

PROVISTA GPO PARTICIPATION AGREEMENT

This Provista GPO Participation Agreement (this "Agreement") is made this ____ day of _____, 2015 (the "Effective Date"), by and between Provista, Inc. ("Provista"), a Delaware corporation, and _____ ("Customer").

WHEREAS, Provista is a group purchasing organization ("GPO") that, among other things, negotiates, directly and through its affiliate, Novation, LLC ("Novation") and/or third party agents, vendor and distribution agreements on behalf of participating organizations.

WHEREAS, Customer is an organization that desires to obtain access to the Provista Supplier Agreements (as defined herein) under the terms of this Agreement.

NOW, THEREFORE, in consideration of the covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- I. Definitions. For purposes of this Agreement, the following terms have the following meanings:
 - A. "Confidential Information" is defined in Section V.
 - B. "Covered Items" means goods, services or intangible rights.
 - C. "Provista Supplier Agreement" means an agreement between Provista (or one of its agents, such as Novation) and a Supplier, pursuant to which the Supplier makes goods, services and/or intangible rights available for purchase by Provista customers.
 - D. "Supplier" means a vendor or distributor of Covered Items.

- II. Provista Supplier Agreements
 - A. Authorization. Customer hereby authorizes Provista, and its agents, to act as its non-exclusive group purchasing agent for purposes of negotiating and entering into Provista Supplier Agreements. Notwithstanding the foregoing, this authorization shall be contingent upon Customer's proper and timely completion of any necessary enrollment forms or declaration documents. Nothing in any Provista Supplier Agreement shall, in any way, obligate Customer to purchase, license or lease any Covered Item thereunder. Customer hereby authorizes Provista to activate the appropriate tier pricing with the respective Suppliers related to Customer's purchase of supplies from such Supplier.
 - B. Supplier Agreement Terms. Customer acknowledges and agrees that before it may purchase through Provista Supplier Agreements, Provista may need to ensure that its Suppliers are willing to do business with Customer. Customer further acknowledges and agrees that, in the event that Customer purchases Covered Items pursuant to Provista Supplier Agreement, Customer shall comply with any and all applicable terms and conditions set forth in such Provista Supplier Agreement.

- C. Own Use; Not For Resale. If Customer is a nonprofit organization, Customer represents and warrants that all goods purchased through Provista Supplier Agreements will be for Customer's "own use," within the meaning of the Nonprofit Institutions Act as interpreted by the U.S. Supreme Court in Abbott Laboratories v. Portland Retail Druggist Association Inc., 425 U.S. 1 (1976), and following cases. Notwithstanding, in no event shall Customer sell, resell, lease or otherwise transfer goods purchased through Provista Supplier Agreements to a third party unless expressly permitted by the terms of the applicable Provista Supplier Agreement. Any breach of the foregoing representation and warranty may result in immediate termination of this Agreement.

III. Supplier Fees and Disclosure Reports

- A. In General. Customer acknowledges and agrees that, pursuant to the terms of Provista Supplier Agreements, Provista may receive fees from Suppliers ("Supplier Fees") for Provista's provision of certain services to Suppliers. Except as noted below, each Provista Supplier Agreement provides for Supplier Fees that are fixed at three percent or less of the purchase price of the Covered Items in the Provista Supplier Agreement.
- B. Fee Database. With respect to Provista Supplier Agreements providing for Supplier Fees that are not fixed at three percent or less of the purchase price of the Covered Items, Customer (or its authorized agent or designee) has been given access to a secure, electronic web-based database that lists all such Supplier Fees, which shall be updated by Provista or Novation, as applicable, from time to time, as necessary.
- C. Contact for Questions. If Customer has any questions concerning Supplier Fees in general or the Supplier Fee provisions of any Provista Supplier Agreement in particular, Customer may contact Provista.
- D. Disclosure Report. Provista shall provide Customer (or its authorized agent or designee) with, or provide Customer with access to, an annual report listing Customer's purchases under Provista Supplier Agreements and the associated Supplier Fees received by Provista based on such purchases.

IV. Term and Termination

- A. Term. The initial term of this Agreement shall commence as of the Effective Date and continue for three (3) years (the "Initial Term"). The Initial Term shall renew automatically from year to year, unless earlier terminated as set forth herein (each, a "Renewal Term"). The Initial Term and any Renewal Terms are referred to herein collectively as the "Term."
- B. Termination Without Cause. Either party may terminate this Agreement at will and without cause at any time upon one hundred eighty (180) days' prior written notice to the other party.

- C. Termination For Cause. Either party may serve written notice of material breach of this Agreement to the other party, which notice shall specify the nature of the breach. If such material breach is not cured within thirty (30) days of the notice, or such additional time as is reasonably required and agreed to by both parties to cure such material breach, the notifying party may terminate this Agreement upon ten (10) days written notice thereafter.
- D. Bankruptcy. If there is filed by or against a party a petition for its adjudication as bankrupt or insolvent or for its reorganization under the United States Bankruptcy Code or for the appointment pursuant to any local, state or federal bankruptcy or insolvency law of a receiver or trustee of such party's property, or an assignment by such party for the benefit of its creditors or the taking of possession of the property of such party by any local, state or federal government officer or agency or court-appointed official for the dissolution, liquidation, supervision or receivership of such party or for the operating, either temporarily or permanently, of such party's business, then this Agreement may be terminated by the other party upon thirty (30) days' prior written notice; provided, however, that if such action is commenced against such party, the action will not cause a termination of this Agreement if such party causes the action to be dismissed within thirty (30) days after the filing or commencement of such action.
- E. Effect of Expiration or Termination. Upon any expiration or termination of this Agreement, Sections V.A., V.D., V.E., V.G., V.H., V.I., V.K., V.L., V.M., and V.N. shall survive.

V. Miscellaneous

A. Confidentiality

1. General. Except as provided below, neither party shall, during the term of this Agreement and for a period of three (3) years after the expiration or termination thereof, disclose to any third party, other than its employees or agents with a need to know who have been advised of the confidentiality restrictions contained in this Agreement, or use for any purpose other than compliance with this Agreement, any of the Confidential Information of the other party.
2. Exclusions. The obligation of confidentiality described in this Section V.A. shall not apply to information that is:
 - a) publicly available through no fault of the receiving party;
 - b) received from a third party who is not under an obligation of confidentiality to the disclosing party;
 - c) known by the receiving party prior to disclosure by owner;
 - d) developed by the receiving party independently from the Confidential Information of the owner; or

- e) required to be disclosed by law or legal process, as determined by the receiving party based on the advice of legal counsel, so long as the party uses reasonable efforts to notify the disclosing party prior to such disclosure.
3. Provista Disclosures. Notwithstanding anything in this Agreement to the contrary, Provista shall have the right to disclose the terms and conditions of this Agreement to Suppliers with whom Provista has Provista Supplier Agreements and federal, state, and local governmental regulatory entities.
4. Definition. For purposes of this Agreement, the term “Confidential Information” includes:
- a) any information which refers or relates to this Agreement, any agreements between Provista and its customers, and any Provista Supplier Agreement, including but not limited to any information relating to Supplier pricing, customer data, customer lists, financial analyses, benchmarking, and comparative reports of any kind prepared by the other party;
 - b) any information that a party marks as “Confidential,” “Proprietary” or with a similar legend prior to disclosure;
 - c) any information which is orally identified as confidential at the time of disclosure and confirmed as confidential in writing within three (3) business days following such disclosure; and
 - d) all information generated by a party that contains, reflects, or is derived from Confidential Information.
5. Sanctions. The parties agree that money damages will not be a sufficient remedy for any breach of the confidentiality provisions of this Agreement. The non-breaching party shall be entitled to seek specific performance and/or injunctive relief, in addition to any other remedies available at law or in equity, upon the breach or threatened breach of this Section V.A. of the Agreement without posting bond and without proof of actual damages.
- B. Assignment. This Agreement may not be transferred or assigned without the prior written consent of the non-assigning party; provided, however, that Provista may, without the consent of Customer, assign this Agreement to a parent, affiliate or subsidiary or to the successor in interest in the event of a merger or sale of substantially all of its assets. Any attempt to assign this Agreement without the required consent shall be void.
- C. Binding Agreement. This Agreement will inure to the benefit of and be binding on the parties and their permitted successors and assigns.
- D. Reporting Price Reductions; Compliance with Law. Customer represents, warrants and guarantees that at all times during the Term of this Agreement,

Customer shall comply with all applicable federal, state and local laws. To the extent Customer receives discounts, rebates or any other price reductions as a result of purchases under a Provista Supplier Agreement, or any other remuneration under this Agreement or any Provista Supplier Agreement, Customer may have an obligation under federal or state law to disclose such price reductions or remuneration to federal or state health care programs or other payors, and Customer agrees to comply with all such laws.

- E. Attorneys' Fees and Costs. In the event that either party resorts to legal action to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover the costs and expenses of such action so incurred, including, without limitation, reasonable attorneys' fees.
- F. Exclusion. Each party represents and warrants that it has never been, and shall never be, during the term of this Agreement, excluded from participation in any federal health care program (as such term is defined in 42 U.S.C. § 1320a-7b(f)) ("Federal Health Care Program"), or been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency. Each party represents and warrants that it has not been the subject of an actual, pending or threatened formal adverse action, as that term is defined in 42 U.S.C. § 1320a-7e(g). Each party agrees that it will notify the other party immediately in the event it is excluded from any Federal Health Care Program, or debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency, during the term of this Agreement.
- G. Indemnification. Each party (the "indemnifying party") shall hold harmless and indemnify the other party, its shareholders, directors, officers and assigns (collectively, the "indemnified party"), from and against any and all claims, actions, causes of action, verdicts, demands, orders, judgments, settlements, liabilities, losses, costs, obligations, damages, expenses, offsets, deductions, refunds, recoupments, or penalties (including court costs and attorney and other consultancy fees) incurred by or assessed against the indemnified party that in any way arise or result from, directly or indirectly, breach of this Agreement by, or any act or omission of, the indemnifying party. The indemnification obligations set forth herein are subject to the indemnifying party being promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over the defense and all negotiations for a settlement or compromise.
- H. Limitation of Liability. Neither party shall be liable for special, incidental or consequential damages under this Agreement, even if advised of the possibility thereof. All remedies available to an aggrieved party herein under this Agreement, at law, or in equity, are cumulative and not mutually exclusive. Provista and its parent, subsidiaries, affiliates, directors, officers, agents and employees shall not be liable to Customer for any act, or failure to act, in connection with any Provista Supplier Agreement (or Provista program), including, but not limited to, any failure of a Supplier to furnish the Covered Items that the Supplier has agreed to furnish under any Provista Supplier Agreement. Without limiting the generality of the foregoing, Provista hereby disclaims and

excludes any express or implied representation or warranty regarding any Covered Items under any Provista Supplier Agreement (or Provista program).

I. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the transactions contemplated hereby. This Agreement supersedes all written or oral prior agreements or understandings with respect to the subject matter hereof. This Agreement may not be amended or modified, and no provision of this Agreement may be discharged or waived, except by a writing signed by Provista and Customer. A waiver of any particular provision will not be deemed a waiver of any other provision, nor will a waiver given on one occasion be deemed to apply to any other occasion.

J. Severability. In the event any provision of this Agreement is for any reason deemed to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other term or provision of this Agreement, and this Agreement will be construed by limiting or invalidating such provision to the minimum extent necessary to make such provision valid, legal and enforceable.

K. Notice. Any notice required by this Agreement will be deemed to be properly given if sent by (1) certified or registered mail, return receipt requested, or (2) national courier service, such as federal express, at the addresses set forth below or at any other address of which notice has been properly given pursuant to the provisions of this Section V.K.:

If to Provista: Provista, Inc.
250 E. John Carpenter Frwy., Ste. 120
Irving, TX 75062
Attn: Legal Counsel

If to Customer: _____

Attn: _____

L. Governing Law. This Agreement will be construed under and governed by the laws of the State of Texas.

M. Independent Contractors. The parties to this Agreement are independent contractors and are solely responsible for the conduct of their respective employees, agents, and representative in connection with the performance of their obligations under this Agreement. Neither party will, by entering into this Agreement, become liable for any of the existing or future obligations, liabilities or debts of the other party. Nothing in this Agreement will be construed as creating a partnership or joint venture between Provista and Customer.

N. Audit Rights. At any time during the Term of this Agreement and for a period of one (1) year following termination or expiration of the Agreement, Provista and Customer or its authorized representatives will have the right, upon reasonable written notice and during regular business hours, to inspect and audit all such

books, records and accounts of the other party as is necessary to establish and verify the other's compliance with this Agreement

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective authorized representatives.

PROVISTA, INC.

By: _____
Name: _____
Title: _____
Date: _____

CUSTOMER

By: _____
Name: _____
Title: _____
Date: _____

Tax Status. Customer has checked the number below that correctly reflects Customer's organizational legal structure and tax status, and agrees to provide Provista with written notice of any changes during the term of this Agreement. **Please attach a completed Form W-9.**

- 1. Federal tax-exempt entity
- 2. Federal taxable entity

*Tax ID
Number: _____

** Tax ID Number is required for enrollment*

Non-Acute Distribution Agreement Form



Henry Schein, Inc.



Member Name	MID / LIC	Primary Contact Name
Street Address	Contact Email Address	
City, State and Zip	Member Phone Number	Members Fax Number

Non-Acute Medical Surgical Distribution

Check one class of trade: Physician Ambulatory Care Long-Term Care Home Health Care Home Health Care Patient Direct

Select One	Contract No.	Distributor	Coverage	Approved Class of Trade		
X	ND60120	* Henry Schein, Inc.	National	PHY	AMB	
<input type="checkbox"/>	Check here to indicate this form is for Secondary Distribution			Distributor Customer #		

* **Multi-Source Solutions** - Novation Med-Surg & Pharmacy portfolios are available through these selected distributors. You must select the same distributor for both Med/Surg and Pharmacy distribution.

† Non-Acute Pharmacy Distribution: "Multi-Source Solutions"

Select One	Contract No.	Distributor	DEA Number(s)	Distributor Customer #
X	ND6120	Henry Schein, Inc.		

† Non-Acute Pharmacy Distribution

Select One	Contract No.	Distributor	DEA Number(s)
<input type="checkbox"/>	ND6011	Besse Medical	
<input type="checkbox"/>	ND6014	CuraScript	
<input type="checkbox"/>	ND6013	Seacoast Medical <i>(included with NDC selection)</i>	

Non-Acute Lab Distribution

Non-Acute Lab Distribution			Office Products		
DL91000	Cardinal Health	<i>All Tiers - Novation Form required</i>	BP0011	OfficeMax	<i>Please submit thru OTA</i>
DL91001	LABSCO	<i>Contact LABSCO – or use Tier Activation</i>	BP0013	Staples	<i>Please submit thru OTA</i>
			BP0040	Guy Brown	<i>Please submit thru OTA</i>

Completed By Name and Title *(Please Print)*

Authorized Member Representative Signature	Date Signed
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† Potential Pharmacy Participants, Please Note:

Your DEA number is required to participate in the pharmacy program. The address listed on the DEA certificate must match the address for the entity above. HCO represents and warrants that all Pharmaceuticals purchased under the Pharmaceutical Agreements will be for the HCO's "own use" and that HCO will observe and comply with all applicable laws. Enrollment into the Novation Pharmacy Program does not guarantee the customer will meet the individual supplier requirements to receive pricing under the Novation Agreements. Customer pricing eligibility for products included in the Novation Pharmacy Program is determined by the participating suppliers based on the customer class of trade. Each has supplier determined how pricing will be assigned to each class of trade in order for that company to meet federal pricing requirements.

For other distribution programs of interest (e.g. Imaging, Facilities, Food, etc.), please contact Provista Customer Service at 888-538-4662 or via email at ProvistaCustService@provistaco.com