



MEMORANDUM

LEGISLATIVE REFERENCE BUREAU

WWW.MILWAUKEE.GOV/LRB

To: CCFN 110177
From: Mary E. Turk – Legislative Fiscal Analyst
Date: April 17, 2014
Subject: Addition to the File

This contract with Medco Health Solutions, effective January 1, 2012, is being attached to the file on April 17, 2014, and was not in the file at the time of passage of this file.



August 2, 2011

Medco Health Solutions, Inc.
100 Parsons Pond Drive
Franklin Lakes, NJ 07417

tel 201-269-3400
fax 201-269-2880
www.medco.com

Michael Brady
City of Milwaukee
200 E. Wills Street
Milwaukee, WI 53202

Re: Integrated Prescription Drug Program Master Agreement
Effective Date: January 1, 2012

Dear Mr. Brady:

Welcome to Medco Health Solutions! We are pleased that you have chosen Medco to be your pharmacy benefit manager and thank you for your confidence in our services and value.

We are looking forward to the opportunity to manage your organization's pharmacy benefit, starting on January 1, 2012. In order for Medco to be able to commence services and implement your prescription drug benefits on a timely basis, Medco requires written confirmation from you on the terms of our arrangement.

We have included with this letter our proposed pharmacy benefit management services agreement, which outlines, among other things, the financial terms of our arrangement. (Most of the financial terms are in Schedule A). Medco will begin to administer your plan benefits in accordance with the attached agreement. We ask that you sign one original of this letter so that we are able to commence services by the effective date. Upon our receipt of a signed letter we will release, if applicable, any commissions to your benefit advisor /broker/consultant. However, both parties agree to work in good faith to discuss and negotiate the attached document in the event you believe changes are necessary.

Please confirm your acceptance of these terms by having an appropriate representative sign and return one original of this letter to Medco Health Solutions, Inc., 100 Parsons Pond Drive, Franklin Lakes, NJ 07417 Mailstop F3-16.

We strongly encourage you to sign this letter and return it to us as soon as possible. However, please note that if we do not receive the signed letter, Medco will proceed to implement your program in accordance with the attached terms.

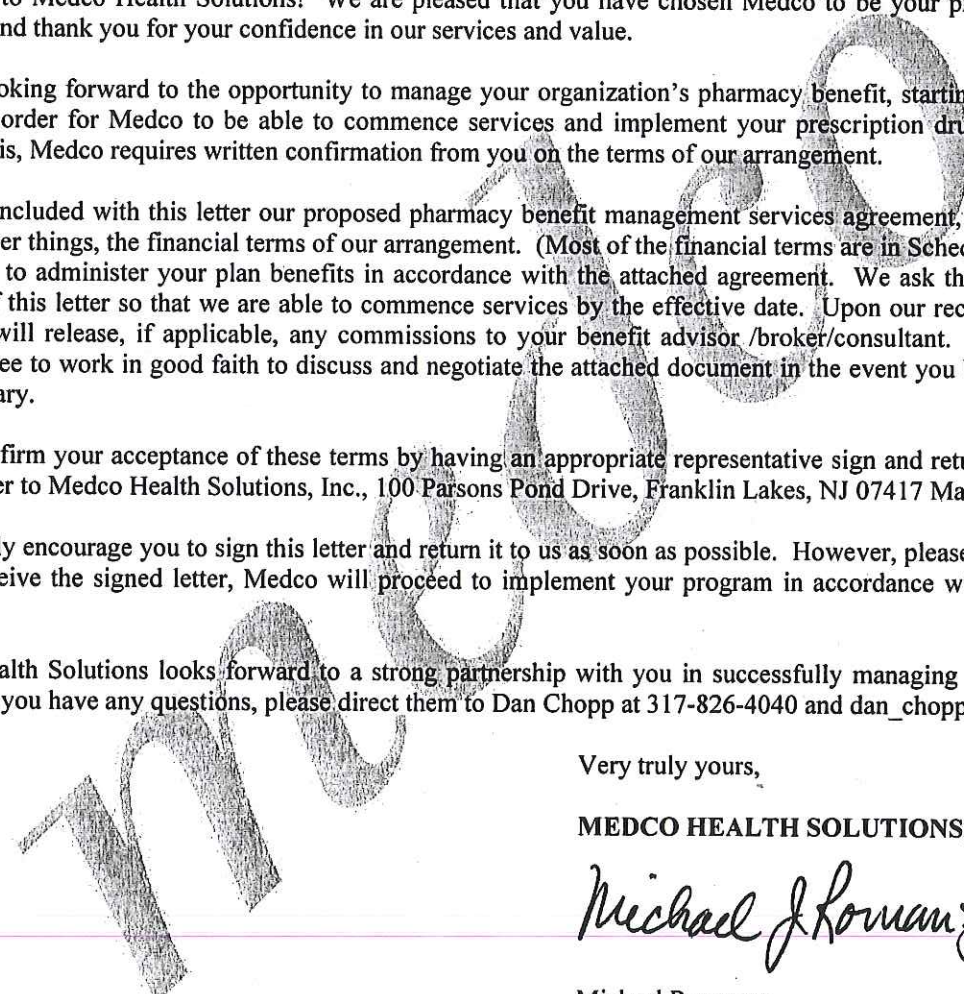
Medco Health Solutions looks forward to a strong partnership with you in successfully managing your pharmacy benefit. If you have any questions, please direct them to Dan Chopp at 317-826-4040 and dan_chopp@medco.com.

Very truly yours,

MEDCO HEALTH SOLUTIONS, INC.

Michael Romanzo
Group President
Systemed Group
Medco Health Solutions

CITY OF MILWAUKEE
DEPT. OF EMP. RELATIONS
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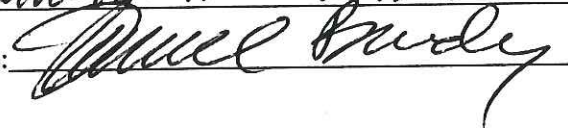


AGREED TO THIS DATE:

Company: CITY OF MILWAUKEE

Printed Name: MICHAEL BRADY

Title: EMPLOYEE BENEFITS DIRECTOR

Signature: 

Enclosure: PBM Services Agreement (No.: 436723.1)

PERMFORM 50180.14 (07/01/11)

COPY

**INTEGRATED
PRESCRIPTION DRUG PROGRAM
AGREEMENT**

THIS AGREEMENT is entered into as of the 1st day of January 2012 (the "Effective Date") between Medco Health Solutions, Inc. ("Medco"), located at 100 Parsons Pond Drive, Franklin Lakes, New Jersey 07417, through Systemed, a Medco business, and City of Milwaukee ("SPONSOR"), located at 200 E. Wills Street, Milwaukee, WI 53202.

WHEREAS, SPONSOR provides for the payment of prescription drugs and related services for persons eligible to receive such benefits through affiliation with a group that has a contract or other arrangement in effect with SPONSOR; and

WHEREAS, Medco, provides prescription drug benefits programs and, in connection therewith, has established networks of participating retail pharmacies and operates a system for the processing, fulfillment and payment of claims for prescription drugs furnished by such pharmacies; and

WHEREAS, Medco's Medco By Mail mail order pharmacy affiliates are licensed pharmacies which provide prescription drugs via a mail order service; and

WHEREAS, SPONSOR desires to retain the services of Medco and its subsidiaries and affiliates, including Medco Health, L.L.C., which holds TPA licenses in certain states, as applicable, to provide a prescription drug benefit program (the "Program") including, but not limited to, retail pharmacy and mail order pharmacy and specialty drug pharmacy services for eligible persons, point-of-care, physician office communications and cost containment initiatives developed and implemented by Medco, which may include communications with prescribers, patients and/or participating pharmacies, and financial incentives to participating pharmacies for their participation in such initiatives (collectively, "PBM Services").

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereto agree as follows:

1. DEFINITIONS

- 1.1. "Adjudicated Dispensing Fee" is the dispensing fee charged within a claim's adjudication, as indicated on the claim's data record.
- 1.2. "Adjudicated Ingredient Cost" is the ingredient cost at which a claim was adjudicated, as indicated on the claim's data record.
- 1.3. "Average Wholesale Price" or "AWP" means the average wholesale price of the Covered Drug, as set forth in the current price list in recognized sources such as Medispan's National Drug Data File if available, or other nationally recognized source determined by Medco. Under the Retail Pharmacy Program, AWP is based on the package size submitted, and for Compound Prescriptions is 1.25 times the AWP of each ingredient. Under the Mail Order Pharmacy Program, AWP is based on package sizes of 100 units for capsules and tablets, 16 oz. quantities for liquids, and the manufacturer's smallest available package size for injectable Covered Drugs (or the next closest package size if such quantities or sizes are not available), and all other Covered Drugs will be priced as individual units or smallest package size available (e.g., per vial, per suppository, etc.). If Medispan or other applicable source changes the methodology for calculating AWP or ceases publishing or replaces AWP, or Medco utilizes another recognized pricing source or a pricing benchmark other than AWP, in a way that changes the economics of the Program, the parties agree to modify the Program Pricing Terms to preserve the parties' relative economics before such changed methodology or other event.

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- 1.4. **“Brand Name Drugs”** or claim means all single-source brand and multisource brand drugs as set forth in First Databank’s National Drug Data File or such other nationally recognized source, as reasonably determined by Medco. For the purpose of performance guarantee reconciliations, with the claims data, Brand claims will be identified as claims with a “Drug Indicator” (Claims Data Layout Seq 110) other than “Y”.
- 1.5. **“Business Days”** or **“business days”** means all days except Saturdays, Sundays, and federal holidays. All references to “day(s)” are to calendar days unless “business day” is specified.
- 1.6. **“Compound Prescription”** means a prescription that meets the following criteria: two or more solid, semi-solid or liquid ingredients, at least one of which is a Covered Drug, that are weighed or measured then prepared according to the prescriber’s order and the pharmacist’s art.
- 1.7. **“Contract Quarter”** means the full three (3) month period commencing on the Effective Date, and each full consecutive three (3) month period thereafter that this Agreement remains in effect.
- 1.8. **“Contract Year”** means the full twelve (12) month period commencing on the Effective Date, and each full consecutive twelve (12) month period thereafter that this Agreement remains in effect.
- 1.9. **“Copayment”** and/or **“Coinsurance”** means the amount to be paid by an Eligible Person for each prescription or authorized refill as determined in accordance with the Plan Design(s).
- 1.10. **“Covered Drugs”** means drugs which, under state or federal law, require a prescription, including Compound prescriptions. Excluded from Covered Drugs are (i) cosmetic drugs, (ii) appliances, devices, bandages, heat lamps, braces, splints, and artificial appliances, (iii) health and beauty aids, cosmetics and dietary supplements and (iv) OTC products (“Exclusions”). Additional Covered Drugs and/or Exclusions applicable to any individual Group will be designated by SPONSOR in the applicable Plan Design.
- 1.11. **“Dispensing Fee”** means the amount payable by SPONSOR pursuant to Sections 1, 2, or 3 of Schedule A of this Agreement for a Participating Pharmacy or Medco to dispense a prescription or authorized refill to an Eligible Person.
- 1.12. **“Dispense As Written”** or **“DAW”** claim is a prescription drug claim that an authority external to the member and PBM – e.g., the prescribing provider or state law – has mandated be dispensed as prescribed without substitutions.
- 1.13. **“Eligible Person”** means each person who, through affiliation with a Group, is eligible for prescription drug benefits pursuant to this Agreement, and such person’s qualified dependents.
- 1.14. **“Generic Drugs”** or claim means a generic drug set forth in First Databank’s National Drug Data File, or such other nationally recognized source, as reasonably determined by Medco. For the purpose of performance guarantee reconciliations, with the claims data, Generic claims will be identified as claims with a “Drug Indicator” (Claims Data Layout Seq 110) of “Y”. All generics, including single source generics are included as part of the performance guarantee reconciliations.
- 1.15. **“Group”** means a group of Eligible Persons that have the same Plan Design as designated by SPONSOR.
- 1.16. **“Ingredient Cost”** of a claim will be whichever of the discounted AWP (AWP-%), U&C, or MAC price that minimizes the following formula: $[AWP-\%|U\&C|MAC] + \text{applicable dispensing fee} + \text{applicable Sales Tax}$.

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- 1.17. **“Integrated Program”** means a program in which Eligible Persons enrolled in such program may have prescriptions dispensed either (i) by a Participating Pharmacy under the Retail Pharmacy Program or (ii) by Medco under the Mail Order Pharmacy Program. Reference to the Retail Pharmacy Program and/or Mail Order Pharmacy Program herein will include services performed by Medco for Eligible Persons enrolled in the Integrated Program.
- 1.18. **“MAC” or the “Maximum Allowable Cost”** consists of a list of off-patent drugs subject to maximum allowable cost payment schedules developed or selected by Medco. The payment schedules specify the maximum unit ingredient cost payable by SPONSOR for drugs on the MAC list. The MAC list and payment schedules are frequently updated. Claims for which the U&C price is lower than the (MAC price + applicable Dispensing Fee) will not be adjudicated as MAC claims.
- 1.19. **“Mail Order Pharmacy Program”** means the program described in Section 4 in which Eligible Persons may submit a prescription along with the applicable Copayment/Coinsurance to Medco for dispensing via mail order.
- 1.20. **“Member”** means each person who Sponsor determines is eligible to receive prescription drug benefits.
- 1.21. **“Member’s Copayment”** will be the lesser of:
- 1) Ingredient Cost + applicable dispensing fee + applicable Sales Tax, U&C, or
 - 2) Applicable Copay.
- 1.22. **“Minimum Enrollment”** means an enrollment of not less than 4,500 Primary Eligible Participants under the Program.
- 1.23. **“ Non- Dispense as Written (DAW) Generic Dispensing Rate “** (NDGDR) is defined formulaically in Schedule A, Section 8.
- 1.24. **“Paid”** claim is defined as a claim that has been paid (net of any adjustments) and not reversed, denied, or voided. Claims that have been reversed, denied, or otherwise voided are not Paid claims. A claim status of “Paid” is not a sufficient criterion to identify a paid claim. Specifically, a paid claim will have a status of “Paid” where no reversing, denying, or voiding record exists. This definition includes zero balance claims, as long as they have not been reversed, denied, voided, etc.
- 1.25. **“Participating Pharmacy”** means a retail pharmacy that has entered into an arrangement with Medco that specifies the terms and conditions of the pharmacy’s participation, including the rates that Medco will pay the pharmacy to participate in Medco’s Broad National Network servicing Sponsor’s Program.
- 1.26. **“Plan Design”** means Program drug coverage, days supply limitation, Copayment/Coinsurance, Formulary (including Formulary drug selection) and other Program specifications applicable to the Program designated by SPONSOR as set forth in this Agreement or otherwise documented between the parties.
- 1.27. **“Primary Eligible Participant”** means each Eligible Person, excluding Eligible Persons who are qualified dependents.
- 1.28. **“Program Pricing Terms”** means the (i) financial or pricing terms, allowances and guarantees set forth in Schedule A of this Agreement, and (ii) performance standards and penalties set forth in Section 5 of this Agreement.

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- 1.29. “Retail Pharmacy Program” means the program described in Section 3 in which Eligible Persons may purchase Covered Drugs from a Participating Pharmacy upon verification of Program eligibility and payment of the applicable Copayment/Coinsurance, and the claim is submitted by the Participating Pharmacy to Medco for payment in accordance with this Agreement and the applicable Medco Participating Pharmacy agreement.
- 1.30. “Sales Tax” is the Sales or excise tax or other governmental surcharge, if any.
- 1.31. “Specialty Drugs” means pharmaceutical products that are generally biotechnological in nature, with many requiring injection or non-oral methods of administration, and that may have special shipping or handling requirements. Some of the disease categories currently in Medco’s specialty pharmacy programs include cancer, multiple sclerosis, Hepatitis C, rheumatoid arthritis, cystic fibrosis, infertility, RSV prophylaxis, Gaucher disease, growth hormone deficiency, hemophilia and immune deficiency.
- 1.32. “TelePAID® System” or “TelePAID®” means Medco’s real time, on-line system for adjudicating prescription drug claims submitted by retail pharmacies.
- 1.33. “Usual and Customary” or “U&C” means the lowest net price a cash paying customer would have paid the day the prescription was dispensed at the dispensing pharmacy inclusive of all applicable discounts.

2. SPONSOR FURNISHED INFORMATION

SPONSOR will promptly furnish, in a format acceptable to Medco, all information necessary for Medco to render the services set forth herein. Such information will include, but is not limited to:

- 2.1. A file of Eligible Persons, and subsequent timely additions and deletions to such file as changes occur. SPONSOR will pay for any Covered Drug dispensed to a person reported by SPONSOR as no longer an Eligible Person, if such notification is not received by Medco at least two (2) full business days prior to the dispensing date of such prescription.
- 2.2. Designation, in writing, of those Plan Design features to be determined by SPONSOR.
- 2.3. The reimbursement terms applicable to direct reimbursement claims submitted by Eligible Persons under the Retail Pharmacy Program.
- 2.4. The type, number, and description of Medco identification cards (“Identification Cards”) required under the Retail Pharmacy Program.

3. RETAIL PHARMACY PROGRAM

The specific features of the Retail Pharmacy Program are as follows:

- 3.1. **Program Coverage** - The Program coverage (Covered Drugs/Exclusions) and days supply limitation covered under the Retail Pharmacy Program will be as designated by SPONSOR. Up to a thirty (30) day supply of Covered Drugs per prescription or refill may be dispensed under the Retail Pharmacy Program.
- 3.2. **Participating Pharmacy Networks** - Medco will maintain a Participating Pharmacy Network reasonably necessary to provide services under the Retail Pharmacy Program. Medco will have the responsibility to contract with Participating Pharmacies. Medco will be responsible for any amounts that it owes to Participating Pharmacies that exceeds the reimbursement it receives from SPONSOR as specified in Section 1 of Schedule A. Medco will retain any reimbursement that it

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receives from SPONSOR as specified in Section 1 of Schedule A that is in excess of the amounts it is obligated to pay to Participating Pharmacies.

- 3.3. **Identification Cards** - Medco will (i) produce Identification Cards for those Eligible Persons designated by SPONSOR, with an accompanying explanatory brochure, and (ii) make direct reimbursement claim forms available through the www.medco.com internet site for use by Eligible Persons who have not received their Identification Cards, or have had them lost or stolen. Medco will distribute Identification Cards and claim forms to the designated Eligible Persons unless otherwise designated by the SPONSOR. All costs associated with distributing and/or mailing such materials are the responsibility of SPONSOR.
- 3.4. **Claim Adjudication** - Medco will adjudicate claims for prescription drug benefits in accordance with Medco's TelePAID System and the applicable Plan Design. Disapproved claims will be transmitted via TelePAID to the submitting pharmacy with a brief explanation of the cause or causes for disapproval. Should SPONSOR determine that a previously disapproved claim should be approved, and so direct Medco, adjudication of the claim will be accomplished promptly by Medco. Medco is obligated to pay Participating Pharmacies for all claims adjudicated through the TelePAID System. SPONSOR will pay Medco for these claims pursuant to Schedule A, Section 1. Medco will promptly refer to SPONSOR all non-routine inquiries by insurance departments, attorneys, claimants, or other persons following the denial of any claims.
- 3.5. **Administrative Services** - Medco will provide, as applicable, the Base Administrative Services and the Additional Administrative Services set forth in Schedule A.
- 3.6. **Pricing** - The Program Pricing Terms applicable to the Retail Pharmacy Program are set forth in Schedule A, in addition to the performance standards and penalties set forth in Section 5.

4. **MAIL ORDER PHARMACY PROGRAM**

4.1. **Program Coverage**

- 4.1.1. The Program coverage (Covered Drugs/Exclusions) and days supply limitation under the Mail Order Pharmacy Program will be as designated by SPONSOR in the applicable Plan Design.
- 4.1.2. Medco's mail order pharmacies will not be required to dispense prescriptions for greater than a ninety (90) day supply of Covered Drugs per prescription or refill, subject to the professional judgment of the dispensing pharmacist, limitations imposed on controlled substances and manufacturer's recommendations. Prescriptions may be refilled providing the prescription so states. Prescriptions will not be filled (i) more than twelve (12) months after issuance, (ii) more than six (6) months after issuance for controlled drug substances, or (iii) if prohibited by applicable law or regulation.

4.2. **Dispensing Procedures**

- 4.2.1. Medco's mail order pharmacies will dispense Covered Drugs to Eligible Persons, and dispense generic drugs when authorized, in accordance with (i) applicable law and regulations in the state in which Medco's mail order pharmacy is located, and (ii) the terms of this Agreement and Plan Design(s). Any prescriptions that are not dispensed will be returned to the applicable Eligible Person with an explanation as to why it could not be dispensed in accordance with Medco's standard operating procedures.
- 4.2.2. All matters pertaining to the dispensing of Covered Drugs or the practice of pharmacy in general are subject to the professional judgment of the dispensing pharmacist.

- 4.2.3. Any drug which cannot be dispensed in accordance with Medco's mail order pharmacy dispensing protocols due to FDA or manufacturer requirements may be excluded from dispensing by Medco.
- 4.3. **Claim Adjudication** - Medco will adjudicate and pay approved claims for prescription drug benefits in accordance with Medco's TelePAID System and the applicable Plan Design. Should SPONSOR determine that a previously disapproved claim should be approved, and so direct Medco, adjudication of the claim will be accomplished promptly by Medco. SPONSOR will pay Medco for claims adjudicated through the TelePAID System, pursuant to Schedule A, Section 2. Medco will promptly refer to SPONSOR all non-routine inquiries by insurance departments, attorneys, claimants, or other persons following the denial of any claims.
- 4.4. **Administrative Services** - Medco will provide, as applicable, the Base Administrative Services and the Additional Administrative Services set forth in Schedule A.
- 4.5. **Pricing** - The Program Pricing Terms applicable to the Mail Order Pharmacy Program are set forth in Schedule A, in addition to the performance standards and penalties set forth in Section 5. Medco will have the responsibility to contract with drug wholesalers and manufacturers regarding Medco's purchase of drugs that are dispensed by it under the Mail Order Pharmacy Program. Medco receives and retains purchase discounts for such purchases from certain manufacturers and wholesalers. Medco will be responsible for any amounts that it owes drug wholesalers or manufacturers that exceeds the amounts it charges and receives from SPONSOR or Eligible Persons, as specified in Section 2 of Schedule A. Medco will retain any payment that it receives from SPONSOR or Eligible Persons as specified in Section 2 of Schedule A that is in excess of the amounts it is obligated to pay to drug wholesalers or manufacturers for the purchase of such drugs that are dispensed under the Mail Order Pharmacy Program.

5. **PERFORMANCE STANDARDS AND PENALTIES**

- 5.1. The following performance standards will apply during the Initial Term of this Agreement:
- 5.1.1. The TelePAID System Availability Rate for each Contract Year will be 99.5% or greater. SPONSOR may assess a penalty against Medco in the amount of 6.66% of the total amount at risk for each Contract Year that the TelePAID System Availability Rate averages less than 99.5% for a Contract Year. "TelePAID System Availability Rate" means the percentage of normal operating hours that the TelePAID System is operational, excluding scheduled maintenance time, measured on an annual basis.
- 5.1.2. The Dispensing Accuracy Rate for each Contract Year will be 99.99% or greater. SPONSOR may assess a penalty against Medco in the amount of 6.66% of the total amount at risk for each Contract Year that the Dispensing Accuracy Rate is less than 99.99% for a Contract Year. "Dispensing Accuracy Rate" means (i) the number of all mail order pharmacy prescriptions dispensed by Medco in a Contract Year less the number of those prescriptions dispensed by Medco in such Contract Year which are reported to Medco and verified by Medco as having been dispensed with the incorrect drug or strength, divided by (ii) the number of all mail order pharmacy prescriptions dispensed by Medco in such Contract Year.
- 5.1.3. Medco will dispense all Non-Protocol Prescriptions received each Contract Year under the Mail Order Pharmacy Program within an average of two (2) business days following receipt. All other Mail Order Pharmacy Program prescriptions received each Contract Year will be dispensed within an average of four (4) business days following receipt by Medco. SPONSOR may assess a penalty against Medco in the amount of 6.66% of the total amount at risk for each Contract Year that Medco fails to meet either one of these dispensing time period standards. "Non-Protocol Prescriptions" means Mail Order

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Pharmacy Program prescriptions for Covered Drugs received by Medco that are in stock and which do not require physician or patient contact or other non-standard procedures prior to dispensing by Medco.

- 5.1.4. Prescription Drug Plan reporting package will be made available online to SPONSOR within thirty (30) business days of the end of the billing cycle that includes the last calendar day of the reporting quarter for quarterly reports. SPONSOR may assess a penalty against Medco in the amount of \$100 for each report series which is not made available within the applicable time periods, subject to a maximum penalty of 6.66% of the total amount at risk per Contract Year.
- 5.1.5. At least 98% of all Maintenance Identification Cards issued by Medco each Contract Year will be mailed within an average of four (4) business days following Medco's receipt and update of a processable eligibility tape or transmission identifying the applicable Eligible Person(s). SPONSOR may assess a penalty against Medco in the amount of 6.66% of the total amount at risk for each Contract Year that this standard is not met measured on a Contract Year basis. "Maintenance Identification Cards" means new Identification Cards issued to individuals who first become Eligible Persons after the Effective Date (exclusive of new Groups or Group re-enrollments) and replacement Identification Cards for Eligible Persons who have lost or had their Identification Cards stolen.
- 5.1.6. Processable maintenance eligibility transactions received by Medco via host to host, tape or floppy disc before 12:00 p.m. E.T. on any business day will be processed by Medco within an average of two (2) business days of receipt each Contract Year. SPONSOR may assess a penalty against Medco in the amount of \$100 for each processable host to host, tape or floppy disc not processed by Medco within this time period, subject to a maximum penalty of 6.66% of the total amount at risk per Contract Year.
- 5.1.7. Medco will respond to at least 95% of written inquiries received at the address designated by Medco for such inquiries each Contract Year from an Eligible Person which requires a response (excluding appeals under Section 14.8) within an average of five (5) business days following receipt. SPONSOR may assess a penalty against Medco in the amount of 6.66% of the total amount at risk for each Contract Year that this standard is not met measured on a Contract Year basis.
- 5.1.8. The target Average Speed of Answer ("ASA") of the Member Service Telephone Line each Contract Year will be thirty (30) seconds or less from the time a caller selects either the IVRU (Interactive Voice Response Unit) option or Member Service Representative Option. SPONSOR may assess a penalty against Medco for failure to meet this standard in the amount of 6.66% of the total amount at risk for each Contract Year that this standard is not met measured on a Contract Year basis. "Member Service Telephone Line" means the toll-free book of business telephone line made available for an Eligible Person, as noted on the Eligible Person's prescription identification card.
- 5.1.9. The Telephone Abandonment Rate of the Member Service Telephone Line will be 3% or less of all incoming calls received during each Contract Year. SPONSOR may assess a penalty against Medco in the amount of 6.66% of the total amount at risk for each Contract Year that this standard is not met measured on a Contract Year basis. "Telephone Abandonment Rate" means (i) the number of incoming telephone calls received by the Member Service Telephone Line during a Contract Year which are abandoned by the caller after a selection is made either to the IVRU (Interactive Voice Response Unit) system or a Member Services Representative, divided by (ii) the total number of incoming telephone calls received by the Member Service Telephone Line during such Contract Year.

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- 5.1.10.** Medco will respond to (process a check or reject notice) at least 97% of direct reimbursement paper claims received at the address designated by Medco for such claims each Contract Year from Eligible Persons within an average of five (5) business days following receipt at the address designated by Medco for such claims. All claims will be responded to within ten (10) business days. SPONSOR may assess a penalty against Medco in the amount of 6.66% of the total amount at risk for each Contract Year that this rate is not met measured on a Contract Year basis.
- 5.1.11.** The Claims Adjudication Accuracy Rate for each Contract Year will be 99% or greater. SPONSOR may assess a penalty against Medco in the amount of 6.66% of the total amount at risk for each Contract Year that this standard is not met measured on a Contract Year basis. "Claims Adjudication Accuracy Rate" means (i) the number of retail claims, mail order claims and directly submitted paper claims, adjudicated by Medco in a Contract Year that do not contain a material adjudication error, divided by (ii) the number of all such claims adjudicated by Medco in such Contract Year.
- 5.1.12.** The Member Satisfaction Rate for each Contract Year will be 90% or greater. A penalty of 6.66% of the total amount at risk per Contract Year may be assessed against Medco for failure to meet this standard. "Member Satisfaction Rate" means (i) the number of Eligible Persons responding to Medco's annual standard Patient Satisfaction Survey as being satisfied with the overall performance under the Integrated Program divided by (ii) the number of Eligible Persons responding to such annual Patient Satisfaction Survey; SPONSOR must provide timely approvals and responses, and a minimum of 20% of surveys must be returned for the performance standard in this Section 5.1.12 to be applicable.
- 5.1.13.** The First Call Resolution Rate for each Contract Year will be 93% or greater. This standard excludes calls to the toll-free telephone line separately established for Specialty Drugs. SPONSOR may assess a penalty against Medco in the amount of 6.66% of the total amount at risk for each Contract Year that this standard is not met, measured on a Contract Year basis. "First Call Resolution Rate" means (i) the total number of telephone calls made by an Eligible Person and resolved by a Medco Member Service Representative on the first call as measured by the Eligible Person not calling back the Medco Member Service Call Center within five (5) days regarding the same inquiry, divided by (ii) the total number of telephone calls made by Eligible Persons and received by Medco's Member Service Call Center.
- 5.1.14.** SPONSOR may assess a penalty in the amount of 6.66% of the total amount at risk if, three (3) months after the Effective Date, those SPONSOR employees who are members of the SPONSOR Program implementation team do not rate Medco's performance in implementing the Program an average of 3 or better on a scale of 1 to 5 (5 being the best), provided SPONSOR and any applicable third party has fully complied with all SPONSOR implementation requirements established pursuant to this Section 5.1.14.
- 5.1.15.** SPONSOR may assess a penalty in the amount of 6.66% of the total amount at risk per Contract Year if, after the first Contract Year and each successive Contract Year, those SPONSOR employees who are members of the SPONSOR benefits staff do not rate the Medco account team's performance for such Contract Year on average of 5 or better on a scale of 1 to 7 (7 being the best) based on a range of performance criteria agreed to between SPONSOR and Medco at the beginning of such Contract Year. Additional SPONSOR staff members may be included in the survey at the request of Medco.
- 5.2.** Notwithstanding anything to the contrary, Medco's maximum liability under this Section 5 for any Contract Year will not exceed \$20.00 per household with no more than 20% of the total amount at risk on any one guarantee during such Contract Year.

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- 5.3. SPONSOR will give Medco written notice pursuant to Section 14.4 of the Agreement of any facts giving rise to SPONSOR's right to assess a penalty against Medco pursuant to Section 5.1 above, within ten (10) business days after SPONSOR becomes aware of such fact, and within thirty (30) days thereafter, of SPONSOR's election to assess such penalty against Medco. Any penalties assessed against Medco pursuant to this Agreement, will be credited against future billings to SPONSOR under the SPONSOR Program in accordance with Medco's standard procedures.

6. FORMULARY

SPONSOR will be a participating plan sponsor in Medco's Preferred Prescriptions Formulary as set forth below for the term of this Agreement. SPONSOR will provide Medco with advance notice of each Group that will participate in the Preferred Prescriptions Formulary.

- 6.1. **Preferred Prescriptions Formulary** - The Preferred Prescriptions Formulary is a prescription drug formulary administered by Medco which lists FDA approved drugs that have been evaluated for inclusion on the Preferred Prescriptions Formulary. The drugs included on the Preferred Prescriptions Formulary will be modified by Medco from time to time as a result of factors including, but not limited to, medical appropriateness, manufacturer rebate arrangements, and patent expirations. Medco will implement Medco's formulary management programs, which may include cost containment initiatives, therapeutic interchange programs, communications with Eligible Persons, Participating Pharmacies and/or physicians (including communications regarding generic substitution programs), and financial incentives to Participating Pharmacies for their participation. Compliance with the Preferred Prescriptions Formulary and Medco's formulary management program will result in Formulary Rebates as set forth below. Medco reserves the right to modify or replace the Preferred Prescriptions Formulary (including any modification or replacement, the "Formulary") and formulary compliance methods and cost containment initiatives consistent with good pharmacy practice. SPONSOR agrees that Medco will be the exclusive formulary administrator for SPONSOR's prescription drug benefit programs during the term of the Agreement. SPONSOR is authorized to use the Formulary only for its own Eligible Persons and only as long as the Program is in effect and administered by Medco.
- 6.2. **Rebates** - Medco and its subsidiaries receive formulary rebates from certain drug manufacturers as a result of the inclusion of those manufacturers' branded products on the Formulary ("Formulary Rebates"). Medco also receives additional rebates and/or fees from certain manufacturers for such products, which may take into account various factors, including the utilization of certain drugs within their respective therapeutic categories for Medco's book of business in aggregate as a result of various commitments and programs including, but not limited to, formularies ("Additional Rebates and Fees"). Formulary Rebates and Additional Rebates and Fees are jointly referred to as "Total Rebates." Total Rebates does not include payments for services rendered by Medco on behalf of or to pharmaceutical manufacturers, including, for example, adherence, compliance, nursing, and other patient support services; patient referral and assistance services; product launch and other support services; equipment replacement services; clinical and research studies, data and analytics; and services relating to high-risk biopharmaceuticals. Medco will provide SPONSOR with the greater of (i) 100% of the Total Rebates received by Medco based on the dispensing of each manufacturer's formulary drugs under SPONSOR's Program or (ii) the Guaranteed Rebates (as defined below). Total Rebates will be credited against future billings to SPONSOR under the Program one hundred eighty (180) days after the end of each calendar quarter, provided SPONSOR has executed this Agreement. Total Rebates due SPONSOR under this Agreement that are received by Medco within eighteen (18) months after termination or expiration of this Agreement will be paid to SPONSOR. Total Rebates received thereafter will be retained by Medco.
- 6.3. **Guaranteed Rebates – Incentive Formulary** - After each Contract Year during the Initial Term that SPONSOR participates in the Formulary, Medco will calculate SPONSOR's Total Rebates during such Contract Year. Provided SPONSOR complies fully with the Formulary and with the

Formulary management programs implemented by Medco, if SPONSOR'S percentage share of Total Rebates for any Contract Year during the Initial Term are less than the sum of (i) \$21.47, \$22.10 and \$18.87 during the 1st, 2nd and 3rd Contract Years, respectively, times the total number of Brand Name Drug prescriptions billed and paid for under SPONSOR's Retail Pharmacy Program as well as such prescriptions under the Mail Order Pharmacy Program for less than forty-five (45) days' supply during such Contract Year, plus (ii) \$65.82, \$69.82 and \$51.12 during the 1st, 2nd and 3rd Contract Years, respectively, times the total number of Brand Name Drug prescriptions billed and paid for under SPONSOR's Mail Order Pharmacy Program during the same Contract Year with forty-five (45) days' supply or greater (collectively the "Guaranteed Rebates"), Medco will credit such difference against future billings to SPONSOR under the Program one hundred eighty (180) days after the end of each Contract Year. The Guaranteed Formulary Rebates are contingent upon SPONSOR implementing a three tier formulary whose differential in copayment or its reasonably equivalent value for coinsurance between formulary and non-formulary drugs is not less than \$15.00.

- 6.4. **Guaranteed Rebates – Open Formulary** - After each Contract Year during the Initial Term that SPONSOR participates in the Formulary, Medco will calculate SPONSOR's Total Rebates during such Contract Year. Provided SPONSOR complies fully with the Formulary and with the Formulary management programs implemented by Medco, if SPONSOR'S percentage share of Total Rebates for any Contract Year during the Initial Term are less than the sum of (i) \$19.92, \$20.55 and \$17.36 during the 1st, 2nd and 3rd Contract Years, respectively, times the total number of Brand Name Drug prescriptions billed and paid for under SPONSOR's Retail Pharmacy Program as well as such prescriptions under the Mail Order Pharmacy Program for less than forty-five (45) days' supply during such Contract Year, plus (ii) \$63.06, \$67.00 and \$48.45 during the 1st, 2nd and 3rd Contract Years, respectively, times the total number of Brand Name Drug prescriptions billed and paid for under SPONSOR's Mail Order Pharmacy Program during the same Contract Year with forty-five (45) days' supply or greater (collectively the "Guaranteed Rebates"), Medco will credit such difference against future billings to SPONSOR under the Program one hundred eighty (180) days after the end of each Contract Year
- 6.5. If a government action, change in law or regulation, change in the interpretation of law or regulation or action by any drug manufacturer or by SPONSOR has an adverse effect on the availability of Total Rebates or the Program Pricing Terms, Medco may modify, as applicable, the Total Rebates due SPONSOR or the Guaranteed Rebates or the Program Pricing Terms.
- 6.6. Any lines of SPONSOR's business, or any Group of Eligible Persons, for which SPONSOR funds less than 50% of the costs of Covered Drugs under the Plan Design will not be entitled to Formulary Rebates and Additional Rebates and Fees. Calculations and guarantees under Sections 6.2 and 6.3 will not include prescriptions dispensed for any such lines of business or Groups claims for drugs purchased by a pharmacy pursuant to the 340B program, and government subrogation claims

7. **BILLING/PAYMENT**

- 7.1. Medco will provide SPONSOR with a bi-weekly consolidated electronic invoice via a File Transfer Protocol (FTP) for services provided by Medco under the Program, in accordance with the Program Pricing set forth in Schedule A. All invoices will be paid in full by SPONSOR within two (2) business days of receipt by wire transfer, electronic debit, or other method approved by Medco in writing.
- 7.2. SPONSOR will pay Medco for administrative products and services provided by Medco under the Program in accordance with the Administrative Fee provisions set forth in Schedule A. Medco will provide SPONSOR with an Administrative Fee invoice in accordance with Medco's four (4) week Administrative Fee cycle. SPONSOR will pay Administrative Fee invoices in full within fifteen (15) days of the invoice date.

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- 7.3. Subject to review of audited financial statements and/or whether payments due to Participating Pharmacies for Covered Drugs under this Agreement become subject to prompt payment related legislation or regulation, SPONSOR may be required to pay a deposit in an amount to be reasonably determined by Medco, which amount may be periodically modified by Medco based on SPONSOR's actual claims experience and enrollment. This deposit may be used by Medco to offset the failure by SPONSOR, for any reason, to make any payments pursuant to the terms of this Agreement and/or to make payments due in accordance with prompt payment legislation or regulation prior to Medco's billing and receipt of SPONSOR's payment due under Section 7.1, and does not, in any way, limit other remedies available to Medco. The deposit, to the extent not utilized to offset any payment default by SPONSOR under this Agreement, will be returned, without interest, to SPONSOR within the greater of one hundred eighty (180) days following termination of this Agreement or following any agreed upon date for extended services.
- 7.4. Failure by SPONSOR to make any payments in accordance with the terms of this Agreement will constitute a payment default. Notwithstanding Section 10.2 of this Agreement, if SPONSOR fails to cure any such payment default within two (2) days, in addition to other available remedies, Medco may cease performing any or all of its obligations under, or may terminate this Agreement upon notice to SPONSOR. After the two (2) day grace period, there will be a late payment fee of 1% per month on the balance due, accruing as of the due date. SPONSOR will reimburse Medco for all collection costs incurred by Medco as a result of any payment default by SPONSOR under this Agreement.

8. RECORDS

- 8.1. Medco will maintain all claims records relating to services performed under this agreement as required by applicable law. Such claims records will be in their original form, on microfilm, microfiche or other form determined by Medco. Sponsor claims records may be audited by Sponsor or its representative reasonably acceptable to Medco, subject to execution of a confidentiality agreement, for a maximum period of twenty-four (24) months prior to the agreed upon audit date at no cost. SPONSOR will bear the cost of data in excess of twenty-four (24) months. Sponsor may conduct an audit once annually from January through September on an agreed upon date. If Sponsor decides to perform a non-standard audit or if Sponsor requests more than one audit per year there would be a charge associated. Medco may retain copies of such claims records for its own use.
- 8.2. Sponsor will receive a claims detail layout (CDL) on a bi-weekly basis which includes claims detail for all paid claims as well as adjustments. To ensure the accuracy of these files, Medco performs a balancing verification process that ensures that the totals of all claims and adjustments found on the bi-weekly file agree to the totals determined by the invoicing system. These files can be used by the Sponsor to reconcile the claims during an audit. The CDL file is provided in the industry standard layout which can be opened via standard database software and Vendor agrees that it will not require Sponsor or Sponsor's auditor to purchase any other third-party licenses other than the cost of such database software. The CDL file has all of the standard fields necessary to perform a claims audit. If Sponsor finds that they require additional fields to perform their audit, Medco will work with Sponsor to provide the necessary fields to complete the audit. Sponsor represents that, as of the effective date of this Agreement, Vendor's CDL file provides all necessary fields required to perform an audit and is in a format that does not require any additional costs to complete such audit. If, Sponsor requires that the Vendor's CDL file be customized in any way beyond the standard layout, there may be an additional charge.
- 8.3. Any audit of Medco's agreements with pharmaceutical manufacturers may be conducted by a top 100 public accounting firm approved by Medco whose audit department is a separate stand alone function of its business and that carries insurance for professional malpractice of at least \$2,000,000. The audit will include only those portions of the pharmaceutical manufacturer

agreements as necessary to determine Medco's compliance with Medco's offer in respect to Total Rebates. The audit may be conducted once annually from January through September, at Medco's offices as scheduled by agreement of the parties, but not sooner than ninety (90) days after execution of a confidentiality agreement.

- 8.4. Any auditor retained by SPONSOR performing an audit will warrant and represent that it is not providing Litigation Services to any person or entity in connection with any lawsuit, investigation, or other proceeding that is pending or contemplated against Medco. "Litigation Services" include (a) examining pharmacy claims or any other documents or information, or (b) providing advice, analysis, and/or opinions as a disclosed or undisclosed expert or consultant. The auditor must agree that, for a period of six (6) months after completion of the audit, it will not provide Litigation Services in any lawsuit, investigation, or other proceeding brought against Medco, except for Litigation Services to Sponsor in any proceeding against Medco
- 8.5. Tricast may act as Sponsor's claim auditor provided they sign a confidentiality agreement with Medco and they are in compliance with the paragraph above.
- 8.6. Upon request, Sponsor will furnish its most recent audited financial statement to Medco.

9. CONFIDENTIAL INFORMATION

(a) The Confidential Information of a party (the "disclosing party") which is disclosed to the other party (the "receiving party") will be held by the receiving party in strictest confidence at all times and will not be used by the receiving party (or its affiliates, employees, officers, directors or limited liability company managers ("Representatives")) for any purpose not previously authorized by the disclosing party, except as necessary for Medco to perform the services under this Agreement. The Confidential Information of the disclosing party will not be disclosed or divulged by the receiving party to anyone, except with the prior written permission of the disclosing party and on the condition that the party to whom the Confidential Information is disclosed has first executed a confidentiality agreement with Medco. The receiving party may disclose the Confidential Information to those of its Representatives who need to review the Confidential Information for the purposes authorized by the disclosing party but only after the receiving party has informed them of the confidential nature of the Confidential Information and directs them to treat the Confidential Information in accordance with the terms of this Agreement. The disclosing party retains all right, title and interest in and to its Confidential Information.

The term "Confidential Information" includes, but is not limited to, any information of either the receiving or disclosing party (whether oral, written, visual or fixed in any tangible medium of expression), relating to either party's services, operations, systems, programs, inventions, techniques, suppliers, customers and prospective customers, contractors, cost and pricing data, trade secrets, know-how, processes, plans, reports, designs and any other information of or relating to either party's business, including its therapeutic and disease management programs, but does not include information which (a) was known to the receiving party before it was disclosed to the receiving party by the disclosing party, (b) was or becomes available to the receiving party from a source other than the disclosing party, provided such fact is evidenced in writing and the source is not bound by a confidentiality obligation to the disclosing party, or (c) is developed by the receiving party independently of the disclosing party's Confidential Information, provided that such fact can be documented. Each party will also keep the terms of this Agreement confidential as Confidential Information, except as required by law or regulation.

If the receiving party is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand, any informal or formal investigation by any government or governmental agency or authority, law or regulation, or otherwise) to disclose any of the Confidential Information, the receiving party will notify the disclosing party promptly in writing so that the disclosing party may seek a protective order or other appropriate remedy or, in its sole discretion, waive compliance with the terms of this Agreement. The receiving party agrees not to oppose any action by the disclosing party to obtain a protective order or other appropriate remedy. If no such protective order or other remedy

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is obtained, or the disclosing party waives compliance with the terms of this Agreement, the receiving party will furnish only that portion of the Confidential Information which it is advised by counsel is legally required and will exercise its reasonable best efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

(b) Sponsor and Medco may not utilize the service marks, trademarks, or tradenames of any other party to this Agreement, or any service marks, trademarks, or tradenames so similar as likely to cause confusion, without express written approval of such other party. The programs implemented by Medco will remain the sole property of Medco and will only be used by Sponsor in connection with the Program and so long as Medco administers the Program.

(c) Medco and Sponsor will comply with all applicable laws and regulations regarding patient confidentiality as provided in the Business Associate Agreement between the parties. Medco will not furnish any Sponsor identifiable data or information to any third party without the written consent of Sponsor, except as reasonably necessary to implement and operate the Program and fulfill its obligations pursuant to this Agreement or as required by applicable law. The restrictions set forth in this Section will not apply to claims data or information which is not identifiable on a Sponsor basis.

(d) Medco may not condition its provision of data to Sponsor upon restricting Sponsor's use of the data. Sponsor may make any reasonable use of its data that does not endanger Medco's legitimate interest in its trade secrets; provided, however, the data will not be disclosed to any third party unless such third party has executed a confidentiality agreement with Medco. Specifically, Sponsor may use its data including, but not limited to, for the following purposes:

1. Sponsor may undertake comparative or competitive pricing analyses, including comparisons with other providers of pharmacy benefit management services
2. Sponsor may perform analyses using claims associated with individual members, pharmacies, or physicians
3. Sponsor may perform analyses using any financial fields (AWP, Ingredient Cost, Dispensing Fee, Sales Tax, Allowed Amount, Copay, other member-pay fields, Paid, etc.)
4. Sponsor may perform analyses using the pricing components of claims, such as discounted AWP, MAC, or U&C
5. Sponsor may undertake an analysis of plan design features applicable to claims (formulary content and type, utilization management programs, clinical management programs, etc.)

Vendor cannot prohibit Sponsor (or third parties providing analytic services for Sponsor, unless such third party has not signed a confidentiality agreement with Medco) from presenting Sponsor with objective analyses of and professionally-grounded opinions about past Vendor performance and suggested future action.

Vendor recognizes that, in the event Sponsor engages in a competitive bid process to procure a new pharmacy benefit management services vendor, Sponsor, will request a specific data set from Medco so that competing bidders can use past experience to develop the most competitive proposals. In the event Sponsor engages in such a competitive bid process, Vendor recognizes that Sponsor may release (from the specific data set provided by Medco) the following claims fields at individual claim level and Medco will provide such data set subject to Sponsor's vendor signing a confidentiality agreement with Medco.

- NDC
- Fill Date
- Quantity Dispensed
- Days Supply
- Retail/Mail Indicator
- Generic/Brand/Specialty Indicator
- DAW Indicator
- Internal/External Dispensing Indicator
- NABP/NCPDP of dispensing pharmacy

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- Various enrollment subdivisions

During such competitive bid processes, Vendor also recognizes that Sponsor may release aggregated reports based on the records of claims, such as but not limited to:

- Experience period NDCs
- Experience period dispensing pharmacies
- Experience period member zip codes
- Current formulary placement of NDCs
- Any aggregate of the claim fields described above

Vendor acknowledges that the aforementioned fields are typical and customary fields across trade usage in processing claims to manage pharmacy benefits, and no information revealed or ascertainable through those fields can reveal any protectable interest in a legitimate trade secret.

10. TERM OF AGREEMENT

10.1. This Agreement will remain in effect for an initial term of three (3) years from the Effective Date (the "Initial Term") and thereafter will automatically renew for successive one (1) year terms unless either party gives written notice, at least ninety (90) days prior to the end of any such term, to the other party of its intent to terminate this Agreement as of the end of the then current term. Notwithstanding the issuance of a termination notice, Medco agrees to continue to render services hereunder and SPONSOR agrees to pay for services of Medco in accordance with the terms of this Agreement for any claims incurred for prescription drug benefits by Eligible Persons while this Agreement was in force.

10.2. In the event of a material breach of this Agreement, the party alleging such breach will give written notice thereof to the other parties. If such breach is not cured within sixty (60) days of receipt of such notice, the non-breaching party may terminate this Agreement upon written notice to the other party.

11. FORCE MAJEURE

Neither Medco nor SPONSOR will be deemed to have breached this Agreement or be held liable for any failure or delay in the performance of all or any portion of its obligations under this Agreement if prevented from doing so by a cause or causes beyond its control. Without limiting the generality of the foregoing, such causes include acts of God or the public enemy, fires, floods, storms, earthquakes, riots, strikes, boycotts, lock-outs, acts of terrorism, acts of war, war-operations, restraints of government, power or communications line failure or other circumstances beyond such party's control, or by reason of the judgment, ruling or order of any court or agency of competent jurisdiction, or change of law or regulation (or change in the interpretation thereof) subsequent to the execution of this Agreement.

12. INDEMNIFICATION/LIMITATION OF LIABILITY

12.1. Medco will indemnify and hold SPONSOR, its subsidiaries, affiliates, and their officers, directors and employees (each a "SPONSOR Indemnified Party") harmless from and against claims, suits, actions, or causes of action ("Actions") asserted against a SPONSOR Indemnified Party arising from services rendered by Medco pursuant to this Agreement to the extent the Action arises from Medco's negligence or willful misconduct, or breach of this Agreement, provided that (a) SPONSOR has given reasonable notice to Medco of the Action, and (b) no SPONSOR Indemnified Party has, by act or failure to act, compromised Medco's position with respect to the resolution or defense of the Action.

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- 12.2. SPONSOR will indemnify and hold Medco, its subsidiaries and affiliates, and their respective officers, directors and employees (each a "Medco Indemnified Party") harmless from and against Actions asserted against a Medco Indemnified Party arising from (i) breach of this Agreement by SPONSOR, (ii) negligence or willful misconduct of SPONSOR including but not limited to the provision of patient identifiable or Program information or data by a Medco Indemnified Party to SPONSOR or SPONSOR's designees in a manner that violates the law or is not permitted by law, or the subsequent use or disclosure of such information or data by SPONSOR or its designees in a manner that violates the law or is not permitted by law, provided that (a) the Medco Indemnified Party has given reasonable notice to SPONSOR of the Action, and (b) no Medco Indemnified Party has, by act or failure to act, compromised SPONSOR's position with respect to the resolution or defense of the Action.
- 12.3. Medco will maintain, during the term of this Agreement, liability coverage with limits not less than \$1,000,000 per occurrence and in the aggregate per policy year, with excess liability coverage in an amount not less than \$5,000,000 per policy year. Evidence thereof will be furnished to SPONSOR upon request.
- 12.4. Except as provided in Section 12.1 above, neither Medco nor any subsidiary, affiliate, or any of their respective directors, officers or employees, will be responsible for any Action resulting from the provision of or failure to provide pharmaceutical goods or services or any other action or failure to act by any retail pharmacy, pharmaceutical manufacturer or other pharmaceutical providers in connection with this Agreement.
- 12.5. The liability of Medco to SPONSOR for any negligent or willful misconduct by Medco will be limited to the per occurrence liability insurance amount set forth in this Section 12.3.
- 12.6. Medco or SPONSOR will not be liable to each other for incidental, consequential, punitive, special, or exemplary damages.

13. EXCLUSIVITY

Medco will be the exclusive provider and administrator of PBM Services to SPONSOR and its subsidiaries while this Agreement is in effect. Nothing contained herein, however, will prohibit Medco or any affiliated entity from providing or administering PBM Services and related programs and services to any other entity while this Agreement is in effect.

14. GENERAL

- 14.1. **Independent Contractor** - The relationship between Medco and SPONSOR will solely be that of independent contractors engaged in the operation of their own respective businesses.
- 14.2. **Assignment** - This Agreement may not be assigned by any party without the written approval of the other parties provided, however, that services to be performed by Medco hereunder may be performed by its subsidiaries, affiliates, divisions and/or designees. The duties and obligations of the parties will be binding upon, and inure to the benefit of, successors, assigns, or merged or consolidated entities of the parties.
- 14.3. **No Third-Party Beneficiary** - This Agreement has been entered into solely for the benefit of SPONSOR and Medco, and is not intended to create any legal, equitable, or beneficial interest in any third party or to vest in any third party any interest as to enforcement or performance.
- 14.4. **Notices** - All notices required under this Agreement will be in writing and sent by certified mail, return receipt requested, hand delivery or overnight delivery by a nationally recognized service addressed as follows:

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If to SPONSOR: City of Milwaukee
200E. Wills Street
Milwaukee, WI 53202
Attention: Michael Brady

If to Medco: Medco Health Solutions, Inc.
100 Parsons Pond Drive
Franklin Lakes, NJ 07417
Attention: Elizabeth Ferguson
Senior Vice President, Associate General Counsel

- 14.5. **Amendments** - This Agreement may be amended only in writing when signed by a duly authorized representative of each party.
- 14.6. **Financial Responsibility** - If Medco has reasonable grounds to believe that SPONSOR may not meet its payment obligations under this Agreement as they become due, Medco may request information and/or reasonable assurances (including a deposit) from SPONSOR as to its financial responsibility. If the information or assurances are not furnished to Medco within five (5) days, or are not satisfactory in Medco's reasonable judgment, Medco may immediately terminate this Agreement or suspend performance pending receipt of the requested information or assurances.
- 14.7. **Plan Design** - The Program Pricing Terms set forth in this Agreement are based upon the Plan Designs, Minimum Enrollment, information/data provided by SPONSOR during or after the proposal/renewal process, and Program specifications agreed to between the parties as reflected in this Agreement, and as otherwise hereafter agreed to by the parties in writing. The Program Pricing Terms are also based upon SPONSOR funding 50% or greater of the costs of Covered Drugs for its Eligible Persons. Any modification of the Plan Design or Program specifications, failure to maintain Minimum Enrollment, changes in the information/data provided, or inclusion of Eligible Persons or Groups with Covered Drugs funded less than 50% by SPONSOR, may result in a modification by Medco of the Program Pricing Terms retroactive to the date of the change/event. SPONSOR will provide Eligible Persons with at least thirty (30) days' prior notice of approved Plan Design changes. If the number of SPONSOR's Eligible Persons eligible for Medicare is materially reduced or eliminated for any reason, Medco may communicate with those persons at Medco's expense regarding Part D options, including Medco Part D services, and the Program Pricing Terms may be modified to reflect the reduction or elimination.
- 14.8. **ERISA Claims and Appeals**

SPONSOR will not name or represent that Medco is, and Medco will not be, a Plan Administrator or, except as specifically set forth in this section, a fiduciary of any prescription drug benefit plan (the "Plan"), as those terms are used in the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§ 1001 et seq., and the regulations promulgated under ERISA. SPONSOR will have complete discretionary, binding, and final authority to construe the terms of the Plan, to interpret ambiguous Plan language, to make factual determinations regarding the payment of claims or provisions of benefits, to review denied claims and to resolve complaints by Eligible Persons.

SPONSOR delegates to Medco the limited authority and discretion solely to undertake administrative and/or clinical initial determinations, first-level, second-level and urgent appeals of claims eligibility and benefit applications determinations filed by Eligible Persons with SPONSOR's Program. Medco will process and determine all filed administrative and/or clinical first-level, second-level and urgent appeals under the procedures and within the time frames specified in the Department of Labor claims processing regulations, 29 C.F.R. § 2560.503-1 (the "Claims Procedure Regulations"). For this purpose, Medco agrees that it shall be the appropriate named fiduciary in accordance with Section 2560.501-1 (h) of the Claims Procedure Regulations. Medco's decisions will be conclusive and binding and not subject to further review by SPONSOR. If, however, with respect to a claim or appeal, any of the duties, whether delegated to

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Medco or not, are assumed or acted upon by SPONSOR, or by any agent or vendor of such entity (e.g. utilization management vendor), then Medco will not have any fiduciary duties or discretionary authority with respect to such claim or appeal, and SPONSOR will be deemed to have such fiduciary duties and discretionary authority and will be solely liable for such claim or appeal. Notwithstanding the services of Medco under this section, all decisions concerning the rendering of health care services are determined by the Eligible Person's physician, hospital or other health care provider and the Eligible Person.

External Review Process – Medco will facilitate the process for external reviews on behalf of SPONSOR so long as Medco handles all levels of reviews and appeals for SPONSOR. SPONSOR has elected to use the Independent Review Organization Services as set forth on Schedule C.

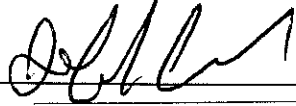
- 14.9. **Taxes and TPA** - Any applicable sales, use, or other similarly assessed and administered tax imposed on items dispensed, or services provided hereunder, or any other amounts Medco may incur or be required to pay arising from or relating to Medco's performance of services as a third-party administrator in any jurisdiction, will be the sole responsibility of SPONSOR. If Medco is legally obligated to collect and remit sales, use, or other similarly assessed and administered tax in a particular jurisdiction, or to incur or pay any amount relating to third-party administrator services, the tax or other amount will be reflected on the applicable invoice or subsequently invoiced at such time as Medco becomes aware of such obligation or as such obligation becomes due.
- 14.10. **Governing Law** - This Agreement will be construed and governed in accordance with the laws of the State of New Jersey. However, all matters relating to the Mail Order Pharmacy Program operations of Medco will be governed by the laws of the state in which Medco's mail order pharmacy is located.
- 14.11. **Enforceability** - The invalidity or unenforceability of any of the terms or provisions hereof will not affect the validity or enforceability of any other term or provision.
- 14.12. **Section Headings** - Section headings are inserted for convenience only and will not be used in any way to construe the terms of this Agreement.
- 14.13. **Waiver** - The waiver of any breach or violation of any term or provision hereof will not constitute a waiver of any subsequent breach or violation of the same or any other term or provision. No waiver or relinquishment by a party of any right or remedy under this Agreement will occur unless the waiver or relinquishment is in a written document signed by an officer of the party.
- 14.14. **Approvals** - Whenever approval of any party is required under this Agreement, such approval will not be unreasonably withheld.
- 14.15. **Organization** - Each party is duly organized, validly existing and in good standing, and has the power to own its property and to carry on its business as now being conducted by it.
- 14.16. **Authorization** - The execution and delivery of this Agreement and the consummation of the transactions contemplated herein on its part, has been duly authorized by all necessary action by each party.
- 14.17. **No Conflict of Interest or Other Restrictions** - No party has a conflict of interest which would impact its ability to perform fairly its obligations under this Agreement, and no party is subject to any restrictions, contractual or otherwise, which prevent or would prevent it from entering into this Agreement or carrying out its obligations hereunder.
- 14.18. **No Violation** - Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will be a violation or default of any term or provision of the party's governance documents (e.g., its certificate of incorporation or bylaws or operating agreement) or of any material contract, commitment, indenture, or other agreement or restriction to which it is a party or by which it is bound.

- 14.19. **Binding Effect** - This Agreement has been duly executed and delivered by each party, and is a valid and binding obligation of each party, enforceable against such party in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general principles of equity.
- 14.20. **Original Agreement/Counterparts** - The parties will execute two identical originals of this Agreement. Each party will retain one of the originals. This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all counterparts taken together will constitute one instrument.
- 14.21. **Public Announcement** - Except as required by law or regulation, neither party will make any public announcement nor issue any press release relating to this Agreement without the written consent of the other party. This provision does not restrict either party from submitting necessary or appropriate filings with the SEC.
- 14.22. **Dispute Resolution** - Except for those matters subject to emergent or injunctive relief, in the event that any dispute relating to this Agreement arises between SPONSOR and Medco, either party may, by written notice, demand a meeting regarding the dispute, to be attended by executive officers of each party, who will attempt in good faith to resolve the dispute. If the dispute cannot be resolved through executive negotiations within thirty (30) business days after the date of the initial notice, each party will retain all rights to bring an action regarding such matter in accordance with law.
- 14.23. **Construction** - SPONSOR and Medco have participated jointly in the negotiation of this Agreement and each has had the advice of legal counsel to review, comment upon, and draft this Agreement. Accordingly, it is agreed that no rule of construction shall apply against any party or in favor of any party, and any uncertainty or ambiguity shall not be interpreted against any one party and in favor of the other.
- 14.24. **Entire Agreement** - This Agreement, together with the Schedules hereto, embodies the entire understanding of the parties in relation to the subject matter hereof, supersedes any prior agreement among the parties in relation to the subject matter hereof, and no other agreement, understanding, or representation, verbal or otherwise, relative to the subject matter hereof exists among the parties at the time of execution of this Agreement.
- 14.25. **Compliance with Law** - Medco and SPONSOR shall take all actions necessary and appropriate to assure that they comply with all applicable federal, state, and local laws and regulations, including, without limitation, the Anti-Kickback Statute, the Public Contracts Anti-Kickback Act, the Stark Law, and laws and regulations relating to disclosure or notification of plan benefits or the terms of rebate administration under this Agreement to SPONSOR's Groups. Medco's Code of Conduct and its policies and procedures relating to compliance with the above-named laws are available at www.medcohealth.com/medco/corporate/home.jsp by clicking on the Investors tab and then the Corporate Governance link.
- 14.26. **Memorandum of Understanding** - The Memorandum of Understanding entered into between the parties is incorporated herein by reference as Schedule B. To the extent there is a conflict between this Agreement, Schedule A and Schedule B, Schedule B will control.
- 14.27. **Survival** - The provisions of Sections 7.4, 9, 12, and the last sentence of 10.1 will survive the termination of this Agreement.

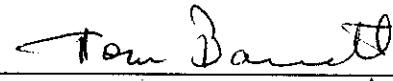
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IN WITNESS WHEREOF, the parties have executed this Agreement on the date indicated below.

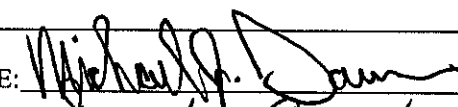
MEDCO HEALTH SOLUTIONS, INC.

BY: 
NAME: Jeff Sinko
TITLE: Vice President + Assistant General Counsel
DATE: 1/31/2012

CITY OF MILWAUKEE

BY: 
NAME: Tom Barnett
TITLE: Mayor
DATE: 1/20/12

CITY OF MILWAUKEE

ext BY: 
NAME: Michael J. Dan
TITLE: Deputy Comptroller
DATE: 1-23-2012

436723.5 (1/16/12)efs
PERMFORM 50180.14 (07/18/11) efs/nmb
(Original 50180.14 - 03/29/11)

SCHEDULE A PROGRAM PRICING TERMS

SPONSOR will pay Medco for services provided under the Program as follows:

1. RETAIL PHARMACY PROGRAM CLAIMS

SPONSOR will pay Medco for Covered Drugs dispensed and submitted by Participating Pharmacies under the Retail Pharmacy Program in an amount equal to the lowest of (i) the pharmacy's usual and customary price, as submitted ("U&C") plus applicable taxes, (ii) the maximum allowable cost ("MAC"), where applicable, plus the Dispensing Fee, or (iii) Discounted AWP and Dispensing Fee plus applicable taxes. The guaranteed average annual AWP discount for Brand Drugs will be AWP minus (-) 15.3% and the guaranteed average annual AWP discount for Generic Drugs will be AWP minus (-) 71.4%, 71.9% and 72.4% during the 1st, 2nd and 3rd Contract Years, respectively, for each Contract Year during the Initial Term. The guaranteed Dispensing Fee per prescription or authorized refill will be \$1.00. Medco will prepare a true up within one hundred eighty (180) days following the end of such Contract Year. Any net shortfall (i.e. shortfalls offset by surpluses across the three components) in the aggregate guaranteed savings will be matched dollar for dollar by Medco. The guarantees set forth herein exclude U&C Claims, Compound Drugs, Specialty Drugs. In the event of an increase or decrease in the total number of Participating Pharmacies by greater than five (5) percent, or a change in ownership of five (5) percent or more of Participating Pharmacies in the Broad National Network, Medco may modify the guarantee for Ingredient Costs and Dispensing Fees on an equitable basis. Payment by SPONSOR is subject to the applicable Copayment/Coinsurance amount set forth below:

- 1.1. **Copayment/Coinsurance** - The Copayment/Coinsurance amount for each prescription or refill dispensed by a Participating Pharmacy under the Retail Pharmacy Program will be as designated for each Group in the applicable Plan Design(s).
- 1.2. **Minimum Charge at Retail** - SPONSOR agrees there may be a minimum charge at retail for a Covered Drug of the lower of (a) the U&C or (b) the applicable Copayment. For prescriptions or refills where this minimum charge applies, there will be no charge/credit to SPONSOR under this Section 1.
- 1.3. **Direct Claims** - The reimbursement terms applicable to direct reimbursement claims submitted by Eligible Persons under the Retail Pharmacy Program will be the same as the terms set forth in this Section 1, unless otherwise provided in writing by SPONSOR to Medco.

2. MAIL ORDER PHARMACY PROGRAM CLAIMS

SPONSOR will pay Medco for Covered Drugs dispensed by a Medco mail order pharmacy under the Mail Order Pharmacy Program in an amount equal to an Ingredient Cost plus Dispensing Fee for each Covered Drug dispensed, less the applicable Copayment/Coinsurance amount, as such terms are defined below:

- 2.1. **Ingredient Cost** - The Ingredient Cost is the lower of MAC or discounted AWP for Brand Name Drugs and Generic Drugs. The guaranteed, pricing for Brand Name Drugs will be AWP minus (-) 22.7% and the guaranteed overall pricing for Generic Drugs will be AWP minus (-) 73.75%, 74.75% and 75.75% during the 1st, 2nd and 3rd Contract Years, respectively, for each Contract Year during the Initial Term. The guarantees set forth herein exclude Compound Drugs and Specialty Drugs.
- 2.2. **Dispensing Fee** - The estimated but not guaranteed Dispensing Fee per prescription or authorized refill is \$0.00 Dispensing Fees are inclusive of postage. If postage rates (i.e., U.S. mail and/or applicable commercial courier services) increase during the term of this Agreement, the pricing will be increased to reflect such increase(s).

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2.3. Copayment/Coinsurance - The Copayment/Coinsurance amount for each prescription or refill dispensed by a Medco mail order pharmacy under the Mail Order Pharmacy Program shall be as designated for each Group in the applicable Plan Design(s). If the amount of the applicable Copayment/Coinsurance paid by an Eligible Person for a prescription or refill dispensed by Medco exceeds the Ingredient Cost (as defined in 2.1 above) plus Dispensing Fee (as defined in Section 2.2 above) plus any applicable taxes, then Medco shall return to the Eligible Person an amount equal to the Copayment/Coinsurance amount, less the sum of the applicable Ingredient Cost plus Dispensing Fee plus any applicable taxes, for the prescription or refill. Eligible Persons must pay the applicable Copayment or Coinsurance amount to Medco for each prescription or authorized refill under the Mail Order Pharmacy Program. Medco may suspend Mail Order Pharmacy Program services to an Eligible Person who is in default of any Copayment or Coinsurance amount due Medco. SPONSOR will be responsible for any unpaid Eligible Person Copayment or Coinsurance amounts, in accordance with Medco's standard credit policy, if payment has not been received from the Eligible Person within one hundred twenty (120) days of dispensing. SPONSOR will be billed following the one hundred twenty (120) day collection period, with payment due in accordance with the payment terms set forth in Section 7.2 of this Agreement.

3. SPECIALTY PHARMACY PROGRAM

Notwithstanding anything to the contrary in Section 2 above and elsewhere in the Agreement, effective January 1, 2012, SPONSOR will pay Medco for those Covered Drugs designated as Specialty Drugs under the Mail Order Pharmacy Program on a separate ingredient cost basis plus applicable Dispensing Fee, subject to the Copayment/Coinsurance in the applicable Plan Design.

Under the Retail Pharmacy Program, SPONSOR will pay Medco for Specialty Drugs on a separate ingredient cost basis plus applicable Dispensing Fee subject to the Copayment/Coinsurance in the applicable Plan Design. For a Specialty Drug that has limited or exclusive distribution through specific retail pharmacies ("Limited Distribution Specialty Drug"), SPONSOR will pay Medco for the Limited Distribution Specialty Drugs in the same amount that Medco reimburses the retail pharmacy for the drug, including Ingredient Cost and Dispensing Fee.

Medco will be the exclusive administrator of Specialty Drugs to SPONSOR while this Agreement is in effect. Specialty Drugs may be provided by Medco or other third-party specialty pharmacy that has a written arrangement with Medco. Medco may add or delete products, or modify pricing terms on written notice to SPONSOR. Specialty Drugs are excluded from calculations, guarantees, credits and payments regarding Total Rebates under the Mail Order Pharmacy Program and the Retail Pharmacy Program set forth in this Agreement. The terms and pricing set forth in this Section 3 apply only to SPONSOR's pharmacy benefit and not to SPONSOR's medical benefit. Medco will provide a current list of Specialty Drugs and associated prices upon SPONSOR's written request.

Services for Specialty Drugs under the Mail Order Pharmacy Program consist of:

- Clinical support that provides, according to Medco's procedures:
 - Eligible Person tele-counseling from specially trained pharmacists and nurses
 - Care management, including information and support directly to the Eligible Person
 - Coordination of care with the Eligible Persons case manager and/or home care agency
- Specialty Drug educational materials and product information
 - Standard communications notifying Eligible Persons of changes in plan coverage
 - Personalized mailings and outbound phone calls by Medco Special Care Pharmacy to Eligible Persons purchasing, at retail pharmacies, Specialty Drugs that are clinically appropriate for maintenance use
- Toll-free telephone line for Eligible Persons using Specialty Drugs
- Express delivery to physician's office or Eligible Person's home
 - Standard two (2) day delivery
 - Overnight delivery as physician required (excluding Sundays)
- Logistics coordination of delivery to Eligible Person's home or physician's office

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- Analysis of integrated pharmacy and medical claims databases to identify utilizers, if applicable and agreed upon
- Ancillary supplies provided with each self-injectable medication
- Drug Utilization Review applied to specialty pharmacy related prescription claims and, when available from Medco, medical claims
- Enhanced Physician services, consisting of communication materials, forms and informational hotline

Additional communications to Eligible Persons or physicians beyond these listed above will be quoted upon request.

4. ADMINISTRATIVE SERVICES AND FEES

4.1. SPONSOR will pay to Medco a Base Administrative Fee in the amount of \$1.53 per Primary Eligible Participant per month.

Eligibility

- Administration of eligibility submitted via tape or telecommunication in a Medco standard format
- Eligibility maintenance (minimum of weekly updates)
- Dependent Eligibility Certification System (DECS)
- Medco's client support system (e-SD) via the client website for on-line access to current eligibility (equipment, installation and Internet access are responsibility of SPONSOR)¹

Claim Adjudication

- Administration of SPONSOR's Plan Design
- In-network claims adjudication via TelePAID on-line claims adjudication system
- Primary Coordination of Benefits (when flagged on eligibility records)
- Twelve (12) months on-line claims history retention (for use in claims processing)
- Processing associated with Medco by Mail Pharmacy Program prescriptions

Member Communication Materials

- Medco Welcome Package for new designated Eligible Persons, consisting of:
 - Announcement letter(not to exceed one page)
 - Medco descriptive brochure (not to exceed eight pages)
 - Pre-addressed Mail Order form/envelope
 - Patient health profile questionnaire
 - One Medco Identification Card per Primary Eligible Participant (two per family)
 - Information on access to major Participating Pharmacy network chains
- Other available standard Medco materials, consisting of:
 - Direct reimbursement claim form (also available via www.medco.com)
 - Coordination of Benefits (COB) claim form
- TDD-TTY services for hearing impaired to access Member Service Department
- Health Stage Patient Engagement Information

¹ SPONSOR may be granted access to Medco systems and applications, in some cases requiring the grant of access to SPONSOR employees and/or representatives, including e-SD and Client Website. SPONSOR's use of such systems and applications is governed by this Agreement and the Terms of Use and privacy policies for the respective systems and applications. Medco will grant access to SPONSOR employees and/or representatives only at the discretion of SPONSOR, as provided in Medco's operating procedures, and SPONSOR will be responsible for those individuals' compliance with the terms of this Agreement and the applicable Terms of Use and privacy policies.

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Clinical Programs

- Access capabilities to e-SD via the Client Website to support SPONSOR coverage authorization activities

Reporting

- Medco's Prescription Drug Plan Report Package available through the Information Services Report Manager tool on the Client Website²
- Medco's Claims Detail Layout (CDL) file every two (2) weeks

Retail Pharmacy Network

- Establish, maintain, credential, and contract an adequate panel of Participating Pharmacies
- Development and distribution of communication materials to Participating Pharmacies regarding the Program
- Toll-free access to Help Desk for eligibility/claims processing assistance
- Toll-free access for Participating Pharmacies to obtain DUR assistance
- Monitor Participating Pharmacy performance and compliance, including generic substitution rates, formulary program conformance, and DUR intervention conformance through Retail Network Management initiatives and reporting
- Toll-free telephone access to voice response unit for location of Participating Pharmacies in zip code area
- Medco Pharmacy Audit Program³

Member Service

- Toll-free telephone access to Member Service for the Program for use by Eligible Persons, SPONSOR benefits personnel, and physicians
- Gatekeeper Program – Medco's assistance program for older adults
- 24-hour access to a Medco pharmacist via toll-free telephone service

medco.com

- Standard Medco website capabilities, including:
 - online prescription ordering and status
 - prescription pricing information
 - coverage and benefit plan information
 - health news information

Account Management

- Clinical and plan consulting, analysis, and cost projections
- Annual analysis of Program utilization, impact of Plan Design changes, and intervention programs

4.2. SPONSOR will also pay for Additional Administrative Services requested or used by SPONSOR and provided by Medco under the Program as follows:

² Includes Report Manager for up to four user IDs for SPONSOR personnel only. Additional SPONSOR user IDs may be set up at a charge of \$250/user per month. External claims integration charge is separate and quoted upon request. Equipment, installation, and Internet access charges are the responsibility of SPONSOR. Specifically assigned user IDs may not be exchanged with, or used by, third parties (e.g., consultants) or other SPONSOR personnel. Third parties desiring access must be approved by Medco and must sign Medco's Third-Party Access agreement, accompanied by SPONSOR's letter of authorization.

³ Medco will credit SPONSOR with 85% of all audit recoveries that Medco's Pharmacy Audit Program recovers on behalf of SPONSOR. Medco will retain 15% of the total recoveries to defray administrative costs of Medco's Pharmacy Audit Program.

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Eligibility	
• Hard copy eligibility submission	Data entry charges
Claim Adjudication	
• Direct reimbursement/out-of-network claims adjudication (including check and EOB to Eligible Person)	\$1.75 per claim
• Coordination of Benefits <ul style="list-style-type: none"> - Secondary Coordination of Benefits <ul style="list-style-type: none"> ▪ Eligible Person-submitted paper claim ▪ Retail Pharmacy-submitted electronic claim - Adjudication of government subrogation claims (unless responsibility is otherwise assigned by SPONSOR) 	\$2.50 per claim \$1.00 per claim \$3.00 per paid claim
• On-line claims history retention (for use in claims processing) in excess of twelve (12) months	\$0.05 per claim
Drug Utilization Review/Clinical/Formulary Programs	
• Set-up and load of historical records from prior vendor, supplied in Medco format	\$0.07 per claim ⁴
Enhanced Reviews and Appeals Management – Plan Design	
• Medco's Coverage Authorization Program, consisting of prior authorization, step therapy, quantity duration/dose duration, quantity per dispensing event capabilities, and dose optimization (coverage option), including initial determinations and first-level appeals	\$55.00 per case or included in UM bundle fee.
• Reviews and Appeals Management – Plan Design <ul style="list-style-type: none"> - Medco handles all initial determinations and first-level appeals 	\$55.00 per case
• Second-level and urgent appeals, including transmission of case information to IROs or other external review entities: <ul style="list-style-type: none"> - Coverage Authorization requests - Plan Design-related requests 	\$10.00 per case (incremental to Utilization Management Program fee)
Reporting	
• Additional Ad-hoc report production, reprogramming, and testing of non-standard SPONSOR requirements	Quoted upon request
• SPONSOR's requests for claims data, Plan Design information, or production files for itself or its designees (subject to execution of Medco's confidentiality agreement) <ul style="list-style-type: none"> - Requests for multiple data feeds - Data feeds to third-party vendors on CD-ROM 	Quoted upon request Additional fees per file, per cycle – quoted upon request Additional fees per file, per cycle – quoted upon request
Member Communication Materials	
• Replacement of any Member Communication materials, Formulary materials, or Identification Cards upon an Eligible Person's request	Quoted upon request
• Customization, re-issuance, or replacement of Member Communication materials, Formulary materials, or Identification Cards on a Group or SPONSOR-wide basis, if requested by SPONSOR	Quoted upon request
• Prescription Drug Benefit Statement: <ul style="list-style-type: none"> - Statement to Eligible Persons providing prescription history along with specific recommended actions and related savings. Quarterly summary reporting to SPONSOR. 	\$1.50 per statement plus actual postage charges
• Eligible Person communications describing the benefit or changes to the benefit, except for initial Welcome Package for new designated Eligible Persons	Quoted upon request
• Customized, targeted Eligible Person mailings for closed/custom	Quoted upon request

⁴ Fee waived for six months of claims data

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formulary	
<ul style="list-style-type: none"> Retail Refill Allowance Program Member Communications Materials 	\$2.50 per Primary Eligible Participant plus postage costs on reminder letters
<ul style="list-style-type: none"> Mailings direct to Eligible Persons, physicians, or SPONSOR location 	Postage charges
Physician Communications	
<ul style="list-style-type: none"> Charges by physicians or medical practices for the completion of prior authorization forms, clarification of prescriptions, or other requests for information relating to coverage authorization or a prescribed medication 	Amount Medco is required to pay physician or medical practice
medco.com	
<ul style="list-style-type: none"> SPONSOR customization of medco.com 	Quoted upon request
Audit Support	
<ul style="list-style-type: none"> Data in excess of a rolling twenty-four (24) months 	Quoted upon request
<ul style="list-style-type: none"> Medco support of additional client audits 	\$35,000 per audit

Note: Charge for additional services not listed above will be determined by Medco and quoted upon request.

5. UTILIZATION MANAGEMENT PROGRAM

Medco will provide to SPONSOR Utilization Management Programs, which will be outlined in a Utilization Management Program Document (the "UMP Document") to be entered into at a date determined by the parties. The UMP Document will be effective as of the Effective Date of this Agreement and when executed, will be entered into contemporaneously with this Agreement. The UMP Document at such time that it is entered into by both parties, is incorporated by reference herein. The UMP Document may be modified in the form of a new UMP Document agreed upon by the parties in writing.

6. IMPLEMENTATION ALLOWANCE

After ninety (90) days following full implementation of SPONSOR's Integrated Program and for the Initial Term of this Agreement, Medco will credit up to \$4.00 per Primary Eligible Participant against future billings under SPONSOR's Program for documented expenses incurred and submitted by SPONSOR to Medco for the preparation and/or implementation of SPONSOR's Integrated Program (e.g., consulting fees, RFP preparation, or special communications associated with the Integrated Program roll-out).

**SCHEDULE B
MEMORANDUM OF UNDERSTANDING****Definitions**

The **"Adjudicated Dispensing Fee"** is the dispensing fee charged within a claim's adjudication, as indicated on the claim's data record.

The **"Adjudicated Ingredient Cost"** is the ingredient cost at which a claim was adjudicated, as indicated on the claim's data record.

The **"Average Wholesale Price"** or **"AWP"** means the average wholesale price of the Covered Drug, as set forth in the current price list in recognized sources such as Medispan's National Drug Data File if available, or other nationally recognized source determined by Medco. Under the Retail Pharmacy Program, AWP is based on the package size submitted, and for Compound Prescriptions is 1.25 times the AWP of each ingredient. Under the Mail Order Pharmacy Program, AWP is based on package sizes of 100 units for capsules and tablets, 16 oz. quantities for liquids, and the manufacturer's smallest available package size for injectable Covered Drugs (or the next closest package size if such quantities or sizes are not available), and all other Covered Drugs will be priced as individual units or smallest package size available (e.g., per vial, per suppository, etc.). If Medispan or other applicable source changes the methodology for calculating AWP or ceases publishing or replaces AWP, or Medco utilizes another recognized pricing source or a pricing benchmark other than AWP, in a way that changes the economics of the Program, the parties agree to modify the Program Pricing Terms to preserve the parties' relative economics before such changed methodology or other event.

A **"Brand"** Name Drug or claim means all single-source brand and multisource brand drugs as set forth in First Databank's National Drug Data File or such other nationally recognized source, as reasonably determined by Medco. For the purpose of performance guarantee reconciliations, with the claims data, Brand claims will be identified as claims with a "Drug Indicator" (Claims Data Layout Seq 110) other than "Y".

A **"Covered Drug(s)"** means drugs which, under state or federal law, require a prescription, including Compound prescriptions. Excluded from Covered Drugs are (i) cosmetic drugs, (ii) appliances, devices, bandages, heat lamps, braces, splints, and artificial appliances, (iii) health and beauty aids, cosmetics and dietary supplements and (iv) OTC products ("Exclusions"). Additional Covered Drugs and/or Exclusions applicable to any individual Group will be designated by SPONSOR in the applicable Plan Design.

A **"Dispense As Written"** or **"DAW"** claim is a prescription drug claim that an authority external to the member and PBM – e.g., the prescribing provider or state law – has mandated be dispensed as prescribed without substitutions.

A **"Generic"** drug or claim means a generic drug set forth in First Databank's National Drug Data File, or such other nationally recognized source, as reasonably determined by Medco. For the purpose of performance guarantee reconciliations, with the claims data, Generic claims will be identified as claims with a "Drug Indicator" (Claims Data Layout Seq 110) of "Y". All generics, including single source generics are included as part of the performance guarantee reconciliations.

The **"Ingredient Cost"** of a claim will be whichever of the discounted AWP (AWP-%), U&C, or MAC price that minimizes the following formula:

$$[AWP-\%|U\&C|MAC] + \text{applicable dispensing fee} + \text{applicable Sales Tax}$$

"MAC" or **"Maximum Allowable Cost"** consists of a list of off-patent drugs subject to maximum allowable cost payment schedules developed or selected by Medco. The payment schedules specify the maximum unit ingredient cost payable by SPONSOR for drugs on the MAC list. The MAC list and payment schedules are frequently updated. Claims for which the U&C price is lower than the (MAC price + applicable Dispensing Fee) will not be adjudicated as MAC claims.

"Member" means each person who Sponsor determines is eligible to receive prescription drug benefits.

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A "Member's Copayment" will be the lesser of:

1. Ingredient Cost + applicable dispensing fee + applicable Sales Tax, U&C, or
2. Applicable Copay.

"Participating Pharmacy" means a retail pharmacy that has entered into an arrangement with Medco that specifies the terms and conditions of the pharmacy's participation, including the rates that Medco will pay the pharmacy to participate in Medco's Broad National Network servicing Sponsor's Program

A "Paid" claim is defined as a claim that has been paid (net of any adjustments) and not reversed, denied, or voided. Claims that have been reversed, denied, or otherwise voided are not Paid claims. A claim status of "Paid" is not a sufficient criterion to identify a paid claim. Specifically, a paid claim will have a status of "Paid" where no reversing, denying, or voiding record exists. This definition includes zero balance claims, as long as they have not been reversed, denied, voided, etc.

A claim's "Sales Tax" is the Sales or excise tax or other governmental surcharge, if any.

"Usual and Customary" or "U&C" means the lowest net price a cash paying customer would have paid the day the prescription was dispensed at the dispensing pharmacy inclusive of all applicable discounts.

1.1 Sponsor Audits

Medco will maintain all claims records relating to services performed under this agreement as required by applicable law. Such claims records will be in their original form, on microfilm, microfiche or other form determined by Medco. Sponsor claims records may be audited by Sponsor or its representative reasonably acceptable to Medco, subject to execution of a confidentiality agreement, for a maximum period of twenty-four (24) months prior to the agreed upon audit date at no cost. Sponsor may conduct an audit once annually from January through September on an agreed upon date. If Sponsor decides to perform a non-standard audit or if Sponsor requests more than one audit per year there would be a charge associated. Medco may retain copies of such claims records for its own use.

Sponsor will receive a claims detail layout (CDL) on a bi-weekly basis which includes claims detail for all paid claims as well as adjustments. To ensure the accuracy of these files, Medco performs a balancing verification process that ensures that the totals of all claims and adjustments found on the bi-weekly file agree to the totals determined by the invoicing system. These files can be used by the Sponsor to reconcile the claims during an audit. The CDL file is provided in the industry standard layout which can be opened via standard database software and Vendor agrees that it will not require Sponsor or Sponsor's auditor to purchase any other third-party licenses other than the cost of such database software. The CDL file has all of the standard fields necessary to perform a claims audit. If Sponsor finds that they require additional fields to perform their audit, Medco will work with Sponsor to provide the necessary fields to complete the audit. Sponsor represents that, as of the effective date of this Agreement, Vendor's CDL file provides all necessary fields required to perform an audit and is in a format that does not require any additional costs to complete such audit. If, Sponsor requires that the Vendor's CDL file be customized in any way beyond the standard layout, there may be an additional charge.

Any audit of Medco's agreements with pharmaceutical manufacturers may be conducted by a top 100 public accounting firm approved by Medco whose audit department is a separate stand alone function of its business and that carries insurance for professional malpractice of at least \$2,000,000. The audit will include only those portions of the pharmaceutical manufacturer agreements as necessary to determine Medco's compliance with Medco's offer in respect to Total Rebates. The audit may be conducted once annually from January through September, at Medco's offices as scheduled by agreement of the parties, but not sooner than ninety (90) days after execution of a confidentiality agreement.

Any auditor performing an audit will warrant and represent that it is not providing Litigation Services to any person or entity in connection with any lawsuit, investigation, or other proceeding that is pending or contemplated against Medco. "Litigation Services" include (a) examining pharmacy claims or any other documents or information, or (b) providing advice, analysis, and/or opinions as a disclosed or undisclosed expert or consultant. The auditor must agree that, for a period of one (1) year after completion of the audit, it will not provide Litigation Services in any

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lawsuit, investigation, or other proceeding brought against Medco, except for Litigation Services to Sponsor in any proceeding against Medco.

Tricast may act as Sponsor's claim auditor provided they sign a confidentiality agreement with Medco and they are in compliance with the paragraph above.

Upon request, Sponsor will furnish its most recent audited financial statement to Medco.

1.1 Sponsor Data Requests

(a) The Confidential Information of a party (the "disclosing party") which is disclosed to the other party (the "receiving party") will be held by the receiving party in strictest confidence at all times and will not be used by the receiving party (or its affiliates, employees, officers, directors or limited liability company managers ("Representatives")) for any purpose not previously authorized by the disclosing party, except as necessary for Medco to perform the services under this Agreement. The Confidential Information of the disclosing party will not be disclosed or divulged by the receiving party to anyone, except with the prior written permission of the disclosing party and on the condition that the party to whom the Confidential Information is disclosed has first executed a confidentiality agreement with Medco. The receiving party may disclose the Confidential Information to those of its Representatives who need to review the Confidential Information for the purposes authorized by the disclosing party but only after the receiving party has informed them of the confidential nature of the Confidential Information and directs them to treat the Confidential Information in accordance with the terms of this Agreement. The disclosing party retains all right, title and interest in and to its Confidential Information.

The term "Confidential Information" includes, but is not limited to, any information of either the receiving or disclosing party (whether oral, written, visual or fixed in any tangible medium of expression), relating to either party's services, operations, systems, programs, inventions, techniques, suppliers, customers and prospective customers, contractors, cost and pricing data, trade secrets, know-how, processes, plans, reports, designs and any other information of or relating to either party's business, including its therapeutic and disease management programs, but does not include information which (a) was known to the receiving party before it was disclosed to the receiving party by the disclosing party, (b) was or becomes available to the receiving party from a source other than the disclosing party, provided such fact is evidenced in writing and the source is not bound by a confidentiality obligation to the disclosing party, or (c) is developed by the receiving party independently of the disclosing party's Confidential Information, provided that such fact can be documented. Each party will also keep the terms of this Agreement confidential as Confidential Information, except as required by law or regulation.

If the receiving party is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand, any informal or formal investigation by any government or governmental agency or authority, law or regulation, or otherwise) to disclose any of the Confidential Information, the receiving party will notify the disclosing party promptly in writing so that the disclosing party may seek a protective order or other appropriate remedy or, in its sole discretion, waive compliance with the terms of this Agreement. The receiving party agrees not to oppose any action by the disclosing party to obtain a protective order or other appropriate remedy. If no such protective order or other remedy is obtained, or the disclosing party waives compliance with the terms of this Agreement, the receiving party will furnish only that portion of the Confidential Information which it is advised by counsel is legally required and will exercise its reasonable best efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

(b) Sponsor and Medco may not utilize the service marks, trademarks, or tradenames of any other party to this Agreement, or any service marks, trademarks, or tradenames so similar as likely to cause confusion, without express written approval of such other party. The programs implemented by Medco will remain the sole property of Medco and will only be used by Sponsor in connection with the Program and so long as Medco administers the Program.

(c) Medco and Sponsor will comply with all applicable laws and regulations regarding patient confidentiality as provided in the Business Associate Agreement between the parties. Medco will not furnish any Sponsor identifiable data or information to any third party without the written consent of Sponsor, except as reasonably necessary to implement and operate the Program and fulfill its obligations pursuant to this Agreement or as required by applicable law. The restrictions set forth in this Section will not apply to claims data or information which is not

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identifiable on a Sponsor basis.

(d) Medco may not condition its provision of data to Sponsor upon restricting Sponsor's use of the data. Sponsor may make any reasonable use of its data that does not endanger Medco's legitimate interest in its trade secrets; provided, however, the data will not be disclosed to any third party unless such third party has executed a confidentiality agreement with Medco. Specifically, Sponsor may use its data including, but not limited to, for the following purposes:

6. Sponsor may undertake comparative or competitive pricing analyses, including comparisons with other providers of pharmacy benefit management services
7. Sponsor may perform analyses using claims associated with individual members, pharmacies, or physicians
8. Sponsor may perform analyses using any financial fields (AWP, Ingredient Cost, Dispensing Fee, Sales Tax, Allowed Amount, Copay, other member-pay fields, Paid, etc.)
9. Sponsor may perform analyses using the pricing components of claims, such as discounted AWP, MAC, or U&C
10. Sponsor may undertake an analysis of plan design features applicable to claims (formulary content and type, utilization management programs, clinical management programs, etc.)

Vendor cannot prohibit Sponsor (or third parties providing analytic services for Sponsor, unless such third party has not signed a confidentiality agreement with Medco) from presenting Sponsor with objective analyses of and professionally-grounded opinions about past Vendor performance and suggested future action.

Vendor recognizes that, in the event Sponsor engages in a competitive bid process to procure a new pharmacy benefit management services vendor, Sponsor, will request a specific data set from Medco so that competing bidders can use past experience to develop the most competitive proposals. In the event Sponsor engages in such a competitive bid process, Vendor recognizes that Sponsor may release (from the specific data set provided by Medco) the following claims fields at individual claim level and Medco will provide such data set subject to Sponsor's vendor signing a confidentiality agreement with Medco.

- NDC
- Fill Date
- Quantity Dispensed
- Days Supply
- Retail/Mail Indicator
- Generic/Brand/Specialty Indicator
- DAW Indicator
- Internal/External Dispensing Indicator
- NABP/NCPDP of dispensing pharmacy
- Various enrollment subdivisions

During such competitive bid processes, Vendor also recognizes that Sponsor may release aggregated reports based on the records of claims, such as but not limited to:

- Experience period NDCs
- Experience period dispensing pharmacies
- Experience period member zip codes
- Current formulary placement of NDCs
- Any aggregate of the claim fields described above

Vendor acknowledges that the aforementioned fields are typical and customary fields across trade usage in processing claims to manage pharmacy benefits, and no information revealed or ascertainable through those fields can reveal any protectable interest in a legitimate trade secret.

1.1 Pharmacy Program Fees

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For each claim, Sponsor will pay to Vendor:

The lowest of (i) the pharmacy's usual and customary price, as submitted ("U&C") plus applicable taxes, (ii) the maximum allowable cost ("MAC"), where applicable, plus the Dispensing Fee plus applicable taxes, or (iii) AWP less the AWP discount and Dispensing Fee plus applicable taxes less the Member's Copayment

* Dispensing fees will not be charged on claims adjudicated at U&C or OTC claims.

For each Covered Drug claim, member will be charged:

Member's Copayment.

Sponsor will pay to Vendor the PEPM admin fees listed in the table below:

Year	PEPM Admin Fee
2012	\$1.53
2013	\$1.53
2014	\$1.53

Vendor will not pass to Sponsor the costs of payments to Tricast for the "one-time data processing fee" separate from the terms listed in this memo – i.e. Vendor will either absorb these fees out of margin or has loaded revenue into the admin fees or other terms in this memo.

1.1 Pricing Term Guarantees

Vendor agrees to calculate dollar-for-dollar discount, dispensing fee, and rebate guarantees. If discount, dispensing fee, or rebate performance falls short of Vendor's guarantees, Medco will prepare a true-up one hundred and eighty (180) days following the end of each contract year and, if applicable. Vendor will credit Sponsor 100% of the shortfall – i.e., on a dollar-for-dollar basis – as defined below.

1.1.1.1 Discounts

Vendor agrees to the following minimum average claim discount (off of post-Settlement AWP) guarantees:

		Post-AWP Settlement Minimum Discount Guarantees	
Year	Type	Retail	Mail
Year 1	Generic	71.4%	73.75%
	Brand	15.3%	22.7%
	Specialty*	11.57%	14.0%
Year 2	Generic	71.9%	74.75%
	Brand	15.3%	22.7%
	Specialty*	11.57	14.0%
Year 3	Generic	72.4%	75.75%
	Brand	15.3%	22.7%
	Specialty*	11.57	14.0%

* Please refer to the specialty offer

Discount performance measures will be calculated for each of the following guarantee categories in each contract year:

1. Retail/Generic
2. Retail/Brand
3. Retail/Specialty
4. Mail/Generic
5. Mail/Brand
6. Mail/Specialty

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In each contract year and for each of these categories, the performance measure will be calculated using the following formula:

$$1 - \left(\frac{\text{The sum of Adjudicated Ingredient Cost for audit period, Paid claims excluding claims adjudicated at U\&C, excluding compound claims, and excluding OTC claims}}{\text{The sum of AWP for audit period, Paid claims excluding claims adjudicated at U\&C, excluding compound claims, and excluding OTC claims}} \right)$$

If for any guarantee category the performance measure is strictly less than the associated average discount guarantee, Vendor will pay Sponsor a performance shortfall payment to be calculated using the following formula:

$$([\text{Average discount guarantee}] - [\text{performance measure}]) * [\text{The sum of AWP for audit period, Paid claims excluding claims adjudicated at U\&C, excluding compound claims, and excluding OTC claims}]$$

Any such performance shortfall payments are independent of any limitations. No penalty or performance shortfall payment limitation language can be interpreted as limiting or reducing average discount guarantee performance shortfall payments. For the Retail claims (both Brand and Generic) discount and dispensing fee guarantees will be reconciled in aggregate. Mail discount categories will be reconciled independently of one another. Other than as described above, all discount guarantees will be reconciled independently from all other guarantees. For guarantees reconciled independently, if Vendor performance in one category exceeds the guarantee, associated Sponsor savings will not be used to offset shortfalls associated with any other guarantee category.

1.1.1.1 Zero balance claims will be included in the discount guarantee reconciliations at the calculated ingredient cost before member copayment.

Vendor agrees to the following maximum average claim dispensing fee guarantees:

		Maximum Dispensing Fee Guarantees	
Year	Type	Retail	Mail
Year 1	Generic	\$1.00	\$0.00
	Brand	\$1.00	\$0.00
	Specialty	\$1.00	\$0.00
Year 2	Generic	\$1.00	\$0.00
	Brand	\$1.00	\$0.00
	Specialty	\$1.00	\$0.00
Year 3	Generic	\$1.00	\$0.00
	Brand	\$1.00	\$0.00
	Specialty	\$1.00	\$0.00

Dispensing fee performance measures will be calculated for each of the following categories in each contract year:

1. Retail/Generic
2. Retail/Brand
3. Retail/Specialty
4. Mail/Generic
5. Mail/Brand
6. Mail/Specialty

In each contract year and for each of these categories, the performance measure will be calculated using the following formula:

$$\frac{\text{The sum of Adjudicated Dispensing Fees for audit period, Paid claims}}{\text{The count of audit period, Paid claims excluding claims adjudicated at U\&C, and excluding OTC claims}}$$

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If for any guarantee category the performance measure is strictly greater than the associated average dispensing fee guarantee, Vendor will pay Sponsor a performance shortfall payment to be calculated using the following formula:

$$([\text{Performance measure}] - [\text{Average dispensing fee guarantee}]) * [\text{The count of audit period, Paid claims excluding claims adjudicated at U\&C, and excluding OTC claims}]$$

Any such performance shortfall payments are independent of any limitations. No penalty or performance shortfall payment limitation language can be interpreted as limiting or reducing average dispensing fee guarantee performance shortfall payments.

1.1.1.1 For the Retail claims (both Brand and Generic) discount and dispensing fee guarantees will be reconciled in aggregate. Mail discount and dispensing fee categories will be reconciled independently of one another. Other than as described above, all discount and dispensing fee guarantees will be reconciled independently from all other guarantees. For guarantees reconciled independently, if Vendor performance in one category exceeds the guarantee, associated Sponsor savings will not be used to offset shortfalls associated with any other guarantee category.

Medco will assume all of the risks associated with negotiating and contracting with participating pharmacies. Medco will be responsible for any amounts that we owe participating pharmacies that exceed the reimbursement it receives, and will retain any reimbursement we receive that exceeds the amounts we are obligated to pay the participating retail pharmacies.

1.1.1.1 Rebates

Medco will provide SPONSOR with the greater of (i) 100% of the Total Rebates received by Medco based on the dispensing of each manufacturer's formulary drugs under SPONSOR's Program or (ii) the Minimum Rebate Guarantees (as noted below):			Minimum Rebate Guarantees	
Year	Type	ER Paid	Retail	Mail
Year 1	Generic	Non Zero Balance	\$0.00	\$0.00
		Zero Balance	\$0.00	\$0.00
	Brand Claims (Rebateable and Non-Rebateable)	Non Zero Balance	\$12.19	\$35.79
		Zero Balance	\$12.19	\$35.79
	Specialty	Non Zero Balance	\$0.00	\$0.00
		Zero Balance	\$0.00	\$0.00
Year 2	Generic	Non Zero Balance	\$0.00	\$0.00
		Zero Balance	\$0.00	\$0.00
	Brand Claims (Rebateable and Non-Rebateable)	Non Zero Balance	\$12.80	\$39.41
		Zero Balance	\$12.80	\$39.41
	Specialty	Non Zero Balance	\$0.00	\$0.00
		Zero Balance	\$0.00	\$0.00
Year 3	Generic	Non Zero Balance	\$0.00	\$0.00
		Zero Balance	\$0.00	\$0.00

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Medco will provide SPONSOR with the greater of (i) 100% of the Total Rebates received by Medco based on the dispensing of each manufacturer's formulary drugs under SPONSOR's Program or (ii) the Minimum Rebate Guarantees (as noted below):			Minimum Rebate Guarantees	
Year	Type	ER Paid	Retail	Mail
	Brand Claims (Rebateable and Non-Rebateable)	Non Zero Balance	\$12.01	\$32.00
		Zero Balance	\$12.01	\$32.00
	Specialty	Non Zero Balance	\$0.00	\$0.00
		Zero Balance	\$0.00	\$0.00

The Minimum Rebate Guarantees for each contract quarter will be paid no later than three months following the end of the quarter. Complete and timely payment of all rebates is a specific requirement of this contract, notwithstanding any other dispute or amounts due either party. Payment of all rebates due to Sponsor will survive termination of this agreement.

Rebate performance measures will be calculated in aggregate. In each contract year and the performance measure will be calculated using the following formula:

$[\$0.00 \text{ if Year 1, } \$0.00 \text{ if Year 2, } \$0.00 \text{ if Year 3}] * [\text{The count of audit period, retail Generic Paid non zero balance claims excluding OTC claims}] +$
 $[\$0.00 \text{ if Year 1, } \$0.00 \text{ if Year 2, } \$0.00 \text{ if Year 3}] * [\text{The count of audit period, retail Generic Paid zero balance claims excluding OTC claims}] +$
 $[\$12.19 \text{ if Year 1, } \$12.80 \text{ if Year 2, } \$12.01 \text{ if Year 3}] * [\text{The count of audit period, retail Brand Paid non zero balance claims excluding OTC claims}] +$
 $[\$12.19 \text{ if Year 1, } \$12.80 \text{ if Year 2, } \$12.01 \text{ if Year 3}] * [\text{The count of audit period, retail Brand Paid zero balance claims excluding OTC claims}] +$
 $[\$0.00 \text{ if Year 1, } \$0.00 \text{ if Year 2, } \$0.00 \text{ if Year 3}] * [\text{The count of audit period, retail Specialty Paid non zero balance claims excluding OTC claims}] +$
 $[\$0.00 \text{ if Year 1, } \$0.00 \text{ if Year 2, } \$0.00 \text{ if Year 3}] * [\text{The count of audit period, retail Specialty Paid zero balance claims excluding OTC claims}] +$
 $[\$0.00 \text{ if Year 1, } \$0.00 \text{ if Year 2, } \$0.00 \text{ if Year 3}] * [\text{The count of audit period, mail Generic Paid non zero balance claims excluding OTC claims}] +$
 $[\$0.00 \text{ if Year 1, } \$0.00 \text{ if Year 2, } \$0.00 \text{ if Year 3}] * [\text{The count of audit period, mail Generic Paid zero balance claims excluding OTC claims}] +$
 $[\$35.79 \text{ if Year 1, } \$39.41 \text{ if Year 2, } \$32.00 \text{ if Year 3}] * [\text{The count of audit period, mail Brand Paid non zero balance claims excluding OTC claims}] +$
 $[\$35.79 \text{ if Year 1, } \$39.41 \text{ if Year 2, } \$32.00 \text{ if Year 3}] * [\text{The count of audit period, mail Brand Paid zero balance claims excluding OTC claims}] +$
 $[\$0.00 \text{ if Year 1, } \$0.00 \text{ if Year 2, } \$0.00 \text{ if Year 3}] * [\text{The count of audit period, mail Specialty Paid non zero balance claims excluding OTC claims}] +$
 $[\$0.00 \text{ if Year 1, } \$0.00 \text{ if Year 2, } \$0.00 \text{ if Year 3}] * [\text{The count of audit period, mail Specialty Paid zero balance claims excluding OTC claims}]$

Medco will credit the amount specified by the following formula (if positive) against future billings to SPONSOR under the Program one hundred eighty (180) days after the end of each Contract Year:

$\text{MAX}([\text{SPONSOR'S percentage share of Total Rebates for any Contract Year during the Initial Term}], [\text{Performance measure}]) - [\text{actual rebates paid for the audit period}]$

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Any such performance shortfall payment is independent of any limitations. No penalty or performance shortfall payment limitation language can be interpreted as limiting or reducing average rebate guarantee performance shortfall payment.

These rebate guarantees will be reconciled independently of all other guarantees. Actual rebates exceeding the guaranteed rebates will not be used to offset performance shortfalls associated with any other guarantee.

1.1 Generic Classification Guarantee

Vendor agrees that all NDCs classified as a Generic in Attachment A will always be classified as a Generic for the term of this agreement. If, at any point during the term of this agreement, an NDC classified as a Generic is classified as a Brand Name Drug, Sponsor will notify Vendor and Vendor will credit Sponsor on a dollar-for-dollar basis using the methodology defined below. Vendor agrees to dollar-for-dollar generic classification guarantees. If performance falls short of guarantees, Vendor will credit the shortfall on a dollar-for-dollar basis as defined below.

The performance measure will be calculated using the following formula:

[The count of audit period, Paid Brand claims with an NDC code guaranteed to be adjudicated as a generic as defined in Attachment A]

If the performance measure is strictly greater than zero, Vendor will pay Sponsor a performance shortfall payment to be calculated using the following formula:

[The sum of <gross brand cost> for all audit period, Paid Brand claims with an NDC code guaranteed to be adjudicated as a generic as defined in Attachment A] – [The sum of <gross generic cost> for all audit period, Paid Brand claims with an NDC code guaranteed to be adjudicated as a generic as defined in Attachment A]

where:

<gross brand cost> = [Adjudicated Ingredient Cost] + [Adjudicated Dispensing Fee] + [Sales Tax]

<gross generic cost> = [AWP]*(1 – [Average retail/mail generic discount guarantee]) + [Average retail/mail generic dispensing fee guarantee] + [Sales Tax]*{[AWP]*(1 – [Average retail/mail generic discount guarantee])/[Adjudicated Ingredient Cost]}

Any such performance shortfall payments are independent of any payment limitations. No penalty or performance shortfall payment limitation language can be interpreted as limiting or reducing generic classification guarantee performance shortfall payment.

These generic classification guarantees will be reconciled independently from all other guarantees. If Vendor generic classification performance exceeds that which is guaranteed, associated Sponsor savings will not be used to offset shortfalls associated with any other guarantee.

1.1 Drug Mix Guarantee

Vendor agrees to the following dollar-for-dollar non-DAW generic dispensing rate (NDGDR) guarantees for claims:

- A Year 1 retail NDGDR of 72.00%
- A Year 1 mail NDGDR of 73.50%
- A Year 2 retail NDGDR of 75.50%
- A Year 2 mail NDGDR of 60.00%
- A Year 3 retail NDGDR of 63.00%
- A Year 3 mail NDGDR of 65.00%

If NDGDR performance falls short of guarantees, Vendor will credit the shortfall on a dollar-for-dollar basis as defined below.

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NDGDR performance measures will be calculated for each of the following categories:

1. Retail
2. Mail

For both of these categories, the performance measure will be calculated using the following formula:

$$\frac{[\text{The count of audit period, Paid, non-DAW, Generic claims, excluding OTC claims}]}{[\text{The count of audit period, Paid, non-DAW claims, excluding OTC claims}]}$$

Within 90 days after the end of each Contract Year, Medco will calculate and report the actual NDGDR under the Mail Order and Retail Pharmacy Programs. If for their retail or mail guarantee categories the performance measure is strictly less than the associated average NDGDR guarantee, Vendor will pay Sponsor a performance shortfall payment to be calculated using the following formula:

$$\text{MAX}\{([\text{Retail NDGDR guarantee}] - [\text{Retail performance measure}]) * [\text{The count of audit period, Paid, retail claims excluding OTC claims}] * [\text{Retail performance shortfall factor}] + ([\text{Mail NDGDR guarantee}] - [\text{Mail performance measure}]) * [\text{The count of audit period, Paid, mail claims}] * [\text{Mail performance shortfall factor}], 0\}$$

where mail and retail performance shortfall factors are calculated separately as:

$$[\text{Average Brand gross cost per script}] - [\text{Average Generic gross cost per script}]$$

where:

$$[\text{Average Brand gross cost per script}] = \frac{[\text{The sum of Adjudicated Ingredient Cost, Adjudicated Dispensing Fee, and Sales Tax for audit period, Paid, Brand claims excluding OTC claims}]}{[\text{The count of audit period, Paid, Brand claims excluding OTC claims}]}$$

$$[\text{Average Generic gross cost per script}] = \frac{[\text{The sum of Adjudicated Ingredient Cost, Adjudicated Dispensing Fee, and Sales Tax for audit period, Paid, Generic claims excluding OTC claims}]}{[\text{The count of audit period, Paid, Generic claims excluding OTC claims}]}$$

Any such performance shortfall payments are independent of any limitations. No penalty of performance shortfall payment limitation language can be interpreted as limiting or reducing NDGDR guarantee performance shortfall payments.

These NDGDR guarantees will be reconciled independently of all other guarantees. Any surplus in one channel (Retail Pharmacy or Mail Order) may offset a penalty in the other channel for a given Contract Year. If Vendor NDGDR performance exceeds that which is guaranteed, associated Sponsor savings will not be used to offset shortfalls associated with any other guarantee.

In accordance with accepted pharmacy procedures, Medco shall encourage the use of Generic Drugs over Brand Drugs by Covered Persons and their prescribers by engaging in activities including explaining the benefits of using Generic Drugs in brochures and informing Covered Persons when Generic Drugs become available as a substitute for Brand Drugs.

Sponsor agrees to assist Medco in communicating to Covered Persons the benefits of using appropriate and available Generic Drugs, and permits Medco to implement, from time-to-time, reasonable generic dispensing programs designed to increase Sponsor's GDR. Such programs may include, but are not limited to, developing a physician contact program in which, for prescriptions written for Brand Drugs in which a Generic Drug is available, a Medco pharmacist may contact the prescribing physician to obtain authorization to dispense a Generic Drug.

If government actions or acts or omissions by any drug manufacturer or Sponsor (including a material change in Plan Design) has a material adverse effect on the prescribing of Generic Drugs, Sponsor, and Medco will modify the

target GDRs and/or penalty provisions set forth in this Section on an equitable basis.

The Drug Mix performance guarantee will be subject to the following conditions:

1. Current utilization management programs or materially similar ones will remain in place.
2. The agreed to formulary will remain in place.
3. Employer demographics and geography will remain reasonably consistent.
4. Benefit design changes will not reduce the co-payment advantage of generics over brands or reduce the availability of generics.

4.1 Reconciliation and Payment Terms

Vendor shall actually deliver all performance shortfall payments to Sponsor no later than 30 calendar days after the date of the performance shortfall payment calculations.

1.1 Written Agreement Required to Revise Contract Terms

Notwithstanding any agreement between the parties to the contrary, if either party reserves the right to modify any essential term of this contract, (including any price, price index, rebate, discount, or guarantee terms), then any such modification must be in writing and signed by both parties, and must be negotiable. Both parties shall negotiate, approve, or deny modifications in good faith. Neither party can unreasonably deny a proposed modification, or deny a proposed modification in bad faith. If the parties are unable to reach agreement over such modification within 30 days of the notice, then either party may terminate the agreement with 90 days' notice to the other party, without forfeiting any other right or obligation in this agreement. Under such termination, the terms of the contract will be construed without the proposed modification.

Consistent with the terms above, Medco reserves the right to make changes to the program pricing terms in response to Sponsor's actions or third party actions outside of Medco's control (i.e., inclusion of Eligible Persons or Groups with Covered Drugs funded less than 50% by Sponsor, modifications of plan design or Program specifications, a decrease in Minimum Enrollment, a government action, change in law or regulation, change in the interpretation of law or regulation, or action by any drug manufacturer or by Sponsor.)

If a government action, change in law or regulation, change in the interpretation of law or regulation or action by any drug manufacturer or by Sponsor has a material adverse effect on the availability of Formulary Rebates, Medco may modify, as applicable, the Formulary Rebates due Sponsor or the Guaranteed Rebates.

Any changes made to the program pricing terms or Rebates will be limited to the extent of such Sponsor or third party action. In addition, prior to making any contractual changes, Medco will provide the calculations or rationale behind such changes. If Medco doesn't adhere to the terms of this paragraph, Sponsor may pursue remedies under the breach of contract provision contained herein.

SCHEDULE C

INDEPENDENT REVIEW ORGANIZATION SERVICES

This Schedule C sets forth the decision of SPONSOR concerning its and Medco's roles and responsibilities in support of SPONSOR's compliance with the regulations promulgated under Section 2719 of the Public Health Service Act governing internal claims and appeals and external review processes (the "Claims and Appeals Regulations").

To facilitate SPONSOR's meeting its obligations under the Claims and Appeals Regulations regarding external review processes, and otherwise to meet SPONSOR's needs, Medco has entered into an arrangement with the independent review organizations (each, an "IRO," collectively "IROs") listed on this Schedule C, which have been accredited by a nationally recognized private accrediting organization. The IROs will accept, on SPONSOR's behalf, authority to conduct an independent, external review of an adverse benefit determination and to issue a final external review decision. SPONSOR delegates to the IROs the administration of external reviews as specified by the Claims and Appeals Regulations. SPONSOR has requested that, and authorizes Medco to, provide to the IROs the appeal files and other related information necessary for the IROs to conduct external reviews and to bill SPONSOR for the fees incurred by the IROs in conducting such reviews, as set forth below. Medco will assign external reviews to the IROs on a rotating basis (or other method that Medco believes in good faith to be in compliance with the Claims and Appeals Regulations).

As conditions to this arrangement:

1. SPONSOR acknowledges that it, and not Medco, is responsible for determining the independence and/or appropriateness of IROs to handle any external appeals on behalf of SPONSOR and for ensuring an effective external review process. SPONSOR acknowledges that Medco is providing the IRO arrangements for the convenience of SPONSOR, that Medco is not recommending use of any particular IRO, and that SPONSOR retains the obligation to ensure SPONSOR's obligations (including fiduciary obligations under ERISA, if applicable) are satisfied when selecting, retaining, or otherwise using any IRO to ensure an effective external appeals process.
2. SPONSOR shall take such further reasonable actions, execute or provide such other reasonable documents or instructions, and adopt such amendments to the Plan as reasonably determined to be necessary or appropriate by SPONSOR, Medco, or the IRO to carry out the purpose and intent of this arrangement, including entering into or signing an appropriate delegation of fiduciary duty and responsibility letter/agreement with the IRO.
3. Medco is not responsible for eligibility determinations under the PBM Services Agreement and an adverse benefit determination with respect to a claim or appeal made by Medco will not be based on the claimant's failure to meet the requirements for eligibility. Assuming that claimant exhausts the internal review process, or has a claim or appeal that is eligible for an accelerated external review, such adverse benefit determination will be eligible for external review, or effective September 20, 2011, and until such time as may be otherwise required under the Claims and Appeals Regulations, such adverse benefit determination will be submitted to the IRO for its determination that the claim is eligible for continued external review (i.e. a claim involving medical judgment or rescission) and, to the extent eligible for full external review, full external review by the applicable IRO.
4. SPONSOR shall pay to the IROs the fees set forth on this Schedule C. The IROs shall bill SPONSOR directly. In the event SPONSOR does not pay the IRO(s) for services, the IROs may pursue payment against SPONSOR directly (and the IRO may receive a copy of this Agreement in the event any IRO is required to seek such payment from SPONSOR).
5. The pricing and/or services for any or all of the IROs may change in the future. In such event, Medco will notify SPONSOR in writing of such changes. In order to ensure continuity of services, SPONSOR will be

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deemed to have agreed to continue to utilize the services of such IRO(s) at the new price(s) and/or conditions unless SPONSOR notifies Medco in writing within ten (10) days after receiving Medco's notice that SPONSOR is terminating this IRO arrangement as set forth in Section 8 below.

6. The pricing set forth in this Schedule C is based upon applicable law and regulations in effect as of September 20, 2011. Any modification of applicable law or regulation may result in equitable modification of the pricing terms.
7. Medco may offer SPONSOR the opportunity to access the external review services of additional IROs. In the event Medco does so, SPONSOR agrees to access the services of any additional IROs in accordance with the provisions of this Schedule C. However, nothing in this Agreement shall require Medco to offer access to additional external review services.
8. SPONSOR may terminate this IRO arrangement upon ten (10) days' prior written notice to Medco. Medco may terminate the IRO arrangement upon thirty (30) days' prior written notice to SPONSOR (as to any or all of the IROs) or as otherwise provided in this Agreement or as permitted by law, and may suspend this IRO arrangement in the event of non-payment for services upon written notice to SPONSOR.

INDEPENDENT REVIEW ORGANIZATION FEE SCHEDULE

SECTION A. ALICARE MEDICAL MANAGEMENT, INC.

Note to SPONSOR: As of the date of this Agreement, Alicare provides certain services to Medco under a contract unrelated to the IRO services provided hereunder. Under that contract, Alicare provides certain utilization review decisions for a select population in a small number of states.

1. Physician/Clinical Reviews:
 - a. Standard turnaround time: \$195 or \$225 per hour depending upon specialty
 - b. Expedited turnaround time: \$225 or \$275 per hour depending upon specialty
2. Non-Clinical Reviews:
 - a. Lawyer reviews: \$250 per hour
 - b. Non-lawyer reviews: \$100 per hour
3. Litigation Costs for Court Appearances:
 - a. Standard rate: \$3,600 per participant per day plus travel expenses
 - b. Cancellation fees based on a percentage of the standard daily rate depending upon the number of business days' advance notice of the cancellation:
 - i. More than 14 business days' notice – 0% charged
 - ii. 10 to 14 business days' notice – \$720
 - iii. 7 to 9 business days' notice – \$720
 - iv. 4 to 6 business days' notice – \$1,800
 - v. 2 to 3 business days' notice – \$2,880
 - vi. Less than 2 business days' notice – \$3,600
4. Litigation Costs (pre-trial preparation): \$400 per hour per person subject to approval for more than ninety (90) minutes of preparation time
5. Hourly rates are billed in six (6) minute increments (0.1 hour)
6. External Appeal Screening (for Standard Turnaround and Expedited Turnaround) to Determine if Claim Involves Medical Judgment or Rescission of Coverage and is Eligible for a Full External Review: \$100 per case will be charged only if claim is *not* eligible for a full external review. \$100 per case will *not* be charged if the claim is eligible for a full external review.

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SECTION B. LONE STAR CONSULTING SERVICES, INC. (D/B/A MES PEER REVIEW SERVICES)

1. Physician/Clinical Reviews (hourly: time and material):
 - a. Normal Business Days: \$260 per hour
 - b. Weekends/Holidays/All Expedited reviews: \$285 per hour
 - c. Administrative Fee: \$95 per case in addition to the hourly rates
2. Non-Clinical Reviews:
 - a. Lawyer reviews: \$350 per hour
 - b. Non-lawyer reviews: \$125 per case (fixed flat rate)
 - c. Administrative Fee: \$95 per case in addition to the hourly rate or fixed flat rate
3. Litigation Support Review Services:
 - a. Court appearances, administrative/arbitration hearings, expert witness testimony: \$1,000 per hour
 - b. Other litigation support (such as pre-trial conferences, depositions, other preparation): \$650 per hour
 - c. Other administrative services when applicable: \$75 per hour
 - d. MES will be reimbursed for all out of pocket expenses (including copying, postage, attorney, and other legal fees)
 - e. When travel is required for litigation support, "portal to portal" charges (up to twelve (12) hours per day), and reimbursement of all travel-related expenses, including airfare, lodging, and meals will apply
 - f. Cancellation of any litigation-related services: \$450 per hour for the amount of time reserved (in addition to any charges incurred in preparation)
4. Hourly rates are billed in fifteen (15) minute increments (0.25 hour)

SECTION C. CLINIX HEALTHCARE, INC.

1. Physician/Clinical Reviews:
 - a. Reviewer rate: \$210 per hour
 - b. Administrative Review Fee: \$98 per hour in addition to the hourly reviewer rate
2. Non-Clinical Reviews:
 - a. Lawyer reviews: \$400 per hour
 - b. Non-lawyer reviews: \$98 per hour
 - c. Administrative Review Fee: \$98 per hour in addition to the reviewer rates (a or b)
3. Litigation Costs for Court Appearances:
 - a. Standard rate: \$1,800 per participant per day plus travel expenses
 - b. Cancellation fees based on the number of business days' advance notice of the cancellation:
 - i. More than 14 business days' notice – 0% charged
 - ii. 7 to 14 business days' notice – \$360
 - iii. 4 to 6 business days' notice – \$900
 - iv. 2 to 3 business days' notice – \$1,350
 - v. Less than 2 business days' notice – \$1,440
4. Litigation costs (pre-trial preparation): \$210 per hour per person subject to approval for more than ninety (90) minutes of preparation time
5. Hourly rates are billed in fifteen (15) minute increments (0.25 hour)

