# MedImpact 340B Contract Pharmacy Benefit Manager Agreement Template

## Addendum to MedCare® Pharmacy Network Agreement for 340B and GPO Programs

This Addendum (the "**Addendum**") is by and between (i) MedImpact Healthcare Systems, Inc. ("**MedImpact**"), a California corporation, (ii) SUNRx, LLC, a Delaware limited liability corporation ("**SUNRx**"), and (iii) Member Pharmacy, and amends that certain MedCare Pharmacy Network Agreement (the "**MedCare Agreement**") entered into by MedImpact and Member Pharmacy. This Addendum is effective as to Member Pharmacy, MedImpact, and SUNRx as of the date below when signed and executed by all the Parties (the "**Effective Date**"). MedImpact, SUNRx, and Member Pharmacy may hereinafter be referred to collectively as the "Parties" or individually as a "Party" to this Addendum.

This Addendum sets forth the terms and conditions under which Member Pharmacy shall provide pharmacy services to Eligible Persons (defined below) of Covered Entity(ies). In the event of any conflict between this Addendum and the MedCare Agreement, the terms and conditions of this Addendum shall govern when Member Pharmacy is providing pharmacy services to Eligible Persons of Covered Entity(ies). Capitalized terms not defined in this Addendum are defined by the MedCare Agreement.

## RECITALS

**A.** MedImpact and SUNRx contract with "Covered Entities," as defined below, to assist Covered Entities in establishing and maintaining: (i) 340B programs, including 340B contract pharmacy arrangements that are compliant with the guidelines published by the Health Resources and Services Administration ("**HRSA**") of the United States Department of Health and Human Services ("**DHHS**"), including HRSA's Contract Pharmacy Services Guidelines at 75 Fed. Reg. 10272-10279 ("**340B Program(s)**"); or (ii) GPO programs, including contract pharmacy arrangements in establishing and maintaining contract pharmacy arrangements under the 'own use' provisions of the Non-Profit Institutions Act of 1938 (the "**GPO Program(s)**"). For the purposes of this Addendum, "Covered Entities" means: (i) in the case of 340B Programs, "Covered Entities" as defined in Section 340B of the Public Health Services Act ("**Section 340B**"); or (ii) in the case of GPO Programs, entities eligible to participate under the 'own use' provisions of the Non-Profit Institutions Act of 1938. Further, MedImpact and SUNRx offer consulting, processes, and software to support the evaluation, planning, implementation, dispensing, inventory control, inventory replenishment, reporting and auditing for Covered Entities.

**B.** Member Pharmacy wishes to contract with MedImpact and SUNRx to become a contract pharmacy for Covered Entity(ies) in accordance with this Addendum and applicable Law to provide retail pharmacy services to Covered Entities' patients who are eligible to purchase or receive 340B Covered Drugs (defined below) or GPO Covered Drugs (defined below), as applicable ("**Eligible Persons**"), under the terms and conditions set forth herein.

**C.** Covered Entity is eligible to purchase covered outpatient drugs ("**Covered Drugs**") at reduced prices for use by Eligible Persons in connection with a 340B Program or a GPO Program, as applicable.

**D.** Each Covered Entity for which Member Pharmacy is a contract pharmacy is listed on Exhibit 3, which Exhibit 3 shall be updated and/or automatically amended from time to time in accordance with this Addendum.

In consideration of the mutual covenants and other good and sufficient consideration, Member Pharmacy, SUNRx, and MedImpact agree to the following terms and conditions:

## I. COVERED ENTITY

Each time a Covered Entity, in its discretion, elects to utilize Member Pharmacy as a contract pharmacy under this Addendum, MedImpact or SUNRx shall provide Member Pharmacy, for its review and signature: (i) an Acknowledgment Agreement, the template of which is attached hereto as Exhibit 6A for 340B Program and Exhibit 6B for GPO Program; and (ii) in the case of a 340B Program, a partially completed Office of Pharmacy Affairs ("**OPA**") Contract Pharmacy Registration Form (the "**Registration Form**"), the template of which is attached hereto as Exhibit 4, identifying the Covered Entity to be added to this Addendum. Within five (5) business days of receipt of the Acknowledgement Agreement, or the Acknowledgement Agreement and the Registration Form, as applicable, Member Pharmacy shall complete and return the Acknowledgement Agreement, or the Acknowledgement Agreement and Registration Form, as applicable, to MedImpact. MedImpact or SUNRx will identify Covered Entities who may be interested in establishing contract pharmacy arrangements with Member Pharmacy. For each Covered Entity wishing to utilize Member Pharmacy as a contract Pharmacy, MedImpact or SUNRx will (i) consult with and educate the Covered Entity regarding such arrangements and (ii) assist the Covered Entity in reviewing this Addendum and either completing the Acknowledgment Agreement or completing the Acknowledgement Agreement and completing the Registration Form, if appropriate. Upon receipt of any executed Acknowledgment Agreement, MedImpact or SUNRx shall provide a copy to Member Pharmacy. MedImpact or SUNRx will assist the Covered Entity in completing the requisite steps for contract pharmacy registration and filing the Registration Form. This Addendum shall become effective as to each Covered Entity, and Exhibit 3 shall be deemed amended to include each such 340B Covered Entity, after the later of: (i) full execution of the Acknowledgement Agreement, and (ii) in the case of a 340B Program, registration of the Member Pharmacy as a 340B contract pharmacy for such Covered Entity as shown on the OPA web-based database (each a "**Program Effective Date**").

## II. COVERED DRUGS

Covered Entity may add or remove drugs from its list of Covered Drugs at its discretion at any time without notice.

## III. 340B PRICE

The base price for each Covered Entity's purchase/replenishment of Covered Drugs shall be determined pursuant to the terms of Section 340B, any applicable Law, and any agreement with a supplier, Group Purchasing Organization, or arrangement established by such Covered Entity, ("**340B Drug Cost"** or "**GPO Drug Cost**", as applicable). Covered Entity, Pharmacy, SUNRx and MedImpact acknowledge that those Covered Entities that participate in the 340B program may not participate in a GPO program to purchase Covered Drugs through a GPO or other group purchasing arrangement for any outpatient care by the Covered Entity. For purposes of this Addendum, Member Pharmacy agrees that the "340B Price" shall mean the 340B Drug Cost plus the applicable dispensing fee, and any applicable administrative fee(s) agreed to between MedImpact, SUNRx, and Covered Entity, and the "GPO Price" shall mean the GPO Drug Cost plus the applicable dispensing fee and any applicable administrative fee(s) agreed to between MedImpact, SUNRx, and Covered Entity. Member Pharmacy agrees that its compensation for Covered Drugs dispensed under this Addendum shall be in accordance with Section VI below.

## IV. PHARMACY SERVICES TO ELIGIBLE PERSONS

**A.** Patient eligibility information shall be provided to MedImpact or SUNRx by the Covered Entity in accordance with the 340B Program or GPO Program administration agreement between Covered Entity and MedImpact or SUNRx and such information shall be entered into MedImpact's Online Claim System.

Member Pharmacy shall verify whether a person is an Eligible Person through MedImpact's Online Claim System in accordance with the MedCare Agreement.

**B.** Following such verification, Member Pharmacy shall dispense the prescribed drug to the Eligible Person in the following circumstances: (i) upon presentation of a prescription form bearing the Eligible Person's name, a confirmation that the Person is an Eligible Person, through the MedImpact Online Claim System and the signature of a legally qualified health care provider affiliated with Covered Entity or (ii) upon receipt of a prescription ordered by telephone or electronically on behalf of an Eligible Person by a legally qualified health care provider affiliated with Covered Entity who states that the prescription is for an Eligible Person. As used in this Addendum, the term "affiliated" refers to providers that are employed by, under contract with, or in referral arrangements with the 340B Covered Entity. Prior to dispensing a Covered Drug to an Eligible Person, in accordance with the MedCare Agreement, Member Pharmacy will collect from each Eligible Person the applicable Copayment as communicated to Member Pharmacy via the Online Claim System or as otherwise notified in writing by MedImpact.

**C.** Member Pharmacy shall provide pharmacy services hereunder in accordance with the terms and conditions of the MedCare Agreement and all applicable federal, state and local Laws. For purposes of this Addendum, pharmacy services includes, but is not limited to, dispensing drugs to Eligible Persons, conducting drug utilization review, maintaining Eligible Person drug profiles, and counseling and advising Eligible Persons consistent with the rules, limitations, and privileges incident to the pharmacy-patient relationship.

**D.** Member Pharmacy shall provide formulary maintenance services hereunder, including providing drug-related information services to the Covered Entity's clinical personnel and consulting with the Covered Entity on the purchase of Covered Drugs.

**E.** Member Pharmacy shall have the right to refuse to serve any Eligible Person where such service would violate any Law or professional judgment of the dispensing pharmacist. In such cases, Member Pharmacy shall notify MedImpact and SUNRx of such refusal within twenty-four (24) hours of such refusal, including the name of the Eligible Person, the applicable Covered Entity, and the reason for the refusal.

## V. CLAIM SUBMISSION AND ADJUDICATION

**A.** **Claim Submission**. All Claims under this Addendum (excluding Third-Party Claims, as more fully addressed in Section VIII below) shall be submitted by Member Pharmacy through MedImpact's On-line Claim System in accordance with this Addendum and the MedCare Agreement. Member Pharmacy shall include its U&C with each Claim.

**B.** **Claim Adjudication.** MedImpact shall adjudicate each Claim in accordance with the MedCare Agreement and this Addendum. For approved Claims, MedImpact shall adjudicate such Claims based on the lower of: (1) the 340B Price or the GPO Price, as applicable, if the Claim is for a Covered Drug, (2) the network rate in accordance to Exhibit 1 of this Addendum; and (3) Member Pharmacy's U&C.

## VI. COMPENSATION

**A.** **Reimbursement for Covered Drugs.** When an Eligible Person receives a Covered Drug that adjudicates at the 340B Price or the GPO Price, as applicable ("**Program Price Claim**"), after deducting the Eligible Person Copayment and applicable fees and amounts owed to MedImpact and/or SUNRx by Member Pharmacy hereunder, Claims will be compensated pursuant to the terms and conditions of the MedCare Agreement, this Addendum, the applicable ATP attached hereto at Exhibit 1, and as follows: Member Pharmacy shall accept as payment in full the applicable dispensing fee on the ATP attached at Exhibit 1 hereto, in addition to replenishment of the Covered Drug by the Covered Entity in accordance with Section VII of this Addendum. Member Pharmacy MedImpact, SUNRx, and Covered Entity agree that

access to Covered Drugs at the 340B Price or the GPO Price, as applicable, is restricted to applicable Eligible Persons.

**B. Reimbursement for Non-Covered Drugs.** If an Eligible Person receives a drug that adjudicates at the applicable network rate or the Member Pharmacy's U&C, the Claim will be reimbursed as a non-Covered Drug. After deducting the Eligible Person's Copayment and applicable fees and amounts owed to MedImpact and/or SUNRx by Member Pharmacy hereunder, such Claims will be compensated pursuant to the terms and conditions of the MedCare Agreement, this Addendum, and in accordance with the following:

1. For Claims that adjudicate at the applicable network rate ("**Network Price Claim**"), Member Pharmacy shall accept as payment in full the applicable "Network Price" as defined in the ATP attached as Exhibit 1 hereto.

2. For Claims that adjudicate at the Member Pharmacy's U&C ("**U&C Claim**"), Member Pharmacy shall accept the U&C as payment in full. In no case shall reimbursement to Member Pharmacy exceed Member Pharmacy's U&C.

**C. Overpayments/Fees**. Any overpayments made to or otherwise received by Member Pharmacy or amounts owed by Member Pharmacy to MedImpact or SUNRx (themselves or on behalf of Covered Entity), including but not limited to POS charges, administrative charges, claim overpayments and reversals, and amounts for Third-Party Claims as described in Section VIII of this Addendum, may be deducted from amounts otherwise payable to Member Pharmacy. To the extent that Member Pharmacy still owes amounts hereunder and/or has received funds in excess of amounts owed, Member Pharmacy shall pay any such amounts outstanding thereafter within seven (7) days of receipt of an invoice from MedImpact or SUNRx.

**D. Other Fees.** Member Pharmacy shall be responsible for its own expenses, including but not limited to: bottle, lid, label, computer, and switching fees and any fees under the MedCare Agreement.

## VII. TRACKING AND REPLENISHMENT OF COVERED DRUGS FOR PROGRAM PRICE CLAIMS

**A. SUNRx's Tracking System.** SUNRx shall include in its virtual inventory system a list of Covered Drugs, provided by the Covered Entity pursuant to Section II of this Addendum, as may be updated by SUNRx from time to time with information from Covered Entity. No less than at the conclusion of each business day, MedImpact shall provide and/or make available to SUNRx a claims file report containing the 340B Program and/or GPO Program claims information, as applicable and SUNRx shall update SUNRx's virtual inventory system with such information no less than by the conclusion of the following business day, which will allow the Covered Entity to track Program Price Claims at the NDC 11 level.

**B. Member Pharmacy's Tracking and Reporting System.** Member Pharmacy shall establish and maintain a reporting and tracking system, acceptable to SUNRx, MedImpact, and the Covered Entities, that is suitable to support 340B or GPO Program contract pharmacy requirements as applicable, including prevention of the diversion of Covered Drugs to individuals who are not Eligible Persons and prevention of duplicate discounts under Medicaid. Member Pharmacy shall cooperate in good faith to create, maintain, and/or review this system. Notwithstanding the foregoing, the parties acknowledge that the ultimate responsibility for the adequacy of the tracking system lies with the Covered Entity.

**C. Inventory Replenishment.** For Program Price Claims, Covered Drugs shall be dispensed by Member Pharmacy in a virtual inventory model as follows: Member Pharmacy shall dispense its inventory to Eligible Persons pursuant to a prescription for a Covered Drug in accordance with this Addendum. Upon dispensing, such inventory of Member Pharmacy shall be deemed a Covered Drug, which the Covered Entity shall purchase and replenish for Member Pharmacy in accordance with this Addendum. Member Pharmacy shall monitor its inventory of drugs and maintain sufficient supplies to meet the day-to-day needs of Eligible Persons. SUNRx and Covered Entity will monitor the sale of Covered Drugs to Eligible Persons,

and as soon as 100% of the contents contained in the bottle size has been dispensed to fill Covered Drug prescriptions to Eligible Persons at the 340B Price or GPO Price, as applicable, SUNRx shall work with the Covered Entity to electronically transmit a Covered Entity-approved purchase order to the drug manufacturer/distributor/wholesaler (the "**Supplier**") for immediate shipment to Member Pharmacy and billing to Covered Entity to replenish the Covered Drug prescriptions on an exact NDC 11 basis (except as otherwise specified herein). Upon receipt of shipment from the Supplier, Member Pharmacy shall promptly review the shipment to confirm its accuracy. Member Pharmacy shall promptly acknowledge receipt of all shipments in its tracking system and, within one (1) calendar day of receipt of shipment, acknowledge receipt of all shipments in the SUNRx virtual inventory system and promptly provide SUNRx, in a manner and frequency acceptable to SUNRx with the shipping invoice(s) identifying Covered Drugs shipped to and received by Member Pharmacy. In all such cases, Covered Entity shall be responsible for purchasing Covered Drugs from the Supplier, who will bill the Covered Entity for the Covered Drugs.

**1.** **Discontinued NDCs.** In the event the identical package size of a dispensed Covered Drug is discontinued by the drug's manufacturer, the same drug from the same manufacturer but in a different package size will be used to replenish Member Pharmacy's inventory. If the drug is not available in a different package size from the same manufacturer such drug cannot therefore be replenished by the Covered Entity. Upon the instruction and direction of Covered Entity, MedImpact, on behalf of the Covered Entity, will reimburse the Member Pharmacy for all such drugs dispensed as 340B Covered Drugs or GPO Covered Drugs that cannot be replenished, based on the pro rata Network Price for such drugs as if they were sold as non-Covered Drugs, or the rate the Payor (defined below) originally paid for such drugs as a Third Party Claim minus the pro rata dispensing fee received by the Member Pharmacy for such drugs, all of which shall be in accordance with and subject to Section VI of this Addendum.

**2.** **Slow Movers.** For the purposes of this Addendum, the term "Slow Mover" shall mean a Covered Drug dispensed by the Member Pharmacy for which no drug of the same NDC-11 Drug Code was dispensed by such Member Pharmacy under the applicable 340B Program or GPO Program during the three calendar months immediately preceding the date of the applicable inventory reconciliation. SUNRx will review Slow Movers with Covered Entity quarterly. Upon the instruction and direction of Covered Entity, MedImpact, on behalf of the Covered Entity will reimburse the Member Pharmacy for all drugs dispensed as 340B Covered Drugs or GPO Covered Drugs that are identified as Slow Movers and will not, therefore, be replenished by the Covered Entity, based on the pro rata Network Price for such drugs as if they were sold as non-Covered Drugs, or the rate the Payor (defined below) originally paid for such drugs as a Third Party Claim minus the pro rata dispensing fee received by the Member Pharmacy for such drugs, all of which shall be in accordance with and subject to Section VI of this Addendum.

**3.** **Inventory Adjustment.** Within thirty (30) days of termination of this Addendum and/or an applicable Acknowledgement Agreement under Section XVII, an inventory adjustment shall be completed as follows: (a) MedImpact, on behalf of the Covered Entity will reimburse the Member Pharmacy for Pharmacy's inventory of a drugs dispensed as 340B Covered Drugs or GPO Covered Drugs which will have not and will not be replenished based on the pro rata Network Price for such drugs as if they were sold as non-Covered Drugs, or the rate the Payor (defined below) originally paid for such drugs as a Third Party Claim minus the pro rata dispensing fee received by the Member Pharmacy for such drugs, and (b) if Member Pharmacy's inventory has been replenished by Covered Entity in excess of the Covered Drugs that were dispensed, at Covered Entity's option and at MedImpact's and/or SUNRx's direction (acting on behalf of Covered Entity), Member Pharmacy shall return such drugs to Covered Entity's in-house pharmacy, Covered Entity's contract pharmacy, the distributor, or destruction vendor for credit or proper destruction.

## VIII. THIRD-PARTY CLAIMS/PROGRAM RECONCILIATION

**A. Definition of Third-Party Claims.** A third-party claim is a claim that has been submitted to a third-party (i.e., managed care organizations, health insurers, etc., or its PBM, which may include MedImpact, collectively referred to herein as "**Payor**") for payment outside and apart from this Addendum, but which (i) originated from a legally qualified health care provider affiliated with Covered Entity for a Covered Drug dispensed to an Eligible Person and (ii) the 340B Price or GPO Price, as applicable, for the Covered Drug is lower than the adjudicated amount processed and paid by Payor ("**Third-Party Claims**").

**B. Identification and Reconciliation of Third-Party Claims.** Member Pharmacy shall provide any necessary approvals to the appropriate network relay switch or other data provider for each applicable Member Pharmacy location to provide all third party claims data to SUNRx to enable SUNRx to perform the retrospective review of all such third party claims made at the Member Pharmacy to identify such claims that are Third-Party Claims (as defined above). SUNRx and Member Pharmacy shall enter into a business associate agreement related thereto, in the form of Exhibit 7, hereto. If the Third-Party Claim has not been reversed or otherwise modified by the Payor thirty (30) calendar days after adjudication, SUNRx will calculate the aggregate total savings due to the Covered Entity by Member Pharmacy for all such claims, and report such aggregate total dollar amount to MedImpact ("**Program Savings**"); provided, however, SUNRx shall de-identify such claim information to the extent necessary to protect the confidentiality of Member Pharmacy's discounts with such Payors (i.e., the claim level detail shall not identify the original Payor and shall mask component values of the claim). Member Pharmacy agrees that the Program Savings is due to Covered Entity. Therefore, Member Pharmacy agrees that MedImpact shall treat these Third-Party Claims as Claims for Covered Drugs, and authorizes MedImpact to offset the Program Savings by the total dispensing fees Covered Entity owes Member Pharmacy for any Program Price Claims related to such Eligible Entity. Member Pharmacy agrees that if the Program Savings is greater than the then outstanding dispensing fees due to the Member Pharmacy for any Program Price Claims (Third-Party Claims or otherwise), Member Pharmacy shall owe the remainder of the Program Savings to Covered Entity.

**C. Reconciliation and Offset**. Member Pharmacy agrees and authorizes MedImpact, at its option, to offset any amounts due from Member Pharmacy in connection with this Addendum (including but not limited to Program Savings which Member Pharmacy owes to Covered Entity) against any amounts due to Member Pharmacy under the MedCare Agreement relating to any claims at Member Pharmacy, whether or not related to this Addendum. To the extent that Member Pharmacy still owes amounts hereunder and/or has received funds in excess of amounts owed, Member Pharmacy shall pay any such amounts outstanding thereafter within seven (7) days of receipt of an invoice from MedImpact or SUNRx, provided, however, in no case shall Member Pharmacy have less than thirty (30) days from date of the claim submission to make such payment. Additionally, MedImpact and SUNRx will work with Covered Entity to facilitate the replenishment of Member Pharmacy's inventory for the Covered Drugs in accordance with Section VII(C) of this Addendum.

## IX. REPORTS

**A. SUNRx Reports.** SUNRx's virtual inventory system will provide Member Pharmacy and Covered Entity with access to dispensing reports that will identify all Program Price Claim prescriptions filled for Eligible Persons on and before the prior business day (including the Eligible Person's name, and the Covered Drug name, strength, manufacturer, and quantity dispensed). The virtual inventory system shall also include reports that contain a summary of the usage of Covered Drugs by product (including drug name, strength, manufacturer and quantity) for the preceding billing cycles. Member Pharmacy acknowledges that periodically SUNRx will provide a report to Covered Entity that contains a list of NDC 11s for which SUNRx has determined replenishment is due to Member Pharmacy, but has not been ordered by Covered Entity and/or fulfilled by Supplier, based on such reports and information. Member Pharmacy shall promptly review all reports hereunder and communicate to SUNRx any discrepancy it identifies within forty-eight (48) hours of becoming aware. Member Pharmacy shall designate assigned personnel with the authority to manage and work with SUNRx and/or MedImpact to resolve any such discrepancies.

**B. Member Pharmacy's Reports.** Member Pharmacy will provide MedImpact, SUNRx and Covered Entity with all reports consistent with customary business practices, which shall include at a minimum dispensing reports that will identify, by each Covered Entity, all prescriptions filled for Eligible Persons under this Addendum (including the Eligible Person's name, and the Covered Drug name, strength, manufacturer, and quantity dispensed), Member Pharmacy 835 files, and all such other information required by Law or reasonably requested by MedImpact, SUNRx, or Covered Entity.

## X. RECORD RETENTION AND AUDIT

**A. Records.** The Parties shall maintain all books, records, reports, and accounts of all transactions occurring as part of furnishing services under this Addendum (the "**Records**"), and as otherwise required by applicable federal, state, and local Laws and regulations (including but not limited to Section 340B with respect to the 340B Program and the Non-Profit Institutions Act of 1938 with respect to the GPO Program) for not less than seven (7) years after the expiration of this Addendum (or such longer period required by Law). All Records shall be available for inspection and/or audit under this Addendum and as otherwise required by Law. Member Pharmacy shall ensure that all reimbursement accounts and dispensing records it maintains in accordance with this Addendum (including any Acknowledgement Agreement in connection herewith) and/or otherwise in connection with any 340B Program or GPO Program are accessible separately from Member Pharmacy's own operations and will be made available to the 340B Covered Entity, MedImpact and/or SUNRx on behalf of 340B Covered Entity, HRSA, and the manufacturer, as appropriate in the case of an audit, monitoring, or other examination.

**B. Examination of Member Pharmacy's Tracking System.** Member Pharmacy agrees that prior to the commencement of services under this Addendum, prior to the Program Effective Date under any Acknowledgement Agreement related hereto, and during the term of this Addendum and any Acknowledgement Agreement related hereto, Covered Entity shall have the opportunity to examine Member Pharmacy's tracking system to ensure its efficacy and accuracy. Member Pharmacy further agrees that Covered Entity, MedImpact, andSUNRx, shall also have reasonable access to Member Pharmacy's facilities and Eligible Persons' records during the term of this Addendum and any Acknowledgement Agreement related hereto, in order to, on behalf of the Covered Entity, make periodic checks regarding the effectiveness and accuracy of Member Pharmacy's tracking system in preventing diversion of Covered Drugs and the prevention of duplicate discounts under Medicaid. Member Pharmacy agrees to make any and all adjustments to the tracking system which SUNRx, MedImpact, and/or the Covered Entity advises are necessary to prevent the diversion of Covered Drugs to non-Eligible Persons. Notwithstanding the foregoing, the parties acknowledge that the ultimate responsibility for the adequacy of the tracking system lies with the Covered Entity.

**C. Audit of Member Pharmacy.** Member Pharmacy shall permit Covered Entity, and/or MedImpact and/or SUNRx (or their designees) on the Covered Entity's behalf, and authorized government agency representatives access to inspect, evaluate, and audit the Records relating to Member Pharmacy's performance under this Addendum and/or any Acknowledgement Agreement related hereto both during the term of this Addendum and/or any Acknowledgement Agreement and for a period of seven (7) years after the termination of this Addendum or any applicable Acknowledgement Agreement or for such longer period of time as required to complete an ongoing audit or investigation or as required by Law. In connection with 340B Programs, Member Pharmacy understands and agrees that Covered Entity, or such independent auditor appointed thereby, shall conduct such an audit at least annually to ensure compliance with 340B program requirements. This provision shall not limit the audit rights of MedImpact as exist hereunder or under the MedCare Agreement. Information regarding the general functioning of the audits and minimum information to be made available to the auditor is described in Exhibit 5. Covered Entity and Member Pharmacy will also identify any other necessary information for the Covered Entity to meet its ongoing responsibility of ensuring compliance with 340B requirements and will establish mechanisms to ensure availability of that information for periodic independent audits performed by the Covered Entity.

Without limiting the generality of the foregoing provision, Member Pharmacy, 340B Covered Entity, SUNRx and MedImpact understand and agree that, in connection with the 340B Program, both Member Pharmacy and Covered Entity are subject to audit by HRSA, DHHS, and/or drug manufacturers that have signed a pharmaceutical purchasing agreement with DHHS, and such audits may pertain to the Member Pharmacy's and Covered Entity's compliance with the prohibition against drug resale or transfer and the prohibition against duplicate Medicaid rebates and discounts. The Parties and each Covered Entity under its Acknowledgment Agreement related hereto agree to cooperate with such audits and to comply with applicable rules and regulations (and government requirements, guidelines, and instructions) regarding such audits.

**D. Inspection by OPA**. Member Pharmacy, MedImpact, SUNRx, and Covered Entity understand and agree that, in connection with the 340B Program provided hereunder, a copy of this Addendum and the applicable Acknowledgement Agreement will be provided by Covered Entity, upon request, to OPA. If the known intent of the request is to provide the drug manufacturer with a copy, each Party shall then, unless otherwise prohibited, have the opportunity to redact any information in this Addendum and attachments which it considers to be proprietary and confidential, prior to submitting the Addendum to the requesting manufacturer.

## XI. PHARMACY SITES

Member Pharmacy agrees it will provide pharmacy services contracted for under this Addendum at only those Member Pharmacy's locations (s) listed on Exhibit 2, which shall identify such Member Pharmacy locations by 340B Program and GPO Program participation, NCPDP # and/or NPI (as designated by MedImpact), address, state pharmacy license number(s), and the Covered Entity(ies) that each Member Pharmacy location will serve.

## XII. COMPLIANCE WITH LAW

Member Pharmacy, MedImpact, SUNRx, and Covered Entity agree to comply with all applicable federal, state, and local Laws with respect to this Addendum and the services provided by each under this Addendum and each is aware that there may be the potential for civil or criminal penalties for certain violations of the Law.

## XIII. PATIENT CHOICE

Member Pharmacy understands and agrees that Eligible Persons may elect not to use Member Pharmacy for pharmacy services. In the event that an Eligible Person elects not to use Member Pharmacy for such services, the Eligible Person may obtain the prescription from the pharmacy provider of his or her choice. Covered Entity shall inform each Eligible Person of his or her freedom to choose a provider of pharmacy services and that he or she may be eligible for a discount on Covered Drugs but that such discount may be obtained only at pharmacies contracted with MedImpact, on behalf of Covered Entity, to provide pharmacy services to Eligible Persons.

## XIV. PROHIBITION ON RESALE OR TRANSFER

Member Pharmacy, MedImpact, SUNRx, and the Covered Entity agree that they will not sell, resell or transfer a Covered Drug purchased by Covered Entity to an individual who is not an Eligible Person receiving care from such Covered Entity. Member Pharmacy further agrees that, in the event of a transfer, diversion, or resale of a Covered Drug in violation of this Addendum, it will pay MedImpact, on behalf of Covered Entity, an amount equal to: (i) the price discount Covered Entity received from the drug manufacturer or supplier in connection with such drug, so that Covered Entity can reimburse the manufacturer for that drug; and (ii) any costs incurred by the Covered Entity, SUNRx, or MedImpact in connection with correcting such transfer, diversion, or resale of a Covered Drug in violation of this

Addendum. For purposes of this provision, Covered Entity's determination of the amount of the discount on a Covered Drug payable to the manufacturer or supplier shall be conclusive.

## XV. MEDICAID PRESCRIPTIONS

Member Pharmacy, MedImpact, SUNRx, and Covered Entity agree not to use Covered Drugs to fill prescriptions paid for in whole or in part by Medicaid unless Member Pharmacy, Covered Entity and the applicable State Medicaid Agency have established an arrangement which will prevent duplicate discounts and/or rebates, or as otherwise permitted by Law. Under its Acknowledgment Agreement related hereto, any such arrangement, in connection with any 340B Program, shall be reported to the OPA by the Covered Entity.

## XVI. COOPERATION

In addition to the duties specifically stated herein, the Parties (and each Covered Entity by execution of the Acknowledgement Agreement) acknowledge that there may be additional duties to be performed and procedures to be followed by each Party and or the Covered Entity. The Parties shall cooperate in good faith with one another and the Covered Entity to clarify, modify, and/or develop any applicable duties, procedures, and/or systems necessary to comply with Law.

## XVII. TERM AND TERMINATION

**A.** As to the Parties, this Addendum shall commence on the Effective Date and shall continue thereafter unless/until the MedCare Agreement is terminated or this Addendum is terminated in accordance with the terms hereof. As between each Covered Entity and the Member Pharmacy, the terms of the Addendum and the applicable Acknowledgement Agreement shall commence on the applicable Program Effective Date and shall continue thereafter unless/until this Addendum or the applicable Acknowledgement Agreement is terminated in accordance with the terms hereof. Additionally, this Addendum and/or any applicable Acknowledgement Agreement may be terminated as follows:

**1.** This Addendum may be terminated by MedImpact or SUNRx upon written notice of a material breach of this Addendum by Member Pharmacy to all Parties, which is not cured to the reasonable satisfaction of the noticing Party, within ten (10) business days. Without limiting MedImpact's or SUNRx's right to assert any other act or failure to act as constituting a material breach by Member Pharmacy, Member Pharmacy's dispensing of a 340B Covered Drug to an individual who is not a 340B Eligible Person or any other diversion of a 340B Covered Drug shall be deemed to be a material breach.

**2.** Any applicable Acknowledgement Agreement may be terminated by MedImpact, SUNRx, the applicable Covered Entity, or Member Pharmacy, upon written notice of a material breach of such Acknowledgement Agreement (incorporating the terms of this Addendum) to all Parties and the applicable Covered Entity, which is not cured to the reasonable satisfaction of the noticing Party or, the applicable Covered Entity, within ten (10) business days. Without limiting any Covered Entity's, MedImpact's, or SUNRx's right to assert any other act or failure to act as constituting a material breach by Member Pharmacy, Member Pharmacy's dispensing of a 340B Covered Drug to an individual who is not a 340B Eligible Person or any other diversion of a 340B Covered Drug shall be deemed to be a material breach of the applicable Acknowledgement Agreement. The termination of any Acknowledgement Agreement, shall not, in itself, terminate, limit, or otherwise affect the terms of this Addendum or any other Acknowledgement Agreement. Notwithstanding the above, a material breach of any Acknowledgement Agreement, shall constitute a material breach of the Addendum, and may constitute a basis for termination of the Addendum under Section XVII (A)(1), above.

**3.** This Addendum may be terminated by MedImpact and/or SUNRx, and/or any applicable Acknowledgement Agreement may be terminated by MedImpact, SUNRx, and/or any applicable

Covered Entity immediately upon written notice to Member Pharmacy if Member Pharmacy is found guilty of fraud, or is the subject of an action taken, or proposed to be taken, against Member Pharmacy or any of its principals resulting in Member Pharmacy or its principal(s) being debarred, suspended, proposed for debarment or declared ineligible to participate in any federal or state healthcare program with termination effective on receipt of such notice.

**4.** This Addendum may be terminated by MedImpact and/or SUNRx, and/or any applicable Acknowledgement Agreement may be terminated by MedImpact, SUNRx, and/or any applicable Covered Entity immediately upon sending written notice to Member Pharmacy in the event MedImpact, SUNRx, or Covered Entity learns that Member Pharmacy made any false statements prior to or during the term of this Addendum or the applicable Acknowledgement Agreement.

**5.** Any applicable Acknowledgement Agreement shall be automatically and immediately terminated in the event the program administration agreement between MedImpact and/or SUNRx and the Covered Entity terminates.

**6.** This Addendum may be terminated by MedImpact, Member Pharmacy, and/or SUNRx, and/or any applicable Acknowledgement Agreement may be terminated by MedImpact, Member Pharmacy, SUNRx, and/or any applicable Covered Entity upon ninety (90) calendar days' prior written notice to the other Parties, or such longer time as required by Law.

**B.** Member Pharmacy acknowledges and agrees that each Covered Entity shall have the right to terminate the applicable Acknowledgement Agreement between such Covered Entity and Member Pharmacy as stated above, and such termination shall only terminate the applicable Acknowledgement Agreement as to the particular Covered Entity and shall not, in itself, terminate, limit, or otherwise affect the terms of this Addendum or any other Acknowledgement Agreement.

**C.** In the event of any changes in applicable federal or state Laws or regulations that would have a material adverse effect on the 340B Program, the GPO Program, or the legal responsibilities of Member Pharmacy, MedImpact, SUNRx, or Covered Entity hereunder, the Parties and Covered Entity (under the Acknowledgment Agreement) agree to negotiate any required changes to this Addendum and/or any applicable Acknowledgement Agreement in good faith. If the Parties are unable to reach a mutual agreement regarding any required amendment of this Addendum and/or any applicable Acknowledgement Agreement within thirty (30) days after such new law or regulation becomes effective, any Party (and as to any applicable Acknowledgement Agreement, the applicable Covered Entity) may terminate this Addendum and/or any applicable Acknowledgement Agreement upon written notice to the other Parties and the applicable Covered Entity.

**D.** In the event of a termination or expiration of this Addendum, the respective Parties and applicable Covered Entities under any Acknowledgement Agreements related hereto shall continue to be obligated to conclude and terminate their affairs under this Addendum in an orderly fashion, to make and perform any accounting required hereunder, to undertake any audits permitted hereunder, to settle their mutual accounts, to resolve any disputes between themselves or with Eligible Persons, to commence, continue and complete any surveys and inspections permitted hereunder relating to the monitoring and reporting of the quality, utilization, and accessibility of pharmacy services hereunder, to maintain the confidentiality of information in accordance herewith, and to honor provisions hereunder regarding indemnification.

**E.** Upon Termination of any applicable Acknowledgement Agreement and/or this Addendum, the Parties and each applicable Covered Entity shall conduct an inventory adjustment within a commercially reasonable time after termination, and in all cases, in accordance with Section VII(C)(2) of this Addendum.

## XVIII. INDEMNIFICATION

Member Pharmacy's indemnification obligations as provided for in the MedCare Agreement shall extend to SUNRx and Covered Entities under this Addendum.

## XIX. INDEPENDENT CONTRACTORS; NON-ASSIGNABILITY

Member Pharmacy, MedImpact, and SUNRx are independent entities. Member Pharmacy shall perform all services under the MedCare Agreement, including this Addendum, as an independent contractor, and shall exercise its own professional judgment in providing such services. The MedCare Agreement, including this Addendum, shall not be assigned, sub-contracted, delegated, or transferred by Member Pharmacy without the prior written consent of MedImpact and SUNRx.

## XX. NOTICE

Any notices required under this Addendum or the MedCare Agreement with respect to this Addendum shall be sent in accordance with the notice provision of the MedCare Agreement; provided, however, that SUNRx shall be added to such notice requirements as follows:

If to SUNRx: SUNRx, LLC
3260 Tillman Drive, Suite 75
Bensalem, PA 19020
Attn: Timothy A. Liebmann, Chairman & CEO
Phone: (800) 786-1791
Fax: (856) 910-7050

## XXI. COUNTERPARTS

This Addendum may be executed in one or more counterparts, each of which will be considered an original, and all of which taken together will constitute one and the same instrument and will be effective as of the Effective Date. Signature execution by facsimile or other electronic means shall be considered binding.

## XXII. ENTIRE AGREEMENT

This Addendum, along with the MedCare Agreement and the Exhibits hereto (all of which are incorporated herein), represents the entire understanding and agreement of the Parties as it relates to subject matter of this Addendum. There are no other agreements or understandings between the Parties, either oral or written, relating to the 340B Program and/or 340B pharmacy services. The Parties acknowledge and agree that any amendments to this Addendum are subject to the approval of Covered Entity as to any previously executed Acknowledgement Agreement. In the event a Covered Entity objects to any amendment hereto, such amendment shall not apply as to the objecting Covered Entity; provided, however, the Parties shall have the right to terminate the Addendum or any applicable Acknowledgement Agreement in accordance with Section XVII above.

**AGREED AND ACCEPTED:**

| | |
|---|---|
| **Member Pharmacy Authorized Signature** | |
| Printed Name and Title | |
| Date | |
| NCPDP/Chain Code | |

| | |
|---|---|
| **MedImpact**<br>**Authorized Signature** | |
| Printed Name and Title | |
| Date | |

| | |
|---|---|
| **SUNRx**<br>**Authorized Signature** | |
| Printed Name and Title | Timothy A. Liebmann, Chairman & CEO |
| Date | |

**Exhibit 1**
**Authorization to Participate Form**
**340B PHARMACY SERVICES**

**I. Reimbursement for Claims that Process as Program Price Claims (Brand and Generic):**
$11.00 dispensing fee plus replenishment of the Covered Drug by the Covered Entity in accordance with Section VII of this Addendum.

**II. Third Party Claim Reimbursement Rate (Brand and Generic):**
$20.00 dispensing fee plus replenishment of the Covered Drug by the Covered Entity in accordance with Section VII of this Addendum.

**III. Reimbursement for Claims that Process as a Non-Covered Drug:**
Pre-AWP Settlement Adjustment Reimbursement Rate for Claims that Process as Network Price Claims ("Network Price") and U&C:

***** For a Covered Entity or Payor in which Member Pharmacy participates (either directly or through a PSAO), Non-Covered Drugs shall be reimbursed at those rates applicable to Member Pharmacy for such Covered Entity or Payor.

**IV.** Member Pharmacy shall pay to MedImpact an administration fee (POS charge) as set forth in the MedCare Agreement, as applicable. Such fees may be deducted by MedImpact from amounts otherwise payable to Member Pharmacy.

**DAW Explanation:**

DAW 0 - No DAW Indicated
DAW 1 - No Substitution Allowed—Dispensed As Written By Prescriber
DAW 2 - Substitution Allowed—Patient Requested Product Dispensed
DAW 3 - Substitution Allowed—Pharmacist Selected Product Dispensed
DAW 4 - Substitution Allowed—No Generic Available
DAW 5 - Substitution Allowed—Brand Dispensed As Generic, Priced As Generic
DAW 6 - Override
DAW 7 - Substitution Not Allowed—Brand Mandated By Law
DAW 8 - Generic not available in marketplace
DAW 9 - Other

**Compounds (applicable to non-Covered Drugs):** Prescription Drug Benefits which are compounded prescriptions for Eligible Persons must be submitted to MedImpact by using the NDC number of the most expensive Legend Drug. The compound must contain at least one ingredient that is a Legend Drug.

## Exhibit 2
## List of Member Pharmacy Locations*

**(*Member Pharmacy to designate 340B Program and GPO Program participation by Member Pharmacy location)**

## Exhibit 3
## List of Covered Entities and Locations

### 340B Covered Entities

### GPO Covered Entities

## Exhibit 4

**Office of Pharmacy Affairs Contract Pharmacy Registration Form**

**[Located at ftp://ftp.hrsa.gov/bphc/pdf/opa/CPSelfCert.pdf ]**

**Exhibit 5**
**Information Regarding The General Functioning Of Audits**
**And Minimum Information To Be Made Available To The Auditor**

## 340B AUDIT PROTOCOL

This audit protocol reflects the requirement set forth in guidelines issued by the Health Resources and Services Administration ("HRSA") that Covered Entities undertake annual, independent audits to ensure that 340B prohibitions against drug diversion and duplicate discounts are not breached. This protocol undertakes and reflects no auditing obligations that may belong to the Parties apart from those reflected in the HRSA guidelines at 75 Fed. Reg. 10272-10279 (March 5, 2010). Capitalized terms utilized in this document shall have the definitions ascribed to them in the Pharmacy Services Agreement, to which this protocol is Exhibit 5.

Section I of this audit protocol addresses those steps that an independent auditor shall take to ensure that the systems established or relied upon by the Eligible Entity and Pharmacy are successfully preventing the diversion of 340B drugs. Section II of the protocol describes the steps that shall be taken by the independent auditor to ensure that the systems established or relied upon by Eligible Entity and Pharmacy are effectively preventing duplicate discounts. Additional 340B responsibilities of the independent auditor are also set forth herein.

### I. Protecting Against Diversion

Diversion of 340B drugs can happen at any point in the distribution chain. This section outlines audit processes for the transactions between the drug wholesaler to pharmacy, the pharmacy to the 340B Eligible Patient, and the 340B Eligible Patient to replenishment of the pharmacy inventory. Audit processes may include but are not limited to:

- Comparison of invoices to inventory/replenishment
- Comparison of claims transaction quantities by NDC to inventory replenishment
- Proof of deliver of pick-up of prescriptions by eligible beneficiaries/members
- Comparison of Pharmacy Benefits Card to proof of identification (i.e. drivers license)

The following represents suggested procedures:

On an annual basis, the following steps shall be undertaken by an independent auditor chosen by the Eligible Entity in order to ensure that only those individuals who qualify as Eligible Patients of the Eligible Entity are dispensed 340B Covered Drugs.

#### A. Patient Eligibility Audit

i. The independent auditor shall ensure that Eligible Entity maintains a written policy outlining its process and criteria for evaluating whether an individual meets the definition of an Eligible Patient pursuant to 340B program guidance.

ii. The independent auditor shall verify the use by Eligible Entity of a Pharmacy Benefits Card ("Card") that identifies individuals as Eligible Patients. Utilizing an appropriate sampling method to be determined by the independent auditor in consultation with the Eligible Entity, the independent auditor shall verify that 340B patient eligibility information embedded in the Cards is accurate, and that individuals who are designated by their Cards as Eligible Patients fall within the scope of the policy referenced in item (1)(A)(i).

iii. The independent auditor shall verify that Pharmacy fills prescriptions with 340B Covered Drugs only for those individuals who present a Card issued by the Eligible Entity. Where an individual does not present a Card, the independent auditor shall verify that Pharmacy maintains a written policy outlining its process for determining whether individuals who lack Cards qualify as Eligible Patients. Specifically, the independent auditor shall ensure that Pharmacy has a policy of requesting other proof of identification from the individual and of accessing the Eligible Entity Eligible Patient database, in order to confirm that the individual is an Eligible Patient. Utilizing an appropriate sampling method or via observation or attestation, the auditor shall then evaluate instances in which 340B Covered Drugs were used to replace drugs dispensed to individuals who lacked Cards, in order to ensure that Pharmacy has adhered to this policy.

**B. Inventory Tracking Audit**

i. Utilizing an appropriate sampling method to be determined by the independent auditor in consultation with the Eligible Entity, the independent auditor shall review the invoices that accompany 340B Covered Drug deliveries to Pharmacy to ensure that these match the 340B Covered Drugs purchased by the Eligible Entity.

ii. Utilizing an appropriate sampling method to be determined by the independent auditor in consultation with the Eligible Entity, the independent auditor shall verify that the drugs dispensed to Eligible Patients are replaced with 340B Covered Drugs purchased under the 340B account with the same NDC number. This shall be accomplished using the following two-step process:

1. The independent auditor shall first confirm that drugs replaced with 340B Covered Drugs were dispensed to Eligible Patients of the Eligible Entity. To make this determination, the auditor shall verify that the drugs were dispensed to individuals upon presentation of a Card that accurately identified the individuals as Eligible Patients. If the individuals did not present a Card, the auditor shall verify that the individuals were correctly identified as Eligible Patients using the alternative mechanism discussed in Section (1)(A)(iii).

2. The auditor shall verify that the replacement drugs were ordered and replenished on an NDC 11-by-NDC 11 basis. Where no matching NDC 11 exists, whether due to discontinuation or otherwise, the independent auditor shall ensure that the Eligible Entity maintains a written policy addressing how it handles situations where the same NDC11 is not available for replenishment. The auditor shall ensure, utilizing a method to be determined by the auditor in consultation with the Eligible Entity, that the Parties are adhering to that policy.

## II. Preventing Duplicate Discounts

The auditor shall confirm that the Parties have agreed during the entire audit period to exclude from their 340B contract pharmacy arrangement covered outpatient drugs billable to Medicaid on a fee-for-service basis. If this is the case, the risk of duplicate discounts only arises in two situations because the SUNRx virtual replenishment system does not permit 340B Covered Drugs to be billed to Medicaid. The first situation occurs if the Eligible Entity and/or Pharmacy have failed to adhere to the anti-diversion procedures described in Section I above. The second situation arises if the Pharmacy maintains a physical inventory of 340B Covered Drugs.

**A. Medicaid Billing Audit in the Event of Diversion**

i. If the auditor discovers one or more instances of non-compliance by the Eligible Entity and/or Pharmacy as a result of the audits performed under Section I, the auditor shall evaluate the risk of whether such non-compliance resulted in 340B Covered Drugs being billed to Medicaid.

ii. In evaluating this risk, the auditor shall exclude the use of 340B Covered Drugs to replace drugs dispensed to enrollees of Medicaid managed care organizations ("MCOs") if such drugs are billable to the MCO rather than the state Medicaid program.

**B. Medicaid Billing Audit in the Event Pharmacy Maintains a Physical Inventory**

i. The independent auditor shall ascertain if Pharmacy maintains a physical inventory of 340B Covered Drugs. Where this is the case, the auditor shall conduct a separate audit of the physical inventory to ensure that 340B Covered Drugs have not been billed to the Medicaid program. In making this determination, the auditor shall take the following steps: (1) verify that physical 340B inventory is segregated from physical non-340B inventory, and (2) compare 340B invoices with Pharmacy Medicaid billing and dispensing records to ensure that no 340B drugs have been dispensed to Eligible Patients and billed to the Medicaid program.

ii. The reference above to 340B Covered Drugs being "billed to the Medicaid program" shall not apply to drugs billed to an MCO rather than the state Medicaid program.

## III. Other Audit Issues

In addition to the above, the independent auditor shall also undertake the following:

**A. Retention of Auditable Records**

The independent auditor shall ensure that both Eligible Entity and Pharmacy have written policies of retaining all relevant records relating to Pharmacy services associated with 340B Covered Drugs and Eligible Patients, in accordance with and for time frames required by applicable Federal, state, and local laws and regulations. Utilizing an appropriate sampling method to be determined by the independent auditor in consultation with Eligible Entity, the independent auditor shall verify that the Eligible Entity and Pharmacy are in fact maintaining all relevant records relating to Pharmacy services associated with 340B Covered Drugs and Eligible Patients in accordance with their respective written policies.

**B. Registration Audit**

i. The independent auditor shall verify that all Eligible Entity and Pharmacy information is accurately reflected on the Office of Pharmacy Affairs ("OPA") database.

**C. Self-Reporting Policies**

i. The independent auditor shall ensure that Eligible Entity has in place a self-reporting policy in the event it determines that drug diversion or duplicate discounts have occurred or that it is otherwise unable to comply with its responsibility to reasonably ensure compliance. The auditor shall also verify that, in the event that instances of diversion or duplicate discounts have occurred, the self-reporting policy was appropriately acted upon.

The independent auditor shall also ensure that the Pharmacy has in place a policy of reporting to the Eligible Entity in the event that it is unable to implement or maintain Pharmacy practices that comport with 340B prohibitions against diversion and duplicate discounts.

## Exhibit 6A
## Acknowledgement Agreement
## 340B Program

This Acknowledgement Agreement ("**Agreement**"), effective upon full execution of this Acknowledgment Agreement and registration of Member Pharmacy as a 340B contract pharmacy as shown on the OPA web-based database (the "**Program Effective Date**"), is by and between _____ with its principal office located at _____ ("**Member Pharmacy")** and _____, located at _____ ("**Covered Entity**") (each a "Party and collectively "the Parties").

WHEREAS, Covered Entity is a party to a Covered Entity Service Agreement with MedImpact Healthcare Systems, Inc. ("**MedImpact**") and/or SUNRx, LLC ("**SUNRx**"), under which, among other things, MedImpact and SUNRx assist the Covered Entity in establishing and managing contract arrangements with pharmacies that desire to provide 340B pharmacy services and perform certain functions on behalf of Covered Entity;

WHEREAS, Member Pharmacy, SUNRx, and MedImpact are parties to an Addendum for 340B and GPO Programs (the "**Addendum**") to a MedCare® Pharmacy Network Agreement (the "**MedCare Agreement**") that sets forth the terms under which Member Pharmacy will provide 340B pharmacy services to Covered Entities that contract with SUNRx and MedImpact under a Covered Entity Service Agreement.

NOW THEREFORE, in exchange for the mutual promises contained herein and for such additional consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. Covered Entity hereby acknowledges that it has fully reviewed the Addendum (and Exhibits 4 through 7 to the Addendum) and understands the effect and meaning of the terms contained therein.

2. Covered Entity hereby: (i) engages Member Pharmacy to provide 340B pharmacy services in accordance with the terms of the Addendum; (ii) accepts and adopts the obligations of the Covered Entity as stated therein; and (iii) approves all delegations set forth in the Addendum and understands that such delegations do not relieve the Covered Entity of its obligations and ultimate responsibility for 340B compliance.

3. Member Pharmacy hereby: (i) agrees to act as a contract pharmacy for the Covered Entity in accordance with the terms of the Addendum and the MedCare Agreement; and (ii) accepts and adopts the obligations of the Member Pharmacy as stated therein.

4. 340B DISPENSING FEE: Covered Entity hereby acknowledges and agrees to the reimbursement rate per Program Price Claim, attached hereto and incorporated by reference.

**Reimbursement for Claims that Process as Program Price Claims (Brand and Generic):**
$_____ dispensing fee plus replenishment of the Covered Drug by the Covered Entity in accordance with Section VII of the Addendum.

**Third Party Claim Reimbursement Rate (Brand and Generic):**
$_____ dispensing fee plus replenishment of the Covered Drug by the Covered Entity in accordance with Section VII of the Addendum.

IN WITNESS WHEREOF, the parties hereto have executed this Acknowledgement Agreement, intending to be legally bound hereby:

| Member Pharmacy: | Covered Entity: |
|---|---|
| By: _____ | By: _____ |
| Date:_____ | Date:_____ |
| NCPDP/Chain Code:_____ | |

## Exhibit 6B
## Acknowledgement Agreement
## GPO Program

This Acknowledgement Agreement ("**Agreement**"), effective upon full execution of this Acknowledgment Agreement (the "**Program Effective Date**"), is by and between _____ with its principal office located at _____ ("**Member Pharmacy")** and _____, located at _____ ("**Covered Entity**") (each a "Party and collectively "the Parties").

WHEREAS, Covered Entity is a party to a Covered Entity Service Agreement with MedImpact Healthcare Systems, Inc. ("**MedImpact**") and/or SUNRx, LLC ("**SUNRx**"), under which, among other things, MedImpact and SUNRx assist the Covered Entity in establishing and managing contract arrangements with pharmacies that desire to provide GPO Program pharmacy services and perform certain functions on behalf of Covered Entity;

WHEREAS, Member Pharmacy, SUNRx, and MedImpact are parties to an Addendum for 340B and GPO Programs (the "**Addendum**") to a MedCare® Pharmacy Network Agreement (the "**MedCare Agreement**") that sets forth the terms under which Member Pharmacy will provide GPO Program pharmacy services to Covered Entities that contract with SUNRx and MedImpact under a Covered Entity Service Agreement.

NOW THEREFORE, in exchange for the mutual promises contained herein and for such additional consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. Covered Entity hereby acknowledges that it has fully reviewed the Addendum (and Exhibits 4 through 7 to the Addendum) and understands the effect and meaning of the terms contained therein.

2. Covered Entity hereby: (i) engages Member Pharmacy to provide GPO pharmacy services in accordance with the terms of the Addendum; (ii) accepts and adopts the obligations of the Covered Entity as stated therein; and (iii) approves all delegations set forth in the Addendum.

3. Member Pharmacy hereby: (i) agrees to act as a contract pharmacy for the Covered Entity in accordance with the terms of the Addendum and the MedCare Agreement; and (ii) accepts and adopts the obligations of the Member Pharmacy as stated therein.

4. 340B DISPENSING FEE: Covered Entity hereby acknowledges and agrees to the reimbursement rate per Program Price Claim, attached hereto and incorporated by reference.

**Reimbursement for Claims that Process as Program Price Claims (Brand and Generic):**
$_____ dispensing fee plus replenishment of the Covered Drug by the Covered Entity in accordance with Section VII of the Addendum.

**Third Party Claim Reimbursement Rate (Brand and Generic):**
$_____ dispensing fee plus replenishment of the Covered Drug by the Covered Entity in accordance with Section VII of the Addendum.

IN WITNESS WHEREOF, the parties hereto have executed this Acknowledgement Agreement, intending to be legally bound hereby:

| Member Pharmacy: | Covered Entity: |
|---|---|
| By: _____ | By: _____ |
| Date:_____ | Date:_____ |
| NCPDP/Chain Code:_____ | |

**Exhibit 7**
**Business Associate Agreement**
**Between SUNRx And Member Pharmacy**

## BUSINESS ASSOCIATE PROTECTED HEALTH INFORMATION DISCLOSURE AGREEMENT [OR ADDENDUM]

This Business Associate Protected Health Information Disclosure Agreement ("Agreement") is entered into effective as of _____("Effective Date"), by and between _____, a _____ _____ corporation ("Member Pharmacy"), and SUNRx LLC, a corporation organized under the laws of the State of Delaware and its affiliates ("Business Associate").

## RECITALS

WHEREAS, Business Associate provides services ("Services") to Member Pharmacy, and Business Associate receives, has access to or creates Protected Health Information in order to provide those Services;

WHEREAS, Member Pharmacy is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and regulations promulgated there under, including the Standards for Privacy of Individually Identifiable Health Information ("Privacy Regulations") and the Security Standards for Electronic Protected Health Information ("Security Regulations") at 45 Code of Federal Regulations Parts 160, 162 and 164 (together, the "Privacy and Security Regulations");

WHEREAS, the Privacy and Security Regulations require Member Pharmacy to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

## DEFINITIONS

1. Defined Terms. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as in the Department of Health and Human Services' Standards for Privacy and Security of Individually Identifiable Health Information, 45 C.F.R. Parts 160 - 164, as currently in effect or as amended (collectively, the "HIPAA Regulations"). The purposes of this Agreement the following definitions shall apply:

1.1. "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.

1.2. "Electronic Media" means:

1.2.1. Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or

1.2.2. Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable /transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.

1.3. "Electronic Protected Health Information" means Protected Health Information that is transmitted or maintained in Electronic Media.

1.4. "Information System" means an interconnected set of information resources under the same direct management control that shares common functionality. A system normally includes hardware, software, information, data, applications, communications, and people.

1.5. "Protected Health Information" means information that (i) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (ii) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (iii) is received by Business Associate from or on behalf of Member Pharmacy, or is created by Business Associate, or is made accessible to Business Associate by Member Pharmacy. Protected Health Information includes Electronic Protected Health Information.

1.6. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information in, or interference with system operations of, an Information System which contains Electronic Protected Health Information. However, Security Incident does not include attempts to access an Information System when those attempts are not reasonably considered by Business Associate to constitute an actual threat to the Information System.

1.7. "Use" or "Uses" mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations.

**AGREEMENT**

2. Permitted Uses and Disclosures of Protected Health Information. Business Associate:

2.1. shall Use and Disclose Protected Health Information as necessary or appropriate to perform the Services, and as provided in the Administrative Services Agreement between Member Pharmacy and Business Associate;

2.2. shall Disclose Protected Health Information to Member Pharmacy upon request;

2.3. may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:

2.3.1. Use Protected Health Information; and

2.3.2. Disclose Protected Health Information if : (i) the Disclosure is required by law, or (ii) Business Associate obtains reasonable assurance from the person to whom the information is Disclosed that the Protected Health Information will be held confidentially and Used or further Disclosed only as required by law or for the purpose for which it was Disclosed to the person, and the person agrees to notify Business Associate of any instances of which the person is aware in which the confidentiality of the Protected Health Information has been breached.

2.4. Business Associate shall not Use or Disclose Protected Health Information for any other purpose.

3. Adequate Safeguards for Protected Health Information.

3.1. Business Associate warrants that it shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Agreement.

3.2. Specifically as to Electronic Protected Health Information, Business Associate warrants that it shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information.

4. Reporting Non-Permitted Use or Disclosure and Security Incidents.

4.1. Business Associate shall report to Member Pharmacy each Use or Disclosure that is made by Business Associate, its employees, representatives, agents or subcontractors which is not specifically permitted by this Agreement, as well as each Security Incident of which Business Associate becomes aware. The initial report shall be made by telephone call to the Member Pharmacy's Compliance and Privacy Officer ("Privacy Officer") at (____) ___-____ Extension# **[Insert Name and Phone Number of Privacy Officer]** _____ within forty-eight (48) hours from the time the Business Associate becomes aware of the non-permitted Use or Disclosure or Security Incident, followed by a written report to the Privacy Officer no later than ten (10) business days from the date the Business Associate becomes aware of the non-permitted Use or Disclosure or Security Incident.

4.2. Business Associate will comply with Section 13402 of the HITECH Act and implementing regulations, 45 CFR Part 164, Subpart D, as such may be amended (collectively, the "Breach Notification Rules"), as of the date by which business associates are required to comply with the Breach Notification Rules. Business Associate shall provide all information regarding such breaches and the risk assessment conducted by Business Associate as is reasonably requested by Member Pharmacy, in order to meet Member Pharmacy's obligations under the Breach Notification Rules.

5. Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

6. Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the Federal Department of Health and Human Services for purposes of determining Member Pharmacy's compliance with the Privacy and

Security Regulations. Business Associate shall immediately notify Member Pharmacy of any requests made by the Secretary and provide Member Pharmacy with copies of any documents produced in response to such request.

7. Access to and Amendment of Protected Health Information. Business Associate shall, to the extent Member Pharmacy determines that any Protected Health Information that may be retained by Business Associate constitutes a "designated record set" under the Privacy Regulations, (a) make the Protected Health Information specified by Member Pharmacy available to the individual(s) identified by Member Pharmacy as being entitled to access and copy that Protected Health Information, and (b) make any amendments to Protected Health Information that are requested by Member Pharmacy. Business Associate shall provide such access and make such amendments within the time and in the manner specified by Member Pharmacy.

8. Accounting of Disclosures.

   8.1. Upon Member Pharmacy's request, Business Associate shall provide to Member Pharmacy an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or subcontractors. However, Business Associate is not required to provide an accounting of Disclosures that are necessary to perform the Services when such Disclosures are for either the Member Pharmacy's payment or health care operations purposes, or both.

   8.2. Any accounting provided by Business Associate under this Section 8 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Section 8, Business Associate shall document the information specified in (a) through (d), above, and shall securely maintain that documentation for six (6) years from the date of the Disclosure.

   8.3. To the extent Business Associate makes any disclosures on behalf of Member Pharmacy through an electronic health record as defined in Section 13400 of the HITECH Act, Business Associate agrees to document all such disclosures of as required under the HITECH Act and any implementing regulations, and to provide an accounting of disclosures directly to an individual upon request by such individual. Business Associate's obligation to document disclosures made through an electronic health record and provide an accounting of such disclosures directly to individuals upon request shall be effective as of the date by which business associates are required to comply with Section 13405(c) of the HITECH Act or such later date specified by the Secretary of the Department of Health and Human Services.

9. Obligation of Member Pharmacy.

   9.1. Notification of Elected Limitations. Member Pharmacy shall notify Business Associate of any elected limitations on Member Pharmacy's uses and disclosures of Protected Health Information, as described in Member Pharmacy's notice of privacy practices to the extent that the limitations may affect Business Associate's use or disclosure of Protected Health Information.

   9.2. Notification of Changes in Authorization. Member Pharmacy shall notify Business Associate of any changes in, or revocation of, a patient's authorization (or that of the patient's personal

representative) to use or disclose his or her Protected Health Information, to the extent that the changes may affect Business Associate's use or disclosure of Protected Health Information.

9.3. Notification of Restrictions. Member Pharmacy shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information as agreed to by Member Pharmacy to the extent that the restriction may affect Business Associate's use or disclosure of Protected Health Information.

10. Term and Termination. The term of this Agreement shall continue until terminated by Member Pharmacy. Business Associate's obligations under this Article II Agreement shall survive the termination or expiration of this Agreement.

11. Disposition of Protected Health Information Upon Termination or Expiration. Upon termination or expiration of this Agreement, Business Associate shall either return or destroy, in Member Pharmacy's sole discretion and in accordance with any instructions by Member Pharmacy, all Protected Health Information in the possession or control of Business Associate or its agents and subcontractors. However, if Business Associate determines that neither return nor destruction of Protected Health Information is feasible and notifies Member Pharmacy in writing of that determination, Business Associate may retain Protected Health Information provided that Business Associate: (a) continues to comply with the provisions of this Agreement for as long as it retains Protected Health Information; and (b) further limits Uses and Disclosures of Protected Health Information to those purposes that make its return or destruction infeasible.

12. No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement.

13. Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.

14. Relationship to Services Agreement Provisions. In the event that a provision of this Agreement is contrary to a provision of the Administrative Services Agreement, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of the Administrative Services Agreement.

15. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Member Pharmacy to comply with the Privacy and Security Regulations.

16. Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Member Pharmacy to comply with the requirements of the Privacy and Security Regulations.

IN WITNESS WHEREOF, Member Pharmacy and Business Associate have caused this Agreement to be executed as of the Effective Date.

**" MEMBER PHARMACY"**

MEMBER PHARMACY

By:_____
CONTACT, TITLE

**"BUSINESS ASSOCIATE"**

SUNRx LLC,
a limited liability company organized under the laws of the State of Delaware and its affiliates

By:_____
Name: Tim Liebmann
Title: Chief Executive Officer