

## Member-Requested Participation Addendum (MPA)

This Addendum (“**MPA**”) is entered into by State of Oklahoma (“**Member**”) and Medline Industries, LP, a limited partnership, with a principal address of Three Lakes Drive, Northfield, IL 60093 (“**Vendor**”) and incorporates the MMCAP Infuse, an agency of the State of Minnesota, (“**MMCAP Infuse**”) regarding MMS2200733 (“**Agreement**”).

**WHEREAS**, Member and Vendor wish to amend the terms and conditions of the Agreement to address the matters of Member.

**WHEREAS**, MMCAP Infuse has sole approval authority to any changes to the Agreement, thus is a signatory to this MPA.

**WHEREAS**, Member, MMCAP Infuse, and Vendor do not intend to alter, amend, interfere, modify, or adjust the contractual relationship of MMCAP Infuse and Vendor nor the relationship between any other member of MMCAP Infuse and the Vendor.

**THEREFORE**, the parties agree as follows:

### I. **DEFINITIONS**

- A. **Membership**: Means the joint power cooperative comprised of the MMCAP Infuse authorized states, departments, facilities, and other municipalities.
- B. **Facilities**: Means the authorized departments, facilities, and other municipalities approved by Member and MMCAP Infuse to access and use this MPA, as identified on Exhibit B.

### II. **EFFECTIVE DATE AND TERM**

- A. **Effective Date**: This MPA is effective on the date all signatures have been obtained.
- B. **Termination**: This MPA terminates upon:
  - 1. Ninety (90) calendar days’ written notice to the other parties; or
  - 2. The termination of the Agreement between MMCAP Infuse and the Vendor; or
  - 3. Written agreement executed by all parties.

### III. **SCOPE**

- A. **Exhibit A**: Which is attached and incorporated herein, identifies the Agreement and all other documents to be incorporated into the contractual relationship between Member and Vendor.
- B. **Exhibit B**: Which is attached and incorporated herein, identifies the Approved Facilities Member has approved to access the Agreement and MPA.
- C. **Exhibit C**: Which is attached and incorporated herein identifies the language to be incorporated into the contractual relationships between Member and Vendor, as referenced on Exhibit A. In the event of any conflict between the terms of the Agreement and Exhibit C of this MPA, the terms of Exhibit C will supersede as between Member and Vendor. *Neither MMCAP Infuse, the State of Minnesota, nor any other party of the Membership (except for the Facilities) are bound by the terms of Exhibit C.*

### IV. **GENERAL PROVISIONS**

- A. **Assignment**: Except as affirmed in this MPA, neither the Member nor Vendor will assign, delegate, or transfer any rights or obligations under this MPA without the prior written consent of MMCAP Infuse provided, however, Vendor may assign its rights, interest, and obligations hereunder to (one or more entities directly or indirectly controlling, controlled by, or under common control with Vendor without prior written consent.
- B. **Counterparts and Electronic Signature**: The MPA cannot be executed in counterparts and will not be enforceable until MMCAP Infuse has obtained all required signatures. If requested by MMCAP Infuse, Member and Vendor expressly agree to conduct transactions under the MPA by electronic means (including, without

limitation, with respect to execution, delivery, storage and transfer of this MPA by electronic means and to the enforceability of this electronic agreement). MMCAP Infuse will be deemed to have control of the authoritative copy for the electronic transferable record, in each case regardless of whether applicable law recognizes electronic transferable records or control of electronic transferable records and regardless of whether this MPA is an electronic record or transferable record. Member and Vendor will cooperate with and take all actions required by MMCAP Infuse in order for this MPA to be a transferable record, to ensure that MMCAP Infuse has control of the authoritative copy of such transferable record.

- C. **Amendments:** Any amendment or modification to this MPA must be in writing and will not be effective until executed by Vendor, the Member, and MMCAP Infuse

**IN WITNESS WHEREOF**, the undersigned parties have caused this MPA to be signed on their behalf intending to be bound thereby.

**BY AND BETWEEN:**

**FOR THE MEMBER:**  
STATE OF OKLAHOMA

Signature: Amanda Otis  
By: Amanda Otis  
Title: Interim Purchasing Director  
Date: Jun 2, 2023

**VENDOR:** MEDLINE INDUSTRIES, LP

Signature:   
By: Chris Powers  
Title: VP Government Markets  
Date: 01 JUNE 2023

OMES Legal Review:  Date: Jun 2, 2023  
Tim Tuck (Jun 2, 2023 14:38 CDT)

**IN AN APPROVAL CAPACITY ONLY:**

**State of Minnesota for MMCAP INFUSE**

In accordance with Minn. Stat. § 16C.03, subd. 3

DocuSigned by:  
Signature:  Printed: James Babbitt Date: 6/6/2023  
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**Minnesota Commissioner of Administration**

In accordance with Minn. Stat. § 16C.05, subd. 2

DocuSigned by:  
Signature:  Printed: Christina Fox Date: 6/7/2023  
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**[SIGNATURE PAGE]**

**EXHIBIT A**  
**Agreement and other Applicable Legal Documents**

1. Agreement MMS2200733

**EXHIBIT B**

**Approved Facilities**

Available to any agency of the State of Oklahoma approved by MMCAP Infuse; any governmental entity specified as a political subdivision of the State of Oklahoma pursuant to the Governmental Tort Claims Act including any associated institution, instrumentality, board, commission, committee, department, or other entity designated to act on behalf of the political subdivision; and entities authorized to utilize contracts awarded, adopted, or otherwise entered into by the State of Oklahoma via a multistate or multi-governmental contract.

**EXHIBIT C****Language Modification of the Agreement**

The following terms and conditions are entered into between Vendor and the Member and incorporate the documents identified on Exhibit A. Neither MMCAP Infuse, the State of Minnesota, nor the Membership, except for the Member (and applicable Facilities), are bound by the terms within this Exhibit.

**Additional Terms:****1. Exemption from Sales and Use Tax**

Per Oklahoma Statutes, 68 O.S. § 1404, 68 O.S. § 1352, and 68 O.S. § 1356, purchases under this MPA are exempt from the assessment of Oklahoma sales, use, and excise taxes. Facilities located in Oklahoma will provide Vendor with a tax exemption certificate. Any taxes of any nature whatsoever payable by the Vendor shall not be reimbursed by the Oklahoma Facility.

**2. Payment**

Interest on late payments will be paid in accordance with 62 O.S. § 34.72.

**3. Sovereign Immunity**

Notwithstanding any other term or provision in this MPA, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on sovereign immunity that otherwise would be available to the State of Oklahoma under applicable law.

Any clause that conflicts with laws of the State of Oklahoma, including but not limited to the opinions of the Oklahoma Attorney General, or infringe upon the authority of the Oklahoma Attorney General shall be inapplicable to the State of Oklahoma.

**4. Compliance with Applicable Oklahoma Laws**

For all services provided to the State of Oklahoma under this MPA by Vendor to Facilities in the State of Oklahoma, Vendor shall comply with all applicable federal, State of Oklahoma, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:

- 4.1 Be registered as a business entity licensed to do business in the State of Oklahoma, have obtained a sales tax permit, and be current on franchise tax payments to the State of Oklahoma, as applicable.
- 4.2 As applicable, Vendor agrees to comply with Governor's Executive Order 2012-01, effective August 06, 2012, which prohibits the use of any tobacco product on any and all properties owned, leased, or contracted for use by the State of Oklahoma, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State of Oklahoma.

**5. Oklahoma Fees and Contract Usage Report**

If Vendor has sold products to Oklahoma Facilities, Contractor agrees to submit a Contract Usage Report to the State of Oklahoma on a quarterly basis. "Contract Usage Report" shall include the following: (A) the applicable state contract number; (B) report amount(s); (C) reporting period covered; and (D) the applicable state agency name(s). Continuous failure to submit Contract Usage Reports as required herein may result in termination of the MPA. If the Vendor decides to assess a cost for the reports, all costs will be invoiced and paid by the Member and will not be directly or indirectly passed on to MMCAP Infuse or its Membership.

All Contract Usage Reports shall meet the following criteria:

- A. Must be submitted electronically in Microsoft Excel format.
- B. Quarterly reporting periods are as follows:

- i. January 01 through March 31, due May 15<sup>th</sup>
- ii. April 01 through June 30, due August 15<sup>th</sup>
- iii. July 01 through September 30, due November 15<sup>th</sup>
- iv. October 01 through December 31, due February 15<sup>th</sup>

All Contract Usage Reports shall be delivered to: E-mail: [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov)

For Oklahoma Facilities, the State of Oklahoma assesses a state fee in the sum of one percent (1%) on all net sales transacted by any Oklahoma Facilities under this MPA (the "**Oklahoma State Fee**"). Oklahoma understands and agrees that the Vendor will add the following Oklahoma State Fee on top of the Agreement prices and/or adjust any discounts for all Facilities located in Oklahoma. Vendor shall submit the Oklahoma State Fee on a quarterly basis. Failure to remit the Oklahoma State Fee quarterly may result in cancellation of this MPA.

Payment of the Oklahoma State Fee shall be made via company check payable to OMES within forty-five (45) calendar days from the completion of the applicable quarterly reporting period set forth above.

Vendor agrees to notify OMES-Central Purchasing Procurement via the email address set forth below twenty-four (24) hours in advance of Vendor's submitting payment of the Oklahoma State Fee.

Oklahoma State Fee shall be mailed to:

Office of Management and Enterprise Services  
Attention: Accounts Receivable  
PO BOX 248984  
Oklahoma City, OK 73124

For electronic payment, please reach out to: [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov)

# 2023.06.01 Oklahoma - Medline MMS2200733 MPA

Final Audit Report

2023-06-02

Created:	2023-06-02
By:	Asha Parks (asha.parks@omes.ok.gov)
Status:	Signed
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