

**ADDENDUM TO MEDICARE MANAGED CARE CONTRACT PURSUANT TO  
SECTIONS 1860D-1 THROUGH 1860D-43 OF THE SOCIAL SECURITY ACT FOR  
THE OPERATION OF AN EMPLOYER GROUP ONLY VOLUNTARY MEDICARE  
PRESCRIPTION DRUG PLAN**

The Centers for Medicare & Medicaid Services (hereinafter referred to as “CMS”) and <<CONTRACT\_NAME>>, a Medicare managed care organization (hereinafter referred to as MA-PD Sponsor) agree to amend the contract <<CONTRACT\_ID>> governing MA-PD Sponsor’s operation of a Part C plan described in § 1851(a)(2)(A) of the Social Security Act (hereinafter referred to as “the Act”) to include this addendum under which MA-PD Sponsor shall operate a Voluntary Medicare Prescription Drug Plan offered exclusively to Medicare Advantage-eligible individuals enrolled in employment-based health coverage under a contract between the Medicare Advantage Organization and the employer/union sponsor of the employment-based health coverage, pursuant to §§ 1860D-1 through 1860D-43 (with the exception of §§ 1860D-22(a) and 1860D-31) of the Act.

This addendum is made pursuant to Subpart K of 42 CFR Part 422 and Subpart K of 42 CFR Part 423.

**Article I**  
**Voluntary Medicare Prescription Drug Plan**

- A. In accordance with the waivers granted by CMS under sections 1857(i) and 1860D-122(b) of the Act, MA-PD Sponsor agrees to operate one or more Medicare Voluntary Prescription Drug Plans offered exclusively to Part D eligible individuals enrolled in employment-based prescription drug coverage under a contract between the Medicare Advantage Organization and the employer/union sponsor of the employment-based prescription drug coverage (hereinafter referred to as “employer group only MA-PDs”), as described in its application and related materials submitted to CMS for Medicare approval, including but not limited to all the attestations contained therein and in compliance with the provisions of this addendum, which incorporates in its entirety the *Solicitation for Applications for Medicare Prescription Drug Plan 2024 Contracts*, released on January 10, 2023 (hereinafter collectively referred to as “the addendum”).
- B. MA-PD Sponsor agrees that it has not applied for, and is not authorized to operate, Medicare Voluntary Prescription Drug Plans offered to individual Medicare beneficiaries under this contract.
- C. MA-PD Sponsor also agrees to operate in accordance with §§ 1860D-1 through 1860D-43 (with the exception of §§ 1860D-22(a) and 1860D-31) of the Act, the regulations at 42 CFR Part 423 (with the exception of Subparts Q, R, and S), and the applicable solicitation identified above, as well as all other applicable Federal statutes, regulations, and policies outlined in guidance, such as the Medicare Managed Care Manual, the Medicare Communications and Marketing Guidelines, CMS Participant Guides, Health Plan Management System memos, Rate Announcement, and trainings, as well as any employer/union-only group waiver guidance issued by CMS, including, but not limited to, those requirements set forth in Chapter 12 of the Medicare Prescription Drug Benefit Manual (hereinafter referred to as “employer/union group waiver guidance”). This addendum is deemed to incorporate any changes that are required by statute to be implemented during the term of this contract and any regulations implementing or interpreting such statutory provisions.
- D. CMS agrees to perform its obligations to MA-PD Sponsor consistent with §§ 1860D-1 through 1860D-43 (with the exception of §§ 1860D-22(a) and 1860D-31) of the Act, the regulations at 42 CFR Part 423 (with the exception of Subparts Q, R, and S), and the applicable solicitation, as well as all other applicable Federal statutes, regulations, and policies outlined in guidance, such as the Medicare Managed Care Manual, the Medicare Communications and Marketing Guidelines, CMS Participant Guides, Health Plan Management System memos, Rate Announcement, and trainings, and including any employer/union group waiver guidance.
- E. CMS agrees that it will not implement, other than at the beginning of a calendar year, regulations under 42 CFR Part 423 that impose new, significant regulatory requirements on MA-PD Sponsor. This provision does not apply to new requirements mandated by statute.  
**[42 CFR § 423.516]**

- F. If MA-PD Sponsor had an MA-PD Addendum with CMS for Contract Year 2023 under the contract ID number designated above, this document is considered a renewal of the existing addendum. While the terms of this document supersede the terms of the 2023 addendum, the parties' execution of this contract does not extinguish or interrupt any pending obligations or actions that may have arisen under the 2023 or prior year addendums.
- G. This addendum is in no way intended to supersede or modify 42 CFR Parts 417, 422, or 423, except as to any requirements set forth in 42 CFR Part 423 that are specifically waived or modified for MA-PD Sponsors offering MA-PD plans exclusively to Part D eligible individuals enrolled in employment-based retiree prescription drug coverage as waived in applicable employer/union group waiver guidance or in this Addendum. Failure to reference a regulatory requirement in this addendum does not affect the applicability of such requirements to MA-PD Sponsor and CMS.
- H. In the event of any conflict between the employer/union group waiver guidance issued prior to the execution of the contract and this Addendum, the provisions of this Addendum shall control.

## **Article II**

### **Functions to be Performed by MA-PD Sponsor**

#### **A. PRESCRIPTION DRUG BENEFIT**

- 1. Except as provided in this subsection, MA-PD Sponsor agrees to provide basic prescription drug coverage, as defined under 42 CFR § 423.100, under any employer group only MA-PD, in accordance with Subpart C of 42 CFR Part 423.
  - (a) CMS agrees that MA-PD Sponsor is not subject to the actuarial equivalence requirement set forth in 42 CFR § 423.104(e)(5) with respect to any employer group only MA-PD and may provide less than the defined standard coverage between the deductible and initial coverage limit. MA-PD Sponsor agrees that its basic prescription drug coverage under any employer group only MA-PD will satisfy all of the other actuarial equivalence standards set forth in 42 CFR § 423.104, including but not limited to the requirement set forth in 42 CFR § 423.104(e)(3) that the plan has a total or gross value that is at least equal to the total or gross value of defined standard coverage.
  - (b) CMS agrees that nothing in this Addendum prevents MA-PD Sponsor from offering prescription drug benefits in addition to basic prescription drug coverage to employers/unions. Such additional benefits offered pursuant to private agreements between MA-PD Sponsor and employers/unions will be considered non-Medicare Part D benefits ("non-Medicare Part D benefits"). MA-PD Sponsor agrees that such additional benefits may not reduce the value of basic prescription drug coverage (e.g., additional benefits cannot impose a cap that would preclude enrollees from realizing the full value of such basic prescription drug coverage).

- (c) MA-PD Sponsor agrees that any additional non-Medicare Part D benefits offered to Part D eligible individuals pursuant to private agreements between MA-PD Sponsor and an employer/union will always pay primary to the subsidies provided by CMS to low-income subsidy eligible individuals under Subpart P of 42 CFR Part 423 (the “Low-Income Subsidy”).
- 2. Except as provided in this subsection and subsection 3 of this section, MA-PD Sponsor agrees to calculate and collect beneficiary Part D premiums in accordance with 42 CFR §§ 423.286 and 423.293.
  - (a) MA-PD Sponsor agrees that enrollees of employer group only MA-PDs shall not be charged more than the sum of his or her monthly beneficiary premium attributable to basic prescription drug coverage and 100% of the monthly beneficiary premium attributable to his or her non-Medicare Part D benefits (if any). MA-PD Sponsor must pass through the direct subsidy payments received from CMS to reduce the amount that the enrollee pays (or, in those instances where the subscriber to or participant in the employer plan pays premiums on behalf of a Medicare eligible spouse or dependent, the amount the subscriber or participant pays).
- 3. MA-PD Sponsor agrees it shall obtain written agreements from each employer/union that provide that the employer/union may determine how much of an enrollee’s Part D monthly beneficiary premium it will subsidize, subject to the restrictions set forth in this subsection. MA-PD Sponsor agrees to retain these written agreements with employers/unions and provide access to these written agreements to CMS in accordance with 42 CFR §§ 423.504(d) and 423.505(d) and (e).
  - (a) The employer/union can subsidize different amounts for different classes of enrollees in the employer group only MA-PD provided such classes are reasonable and based on objective business criteria, such as years of service, date of retirement, business location, job category, and nature of compensation (e.g., salaried vs. hourly). Different classes cannot be based on eligibility for the Low-Income Subsidy.
  - (b) The employer/union cannot vary the premium subsidy for individuals within a given class of enrollees.
  - (c) The employer/union cannot charge an enrollee for prescription drug coverage provided under the employer group only MA-PD more than the sum of his or her monthly beneficiary premium attributable to basic prescription drug coverage and 100% of the monthly beneficiary premium attributable to his or her non-Medicare Part D benefits (if any). The employer/union must pass through direct subsidy payments received from CMS to reduce the amount that the enrollee pays (or, in those instances where the subscriber to or participant in the employer plan pays premiums on behalf of a Medicare eligible spouse or dependent, the amount the subscriber or participant pays).

- (d) For all enrollees eligible for the Low-Income Subsidy, the low-income premium subsidy amount will first be used to reduce any portion of the MA-PD monthly beneficiary premium (including the monthly beneficiary premium attributable to basic benefits provided under the plan as defined in 42 CFR § 422.2 and 100% of the monthly beneficiary premium attributable to non-Medicare Part C benefits) paid by the enrollee (or in those instances where the subscriber to or participant in the employer plan pays premiums on behalf of a low-income eligible spouse or dependent, the amount the subscriber or participant pays), with any remaining portion of the premium subsidy amount then applied toward the portion of any MA-PD monthly beneficiary premium paid by the employer/union. However, if the sum of the enrollee's MA-PD monthly premium (or the subscriber's/participant's monthly premium, if applicable) and the employer's/union's MA-PD monthly premiums (i.e., total monthly premium) are less than the monthly low-income premium subsidy amount, any portion of the low-income subsidy premium amount above the total MA-PD monthly premium must be returned directly to CMS. Similarly, if there is no MA-PD monthly premium charged the beneficiary (or subscriber/participant, if applicable) or employer/union, the entire low-income premium subsidy amount must be returned directly to CMS and cannot be retained by MA-PD Sponsor, the employer/union, or the beneficiary (or the subscriber/participant, if applicable).
  - (e) MA-PD Sponsor and the employer/union may agree that the employer/union will be responsible for reducing up-front the premium contribution required for enrollees eligible for the Low-Income Subsidy. In those instances where the employer/union is not able to reduce up-front the MA-PD premiums paid by the enrollee (or, the subscriber/participant, if applicable), MA-PD Sponsor and the employer/union may agree that the employer/union shall directly refund to the enrollee (or subscriber/participant, if applicable) the amount of the low-income premium subsidy up to the MA-PD monthly premium contribution previously collected from the enrollee (or subscriber/participant, if applicable). The employer/union is required to complete the refund on behalf of MA-PD Sponsor within forty-five (45) days of the date MA-PD Sponsor receives from CMS the low-income premium subsidy amount payment for the low-income subsidy eligible enrollee.
  - (f) If the low-income premium subsidy amount for which an enrollee is eligible is less than the portion of the Part D monthly beneficiary premium paid by the enrollee (or subscriber/participant, if applicable), then the employer/union should communicate to the enrollee (or subscriber/participant) the financial consequences of the low-income subsidy eligible individual enrolling in the employer group only MA-PD as compared to enrolling in another Part D plan with a monthly beneficiary premium equal to or below the low-income premium subsidy amount.
4. For non-calendar year employer group only MA-PDs, MA-PD Sponsor may determine benefits (including deductibles, out-of-pocket limits, etc.) on a non-calendar year basis subject to the following requirements:

- (a) Applications, formularies, and other submissions to CMS must be submitted on a calendar year basis;
  - (b) The prescription drug coverage under the employer group only MA-PD must be at least actuarially equivalent to defined standard coverage for the portion of its plan year that falls in a given calendar year. An employer group only MA-PD will meet this standard if its prescription drug coverage is at least actuarially equivalent for the calendar year in which the plan year starts and no design change is made for the remainder of the plan year. In no event can MA-PD Sponsor increase during the plan year the annual out-of-pocket threshold;
  - (c) After an enrollee's incurred costs exceed the annual out-of-pocket threshold, the employer group only MA-PD must provide prescription drug coverage that is at least actuarially equivalent to that provided under standard prescription drug coverage; eligibility for such coverage can be determined on a plan year basis.
- 5. MA-PD Sponsor agrees to maintain administrative and management capabilities sufficient for the organization to organize, implement, and control the financial, communication, benefit administration, and quality assurance activities related to the delivery of Part D services as required by 42 CFR § 423.505(b)(25).
  - 6. MA-PD Sponsor agrees to provide applicable beneficiaries applicable discounts on applicable drugs in accordance with the requirements of 42 CFR Part 423 Subpart W.

## B. DISSEMINATION OF PLAN INFORMATION

- 1. CMS agrees that with respect to any employer group only MA-PDs, MA-PD Sponsor is not subject to the information requirements set forth in 42 CFR § 423.48 and the prior review and approval of dissemination materials and enrollment forms requirements set forth in 42 CFR § 423.50. Except as provided in subsections 3 and 4 of this section, MA-PD Sponsor will be subject to all other dissemination requirements contained in 42 CFR § 423.128 and that are conditions of any waivers for EGWPs provided in CMS guidance in Chapter 12 of the Prescription Drug Benefit Manual.
- 2. MA-PD Sponsor acknowledges that CMS releases to the public the following data, consistent with 42 CFR Part 423 Subpart K:
  - (a) Summary reconciled Part D payment data after the reconciliation of Part D payments, as provided in 42 CFR § 423.505(o)(1); and
  - (b) Part D Medical Loss Ratio data for the contract year, as described at 42 CFR § 423.2490.
- 3. CMS agrees that the dissemination requirements set forth in 42 CFR § 423.128 do not apply with respect to any employer group only MA-PDs when the employer/union sponsor of the employer group only MA-PD is subject to alternative disclosure

requirements (e.g., the Employee Retirement Income Security Act of 1974 (“ERISA”)) and fully complies with such alternative requirements. MA-PD Sponsor agrees to comply with the conditions of this waiver contained in employer/union group waiver guidance in Chapter 12 of the Prescription Drug Benefit Manual.

4. CMS agrees that with respect to any employer group only MA-PDs, MA-PD Sponsor is not subject to the Part D beneficiary customer service call center hour and performance requirements in 42 CFR § 423.128(d). MA-PD Sponsor agrees to operate beneficiary customer service call center hours for any employer group only MA-PDs that ensure a sufficient mechanism is available to respond to beneficiary inquiries and provide customer service call center services to these members during normal business hours. However, MA-PD Sponsor agrees that CMS may review the adequacy of these call center hours and potentially require expanded beneficiary customer service call center hours in the event of beneficiary complaints or for other reasons in order to ensure that the customer service call center hours are sufficient to meet the needs of its enrollee population.

#### C. QUALITY ASSURANCE/UTILIZATION MANAGEMENT

1. MA-PD Sponsor agrees to operate quality assurance, drug utilization management, and medication therapy management programs, and to support electronic prescribing in accordance with Subpart D of 42 CFR Part 423.
2. MA-PD sponsor agrees to address and resolve complaints received by CMS against the Part D sponsor through the CMS complaint tracking system as required in 42 CFR § 423.505(b)(22).
3. MA-PD Sponsor agrees to maintain a Part D summary plan rating score of at least 3 stars as required by 42 CFR § 423.505(b)(26).
4. MA-PD Sponsor agrees to pass an essential operations test prior to the start of the benefit year. This provision only applies to new sponsors that have not previously entered into a Part D contract with CMS and neither it, nor another subsidiary of the applicant’s parent organization, is offering Part D benefits during the current year. **[42 CFR § 423.505(b)(27)]**

#### D. APPEALS AND GRIEVANCES

MA-PD Sponsor agrees to comply with all requirements in Subpart M of 42 CFR Part 423 governing coverage determinations, grievances and appeals, and formulary exceptions, and the relevant provisions of Subpart U governing reopenings. MA-PD Sponsor acknowledges that these requirements are separate and distinct from the appeals and grievances requirements applicable to MA-PD Sponsor through the operation of its Part C or cost plan benefits.

#### E. PAYMENT TO MA-PD SPONSOR

1. Except as provided in this subsection, MA-PD Sponsor and CMS agree that payment paid for Part D services under the addendum is governed by the rules in Subpart G of 42 CFR Part 423.
  - (a) MA-PD Sponsor is not required to submit a Part D bid and will receive a monthly direct subsidy for each employer group only MA-PD enrollee equal to the amount of the national average monthly bid amount, adjusted for health status (as determined under 42 CFR § 423.329(b)(1)) and reduced by the base beneficiary premium, as adjusted under 42 CFR § 423.286(d)(3), if applicable. The further adjustments to the base beneficiary premium contained in 42 CFR § 423.286(d)(1) and (2) do not apply.
  - (b) MA-PD Sponsor agrees that the risk-sharing payment adjustment described in 42 CFR § 423.336 is not applicable for any employer group only MA-PD enrollee.
  - (c) MA-PD Sponsor does not receive monthly reinsurance payment or low-income cost-sharing subsidy amounts in the manner set forth in 42 CFR §§ 423.329(c)(2)(i) and 423.329(d)(2)(i) for any employer group only MA-PD enrollee, but instead will receive the full reinsurance and low-income cost-sharing subsidy payments following the end of year reconciliation as described in 42 CFR §§ 423.329(c)(2)(ii) and 423.329(d)(2)(ii), respectively.
  - (d) For non-calendar year plans:
    - (i) CMS payments are determined on a calendar year basis;
    - (ii) Low-income subsidy payments and reconciliations are determined based on the calendar year for which the payments are made; and
    - (iii) MA-PD Sponsor acknowledges that it does not receive reinsurance payments under 42 CFR § 423.329(c).
2. MA-PD Sponsor agrees to comply with all applicable federal laws and regulations, guidance, and authorities pertaining to claims and debt collections. In the event that the government determines that MA-PD Sponsor has been overpaid, MA-PD Sponsor agrees to return those overpaid monies back to the federal government.

#### F. COORDINATION WITH OTHER PRESCRIPTION DRUG COVERAGE

1. MA-PD Sponsor agrees to comply with the coordination requirements with State Pharmacy Assistance Programs (SPAPs) and plans that provide other prescription drug coverage as described in Subpart J of 42 CFR Part 423.
2. MA-PD Sponsor agrees to comply with Medicare Secondary Payer procedures as stated in 42 CFR § 423.462.



## G. SERVICE AREA AND PHARMACY ACCESS

1. MA-PD Sponsor agrees to provide Part D benefits in the service area for which it has been approved by CMS to offer Part C benefits utilizing a pharmacy network and formulary approved by CMS that meet the requirements of 42 CFR § 423.120, with the following exception: CMS agrees that the retail pharmacy access requirements set forth in 42 CFR § 423.120(a)(1) do not apply when the employer group only MA-PD's pharmacy network is sufficient to meet the needs of its enrollees throughout the employer group only MA-PD's service area, as determined by CMS. CMS may periodically review the adequacy of the employer group only MA-PD's pharmacy network and require the employer group only MA-PD to expand access if CMS determines that such expansion is necessary in order to ensure that the employer group only MA-PD's network is sufficient to meet the needs of its enrollees.
2. MA-PD Sponsor agrees to provide Part D benefits through out-of-network pharmacies according to 42 CFR § 423.124.
3. MA-PD Sponsor agrees to provide benefits by means of point of service systems to adjudicate prescription drug claims in a timely and efficient manner in compliance with CMS standards, except when necessary to provide access in underserved areas, I/T/U pharmacies (as defined in 42 CFR § 423.100), and long-term care pharmacies (as defined in 42 CFR § 423.100) according to 42 CFR § 423.505(b)(17).
4. MA-PD Sponsor agrees to contract with any pharmacy that meets MA-PD Sponsor's reasonable and relevant standard terms and conditions according to 42 CFR § 423.505(b)(18), including making standard contracts available on request in accordance with the timelines specified in the regulation.
  - (a) If MA-PD Sponsor has demonstrated that it historically fills 98% or more of its enrollees' prescriptions at pharmacies owned and operated by MA-PD Sponsor (or presents compelling circumstances that prevent the sponsor from meeting the 98% standard or demonstrates that its Part D plan design will enable the sponsor to meet the 98% standard during the contract year), this provision does not apply to MA-PD Sponsor's plan. **[42 CFR § 423.120(a)(7)(i)]**

## H. EFFECTIVE COMPLIANCE PROGRAM/PROGRAM INTEGRITY

MA-PD Sponsor agrees that it will develop and implement an effective compliance program that applies to its Part D-related operations, consistent with 42 CFR § 423.504(b)(4)(vi).

## I. LOW-INCOME SUBSIDY

MA-PD Sponsor agrees that it will participate in the administration of subsidies for low-income subsidy eligible individuals according to Subpart P of 42 CFR Part 423, except as waived or modified by employer/union group waiver guidance and Article II, section A,

subsections 1(c) and 3 of this contract.

**J. BENEFICIARY FINANCIAL PROTECTIONS**

MA-PD Sponsor agrees to afford its enrollees protection from liability for payment of fees that are the obligation of MA-PD Sponsor in accordance with 42 CFR § 423.505(g).

**K. RELATIONSHIP WITH FIRST TIER, DOWNSTREAM, AND RELATED**

1. MA-PD Sponsor agrees that it maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of this addendum. **[42 CFR § 423.505(i)]**
2. MA-PD Sponsor shall ensure that any contracts or agreements with first tier, downstream, and related entities performing functions on MA-PD Sponsor's behalf related to the operation of the Part D benefit are in compliance with 42 CFR § 423.505(i).

**L. CERTIFICATION OF DATA THAT DETERMINE PAYMENT**

MA-PD Sponsor must provide certifications in accordance with 42 CFR § 423.505(k).

**M. MA-PD SPONSOR REIMBURSEMENT TO PHARMACIES [42 CFR §§ 423.505(b)(21) and 423.520]**

1. If MA-PD Sponsor uses a standard for reimbursement of pharmacies based on the cost of a drug, MA-PD Sponsor will update such standard not less frequently than once every 7 days, beginning with an initial update on January 1 of each year, to accurately reflect the market price of the drug.
2. If the source for any prescription drug pricing standard is not publicly available, MA-PD Sponsor will disclose all individual drug prices to be updated to the applicable pharmacies in advance for their use for the reimbursement of claims.
3. MA-PD Sponsor will issue, mail, or otherwise transmit payment with respect to all claims submitted by pharmacies (other than pharmacies that dispense drugs by mail order only, or are located in, or contract with, a long-term care facility) within 14 days of receipt of an electronically submitted claim or within 30 days of receipt of a claim submitted otherwise.
4. MA-PD Sponsor must ensure that a pharmacy located in, or having a contract with, a long-term care facility will have not less than 30 days (but not more than 90 days) to submit claims to MA-PD Sponsor for reimbursement.

**Article III  
Record Retention and Reporting Requirements**

**A. RECORD MAINTENANCE AND ACCESS**

MA-PD Sponsor agrees to maintain records and provide access in accordance with 42 CFR §§ 423.505(b)(10) and 423.505(i)(2).

**B. GENERAL REPORTING REQUIREMENTS**

MA-PD Sponsor agrees to submit information to CMS according to 42 CFR §§ 423.505(f) and 423.514, and the applicable Final Medicare Part D Reporting Guidance.

**C. CMS LICENSE FOR USE OF PLAN FORMULARY**

MA-PD Sponsor agrees to submit to CMS each plan's formulary information, including any changes to its formularies, and hereby grants to the Government, and any person or entity who might receive the formulary from the Government, a non-exclusive license to use all or any portion of the formulary for any purpose related to the administration of the Part D program, including without limitation publicly distributing, displaying, publishing or reconfiguration of the information in any medium, including [www.medicare.gov](http://www.medicare.gov), and by any electronic, print or other means of distribution.

**Article IV  
HIPAA Provisions**

- A. MA-PD Sponsor agrees to comply with the confidentiality and enrollee record accuracy requirements specified in 42 CFR § 423.136.
- B. MA-PD Sponsor agrees to enter into a business associate agreement with the entity with which CMS has contracted to track Medicare beneficiaries' true out-of-pocket costs.

**Article V  
Addendum Term and Renewal**

**A. TERM OF ADDENDUM**

This addendum is effective from the date of CMS's authorized representative's signature through December 31, 2024. This addendum shall be renewable for successive one-year periods thereafter according to 42 CFR § 423.506.

**B. QUALIFICATION TO RENEW ADDENDUM**

In accordance with 42 CFR § 423.507, MA-PD Sponsor will be determined qualified to renew its contract annually only if MA-PD Sponsor has not provided CMS with a notice of intention not to renew in accordance with Article VII of this addendum.

**Article VI**

### **Nonrenewal of Addendum by MA-PD Sponsor**

- A. MA-PD Sponsor may non-renew this addendum in accordance with 42 CFR § 423.507(a).
- B. If MA-PD Sponsor non-renews this addendum under this Article, CMS cannot enter into a Part D addendum with the organization or with an organization whose covered persons, as defined in 42 CFR § 423.507(a)(4), also served as covered persons for the nonrenewing sponsor for 2 years unless there are special circumstances that warrant special consideration, as determined by CMS.

### **Article VII Modification or Termination of Addendum by Mutual Consent**

This addendum may be modified or terminated at any time by written mutual consent in accordance with 42 CFR § 423.508. (Refer to Article X for consequences of non-renewal on the Part C contract and the ability to enter into a Part C contract.)

### **Article VIII Termination of Addendum by CMS**

CMS may terminate this addendum in accordance with 42 CFR § 423.509. (Refer to Article X for consequences of non-renewal on the Part C contract and the ability to enter into a Part C contract.)

### **Article IX Termination of Addendum by MA-PD Sponsor**

- A. MA-PD Sponsor may terminate this addendum only in accordance with 42 CFR § 423.510.
- B. CMS will not enter into a Part D addendum with an MA-PD Sponsor that has terminated its addendum or with an organization whose covered persons, as defined in 42 CFR § 423.508(f), also served as covered persons for the terminating sponsor within the preceding 2 years unless there are circumstances that warrant special consideration, as determined by CMS.
- C. If the addendum is terminated under section A of this Article, MA-PD Sponsor must ensure the timely transfer of any data or files. (Refer to Article X for consequences of non-renewal on the Part C contract and the ability to enter into a Part C contract.)

### **Article X Relationship between Addendum and Part C Contract**

- A. MA-PD Sponsor acknowledges that, if it is a Medicare Part C contractor, the termination or nonrenewal of this addendum by either party may require CMS to terminate or non-renew the Sponsor's Part C contract in the event that such non-renewal or termination prevents MA-PD Sponsor from meeting the requirements of 42 CFR § 422.4(c), in which case MA-PD

Sponsor must provide the notices specified in this contract, as well as the notices specified under Subpart K of 42 CFR Part 422. MA-PD Sponsor also acknowledges that section B of this Article may prevent the sponsor from entering into a Part C contract for two years following an addendum termination or non-renewal where such non-renewal or termination prevents MA-PD Sponsor from meeting the requirements of 42 CFR § 422.4(c).

- B. The termination of this addendum by either party shall not, by itself, relieve the parties from their obligations under the Part C or cost plan contracts to which this document is an addendum.
- C. In the event that MA-PD Sponsor's Part C contract is terminated or nonrenewed by either party, the provisions of this addendum shall also terminate. In such an event, MA-PD Sponsor and CMS shall provide notice to enrollees and the public as described in this contract as well as 42 CFR Part 422 Subpart K or 42 CFR Part 417 Subpart K, as applicable.

## **Article XI Compliance and Enforcement Actions**

### **A. INTERMEDIATE SANCTIONS**

Consistent with Subpart O of 42 CFR Part 423, MA-PD Sponsor shall be subject to sanctions and civil money penalties.

### **B. COMPLIANCE ACTIONS AND PAST PERFORMANCE**

CMS may determine that the MA-PD Sponsor is out of compliance with a Part D requirement and take compliance actions as described in 42 CFR § 423.505(n) or issue intermediate sanctions as defined in 42 CFR Part 423 Subpart O. **[42 CFR § 423.505(n)]**

## **Article XII Severability**

Severability of the addendum shall be in accordance with 42 CFR § 423.504(e).

## **Article XIII Miscellaneous**

### **A. DEFINITIONS**

Terms not otherwise defined in this addendum shall have the meaning given such terms at 42 CFR Part 423 or, as applicable, 42 CFR Part 422 or Part 417.

### **B. ALTERATION TO ORIGINAL ADDENDUM TERMS:**

MA-PD Sponsor agrees that it has not altered in any way the terms of the MA-PD addendum presented for signature by CMS. MA-PD Sponsor agrees that any alterations to the original

text MA-PD Sponsor may make to this addendum shall not be binding on the parties.

C. ADDITIONAL CONTRACT TERMS:

MA-PD Sponsor agrees to include in this addendum other terms and conditions in accordance with 42 CFR § 423.505(j).

- D. Pursuant to § 13112 of the American Recovery and Reinvestment Act of 2009 (ARRA), MA-PD Sponsor agrees that as it implements, acquires, or upgrades its health information technology systems, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under § 3004 of the Public Health Service Act, as amended by § 13101 of the ARRA.
- E. MA-PD Sponsor agrees to maintain a fiscally sound operation by at least maintaining a positive net worth (total assets exceed total liabilities) as required in 42 CFR § 423.505(b)(23).
- F. **Business Continuity:** MA-PD Sponsor agrees to develop, maintain, and implement a business continuity plan as required by 42 CFR § 423.505(p).
- G. The MA-PD Sponsor agrees to comply with applicable anti-discrimination laws, including Title VI of the Civil Rights Act of 1964 (and pertinent regulations at 45 CFR Part 80), § 504 of the Rehabilitation Act of 1973 (and pertinent regulations at 45 CFR Part 84), and the Age Discrimination Act of 1975 (and pertinent regulations at 45 CFR Part 91). The MA-PD sponsor agrees to comply with the requirements relating to Nondiscrimination in Health Programs and Activities in 45 CFR Part 92, including submitting assurances that the MA-PD sponsor's health programs and activities are operated in compliance with the nondiscrimination requirements, as required in 45 CFR § 92.4.

In witness whereof, the parties hereby execute this contract.

This document has been electronically signed by:

FOR THE MA ORGANIZATION

<<CONTRACTING\_OFFICIAL\_NAME >>

Contracting Official Name

<<DATE\_STAMP>>

Date

<<CONTRACT\_NAME>>

Organization

<<ADDRESS>>

Address

FOR THE CENTERS FOR MEDICARE & MEDICAID SERVICES

<<Vanessa Duran\_ESIG>>

Vanessa Duran

Acting Director

Medicare Drug Benefit

and C & D Data Group,

Center for Medicare

<<DATE\_STAMP>>

Date