



## Cardinal Participation Agreement

### 340B PRIME VENDOR PROGRAM PARTICIPANT AGREEMENT

This 340B Prime Vendor Program Participant Agreement (the "Agreement") is effective **March 24th, 2011** (the "Effective Date") between **County of Monterey and its Alisal Health Center** located at **559 East Alisal, Suite #200, Salinas, CA 93905** ("you", "your" or "Customer") and **Cardinal Health 110, Inc. and Cardinal Health 411, Inc.**, 7000 Cardinal Place, Dublin Ohio 43017 (collectively, "we", "us" or "our" or "Cardinal Health"), who agree as follows:

**1. Purchase Requirement, Usage and Prices.** You will designate us as your primary wholesale pharmaceutical supplier to all the pharmacies, hospitals, nursing homes, clinics and/or other facilities you own, manage or operate during the term of this Agreement (collectively, the "Facilities" and individually, a "Facility") and you will buy all of the pharmaceuticals (the "Rx Products") required for each Facility (the "Primary Requirements") from us if we carry them. In addition, you may, at your option, purchase certain other inventory we carry (the "Non-Rx Products") (Rx Products and Non-Rx Products are collectively referred to as the "Pharmaceutical Products"). All purchases of Pharmaceutical Products by you from us will be pursuant to the terms and conditions of this Agreement and the additional terms and conditions set forth in the 340B Prime Vendor Pharmacy Distribution Agreement between Apexus, Inc. and Cardinal Health, effective June 1, 2008, the terms of which are incorporated herein by this reference.

You must give us accurate six (6) months' usage figures (including NDC numbers) for all items for each Facility in compatible electronic (disk) format at least 45 days before buying for that Facility begins under this Agreement, and you will give us updated usage information on an ongoing basis, as requested. Purchase prices for all Pharmaceutical Products bought under this Agreement will be as set forth on the pricing matrix attached as **Schedule A** (the "340B PVP Pricing Matrix").

**2. Ordering, Delivery and Returns.** To qualify for the pricing set forth in the Pricing Matrix, you must electronically transmit all orders (excluding Schedule II and emergency orders) to us via [cardinal.com](http://cardinal.com) or such other electronic order entry system as we may approve from time to time. We will provide you with access to [cardinal.com](http://cardinal.com) at no additional charge; provided, however, you must supply all hardware required to access [cardinal.com](http://cardinal.com), all required Internet access and any required interfaces or other network enhancements, all at your own expense. You may not use [cardinal.com](http://cardinal.com) or any other electronic order entry system for any purpose unrelated to this Agreement. If electronic order entry is temporarily interrupted for reasons beyond your or our control, you may place orders manually and both parties will use reasonable efforts to fix the problem. All orders for Schedule II controlled substances must be submitted to us on DEA Form 222. DEA Form 222 may be mailed to the applicable Cardinal Health distribution center or given to the delivery driver. Schedule II orders will be delivered with your next scheduled delivery after our receipt of the signed original DEA Form 222. You acknowledge that if you give the DEA Form 222s to the delivery driver, such forms will not be "received" by us until the delivery driver physically delivers the DEA Form 222 to the applicable Cardinal Health distribution center. Regardless of any other terms of this Agreement, no Schedule II orders will be delivered other than in compliance with DEA regulations.

We will deliver the Pharmaceutical Products F.O.B. to the Facilities in accordance with our general delivery schedules established from time to time by the applicable Cardinal Health servicing division (exclusive of holidays, etc.). We will provide a 24-hour, 7-day per week emergency delivery service. We will prepay the courier and related service charges for such orders and bill them separately to you. Our obligations under this Agreement will be excused if and to the extent that any delay or failure to perform such obligations is due to product or material shortages or other causes beyond our reasonable control. You may purchase the Primary Requirements from others only during the period of any such delay or failure.

**3. Warranty.** We warrant to you that any product we manufacture (the term "manufacture", for purposes of this warranty, does not include product repackaging) is, as of the date of shipment, fit for the purposes and indications described in the product labeling. Unless the product is used in accordance with its instructions, these warranties are void and of no effect. Other products we distribute carry only those warranties made for them by their manufacturer. **THERE ARE NO OTHER EXPRESSED OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. OUR SOLE OBLIGATION AND YOUR EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY WILL BE, AT OUR OPTION, TO REPAIR OR REPLACE THE PRODUCT.**

**4. Limitation of Liability.** WE WILL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.

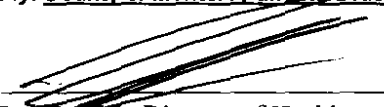
**5. Payment Terms.** Your initial payment terms and payment term options will be as set forth on **Schedule A** to this Agreement. ~~Any past due invoice will be assessed interest at a 1.5% monthly (18% annual) rate or the highest amount allowed by law, if lower.~~ Until Pharmaceutical Products is paid in full, you grant us and we retain a security interest in the Pharmaceutical Products. We will have a security interest in any deposit(s) to secure payment to us (or our affiliates) of all of your obligations, existing and future. If you default on any payment, we may exercise a right of setoff against any deposit we hold or any amounts we (or our affiliates) owe you. You will give us any and all credit information we request not less than thirty (30) days before your initial purchases under this Agreement and, after that, as we may reasonably request from time to time.

**6. Confidentiality.** Neither party may disclose the terms and conditions of this Agreement to a third party without advance written consent of the other party, except as required by law or as necessary to perform its obligations under this Agreement.

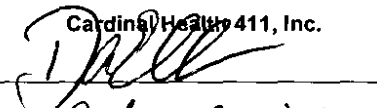
**7. Term and Termination.** The term of this Agreement will begin on the Effective Date and continues until June 30, 2013. Either you or we may terminate this Agreement without cause upon no less than 90 days' advance written notice.

**8. Miscellaneous.** You and we will comply with all federal and state laws, rules and regulations applicable to our respective obligations under this Agreement. You represent, warrant and certify that you have all required governmental licenses, permits and approvals required to purchase, use and/or store the products you buy from us and that all your purchases from us are for your "own use" in the Facilities, as such term is defined in judicial or legislative interpretation, and not for resale to anyone other than the end user. We may terminate this Agreement immediately if we reasonably determine that you or any Facility have breached this "own use" limitation. If you receive any "discounts or other reductions in price" under Section 1128B(b)(3)(a) of the Social Security Act (42 U.S.C. 1320- 7b(b)(3)(a)) from us, you must disclose the discounts or reductions in price under any state or federal program which provides cost or charge-based reimbursement to you for the products or services you buy from us, or as otherwise requested or required by any governmental agency. You must complete the Compliance Representations and Warranties for Customers attached hereto as Schedule B and return it to the address indicated therein prior to purchasing any Pharmaceutical Products under this Agreement. This is the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement may not be amended except in a writing signed by both parties. Enforceable obligations may be created by the communication of electronic messages in compliance with this Agreement, even in the absence of any writings or written signatures, but no such messaging may change, add to or delete any terms and/or conditions of this Agreement. Failure to enforce any provision of this Agreement will not be considered a waiver of any right to enforce such provision. Neither party may assign its rights or obligations under this Agreement without the written consent of the other; provided, however, that we may delegate our rights and obligations to any entity that is controlled by or under common control with Cardinal Health, Inc. This Agreement does not create any employment, agency, franchise, joint venture, partnership or other similar legal relationship between the parties. You represent and warrant that you have the authority to contractually bind the Facilities to the terms and conditions of this Agreement.

Company: County of Monterey and its Seaside Family Health Center Cardinal Health 110, Inc.

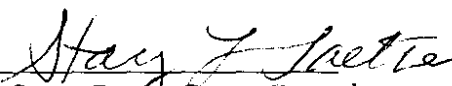
By:   
Ray Bullrick, Director of Health  
Department of Health

Date: 7/8/11

By:   
Cardinal Health 411, Inc.  
Title: Sales Director

Date: 5/30/11

Approved as to Legal Form:

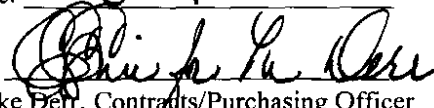
By:   
Stacy L. Saetta, Deputy County Counsel

Date: 6/9/11

Approved as to Fiscal Provisions:

By:   
Gary Giboney, Auditor-Controller

Date: 6-9-11

By:   
Mike Dell, Contracts/Purchasing Officer

Date: JUL 14 2011

Please sign and return Participant Agreement and Schedule A forms to:

Cardinal Health; Attn: Sherry Ford Fax (847) 785-6133 or sherry.ford@cardinalhealth.com

## **Facilities**

**SCHEDULE A**

**340B PVP Pricing Matrix and Payment Terms**

**Pricing**

PAYMENT TERMS MONTHLY HOSPITAL OR SYSTEM VOLUME	45-DAY PREPAY	30-DAY PREPAY	15-DAY PREPAY	NEXT- DAY (EFT)	7-DAY PREPAY	7-DAY PAY	15-DAY PAY	30-DAY PAY	45-DAY PAY	60-DAY PAY
	-45 DSO	-15 DSO	0 DSO	+1 DSO	+8 DSO	+9.5 DSO	+15 DSO	+30DSO	+45DSO	+60DSO
\$0 - \$300,000	<b>See Below</b>									
\$300,001 - \$400,000	-1.50%	-1.10%	-0.90%	-0.80%	-0.70%	-0.61%	-0.42%	-0.04%	0.76%	1.63%
\$400,001 - \$500,000	-1.80%	-1.40%	-1.20%	-1.10%	-1.00%	-0.91%	-0.72%	-0.34%	0.46%	1.33%
\$500,001 - \$600,000	-1.90%	-1.50%	-1.30%	-1.20%	-1.10%	-1.01%	-0.82%	-0.44%	0.36%	1.23%
\$600,001 - \$750,000	-2.00%	-1.60%	-1.40%	-1.30%	-1.20%	-1.11%	-0.92%	-0.54%	0.26%	1.13%
\$750,001 - \$1,000,000	-2.30%	-1.90%	-1.70%	-1.60%	-1.50%	-1.41%	-1.22%	-0.84%	-0.04%	0.83%
\$1,000,001 - \$1,250,000	-2.40%	-2.00%	-1.80%	-1.70%	-1.60%	-1.51%	-1.32%	-0.94%	-0.14%	0.73%
\$1,250,001 - \$1,500,000	-2.45%	-2.05%	-1.85%	-1.75%	-1.65%	-1.56%	-1.37%	-0.99%	-0.19%	0.68%
\$1,500,001 - \$1,750,000	-2.50%	-2.10%	-1.90%	-1.80%	-1.70%	-1.61%	-1.42%	-1.04%	-0.24%	0.63%
\$1,750,001 - \$2,000,000	-2.55%	-2.15%	-1.95%	-1.85%	-1.75%	-1.66%	-1.47%	-1.09%	-0.29%	0.58%
\$2,500,001 - \$3,000,000	-2.70%	-2.30%	-2.10%	-2.00%	-1.90%	-1.81%	-1.62%	-1.24%	-0.44%	0.43%
\$3,000,001 – Above	<b>To Be Negotiated</b>									

The pricing specified in the Pricing Matrix is net of group purchasing organization administrative fees. If the applicable administrative fee is increased or if you or any Facility affiliates with a different group purchasing organization, we reserve the right to adjust the Pricing Matrix accordingly

**Participants with Qualified Monthly Purchases of Less than \$300,000:**

**One (1) Delivery Per Week**

Qualified Monthly Purchases	45 Day Prepay	30 Day Prepay	15 Day Prepay	Next Day EFT	7 Day Prepay	7 Day	15 Day	30 Day	45 Day	60 Day
	-45 DSO	-15 DSO	0 DSO	+1 DSO	+8 DSO	+9.5 DSO	+15 DSO	+30 DSO	+45 DSO	+60 DSO
\$0 – 300,000	-2.54%	-2.13%	-1.92%	-1.90%	-1.73%	-1.69%	-1.56%	-1.20%	-0.90%	-0.60%

**Five (5) Deliveries Per Week**

Qualified Monthly Purchases	45 Day Prepay	30 Day Prepay	15 Day Prepay	Next Day EFT	7 Day Prepay	7 Day	15 Day	30 Day	45 Day	60 Day
	-45 DSO	-15 DSO	0 DSO	+1 DSO	+8 DSO	+9.5 DSO	+15 DSO	+30 DSO	+45 DSO	+60 DSO
\$0 – 25,000	<b>Not Available</b>									
\$25,001 – 300,000	-1.51%	-1.10%	-0.90%	-0.88%	-0.71%	-0.69%	-0.56%	-0.20%	0.16%	0.52%

Additional deliveries will be available to Participants at a charge of Twenty-Five Dollars (\$25) per delivery or actual cost, whichever is higher.

The pricing applicable to Participants that select the One (1) Delivery Per Week pricing option and average more than one and one-half (1.5) deliveries per week in any month will be adjusted to the Five (5) Delivery Per Week option until such time the Participant's deliveries average (on a monthly basis) less than one and one-half (1.5) per week.

The distribution fees set forth above are inclusive of all discounts and incentives set forth in this Agreement (i.e., Group Volume Incentive and Delivery Incentive). Such distribution fees shall not be adjusted during the term of this Agreement, regardless of any change in any applicable discount or incentive.

Except as otherwise described in this Agreement, you will pay a purchase price for all Pharmaceutical Products bought under this Agreement equal to the manufacturer's published wholesale acquisition cost for Pharmaceutical Products at the date of our invoice to the Facility, adjusted to reflect any then-applicable contract pricing ("Cost") plus the percentage listed above (the "Participant Markup"), plus all applicable taxes or other assessments. For purposes of this Agreement, the term "Qualified Purchases" means all purchases you and/or the Facilities pay for under the terms of this Agreement, net of all returns, credits, rebates, late charges, or other similar items, on an annual, quarterly, or monthly basis, as applicable.

**Delivery Incentive**

Distributor will provide the following Delivery Incentive Schedule to Participants. This incentive is based upon extensive analysis of Distributor's service to APEXUS over the years and APEXUS's commitment to Activity Based Cost reductions. Distributor will work with each Participant to determine the appropriate slotting from the matrix below. The number of deliveries can be reviewed and adjusted quarterly or by mutual consent.

Qualified Monthly Purchases per Participant**	Deliveries per Week (Adjustment to cost plus matrices)				
	11*	6*	5*	3*	1*
Over \$1,000,001	Not Available	+0.50%	No Charge	Not Available	Not Available
\$500,001 - \$1,000,000	Not Available	+0.75%	No Charge	-0.15%	-0.20%
\$300,001 - \$500,000	Not Available	Not Available	No Charge	-0.10%	-0.20%
Less than \$300,000	Pricing for participants purchasing less than \$300,000 per month addressed previously				

\*Where currently available or by mutual agreement.

\*\*For purposes of this activity based cost incentive, Participants volume will be calculated on an individual account basis.

**APEXUS GROUP VOLUME INCENTIVE**

Distributor recognizes Activity Based Costs (ABC) associated with economies of scale. In recognition of such, Distributor offers Participants the following Group Volume Incentive discount.

Note: All Apexus Participating Participants (including Participants) in the aggregate must adhere to both the volume levels and payment terms defined within this Agreement to maintain these incentives. Volume and incentive levels will be reviewed and adjusted quarterly.

Total Qualified Monthly Purchases by Apexus Participating Participants from Distributor	Apexus Group Volume Incentive Cost Plus Reduction**
\$150 million	0.25%
\$300 million or Greater	0.30%

**\*\*The Apexus Group Volume Incentive is not cumulative.**

**Fuel Surcharge**

You will pay a fuel surcharge, on a per stop basis, for each delivery made to each Facility (the "Fuel Surcharge"). The Fuel Surcharge will be included on our invoice to you, in an amount as set forth below:

Regular Unleaded Fuel Price is:		Fuel
at Least	But Less Than	Surcharge Amount
\$4.76	\$5.00	\$3.25 per stop
\$4.51	\$4.75	\$3.00 per stop
\$4.26	\$4.50	\$2.75 per stop
\$4.01	\$4.25	\$2.50 per stop
\$3.76	\$4.00	\$2.25 per stop
\$3.51	\$3.75	\$2.00 per stop
\$3.26	\$3.50	\$1.75 per stop
\$3.01	\$3.25	\$1.50 per stop

The fuel prices in the table above represent the national average retail cost per gallon for regular grade gasoline as published by the U.S. Department of Energy (the "Average Price Per Gallon"), available at: [http://www.eia.doe.gov/oil\\_gas/petroleum/data\\_publications/wrgp/mogas\\_home\\_page.html](http://www.eia.doe.gov/oil_gas/petroleum/data_publications/wrgp/mogas_home_page.html). In the event that the Average Price Per Gallon exceeds Five Dollars (\$5.00), the Fuel Surcharge will increase in Twenty-Five Cent (\$0.25) increments for each Twenty-Five Cent (\$0.25) increase in the Average Price Per Gallon. By the last day of each calendar month, we will determine the Average Price Per Gallon for that month, and any required adjustments to the Fuel Surcharge will be applicable as of the first (1<sup>st</sup>) day of the immediately following calendar month.

**Payment Terms**

Your initial payment terms will be: **30 Day +30DSO 1 Delivery Per Week, Cost -1.20%**

We retain the right to adjust your payment terms, place you on C.O.D. status, and/or refuse orders based on your payment performance, changes in your financial condition or other credit considerations we deem relevant. All payments for Pharmaceutical Products and services provided under this Agreement must be made to the applicable servicing division specified in our invoice (or as we otherwise specify) by electronic funds transfer or other method acceptable to us so as to provide us with good funds by the due date. Deductions for Pharmaceutical Products returns or shipping discrepancies (quantity and price) may not be taken until we issue a valid credit memo to you. You may from time to time (but not more often than once per calendar quarter) request that your payment terms be changed as to future Pharmaceutical Products purchases, subject to our advance written consent. In such event, you acknowledge and agree that your Cost of Goods will be adjusted accordingly.