

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

FTC Matter No. **P221200**

ORDER TO FILE A SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission (“FTC” or “the Commission”) dated June 6, 2022, entitled “Resolution Directing Use of Compulsory Process Regarding the Competitive Impact of Contracting and Other Business Practices by Pharmacy Benefit Managers,” a copy of which is enclosed, [COMPANY] (the “Recipient”) is ordered to file with the Commission, no later than 90 days after date of service, a Special Report containing the information and Documents specified herein.

The Commission is seeking information concerning the competitive impact of the contracting and business practices of pharmacy benefit managers.

The Special Report is required to be subscribed and sworn by an official of the Recipient who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in your possession. Your written report should restate each item of this Order with which the corresponding answer is identified. If any question cannot be answered fully, give the information that is available and explain in what respects and why the answer is incomplete. The Special Report and all accompanying documentary responses must be Bates-stamped.

The Recipient is required to respond to this Order using information in the Recipient’s possession, custody, or control, including information maintained in a central data repository to which the Recipient has access. The Recipient should not seek any responsive information and data from separately incorporated subsidiaries or affiliates or from individuals (other than in their capacity as the Recipient’s employee or as the Recipient’s agent). However, the Recipient should provide information relating to separately incorporated subsidiaries or affiliates if the Recipient already has possession, custody, or control of such information. No later than 14 days from the date of service, the Recipient should contact Commission staff and indicate whether all of the information required to respond to this Order is in the Recipient’s possession, custody, or control. If certain information is not in the Recipient’s possession, custody, or control, no later than 14 days from the date of service, the Recipient also must: (1) Identify, both orally and in writing, each question or sub-question that the Recipient is not able to fully answer because information is not in the Recipient’s possession, custody, or control, and (2) for each, provide the full names and addresses of all entities or individuals who have possession, custody, or control of such missing information.

Confidential or privileged commercial or financial information will be reported by the Commission on an aggregate or anonymous basis, consistent with Sections 6(f) and 21(d) of the FTC Act. Individual submissions responsive to this Order that are marked “confidential” will not be disclosed without first giving the Recipient ten (10) days’ notice of the Commission’s intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act.

SPECIFICATIONS

1. Submit one copy of each organization chart and personnel directory in effect since January 1, 2017, for the Company as a whole (including domestic and international entities) and for each of the Company’s divisions or business segments involved, directly or indirectly, in any activity relating to PBM Services.
2. Submit a list of all agents and representatives of the Company from January 1, 2017, to present, including, but not limited to, all consultants, product distributors, sales agents, and other Persons retained by the Company in any capacity relating to PBM Services. For each agent or representative identified in response to this Specification, include a description of the role of each agent or representative, including a description of any records, documents, or data maintained by that agent or representative relating to PBM Services.
3. Submit one copy of all meeting minutes and related presentations to the Company’s Board of Directors relating to PBM Services; and provide a list of members of the board of directors or board of trustees, including each member’s name, address, occupation, and period of service.
4. Submit a list of all terms used by the Company in the ordinary course of business that describe and/or categorize any payments to or from any Relevant Entity, including, but not limited to, terms labeling or describing elements of the Company’s reimbursements, effective rate contracts, dispensing fees, claim fees, pharmacy network participation fees, all forms of performance fees (including all components and methods used in the calculation of such fees), audit fees, reconciliation fees, DIR fees, fees for services (including, but not limited to, fees for research, tracking and information) and all others. For each term provide a detailed description sufficient to explain how it is used by the Company in the ordinary course of business.
5. Submit documents sufficient to show and describe in detail using terms described in Specification 4 each step, variable and calculation used to determine the amount of money or other consideration paid to the Company, received by the Company, retained by the Company or otherwise obtained by the Company from Relevant Entities.
6. Submit documents sufficient to show and describe in detail each step, variable and calculation used to determine the amount of money or other consideration paid or otherwise disbursed by the Company to any Relevant Entity.

7. Submit documents sufficient to show how the company tracks, aggregates or summarizes the information requested in Specification 5 and Specification 6. Submit documents sufficient to show how the Company communicates the information requested in Specification 5 and 6 to any Relevant Entity.
8. Describe in detail whether and how the Company limits Pharmacy Network participation for pharmacies, including, but not limited to, participation limits or restrictions for each of the following categories:
 - a) Company-owned or affiliated Retail Pharmacy or Mail-Order Pharmacy,
 - b) Company-owned or affiliated Specialty Pharmacies,
 - c) Specialty Pharmacies not owned or affiliated with the Company,
 - d) Chain Pharmacy not owned or affiliated with the Company, and
 - e) Unaffiliated Independent pharmacies.
9. For each year, provide a list of all Pharmacy Benefit Plans administered by the Company and identify every Pharmacy Network associated with each Plan.
10. For each year, provide a spreadsheet of all Pharmacy Networks identified in response to Spec. 9, indicating separately for each network:
 - a) Network name;
 - b) Network ID;
 - c) Effective date of network contract and term;
 - d) Number of pharmacy locations included in the network;
 - e) Number of affiliated Chain Pharmacy locations included in the network;
 - f) Number of unaffiliated Chain Pharmacy locations included in the network;
 - g) Number of Independent pharmacies included in the network;
 - h) Number of lives or beneficiaries associated with the network;
 - i) Network type (e.g., preferred, performance, open);
 - j) The identity of every pharmacy in the network, including:
 - (a) Name
 - (b) Location
 - (c) Pharmacy ID
 - (d) Pharmacy NPI.
11. For each year, provide a spreadsheet describing all Company contracts that determine reimbursement of any Relevant Entity and for each contract, provide a summary of the following terms:
 - a) Pharmacy Network
 - b) Pharmacy name and ID
 - c) Brand 30-day ingredient cost (e.g., “AWP-[X]%”);
 - d) Brand 30-day dispensing fee;
 - e) Brand 90-day ingredient cost;
 - f) Brand 90-day dispensing fee;
 - g) Non-MAC generic ingredient cost;

- h) Non-MAC generic dispensing fee;
 - i) MAC generic ingredient cost;
 - j) MAC generic dispensing fee;
 - k) Summary of material terms of any contract rate guarantee; and
 - l) Summary of material terms of any performance metric (DIR, etc.)
12. For each year, provide the following annual pharmacy reimbursement data for each Relevant Entity reimbursed by the Company for each of the top 100 drugs by annual Total Amount Paid to all Relevant Entities by the Company:
- a) Drug name (including all doses and dosage forms);
 - b) NDC(s);
 - c) Pharmacy name and ID;
 - d) Payer Type (Commercial, Medicare, Medicaid, or All Other);
 - e) Quantity Dispensed;
 - f) Number of 30-Day Equivalent Prescriptions;
 - g) Total Amount Paid (to Relevant Entity);
 - h) Ingredient Cost Paid (to Relevant Entity);
 - i) Dispensing Fee Paid (to Relevant Entity);
 - j) Incentive Amount Paid (to Relevant Entity);
 - k) Other Amount Paid (to Relevant Entity)
 - l) Flat Sales Tax Amount Paid (to Relevant Entity);
 - m) Percentage Sales Tax Amount Paid (to Relevant Entity);
 - n) Patient Pay Amount (to Relevant Entity);
 - o) Other Payer Amount Recognized (to the Relevant Entity);
 - p) Total amount billed to Plan Sponsor;
 - q) Total acquisition cost of drug product dispensed (provide only for each Relevant Entity owned or otherwise affiliated with the Company);
 - r) Spread Price Amount retained by the Company; and
 - s) Post-Sale Adjustments attributed to this drug product.
13. For each year, provide the following annual pharmacy reimbursement data for each Relevant Entity reimbursed by the Company for each of the top 100 drugs by annual total number of 30-day equivalent prescriptions at all Relevant Entities:
- a) Drug name (including all doses and dosage forms)
 - b) NDC(s);
 - c) Pharmacy name and ID;
 - d) Payer Type (Commercial, Medicare, Medicaid, or All Other);
 - e) Quantity Dispensed;
 - f) Number of 30-Day Equivalent Prescriptions;
 - g) Total Amount Paid (to Relevant Entity);
 - h) Ingredient Cost Paid (to Relevant Entity);
 - i) Dispensing Fee Paid (to Relevant Entity);
 - j) Incentive Amount Paid (to Relevant Entity);
 - k) Other Amount Paid (to Relevant Entity);

- l) Flat Sales Tax Amount Paid (to Relevant Entity);
 - m) Percentage Sales Tax Amount Paid (to Relevant Entity);
 - n) Patient Pay Amount (to Relevant Entity);
 - o) Other Payer Amount Recognized (to Relevant Entity);
 - p) Total amount billed to Plan Sponsor;
 - q) Total acquisition cost of drug product dispensed (provide only for each Relevant Entity owned or otherwise affiliated with the Company);
 - r) Spread Price Amount retained by the Company; and
 - s) Post-Sale Adjustments attributed to this drug product.
14. For each year, provide the following annual pharmacy reimbursement data for each Relevant Entity reimbursed by the Company for each drug on the Company's Specialty Drug List and for each Rebated Drug Product:
- a) Drug name (including all doses and dosage forms);
 - b) NDC(s);
 - c) Pharmacy name and ID;
 - d) Payer Type (Commercial, Medicare, Medicaid, or All Other);
 - e) Quantity Dispensed;
 - f) Number of 30-Day Equivalent Prescriptions;
 - g) Total Amount Paid (to Relevant Entity);
 - h) Ingredient Cost Paid (to Relevant Entity);
 - i) Dispensing Fee Paid (to Relevant Entity);
 - j) Incentive Amount Paid (to Relevant Entity);
 - k) Other Amount Paid (to Relevant Entity);
 - l) Flat Sales Tax Amount Paid (to Relevant Entity);
 - m) Percentage Sales Tax Amount Paid (to Relevant Entity);
 - n) Patient Pay Amount (to Relevant Entity);
 - o) Other Payer Amount Recognized (to Relevant Entity);
 - p) Total amount billed to Plan Sponsor;
 - q) Total acquisition cost of drug product dispensed (provide only for each Relevant Entity owned or otherwise affiliated with the Company);
 - r) Spread Price Amount retained by the Company; and
 - s) Post-Sale Adjustments attributed to these drug products.
15. Submit all documents relating to the Company's development and negotiation of Pharmacy Networks including, but not limited to:
- a) Each of the Company's contracts (including all amendments or modifications) determining reimbursement for Relevant Entities;
 - b) Communications with Relevant Entities including solicitations of interest in Pharmacy Network participation;
 - c) Communications with Plan Sponsors related to any discussions of Plan design, Pharmacy Network design, premiums, co-payments, DIR and all other performance fees, contract rate guarantees, Plan sales and marketing, and relative competitive position;

- d) Strategic plans, Pharmacy Network composition evaluations, reimbursement rates, prices, fees, performance measures or metrics, and comparative performance with any other company;
 - e) Any spreadsheets the Company used in connection with contracting decisions;
 - f) Internal documents that discuss or otherwise evaluate the Company's methods and procedures for determining whether to accept proposed and final terms and prices; and
 - g) Any analysis performed regarding the actual or anticipated effects of state laws regulating pharmacy benefit services including, but not limited to: any willing provider laws, MAC appeals laws, patient steering law, spread pricing bans, prohibitions on any retroactive reductions in payment or clawbacks, transparency requirements, and imposition of a fiduciary duty.
16. Submit all documents relating to the Company's administration of the Pharmacy Networks identified in response to Specifications 9 and 10, including, but not limited to:
- a) Communications with Relevant Entities;
 - b) Reimbursement rates, prices, fees, performance measures or metrics, audits, or comparative performance of Relevant Entities;
 - c) Data analysis (including the native files of computer spreadsheets and programs the Company uses in connection with data analysis and audits); and
 - d) Strategies, methods, and procedures for determining reimbursements, prices, fees and claw-backs or other financial penalties or inducements imposed on or provided to participating pharmacies.
17. Submit documents sufficient to show the criteria the Company uses to determine whether to conduct an audit of a Relevant Entity.
18. Submit a spreadsheet identifying all audits of Relevant Entities since January 1, 2017, and for each such audit provide:
- a) Pharmacy name and ID;
 - b) Whether the pharmacy is a Chain Pharmacy or Independent Pharmacy;
 - c) The amount of funds, if any, recovered by the Company through the audit;
 - d) The amount of any recovered funds passed to any Plan Sponsor;
 - e) Whether the pharmacy appealed the results of the audit to the Company internally;
 - f) Whether the audit went into arbitration or litigation; and
 - g) The amount of funds, if any, recovered by the Company as the result of arbitration or litigation.
19. For each year, provide a spreadsheet containing the following data regarding all formularies and prescription drug lists for all Plans of Selected Plan Sponsors administered by the Company:

- a) Formulary name;
 - b) Formulary ID;
 - c) Number of Covered Lives;
 - d) Each Pharmacy Benefit Plan that uses the formulary;
 - e) The copayment or coinsurance associated with each tier on the formulary;
 - f) List of drugs indicating:
 - i. Brand name;
 - ii. Generic name;
 - iii. Active ingredient;
 - iv. Drug class;
 - v. NDC(s);
 - vi. RXCUI(s);
 - vii. Applicable tier or indication of formulary exclusion;
 - viii. Indication of any prior authorization requirement;
 - ix. Indication of step therapy requirement;
 - x. Indication of quantity limit.
 - g) For each drug, provide the total number of prior authorization requests received, total number of prior authorization requests approved, and the average length of time for prior authorization requests to be resolved; and
 - h) For each drug, provide total number of claims rejected due to step therapy requirements.
20. For any drug listed in response to Specification 19, identify any situation where a brand or reference biologic drug is placed on a more favorable formulary tier than a generic or biosimilar equivalent. For the purposes of this list, treat any drug excluded from the formulary as being on a tier less favorable than every other formulary tier. For each such instance, identify:
- a) The brand or reference biologic drug;
 - b) The generic or biosimilar equivalent;
 - c) List of Pharmacy Benefit Plans impacted by such arrangement;
 - d) Number of Covered Lives covered by such arrangement;
 - e) Dates such arrangement was in effect.
21. Describe the Company's policies and criteria for defining or designating drugs as Specialty Drugs and submit all documents relating to such policies and criteria. Include all changes to the policies or criteria and describe how frequently and the circumstances under which those policies or criteria have changed since January 1, 2017.
22. Provide a list of all drugs defined or designated as Specialty Drugs on any formulary administered by the Company, by quarter.
23. If any drug has been added or deleted from any of the Company's lists of Specialty Drugs since January 1, 2017, provide:
- a) Drug name and active ingredient;
 - b) A description of the reasons for why each drug was included or excluded;

- c) The date of the change in classification; and
 - d) All documents related to the decision to change each drug's classification.
24. Describe the Company's policies and criteria for determining reimbursement of Specialty Drugs and submit all documents relating thereto.
25. Describe the Company's policies for requiring, directing, encouraging, or incentivizing patients to utilize Specialty or Mail-Order pharmacy. Submit all documents relating to any effort to encourage, require, or incentivize patients to use Specialty and Mail-Order Pharmacies owned or affiliated with the Company, including, but not limited to, co-pay differentials, availability of 90-day refills, shipping charge differentials, pricing differentials, express shipping availability, simplified ordering, patient communication or reminder policies, or other service or any other financial or non-financial incentives.
26. Submit one copy of the Company's contracts with all Specialty and Mail-Order pharmacies and all policies regarding internal transfer pricing by the Company and any Specialty Pharmacy or Mail-Order Pharmacy owned by or affiliated with the Company.
27. Submit one copy of all contracts between the Company and Selected Plan Sponsors.
28. Identify and specifically define all material financial terms in all contracts (including all appendices, addenda or attachments) between the Company and Selected Plan Sponsors. Where such terms vary by drug type or dispensing channel, include and explain the relevant distinctions. Such terms may include but are not limited to:
- a) Guaranteed discount rates from list or reference prices;
 - b) Price protection guarantees;
 - c) Dispensing fees;
 - d) Rebate pass-through methodology (e.g., percentage off Rebates, fixed payments per prescription);
 - e) Pass-through of administrative fees received from drug manufacturers;
 - f) Pass-through of any other remuneration or consideration from drug manufacturers;
 - g) Pass-through of any discounts negotiated with pharmacies;
 - h) Per-member-per year (or otherwise specified) administrative fees paid to the Company by the Plan Sponsor;
 - i) Any other payments covering terms of sale;
 - j) Contract duration; and
 - k) Timing of allowed market checks.
29. For each year, provide a spreadsheet listing all contracts between the Company and Selected Plan Sponsors. For each contract, provide a summary of the material contract terms identified in Specification 28, listing separately any terms that vary by type of drug or dispensing channel.

30. Submit all documents related to the Company's strategies, conditions and plans for formulary placement, formulary exclusion, formulary tier assignment, prior authorization or step-edit requirement regarding all Rebated Drug Products, including documents relating to the decisions and implementation of those strategies, and any changes thereto.
31. Produce all documents related to Rebated Drug Products, including, but not limited to, every Rebate Contract.
32. Provide a spreadsheet containing, the following data for each Rebate Contract regarding each Rebated Drug Product:
 - a) The contracting parties;
 - b) Execution date, duration or term (indicating extensions);
 - c) Identity of every Pharmacy Benefit Plan(s) and total number of Covered Lives or beneficiaries governed by the Rebate Contract;
 - d) Name of drug(s) and list of NDCs covered by the Rebate Contract;
 - e) Summary of terms regarding formulary placement of each Rebated Drug Product;
 - f) Summary of terms regarding formulary placement, formulary exclusion, or prior authorization requirements or step edits, of any drugs considered to compete with each Rebated Drug Product;
 - g) A list containing all drugs, stating both NDC and active ingredient identified in the Rebate Contract considered to compete with each Rebated Drug Product, including, but not limited to all generic and biosimilar versions;
 - h) Summary of all terms requiring or incentivizing volume or market share for each Rebated Drug Product (including base Rebate amounts, bundled Rebates and incremental Rebates, WAC and WAC effective date, stated separately) and price concession, stated separately for each;
 - i) The total number of prescriptions filled and units dispensed for which a Rebate, discount, price concession or other consideration was received by the Company for each Rebated Drug Product stated separately by month;
 - j) The Rebate percentage and dollar amount retained by the Company of every Rebate, discount, price concession or other consideration reported in Subspecification 32 (i) stated separately by month of applicable prescription;
 - k) The dollar amount of any other compensation for services, distribution management services, data or data services, marketing or promotional services, research programs, or other ancillary services, stated separately in the month it was received by the Company under each Rebate Contract, or under other agreement (stated separately);
 - l) The dollar amount retained by the Company of any other compensation for services, distribution management services, data or data services, marketing or promotional services, research programs, or other ancillary services reported in k), stated separately in the month it was received by the Company under each Rebate Contract, or under other agreement (stated separately); and
 - m) The total drug spend, total Patient Pay Amount, units dispensed, and number of equivalent claims for the Rebated Drug Product and for each competing drug

identified in response to Subspecification 32(g) for the Pharmacy Benefit Plans identified in Subspecification 32(c) by month of applicable prescription.

33. Provide all reports and audit results performed pursuant to any Rebate Contract for any Rebated Drug Product, including, but not limited to, product utilization reports, market share reports, or competitive utilization reports regarding any Rebated Drug Products or competing products.
34. Provide all documents generated by or delivered to contract strategy and management personnel of the Company relating to Rebate Contracts for Rebated Drug Products, including documents generated for meetings to review business trends in the Rebated Drug Products' therapeutic class.
35. Provide every ancillary agreement between the Company and any other party (including related or affiliated entities) to any Rebate Contracts covering any Rebated Drug Product, including but not limited to, all contracts detailing fees for services, research, tracking or other information related to any Rebated Drug Product. For each such ancillary agreement, provide a spreadsheet with the following information:
 - a) The contracting parties;
 - b) The duration or term of the contract, including, all amendments extending those dates;
 - c) Services provided and the purpose of any such services;
 - d) All consideration provided in exchange for any ancillary service, reported on a monthly, quarterly, and annual basis.
36. Submit documents sufficient to show and, to the extent not reflected in such documents, describe in detail the Company's policies and procedures relating to the retention and destruction of documents and data.
37. Submit all information described in Instructions below, and any additional instructions necessary for the Commission to use or interpret the data and information submitted in response to this Order.
38. Submit the name(s) and title(s) of the person(s) responsible for preparing the response to this Order and a copy of all instructions prepared by the Company relating to the steps taken to respond to this Order. Where oral instructions were given, identify the individual who gave the instructions and describe the content of the instructions and the person(s) to whom the instructions were given.

DEFINITIONS

- A. The term “the Company” or “Company” means [COMPANY] its domestic and foreign parents, predecessors, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, principals, employees, agents, and representatives of the foregoing. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any person in which there is partial (25% of more) or total ownership or control between the Company and any other person. The term “the Company” does not include any Affiliated Entity. However, your response as it relates to separately incorporated subsidiaries or affiliates should only include information from or about such entities if you already have access to it, including information maintained in a central data repository. You should not otherwise seek any responsive information from separately incorporated subsidiaries or affiliates.
- B. The term “Affiliated Entity” means any business entity for which there is partial (25% of more) or total ownership or control by the Company.
- C. The terms “Chain” and “Chain Pharmacy” means any business entity that owns four or more pharmacy locations nationwide, either under a single banner or multiple banners, and any individual pharmacy locations within such business entity.
- D. The term “Commercial Payer” means any third-party that reimburses the costs of prescription drugs that are dispensed to individuals covered by a Plan, whether the third party is a self-insured or a company in the business of providing insurance coverage for others or on behalf of others (including any co-payment by the covered individual). The term “Commercial Payer” does not include Medicaid payers or Medicare payers.
- E. The term “Covered Lives” means all individuals entitled to receive prescription drug benefits or other health benefits within a calendar year.
- F. The term “Data Set” means all or a subset of data held by, or accessible to, the Company in the normal course of business provided by the Company to respond to any Specification in this Request.
- G. The term “DIR” means all direct and indirect remuneration fees and price concessions that impact prescription drug costs that are not captured at the point of sale.
- H. The term “Dispensing Fee Paid (to Relevant Entity)” refers to the amount reported as paid to the pharmacy in NCPDP Field #507-F7.
- I. The term “drug” includes all “small molecule” drugs and biological products approved by the U.S. Food & Drug Administration (FDA).
- J. The term “Flat Sales Tax Amount Paid (to Relevant Entity)” refers to the amount reported as paid to the pharmacy in NCPDP Field #558-AW.

- K. The term “formulary” means any list of prescription drugs that describes the circumstances under which the Company will reimburse particular drug products
- L. The term “Generic” or “Generic Drug” means any FDA-approved drug that was approved based on bioequivalent to a preexisting drug product including any authorized generic products.
- M. The term “Incentive Amount Paid (to Relevant Entity)” means the amount reported as paid to the pharmacy in NCPDP Field #521-FL.
- N. The term “Independent Pharmacy” means any business entity that owns less than four pharmacy locations nationwide, either under a single banner or multiple banners, and any individual pharmacy locations within such business entity.
- O. The term “Ingredient Cost Paid (to Relevant Entity)” means the amount reported as paid to the pharmacy in NCPDP Field #506-F6.
- P. The term “MAC” (Maximum Allowable Cost) means the maximum amount that your Company agrees to reimburse a pharmacy for a prescription drug product.
- Q. The term “Mail Order Pharmacy” means any pharmacy that primarily dispenses prescription drugs to patients or patients’ designees via the United States Postal Service, a common carrier, or a delivery service. The term does not include Specialty Pharmacies.
- R. The term “NDC” means the National Drug Code.
- S. The term “Other Amount Paid (to Relevant Entity)” means the amount reported as paid to the pharmacy in NCPDP Field #565-J4.
- T. The term “Other Payer Amount Recognized (to the Relevant Entity)” means the amount reported as paid to the pharmacy in NCPDP Field #566-J5.
- U. The term “Patient Pay Amount (to Relevant Entity)” means the amount reported as paid to the pharmacy in NCPDP Field #505-F5.
- V. The term “PBM Services” means services related to the reimbursement of prescription drug purchases, creation and administration of formularies, negotiation of reimbursement amounts and discounts with pharmacies and drug manufacturers, and all related administrative and ancillary business services related to the administration of Pharmacy Benefit Plans on behalf of Plan Sponsors.
- W. The term “Percentage Sales Tax Amount Paid (to Relevant Entity)” means the amount reported as paid to the pharmacy in NCPDP Field #559-AX.

- X. The term “Pharmacy Benefits Plan” or capitalized “Plan” means any pharmacy benefit product issued, administered, or serviced by the Company under which covered individuals are entitled to any reimbursement for prescribed Drugs. For clarification, a Plan may include commercial, capitated Medicaid, capitated Medicare, or qualified health plans with coverage for prescription drugs under an open, closed, or multi-tiered formulary.
- Y. The term “Pharmacy Network” means a collection of pharmacies that individuals within a Pharmacy Benefits Plan are required or incentivized to use to obtain reimbursement for the costs of prescription drugs.
- Z. The uncapitalized term “plan” means tentative and preliminary proposals, recommendations, or considerations, whether or not finalized or authorized, as well as those that have been adopted.
- AA. The term “Plan Sponsor” means any business entity (e.g. self-funded employer, insurance company, union health plan) that is financially liable for prescription drug purchases on behalf of individuals pursuant to a Pharmacy Benefits Plan. Each Plan Sponsor may offer multiple Pharmacy Benefit Plans.
- BB. The term “Post Sale Adjustment” means any additional compensation or reduction in compensation exchanged between the Company and a pharmacy after the point-of-sale transaction that changes the amount of a pharmacy was reimbursed for a prescription or related service.
- CC. The standalone term “Prescription” refers to the dispensing of a 30-day supply of a particular prescription drug product. In case of ambiguity, 90-day prescriptions requiring only one co-payment shall be counted as three Prescriptions.
- DD. The term “Quantity Dispensed” means the number of units, grams, milliliters, or other relevant unit indicating the amount of an individual drug product included in a transaction or transactions.
- EE. The term “Quarter” means any three-month period beginning on January 1, April 1, July 1, or October 1 of any year from 2017 to the present.
- FF. The term “Rebate” means any retrospective price concession, credit, or other consideration conditioned on the purchase, sale or dispensing of any units of a Prescription Drug within the United States and its territories. This term includes, but is not limited to, rebates, administrative fees, volume discounts, patient conversion payments, market share movement payments, formulary placement fees, disease management program payments, and promotional allowances.
- GG. The term “Rebate Contract” means any agreement entered into by the Company or at the Company’s direction or for the Company’s benefit by any Affiliated Entity and any drug manufacturer or agent or affiliate of a drug manufacturer that determines any Rebate,

discount, administrative or other fee, price concession (including any bundled discounts), or other consideration related to the dispensing of prescription drugs.

- HH. The term “Rebated Drug Product(s)” means all Prescription drug products described in the following categories, including all combination products, authorized generics, and biosimilar alternatives:
- a. HIV antiretrovirals and preventatives, including, but not limited to: dolutegravir and raltegravir (Juluca); emtricitabine and tenofovir alafenamide (Descovy); dolutegravir (Tivicay); abacavir, dolutegravir, lamivudine (Triumeq); bictegravir, emtricitabine and tenofovir alafenamide (Biktarvy); tenofovir disoproxil fumarate (Viread); efavirenz, emtricitabine and tenofovir disoproxil fumarate (Atripla); elvitegravir, cobicistat, emtricitabine, and tenofovir alafenamide (Genvoya); and emtricitabine, tenofovir, and disoproxil fumarate (Truvada).
 - b. Hepatitis C antiretrovirals, including, but not limited to: glecaprevir and pibrentasvir (Mavyret); sofosbuvir and velpatasvir (Epclusa); ledipasvir and sofosbuvir (Harvoni); Sofosbuvir and velpatasvir (Vosevi); and elbasvir and grazoprevir (Zepatier).
 - c. Multiple Sclerosis treatments, including, but not limited to: dimethyl fumarate (Tecfidera), fingolimod (Gilenya), glatiramer acetate (Copaxone), and teriflunamide (Aubagio).
 - d. Blood clotting disorders treatments, including, but not limited to: apixaban (Eliquis) and rivaroxaban (Xarelto).
 - e. Oral tyrosine kinase inhibitor treatments to treat chronic myelogenous leukemia and acute lymphocytic leukemia, including, but not limited to: imatinib mesylate (Gleevec).
 - f. Respiratory Asthma/COPD inhalers, including, but not limited to: fluticasone propionate and salmeterol (Advair); budesonide and formoterol fumarate dihydrate (Symbicort); tiotropium bromide (Spiriva); fluticasone furoate and vilanterol (Breo); (fluticasone furoate, umeclidinium, and vilanterol) Trelegy; albuterol sulfate or salbutamol (AccuNeb, Proair HFA, Proventil HFA, Ventolin HFA,), Pulmicort, etc., metaproterenol sulfate, levalbuterol (Xopenex HFA), and levalbuterol (Xopenex HFA).
 - g. Opioid Treatments & Reversal Agents, including, but not limited to: buprenorphine and naloxone (Suboxone), and naloxone (Narcan).
 - h. Statins, including, but not limited to: atorvastatin (Lipitor), fluvastatin (Lescol), lovastatin (Mevacor, Altacor) pravastatin (Pravachol), rosuvastatin (Crestor), simvastatin (Zocor), and pitavastatin (Livalo).

- i. ADHD agents including, but not limited to: amphetamine (Adzenys XR), amphetamine/dextroamphetamine (Adderall, Adderall XR), dexamethylphenidate (Focalin) lisdexamfetamine (Vyvanse), and methylphenidate (Concerta, Ritalin).
 - j. Insulins, including, but not limited to: insulin glargine (Lantus), insulin detemir (Levemir), insulin aspart (Novolog), insulin lispro (Humalog).
- II. The term “Relevant Entity” includes all Retail Pharmacies, Chain Pharmacies, Independent Pharmacies, Specialty Pharmacies, Pharmacy Services Administrative Organizations, and Mail-Order Pharmacies that dispense prescription drugs.
- JJ. The term “Retail Pharmacy” means any pharmacy that generally dispenses prescription drugs to patients in person. For avoidance of doubt, this term excludes both Specialty Pharmacies and Mail Order Pharmacies.
- KK. The term “Selected Plan Sponsors” refers to the Commercial Payers whose Pharmacy Benefit Plans rank in the top 10 within the Company’s book of business with respect to any of the following metrics:
- (a) Covered Lives;
 - (b) Drug Spend;
 - (c) Total Rebate Dollars Remitted to Plan Sponsor; or
 - (d) Total Rebate Dollars Retained by the Company.
- LL. The term “Specialty Drug” means any drug product that has been included on any of the Company’s Specialty Drug Lists (or any similar term or list indicating particular dispensing requirements) by the Company at any point since January 1, 2017.
- MM. The term “Specialty Drug List” means any list of prescription drugs that are referenced as “specialty” drugs (or any similar term indicating heightened requirements for pharmacies dispensing such drug products) by the Company.
- NN. The term “Specialty Pharmacy” means a pharmacy that focuses primarily on dispensing FDA approved pharmaceuticals that are generally not dispensed by traditional retail pharmacies due to issues including, but not limited to, those pharmaceuticals’ special handling requirements, complex administration requirements, orphan drug status, high cost, complex patient monitoring requirements, and extensive insurance preapproval requirements.
- OO. The term “Spread Price Amount” means the difference between the total amount paid by a PBM to a pharmacy for a prescription and the total amount paid by the Plan Sponsor to the PBM for the same prescription.
- PP. The term “Total Amount Paid [to Relevant Entity]” means the amount reported as paid to the pharmacy in NCPDP Field #509-F9.

QQ. The term “documents” means any information, on paper or in electronic format, including written, recorded, and graphic materials of every kind, in the possession, custody, or control of the Company. (However, your response as it relates to separately incorporated subsidiaries or affiliates should only include information from or about such entities if you already have access to it, including information maintained in a central data repository. You should not otherwise seek any responsive information from separately incorporated subsidiaries or affiliates.) The term “documents” includes, without limitation: computer files; email messages; audio files; text messages, instant messages; drafts of documents; metadata and other bibliographic or historical data describing or relating to documents created, revised, or distributed electronically; copies of documents that are not identical duplicates of the originals in that Person’s files; and copies of documents the originals of which are not in the possession, custody, or control of the Company.

(a) Unless otherwise specified, the term “documents” excludes:

- i. bills of lading, invoices, purchase orders, customs declarations, and other similar documents of a purely transactional nature;
- ii. architectural plans and engineering blueprints;
- iii. documents solely relating to environmental, tax, OSHA, or ERISA issues; and
- iv. relational and enterprise databases, except as required to comply with an individual Specification.

(b) The term “computer files” includes information stored in, or accessible through, computer or other information retrieval systems. Thus, the Company should produce documents that exist in machine-readable form, including documents stored in personal computers, portable computers, workstations, minicomputers, mobile devices, mainframes, servers, backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether on or off Company premises. If the Company believes that the required search of backup disks and tapes and archive disks and tapes can be narrowed in any way that is consistent with the Commission’s need for documents and information, you are encouraged to discuss a possible modification to this Definition with the Commission representatives identified on the last page of this Request. The Commission representative will consider modifying this Definition to:

- (i) exclude the search and production of files from backup disks and tapes and archive disks and tapes unless it appears that files are missing from files that exist in personal computers, portable computers, workstations, minicomputers, mainframes, and servers searched by the Company;
- (ii) limit the portion of backup disks and tapes and archive disks and tapes that needs to be searched and produced to certain key individuals, or certain time periods or certain Specifications identified by Commission representatives; or

(iii) include other proposals consistent with Commission policy and the facts of the case.

RR. The term “Person” includes the Company and means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.

SS. The term “relating to” means in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, or stating.

TT. The terms “and” and “or” have both conjunctive and disjunctive meanings.

Instructions

For the purposes of this Order, the following Instructions apply:

1. Unless otherwise stated, all requests seek information and documents covering the period from January 1, 2017 to the date of this Order.
2. Unless otherwise specified, this Order requires the production of all responsive documents, data, and other information in your possession, custody, or control on the date that this Order was issued. However, you should not seek any responsive information from separately incorporated subsidiaries or affiliates or from individuals (other than in their capacity as your employee or as your agent). Your response as it relates to separately incorporated subsidiaries or affiliates should only include information from or about such entities if you already have access to it, including information maintained in a central data repository.
3. In order to comply in a manner consistent with the Commission's Rules of Practice, 16 C.F.R. § 2.7(k), the Recipient shall schedule a teleconference, within 14 days after receiving this Order, with the Commission representative identified in Instruction 9 of this Order to confer regarding your response. Upon request, an extension of no more than 30 days for the teleconference may be granted in writing by a Commission official.
4. Do not produce any Sensitive Personally Identifiable Information ("Sensitive PII") or Sensitive Health Information ("SHI") prior to discussing the information with a Commission representative. If any document responsive to a particular Specification contains unresponsive Sensitive PII or SHI, redact the unresponsive Sensitive PII or SHI prior to producing the document.

The term "Sensitive Personally Identifiable Information" means an individual's Social Security Number alone; or an individual's name, address, or phone number in combination with one or more of the following:

- date of birth
- driver's license number or other state identification number, or a foreign country equivalent
- passport number
- financial account number
- credit or debit card number

The term "Sensitive Health Information" includes medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. Sensitive Health Information 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.

5. Form of Production: You must submit documents as instructed below absent written modification.
- a. Documents stored in electronic or hard copy formats in the ordinary course of business shall be submitted in the following electronic format provided that such copies are true, correct, and complete copies of the original documents:
 - i. Submit Microsoft Excel, Access, and PowerPoint files in native format with extracted text and metadata.
 - ii. Submit emails in TIFF (Group IV) format with extracted text and the following metadata and information:

Metadata/Document Information	Description
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the email.
Bates End	Bates number of the last page of the email.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of the person from whom the email was obtained.
Email BCC	Names of person(s) blind copied on the email.
Email CC	Names of person(s) copied on the email.
Email Date Received	Date the email was received. [MM/DD/YYYY]
Email Date Sent	Date the email was sent. [MM/DD/YYYY]
Email From	Names of the person who authored the email.
Email Message ID	Microsoft Outlook Message ID or similar value in other message systems.
Email Subject	Subject line of the email.
Email Time Received	Time email was received. [HH:MM:SS AM/PM]

Metadata/Document Information	Description
Email To	recipients(s) of the email.
Email Time Sent	Time email was sent. [HH:MM:SS AM/PM]
Page count	Number of pages in record.
File size	Size of document in KB.
File Extension	File extension type (e.g., docx, xlsx).
Folder	File path/folder location of email.
Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC0003090.txt

- iii. Submit email attachments other than those described in subpart (a)(i) in TIFF (Group IV) format. For all email attachments, provide extracted text and the following metadata and information as applicable:

Metadata/Document Information	Description
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the document.
Bates End	Last Bates number of the document.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of person from whom the file was obtained.

Metadata/Document Information	Description
Date Created	Date the file was created. [MM/DD/YYYY]
Date Modified	Date the file was last changed and saved. [MM/DD/YYYY]
Page count	Number of pages in record.
File size	Size of document in KB.
File Extension	File extension type (e.g., docx, xlsx).
Filename with extension	Name of the original native file with file extension.
Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Native Link	Relative file path to submitted native or near native files. Example: \NATIVES\001\FTC0003090.xls
Parent ID	Document ID or beginning Bates number of the parent email.
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC0003090.txt
Time Created	Time file was created. [HH:MM:SS AM/PM]
Time Modified	Time file was saved. [HH:MM:SS AM/PM]

- iv. Submit all other electronic documents, other than those described in subpart (a)(i), in TIFF (Group IV) format accompanied by extracted text and the following metadata and information:

Metadata/Document Information	Description
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the document.
Bates End	Last Bates number of the document.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of the original custodian of the file.
Date Created	Date the file was created. [MM/DD/YYYY]
Date Modified	Date the file was last changed and saved. [MM/DD/YYYY HH:MM:SS AM/PM]
Page count	Number of pages in record.
File size	Size of document in KB.
File Extension	File extension type (e.g., docx, xlsx).
Filename with extension	Name of the original native file with file extension.
Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Originating Path	File path of the file as it resided in its original environment.
Production Link	Relative path to submitted native or near native files. Example: \NATIVES\001\FTC0003090.xls
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC-0003090.txt

Metadata/Document Information	Description
Time Created	Time file was created. [HH:MM:SS AM/PM]
Time Modified	Time file was saved. [HH:MM:SS AM/PM]

- v. Submit documents stored in hard copy in TIFF (Group IV) format accomplished by OCR with the following information:

Metadata/Document Information	Description
Bates Begin	Beginning Bates number of the document.
Bates End	Bates number of the last page of the document.
Custodian	Name of person from whom the file was obtained.

- vi. Submit redacted documents in TIFF (Group IV) format accompanied by OCR with the metadata and information required by relevant document type in subparts (a)(i) through (a)(v) above. For example, if the redacted file was originally an attachment to an email, provide the metadata and information specified in subpart (a)(iii) above. Additionally, please provide a basis for each privilege claim as detailed in Instruction 5.
- b. Submit data compilations in electronic format, specifically Microsoft Excel spreadsheets or delimited text formats, with all underlying data un-redacted and all underlying formulas and algorithms intact. Submit data separately from document productions.
- c. Produce electronic file and TIFF submissions as follows:
- i. For productions over 10 gigabytes, use hard disk drives, formatted in Microsoft Windows-compatible, uncompressed data in USB 2.0 or 3.0 external enclosure.
 - ii. For productions under 10 gigabytes, CD-ROM (CD-R, CD-RW) optical disks and DVD-ROM (DVD+R, DVD+RW) optical disks for Windows compatible personal computers, and USB 2.0 Flash Drives are acceptable storage formats.

Alternatively, the FTC's secure file transfer protocol service may be used; contact the Commission representative for further instructions to submit productions using this method.

- iii. All documents produced in electronic format shall be scanned for and free of viruses prior to submission. The Commission will return any infected media for replacement, which may affect the timing of your compliance with this Order.
 - iv. Encryption of productions using NIST FIPS-Compliant cryptographic hardware or software modules, with passwords sent under separate cover, is strongly encouraged.
 - d. Each production shall be submitted with a transmittal letter that includes the FTC matter number; production volume name; encryption method/software used; list of custodians and document identification number range for each; total number of documents; and a list of load file fields in the order in which they are organized in the load file.
6. Before using software or technology (including search terms, predictive coding, deduplication, email threading or similar technologies) to identify or eliminate documents, data, or information potentially responsive to this Order you must submit a written description of such software or technology and any related processes and workflows. In addition:
- a. if you use Technology Assisted Review to identify documents and information responsive to this Order or to exclude documents and information from further review describe your collection and review methodology, including: (a) how any software is used to identify responsive documents or exclude nonresponsive documents; (b) the process to identify and validate any seed set documents, if applicable; (c) the process to determine and validate accuracy of the automatic determinations of responsiveness and nonresponsiveness; and (d) the collection and review process for foreign language documents, whether reviewed manually or by some technology-assisted method;
 - b. if you use search terms to identify documents and information responsive to this Order or to exclude documents and information from further review: for each custodian, search location, or document population provide (a) a list of proposed terms; (b) a tally of all the terms that appear in the collection and the number of documents containing each term; (c) a list of stop words and operators for the platform being used; and (d) a glossary of industry and company acronyms and terminology;
 - c. provide prevalence, recall, precision, validation, and confidence-level statistics;

- d. provide access to randomized, statistically-significant samples of non-privileged documents excluded from review or production by use of keyword search terms, Technology Assisted Review software, or any other means;
 - e. identify the person(s) able to testify on your behalf about information known or reasonably available to the organization relating to your use of software or technology in responding to this Order.
7. All documents responsive to this Order:
- a. shall be produced in complete form, un-redacted unless privileged, and in the order in which they appear in your files;
 - b. shall be marked on each page with corporate identification and consecutive document control numbers when produced in TIFF format (e.g., ABC-00000001);
 - c. if written in a language other than English, shall be translated into English, with the English translation attached to the foreign language document;
 - d. shall be produced in color;
 - e. shall be accompanied by an index that identifies: (i) the name of each Person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control number(s) used to identify that Person's documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that, Commission representatives determine prior to submission that the machine-readable form would be in a format that allows the agency to use the computer files). The Commission representative will provide a sample index upon request; and
 - f. shall be accompanied by an affidavit of a Recipient's officer stating that the copies are true, correct, and complete copies of the original documents.
8. If any material called for by this Order is withheld based on a claim of protected status, 16 C.F.R. § 2.7(a)(4), the claim must be asserted no later than the return date of this Order. In addition, pursuant to 16 C.F.R. § 2.11(a)(1), submit, together with the claim, a detailed log of the items withheld. The information in the log shall be of sufficient detail to enable the Commission staff to assess the validity of the claim for each document, including attachments, without disclosing the protected information. Unless modified by the Commission representative identified on the last page of this Order, submit the log in a searchable and sortable electronic format, and, for each document, including attachments, provide:
- a. Document control number(s);

- b. The full title (if the withheld material is a document) and the full file name (if the withheld material is in electronic form);
- c. A description of the material withheld (for example, a letter, memorandum, or email), including any attachments;
- d. The date the material was created;
- e. The date the material was sent to each recipient (if different from the date the material was created);
- f. The email addresses, if any, or other electronic contact information to the extent used in the document, from which and to which each document was sent;
- g. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all authors;
- h. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all recipients of the material;
- i. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all persons copied on the material;
- j. The factual basis supporting the claim that the material is protected; and
- k. Any other pertinent information necessary to support the assertion of protected status by operation of law.

In the log, identify by an asterisk each attorney who is an author, recipient, or person copied on the material. The titles, business addresses, email addresses, and relevant affiliations of all authors, recipients, and persons copied on the material may be provided in a legend appended to the log.

However, provide in the log the information required by Instruction 6(f). The lead attorney or attorney responsible for supervising the review of the material and who made the determination to assert the claim of protected status must attest, in writing, to the log.

A document, including all attachments, may be withheld or redacted only to the extent necessary to preserve any claim of protected status. Unless otherwise provided in the instructions accompanying this Order, and except for information and material subject to a valid claim of protected status, all responsive information and material shall be produced without redaction.

- 9. Any questions that you have relating to the scope or meaning of anything in this Order or suggestions for possible modifications to it should be directed to James Frost at 202-326-

2189, jfrost@ftc.gov. Please notify James Frost by email in advance of each production. Any password(s) necessary to access the response to the Order shall be emailed to James Frost

You are advised that penalties may be imposed under applicable provisions of federal law for failure to file special reports or for filing false reports.

By direction of the Commission.

Lina M. Khan, Chair

DATED: June 6, 2022