

NJHA HEALTHCARE BUSINESS SOLUTIONS PROGRAMS
Terms and Conditions of Participation

NJHA Healthcare Business Solutions Inc. (NJHA) Agreements. Member agrees that NJHA is authorized (but not obligated), as a non-exclusive purchasing agent, to enter into any agreement with vendors and distributors (collectively, Suppliers), either directly, or through NJHA's agents acting on its behalf, in order to make products, intangible rights or services available to Member. Any such agreement may set forth some or all of the terms and conditions pursuant to which Member may purchase such products, rights or services from the Supplier. **Nothing in any such agreement shall, in any way, obligate Member to purchase, license or lease any products, services or intangible rights hereunder.** In each case, where Member takes advantage of any such agreement, Member agrees to comply with the terms and conditions of such agreements, including without limitation, the obligation to pay for product purchased. Additionally, Member warrants that all products purchased through NJHA agreements will be for Member's "own use", and agrees to indemnify and hold NJHA, its directors, officers, agents and employees harmless from and against any claims, suits, damages, and costs (including, but not limited to reasonable attorneys' fees) based on its breach of this warranty. The foregoing indemnification shall survive termination of this Agreement.

Payment for Services. Member agrees that NJHA and its agents may receive fees from Suppliers in connection with products, rights or services which are purchased, licensed or leased by Member, including without limitation, remuneration for providing certain administrative and promotional services to Suppliers. Member further understands and agrees that, except as noted herein, each Supplier agreement provides for fees that are fixed at three percent (3%) or less of the purchase price of the products, rights or services covered by such agreement; and that with respect to agreements providing for fees that are not so fixed, Member acknowledges (1) that Member (or its authorized agent or designee) shall have access to a password protected, web-enabled database that sets forth the Supplier fee provisions of all NJHA Supplier contracts providing for Supplier fees that are not fixed at three percent (3%) or less (the "Fee Database"), and (2) that the Fee Database, as updated and amended from time to time, as well as any similar notice of Supplier fees, is and shall be incorporated into this Agreement by this reference. Member may contact NJHA with any questions concerning the Fee Database.

Disclaimer. NJHA, its directors, officers, agents and employees shall not be liable to Member for any act, or failure to act, in connection with NJHA agreements, any distribution agreement or NJHA programs, nor shall NJHA have any liability to Member for any failure of a distribution agent to perform the services which it has agreed to provide in any distribution agreement. Without limiting the generality of the foregoing, NJHA hereby disclaims and excludes any express or implied representation or warranty regarding any products or services that may be the subject of NJHA agreements, any distribution agreement or NJHA programs.

Term and Termination. This Participation Agreement is effective on the date set forth below, and shall remain in effect until terminated by either party by providing written notice to the other. The effective date of program or agreement eligibility will be established for each program or agreement.

Compliance with Laws. Member warrants that its conduct hereunder and the use of any products and services purchased pursuant to NJHA agreements will be in compliance with all relevant federal, state and local laws. To the extent Member receives discounts, rebates or any other price reductions as a result of purchases under an NJHA agreement, Member may be required by federal or state law to disclose such price reductions to federal or state healthcare programs or other payors, and agrees to comply with such laws. Member agrees to defend, indemnify and hold NJHA, its directors, officers, agents and employees harmless from any and all losses, damages and costs (including, but not limited to, attorneys' fees) incurred by NJHA on account of any breach of this warranty.

Confidentiality. Member agrees that all prices and other terms offered in the NJHA agreements are the confidential and proprietary information of NJHA, and will not be disclosed to any third party for any reason without prior approval of NJHA.

ACCEPTED AND AGREED TO BY:

Facility/Member Institution (please print): _____

Authorized Signature: _____

Name (please print): _____

E-mail address: _____ Date: _____

(Revised 7/09)