to Plan, for a reasonable cost-based fee (under conditions permitted by HIPAA if an Individual requests an accounting more than once during a twelve month period), such disclosures of PHI and information related to such disclosures necessary to respond to such request for an accounting of disclosures of PHI, in accordance with 45 C.F.R. § 164.528. Within sixty (60) days of proper request by subject Individual, ESI agrees to make available to the Individual the information described above. ESI shall retain copies of any accountings for a period of six (6) years from the date the accounting was created.

(k) *Restrictions on Use or Disclosure.* Within fifteen (15) business days of a request of Plan, ESI agrees to consider restrictions on the use or disclosure of PHI agreed to by Plan on behalf of an Individual in accordance with 45 C.F.R. § 164.522.

(l) *Audit and Inspection.* ESI agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by ESI on behalf of Plan, available to Plan within ten (10) business days, or at the request of Plan or the Secretary, to the Secretary in a time and manner directed by the Secretary, for purposes of the Secretary determining Plan's compliance with the HIPAA Rules. Any release of information regarding ESI's practices, books and records is proprietary to ESI and shall

be treated as confidential and shall not be further disclosed without the written permission of ESI, except as necessary to comply with the HIPAA Rules.

(m) ***Privacy of Individually Identifiable Health Information.*** To the extent ESI is to carry out one or more of Plan's obligations under Subpart E of 45 C.F.R. Part 164, ESI agrees to comply with the requirements of subpart E that apply to the covered entity in the performance of such obligations.

3. Plan Obligations.

(a) Plan shall notify ESI of any limitation(s) in the notice of privacy practices of Plan in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect ESI's use or disclosure of PHI.

(b) Plan shall notify ESI of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect ESI's use or disclosure of PHI.

(c) Plan shall notify ESI of any restriction to the use or disclosure of PHI that Plan has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect ESI's use or disclosure of PHI.

(d) Plan shall not request that ESI use or disclose PHI in any manner that would exceed that which is minimally necessary under the HIPAA Rules or that would not be permitted by a Covered Entity.

(e) Plan agrees that it will have entered into "Business Associate Agreements" with any third parties (e.g., case managers, brokers or third party administrators) to which Plan directs and authorizes ESI to disclose PHI.

4. **Transactions Standards.** The HIPAA Rules provide for certain Transactions Standards for transfer of data between trading partners. While certain of the standards may or may not be adopted by Plan (e.g., for eligibility), ESI will be prepared to accept the following in accordance with 45 C.F.R. Part 162.1502: ASC X12N 834 – Benefit Enrollment and Maintenance. In addition, to the extent applicable, ESI shall comply with other applicable transactions standards for claims processing functions between ESI and provider pharmacies. Each party hereby agrees that it shall not change any definition, data condition or use of a data element or segment in a standard, add any data elements or segment to the maximum defined data set, use any code or data elements that are either marked "not used" in the standard's implementation specification or are not in the implementation specification, or change the meaning or intent of the implementation specification.

5. Material Breach of Business Associate Agreement; Termination.

(a) Without limiting the termination rights of the parties pursuant to the PBM Agreement, upon either party's knowledge of a material breach by the other of this Business Associate Agreement, the non-breaching party shall notify the breaching party of such material breach and the breaching party shall have thirty (30) days to cure such material breach. In the event the breach is not cured, or cure is infeasible, the non-breaching party shall have the right to immediately terminate this Business Associate Agreement and the PBM Agreement or if cure of the material breach is infeasible, report the violation to the Secretary.

(b) To the extent feasible, upon termination of the PBM Agreement for any reason, ESI shall, and shall cause any subcontractors and agents to, return or destroy and retain no copies of all PHI received from, or created or received by ESI on behalf of, Plan. If ESI determines, in its sole discretion, that return or destruction of such information is not feasible, ESI shall continue to limit the use or disclosure of such information as set forth in this Agreement as if the PBM Agreement had not been terminated.

6. **Indemnification.** Each party (the "Indemnifying Party") shall indemnify and hold the other party and its officers, directors, employees and agents (each an "Indemnified Party") harmless from and against any claim, cause of action, liability, damage, cost or expense ("Liabilities") to which the Indemnified Party becomes subject to as a result of third party claims (including reasonable attorneys' fees and court or proceeding costs) brought against the Indemnified Party, which arise as a result of: (i) the material breach of this Business Associate Agreement by the Indemnifying Party; or (ii) the gross negligence or willful misconduct of the Indemnifying Party, except to the extent such Liabilities were caused by the Indemnified Party. A party entitled to indemnification under this Section 6 shall give prompt written notification to the Indemnifying Party of the commencement of any action, suit or proceeding relating to a third party claim for which indemnification is sought, subject to applicable confidentiality constraints. The Indemnifying Party shall be entitled to assume control of the defense of such action, suit, proceeding or claim with competent counsel of its choosing. Indemnification shall not be required if any claim is settled without the Indemnifying Party's consent, which such consent shall not be unreasonably withheld. **NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SECTION 6, IN NO EVENT WILL AN INDEMNIFYING PARTY BE LIABLE TO AN INDEMNIFIED PARTY UNDER CONTRACT, TORT, OR ANY OTHER LEGAL THEORY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR SPECIAL LOSSES OR DAMAGES OF ANY KIND.**

7. Miscellaneous.

(a) **Amendment.** The parties acknowledge that the foregoing provisions are designed to comply with the mandates of the HIPAA Rules. ESI shall provide written notice to Plan to the extent that any regulation or amendment to regulations promulgated by the Secretary requires changes to this Business Associate Agreement. Such written notice shall include any additional amendment required by any such final regulation and the Business Associate Agreement shall be automatically amended to incorporate the changes set forth in such amendment provided by ESI to Plan, unless Plan objects to such amendment in writing within fifteen (15) days of receipt of such written notice. In the event that Plan objects timely to such amendment, the parties shall work in good faith to reach agreement on an amendment to the Business Associate Agreement that complies with the final regulations. If the parties are unable to reach agreement regarding an amendment to the Business Associate Agreement within thirty (30) days of the date that ESI receives any written objection from Plan, either ESI or Sponsor may terminate this Business Associate Agreement upon ninety (90) days written notice to the other party. Any other amendment to this Business Associate Agreement unrelated to compliance with applicable law and regulations shall be effective only upon execution of a written agreement between the parties.

(b) **Effect on PBM Agreement.** Except as relates to the use, security and disclosure of PHI and electronic transactions, this Business Associate Agreement is not intended to change the terms and conditions of, or the rights and obligations of the parties under, the PBM Agreement.

(c) **No Third-Party Beneficiaries.** Nothing express or implied in the PBM Agreement or in this Business Associate Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations or liabilities whatsoever.

(d) **Interpretation.** Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits both parties to comply with the HIPAA Rules.

(e) **Effective Date.** This Business Associate Agreement shall be effective as of the effective date of the PBM Agreement.

EXHIBIT D

FINANCIAL DISCLOSURE TO ESI PBM CLIENTS

This disclosure provides an overview of the principal revenue sources of Express Scripts, Inc. and Medco Health Solutions, Inc. (individually and collectively referred to herein as “ESI”), as well as ESI’s affiliates. In addition to administrative and dispensing fees paid to ESI by our clients for pharmaceutical benefit management (“PBM”) services, ESI and its affiliates derive revenue from other sources, including arrangements with pharmaceutical manufacturers, wholesale distributors, and retail pharmacies. Some of this revenue relates to utilization of prescription drugs by members of the clients receiving PBM services. ESI may pass through certain manufacturer payments to its clients or may retain those payments for itself, depending on the contract terms between ESI and the client.

Network Pharmacies – ESI contracts for its own account with retail pharmacies to dispense prescription drugs to client members. Rates paid by ESI to these pharmacies may differ among networks (e.g., Medicare, Worker’s Comp, open and limited), and among pharmacies within a network, and by client arrangements. PBM agreements generally provide that a client pays ESI an ingredient cost, plus dispensing fee, for drug claims. If the rate paid by a client exceeds the rate contracted with a particular pharmacy, ESI will realize a positive margin on the applicable claim. The reverse also may be true, resulting in negative margin for ESI. ESI also enters into pass-through arrangements where the client pays ESI the actual ingredient cost and dispensing fee amount paid by ESI for the particular claim when the claim is adjudicated to the pharmacy. In addition, when ESI receives payment from a client before payment to a pharmacy, ESI retains the benefit of the use of the funds between these payments. ESI may maintain non-client specific aggregate guarantees with pharmacies and may realize positive margin. ESI may charge pharmacies standard transaction fees to access ESI’s pharmacy claims systems and for other related administrative purposes. ESI may also maintain certain preferred value or quality networks; pharmacies participating in those networks may pay or receive aggregated payments related to these networks.

Brand/Generic Classifications – Prescription drugs may be classified as either a “brand” or “generic;” however, the reference to a drug by its chemical name does not necessarily mean that the product is recognized as a generic for adjudication, pricing or copay purposes. For the purposes of pharmacy reimbursement, ESI distinguishes brands and generics through a proprietary algorithm (“BGA”) that uses certain published elements provided by First DataBank (FDB) including price indicators, Generic Indicator, Generic Manufacturer Indicator, Generic Name Drug Indicator, Innovator, Drug Class and ANDA. The BGA uses these data elements in a hierarchical process to categorize the products as brand or generic. The BGA also has processes to resolve discrepancies and prevent “flipping” between brand and generic status due to price fluctuations and marketplace availability changes. The elements listed above and sources are subject to change based on the availability of the specific fields. Updated summaries of the BGA are available upon request. Brand or generic classification for client reimbursement purposes is either based on the BGA or specific code indicators from Medi-Span or a combination of the two as reflected in the client’s specific contract terms. Application of an alternative methodology based on specific client contract terms does not affect ESI’s application of its BGA for ESI’s other contracts.

Maximum Allowable Cost (“MAC”)/Maximum Reimbursement Amount (“MRA”) – As part of the administration of the PBM services, ESI maintains a MAC List of drug products identified as requiring pricing management due to the number of manufacturers, utilization and/or pricing volatility. The criteria for inclusion on the MAC List are based on whether the drug has readily available generic product(s), is generally equivalent to a brand drug, is cleared of any negative clinical implications, and has a cost basis that will allow for pricing below brand rates. ESI also maintains MRA price lists for drug products on the MAC List based on current price reference data provided by MediSpan or other nationally recognized pricing source, market pricing and availability information from generic manufacturers and on-line research of national wholesale drug company files, and client arrangements. Similar to the BGA, the elements listed above and sources are subject to change based on the availability of the specific fields. Updated summaries of the MAC methodology are available upon request.

Manufacturer Programs Formulary Rebates, Associated Administrative Fees, and PBM Service Fees – ESI contracts for its own account to obtain formulary rebates attributable to the utilization of certain brand drugs and supplies (and possibly certain authorized generics marketed under a brand manufacturer’s new drug application). Formulary rebate amounts received vary based on client specific utilization, the volume of utilization as well as formulary position applicable to the drug or supplies, and adherence to various formulary management controls, benefit design requirements, claims volume, and other similar factors, and in certain instances also may vary based on the product’s market-share. ESI often pays an amount equal to all or a portion of the formulary rebates it receives to a client based on the client’s PBM agreement terms. ESI or its affiliates may maintain non-client specific aggregate guarantees and may realize positive margin. In addition, ESI provides administrative services to contracted manufacturers, which include, for example, maintenance and operation of systems and other infrastructure necessary for invoicing and processing rebates, pharmacy discount programs, access to drug utilization data, as allowed by law, for purposes of verifying and evaluating applicable payments, and for other purposes related to the manufacturer’s products. ESI receives administrative fees from the participating manufacturers for these services. These administrative fees are calculated based on the price of the drug or supplies along with the volume of utilization and do not exceed the greater of (i) 4.58% of the average wholesale price, or (ii) 5.5% of the wholesale acquisition cost of the products. In its capacity as a PBM company, ESI also may receive other compensation from manufacturers for the performance of various programs or services, including, for example, formulary compliance initiatives, clinical services, therapy management services, education services, inflation protection programs, medical benefit management services, cost containment programs, discount programs, and the sale of non-patient identifiable claim information. This compensation is not part of the formulary rebates or associated administrative fees, and ESI may realize positive margin between amounts paid to clients and amounts received from pharmaceutical manufacturers. ESI retains the financial benefit of the use of any funds held until payment is made to the client.

Copies of ESI's standard formularies may be reviewed at www.express-scripts.com/wps/portal/. In addition to formulary considerations, other plan design elements are described in ESI's Plan Design Review Guide, which may be reviewed at www.express-scripts.com/wps/portal/.

ESI Subsidiary Pharmacies – ESI has several licensed pharmacy subsidiaries, including our specialty pharmacies. These entities may maintain product purchase discount arrangements and/or fee-for-service arrangements with pharmaceutical manufacturers, wholesale distributors, and other health care providers. These subsidiary pharmacies contract for these arrangements on their own account in support of their various pharmacy operations. Many of these subsidiary arrangements relate to services provided outside of PBM arrangements, and may be entered into irrespective of whether the particular drug is on one of ESI's national formularies. Discounts and fee-for-service payments received by ESI's subsidiary pharmacies are not part of the PBM formulary rebates or associated administrative fees paid to ESI in connection with ESI's PBM formulary rebate programs. However, certain purchase discounts received by ESI's subsidiary pharmacies, whether directly or through ESI, may be considered for formulary purposes if the value of such purchase discounts is used by ESI to supplement the discount on the ingredient cost of the drug to the client based on the client's PBM agreement terms. From time to time, ESI and its affiliates also may pursue and maintain for its own account other supply chain sourcing relationships not described below as beneficial to maximize ESI's drug purchasing capabilities and efficiencies, and ESI or affiliates may realize an overall positive margin with regard to these initiatives.

The following provides additional information regarding examples of ESI subsidiary discount arrangements and fee-for-service arrangements with pharmaceutical manufacturers, and wholesale distributors:

ESI Subsidiary Pharmacy Discount Arrangements – ESI subsidiary pharmacies purchase prescription drug inventories, either from manufacturers or wholesalers, for dispensing to patients. Often, purchase discounts off the acquisition cost of these products are made available by manufacturers and wholesalers in the form of either up-front discounts or retrospective discounts. These purchase discounts, obtained through separate purchase contracts, are not formulary rebates paid in connection with our PBM formulary rebate programs. Drug purchase discounts are based on a pharmacy's inventory needs and, at times, the performance of related patient care services and other performance requirements. When a subsidiary pharmacy dispenses a product from its inventory, the purchase price paid for the dispensed product, including applicable dispensing fees, may be greater or less than that pharmacy's acquisition cost for the product net of purchase discounts. In general, our pharmacies realize an overall positive margin between the net acquisition cost and the amounts paid for the dispensed drugs.

ESI Subsidiary Fee-For-Service Arrangements – One or more of ESI's subsidiaries, including, but not limited to, its subsidiary pharmacies also may receive fee-for-service payments from manufacturers, wholesalers, or other health care providers in conjunction with various programs or services, including, for example, patient assistance programs for indigent patients, dispensing prescription medications to patients enrolled in clinical trials, various therapy adherence and fertility programs, administering FDA compliance requirements related to the drug, 340B contract pharmacy services, product reimbursement support services, and various other clinical or pharmacy programs or services. As a condition to having access to certain products, and sometimes related to certain therapy adherence criteria or FDA requirements, a pharmaceutical manufacturer may require a pharmacy to report selected information to the manufacturer regarding the pharmacy's service levels and other dispensing-related data with respect to patients who receive that manufacturer's product. A portion of the discounts or other fee-for-service payments made available to our pharmacies may represent compensation for such reporting.

Other Manufacturer Arrangements – ESI also maintains other lines of business that may involve discount and service fee relationships with pharmaceutical manufacturers and wholesale distributors. Examples of these businesses include a wholesale distribution business, group purchasing organizations (and related group purchasing organization fees), a medical benefit management company, and United BioSource Corporation ("UBC"). Compensation derived through these business arrangements is not considered for PBM formulary placement, and is in addition to other amounts described herein. Of particular note, UBC partners with life sciences and pharmaceutical companies to develop, commercialize, and support safe, effective use and access to pharmaceutical products. UBC maintains a team of research scientists, biomedical experts, research operations professionals, technologists and clinicians who work with clients to conduct and support clinical trials, create, and validate and administer pre and post product safety and risk management programs. UBC also works on behalf of pharmaceutical manufacturers to provide product and disease state education programs, reimbursement assistance, and other support services to the public at large. These service fees are not part of the formulary rebates or associated administrative fees.

Third Party Data Sales – Consistent with any client contract limitations, ESI or its affiliates may sell HIPAA compliant information maintained in their capacity as a PBM, pharmacy, or otherwise to data aggregators, manufacturers, or other third parties on a fee-for-service basis or as a condition of discount eligibility. All such activities are conducted in compliance with applicable patient and pharmacy privacy laws and client contract restrictions.

October 1, 2015

THIS EXHIBIT REPRESENTS ESI'S FINANCIAL POLICIES. ESI MAY PERIODICALLY UPDATE THIS EXHIBIT AND THE FINANCIAL DISCLOSURES CONTAINED HEREIN TO REFLECT CHANGES IN ITS BUSINESS PROCESSES; THE CURRENT FINANCIAL DISCLOSURE IS AVAILABLE UPON REQUEST AND ACCESSIBLE ON EXPRESS-SCRIPTS.COM AT WWW.EXPRESS-SCRIPTS.COM/WPS/PORTAL/.

EXHIBIT E

PERFORMANCE STANDARDS

In the event that any failure by ESI to meet any performance standard is due to a “force majeure” as defined in the Agreement, failure of Sponsor to perform its obligations under the Agreement, or actions or inactions of Sponsor that adversely impact ESI’s ability to maintain the subject standard (e.g., faulty eligibility, changes in benefit design not adequately communicated to Members and benefit designs that substantially change the Members’ rights under the Plan), ESI will be excused from compliance with such performance standards until such circumstances have been resolved and any existing backlogs or other related effects have been eliminated.

Within ninety (90) days after the end of each year, ESI shall report to Sponsor ESI’s performance under each performance standard. Notwithstanding the foregoing, for purposes of determining whether ESI has met or failed to meet each performance standard, performance standards will be measured and reconciled on an annual basis and amounts due resulting from an ESI failure to meet any performance standard(s), if any, shall be calculated and paid to Sponsor within thirty (30) days following Sponsors receipt of reconciliation report.

No performance penalties, if any, will be paid until this Agreement is executed by Sponsor. Unless otherwise specified, the performance guarantees set forth in this document will not apply to ESI Specialty. In no event will the sum of the payments to Sponsor, as a result of ESI’s failure to meet the performance standards exceed \$49,500 for the implementation performance standard and \$16,500 per year for the annual performance standards.

The following performance standards are based on 1,650 Members as of the Effective Date and throughout the Term. Any material change below such number may result in a renegotiation of the standards and penalties set forth below.

Performance standards for ESI’s Mail Service Pharmacy assume a minimum of 1,000 Mail Service Pharmacy prescriptions submitted annually.

Service Feature	Guarantee	Penalty
Implementation and Start-up	<p>ESI will guarantee the implementation of Sponsor to be completed in accordance within the mutually agreed upon timelines. Each of ESI' standards is dependent upon receiving specific information from Sponsor. Loading of eligibility and production of ID cards are dependent upon receiving group structure and benefit plan design sign-off from Sponsor. A delay in receipt of data or information from Sponsor may require rescheduling of all subsequent deliverable dates. The recommended implementation time frame is 90 days.</p> <p>The implementation performance guarantee is a one-time only guarantee valid 90 days from SPONSOR's effective date. ESI shall provide a draft Implementation Guarantee Tracking Document at implementation kick off meeting.</p> <p>Implementation Performance Guarantees must be agreed to and documented within thirty (30) days of the kick off meeting or they will be considered void.</p>	<p>The following dollars will be paid to Sponsor if ESI does not complete the deliverables by the dates noted in the performance standard, assuming that Sponsor has provided the information necessary to complete these deliverables:</p> <p>Benefit Plan Design — \$7,071 Eligibility Load — \$7,071 ID Cards — \$7,071 Toll-Free Telephone Number — \$7,071 Initial File Loads: Claims History — \$7,071 Initial File Loads: Prior Authorization History — \$7,071 Initial File Loads: Open Refill Transfers - \$7,071</p> <p>The above reference our standard Implementation PGs. The maximum implementation penalty will be \$49,500.</p>
Member Satisfaction Survey	<p>One random sample member survey will be completed annually on a book-of-business basis. ESI guarantees a patient satisfaction rate of 90% or greater based on overall satisfaction. This standard will be measured and reported annually.</p>	<p>ESI will put \$1,650 as a total amount of penalty at risk.</p>
Average Speed of Answer	<p>ESI guarantees that calls will be answered in an average of 30 seconds or less. This guarantee is predicated on the installation of a toll-free number unique to the Sponsor. Measurement includes calls routed to the IVR.</p>	<p>ESI will pay Sponsor \$825 for each full second above the standard 30 seconds on an annual basis. The maximum annual penalty will be \$1,650. The calculation will be based on the average speed of answer.</p>
Blockage Rate (Busy Signal)	<p>ESI will guarantee a blockage rate of 1% or less. Blockage is defined as a caller receiving a busy signal. Measured at a book of business level.</p>	<p>ESI will pay Sponsor \$825 for each full percentage point above the standard 1% on an annual basis. The maximum annual penalty will be \$1,650. The calculation will be based on the blockage percentage.</p>

Percent of Calls Abandoned	The Telephone Abandonment Rate of the Member Service Telephone Line will be 3% or less of all incoming calls received during each Contract Year.	ESI will pay Sponsor \$825 for each full percentage point above the standard 3% on an annual basis. The maximum annual penalty will be \$1,650. The calculation will be based on the average percentage of calls abandoned.
Customer Service — First Call Resolution	ESI guarantees that 94% or greater of patient calls will be resolved on the first call.	ESI will pay Sponsor \$825 for each full percentage point below 94%. The maximum annual penalty will be \$1,650.
Dispensing Accuracy	The Dispensing Accuracy Rate for each Contract Year will be 99.996% or greater. Guarantee is measure at book of business.	ESI will pay Sponsor \$825 for each full percentage point below the standard of 99.996% on an annual basis. The maximum annual penalty will be \$1,650. The calculation will be based on the average prescription accuracy.
Turnaround Time for Routine (Clean) Prescriptions	ESI guarantees to dispense prescriptions not subject to intervention within an average of two (2) business days.	ESI will pay Sponsor \$825 for each full day above the standard two (2) business days on an annual basis. The maximum annual penalty will be \$1,650.
Turnaround Time for Prescriptions Subject to Intervention	ESI guarantees to dispense prescriptions subject to intervention within an average of four (4) business days.	ESI will pay Sponsor \$825 for each full day above the standard four (4) business days on an annual basis. The maximum annual penalty will be \$1,650.
Data Systems Availability and Adjudication	ESI guarantees an annual average 99% system availability of the point-of-sale adjudication system on a book of business basis. This guarantee excludes systems downtime attributed to regularly scheduled systems maintenance or systems downtime attributed to telecommunications failure or other circumstances outside the control of ESI.	ESI will pay Sponsor \$825 for each full percentage point which the yearly average of the online computer systems availability is below 99%. The maximum annual penalty for availability and adjudication will be \$1,650.

Eligibility — Timeliness of Installations	Accurate and complete eligibility files electronically transmitted by 10:00 A.M. EST, via secured processes acceptable to ESI, will be updated within one (1) business day of receipt.	ESI will put \$1,650 as a total amount of penalty at risk.
--	---	---