

Narcan® Nasal Spray at Public Interest Price (Hospital Patient Discharge Use)

(Please email or fax a signed copy of this Certification)

Email: customerservice@adaptpharma.com; Fax: 484.367.7815

The undersigned (“Customer”) hereby acknowledges and agrees that NARCAN® Nasal Spray (Naloxone HCl) 4mg (the “Product”) made available by Adapt Pharma, Inc. (“Adapt Pharma”) to Customer at the Public Interest Price is conditioned upon Customer making the following certification (“Certification”). Customer hereby represents and warrants to Adapt Pharma and agrees as follows:

1. Customer is a Qualified Purchaser of the Product at the Public Interest Price. A “Qualified Purchaser” means a hospital, or a hospital’s on-site pharmacy, that purchases the Product for dispensing solely to its patients upon discharge and that does not seek reimbursement for the cost of the Product from either the patient or any third party, including but not limited to government programs, commercial insurers, pharmacy benefit managers, or charitable organizations. Notwithstanding the foregoing, Customer shall be subject to Adapt Pharma’s final approval in its sole discretion.
2. Customer shall purchase, receive and use the Product in accordance with all applicable laws, rules and regulations. Customer holds a valid state license that authorizes it to purchase, possess and dispense the Product and has provided a copy of such license to Adapt Pharma. The Product may only be used by Customer, or a Qualified Purchaser authorized by Customer, and may not be submitted for reimbursement of any type, including, without limitation, private pay, commercial, government authority, agency or otherwise.
3. The Product is not returnable or refundable. Minimum order quantity is 12 units (1 case).
4. An invoice will be sent to Customer at its billing address. Unless otherwise specified on the invoice, all invoices are payable in full within thirty (30) days from the date of invoice. Customer agrees to review invoices upon receipt and to notify Adapt Pharma in writing of any disputes within twenty (20) days of receipt of invoice. If such written notice is not received by Adapt Pharma, the invoice will be deemed to be final and payable in full.
5. Adapt Pharma shall have the right and is authorized to request information from Customer and third parties to confirm Qualified Purchaser status and/or credit status prior to accepting an order, and Customer shall fully cooperate with any such request.
6. Adapt Pharma reserves the right to audit Customer to ensure the Product is used as set forth in this Certification and as otherwise required by Adapt Pharma.
7. All orders are subject to acceptance by Adapt Pharma. Adapt Pharma may fulfill or refuse or otherwise limit orders at its sole discretion. Adapt Pharma shall use reasonable efforts to supply Customer with Product; provided, however, that Adapt Pharma shall have no liability for failure to supply Product.
8. All of the information provided by the Customer in the Certification is true, complete and accurate.
9. Adapt Pharma warrants that at the time of delivery, the Product shall not be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act (“Act”) and shall not be an article that may not be placed into interstate commerce under Section 505 of the Act. In the event that the Product delivered to Customer fails to conform to the warranties in this paragraph, Customer may reject such Product by giving written notice within thirty (30) days after delivery. If Customer fails to reject the Product in accordance with this paragraph within the thirty (30) day period, Customer shall be deemed to have accepted the shipment. ADAPT PHARMA MAKES NO OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE PRODUCT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.
10. Adapt Pharma’s sole obligation under any warranty shall be to replace or refund defective Products. NEITHER CUSTOMER NOR ADAPT PHARMA SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OR LOSSES, INCLUDING LOST PROFITS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.
11. Customer has reviewed, and Customer has provided health care professionals (“Qualified Recipients”) authorized by Customer to receive and/or administer the Product, the instructions for use, storage, handling, and other information with respect to the Product in accordance with the FDA approved prescribing information, and Customer and such Qualified Recipients will comply with such instructions and information. Customer agrees to indemnify and hold harmless Adapt Pharma and its affiliates from any third party claims, losses, damages, or liabilities resulting from the negligence or willful misconduct of Customer or its employees, agents, or representatives.
12. The term of this Certification shall commence on the date of this Certification and continue for a period of one (1) year thereafter (“Initial Term”). Upon the expiration of the Initial Term, this Certification shall automatically renew for successive one (1) year terms (“Renewal Terms”) unless terminated by either party at least thirty (30) days prior to the end of the Initial Term or any Renewal Term. The Initial Term and all Renewal Terms shall constitute the “Term.” The expiration or termination of this Certification shall not release Customer from fulfilling any obligations it may have incurred prior to any such termination, nor prejudice any rights or remedies that Adapt Pharma may have at law or in equity.
13. During the Term and for a period of one (1) year thereafter, Customer shall hold the terms of this Certification and information Adapt Pharma discloses to Customer in confidence and not use or disclose it to any third party without the written consent of Adapt Pharma.
14. This Certification and Customer’s credit application delivered to Adapt Pharma, constitute the entire agreement and understanding of the parties with respect to the subject matter hereof. No changes to this Certification will be binding upon Adapt Pharma unless made in writing and signed by Adapt Pharma. In the event of any conflict between this Certification and any other agreement or purchase order of Customer,

this Certification shall govern.

15. Failure of Adapt Pharma to enforce a right does not waive it. If a court of competent jurisdiction finds that any provision of this Certification is invalid or unenforceable, the other provisions of this Certification will remain in full force and effect.
16. Customer may not assign any rights, interests or obligation hereunder without the prior written consent of Adapt Pharma. Adapt Pharma and Customer will at all times be independent contractors. This Certification will not be interpreted or construed to create an association, joint venture or partnership between the parties or to impose any partnership obligation or liability upon either party.
17. This Certification and all communications, disputes and performance hereunder shall be governed by the laws of the State of Pennsylvania, without regard to conflict-of-laws principles. Any and all disputes arising under or in connection with this Certification shall be settled exclusively by arbitration before a single arbitrator appointed pursuant to the Commercial Arbitration Rules of the American Arbitration Associates, such arbitration to be conducted pursuant to such rules in the State of Pennsylvania. Any award rendered in accordance with the foregoing arbitral proceeding shall be enforceable in any court of competent jurisdiction.
18. Customer will store the Products solely at its facility located at (address): _____.
19. Customer will ensure that the Products are segregated from other drugs for which reimbursement will be sought.

ACKNOWLEDGED AND AGREED:

Entity Full Legal Name

Signature

Name of Authorized Representative

Title

Type of Qualified Purchaser (please select from list above)

Address

Date: _____