

## FOUNDATION CLIENT PARTICIPATION AGREEMENT

THIS AGREEMENT (the "Agreement") dated November 29, 2005 by and between the American Pharmacists Association Foundation (the "Foundation"), a District of Columbia corporation, having offices at 2215 Constitution Avenue N.W., Washington D.C. 20037 and the City of Milwaukee (the "Client"), a Municipal corporation, having an address at 200 East Wells Street, Milwaukee, Wisconsin 53202.

WHEREAS, the Foundation desires to initiate the Ten City Challenge Diabetes Program (Diabetes Program) with employers and health care providers to train employees with diabetes to better manage their disease and utilize treatment regimens resulting in improved health and healthcare cost savings;

WHEREAS, GlaxoSmithKline. (the "Sponsor") sponsors this program

WHEREAS, the Client desires to engage the APhA Foundation Consultancy Services to implement the Diabetes Program with certain of its employees located in Milwaukee and with retirees in Wisconsin.

NOW THEREFORE, for good and valuable consideration as outlined in section 5 of this agreement, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions. The following terms shall have the meanings set forth below:

Affiliate means any corporate or non-corporate business entity that controls, is controlled by, or is under common control with a party to this Agreement. A corporation or non-corporate business entity shall be regarded as in control of another corporation or non-corporate business entity, if it possesses directly or indirectly, the power to direct or cause the direction of the management and policies of such corporation or non-corporate business entity, whether through voting, by contract or otherwise.

CDE means Certified Diabetes Educator.

Claim means any and all liabilities and expenses whatsoever including, without limitation, claims, adversary proceedings (whether before a court, administrative agency or any other tribunal), damages (whether compensatory, multiple, exemplary or punitive), judgments, awards, penalties, settlements, investigations, costs, and attorneys fees and disbursements.

Participant means an employee or beneficiary covered under the health plan of the Client who has enrolled in the Diabetes Program.

Credential means the diabetes self-management credential awarded to a Participant after the successful completion of training and testing under the Diabetes Program.

Educator means a pharmacist, physician, CDE or other health care provider who is a member of a Network or who a Network has arranged with to participate in the Ten City Challenge Diabetes Program.

Governmental Authority means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

Laws means all applicable provisions of all (i) constitutions, treaties, statutes, laws (including common law), rules, regulations, ordinances, codes or orders of any Governmental Authority, (ii) any consent, approval, authorization, waiver, permit, grant franchise, concession, agreement, license, exemption or order of registration, certificate, declaration or filing with, or report or notice to any Governmental Authority, (iii) orders, decisions, injunctions, judgments, awards, decrees of or agreements with any Governmental Authority.

Network means a legal entity whose membership consists of a collaborative group of Educators that enters into a Services Agreement with the Client.

Outcome Data means data that shows the impact on Participants, Clients, Networks and Educators and how the PSM: Diabetes Program has changed behavior and clinical outcomes and had an impact on costs, including without limitation A1c percentages, adherence to medication and therapy, hospital and emergency room costs, diabetes-related absenteeism and consumer satisfaction.

Diabetes Program means a training program, implemented through the workplace, for individuals with diabetes employed by or covered under participating employers, whereby through the coordinated efforts of employers, healthcare providers (including pharmacists, physicians, CDE's), health insurers and the provision of financial incentives to individuals, employers and healthcare providers, individuals with diabetes are educated using a standardized curriculum resulting in the award of a credential, to enable them to better manage their disease, resulting in healthier individuals, fewer hospitalizations, reduced medical expenses and reduced absenteeism.

Services Agreement means an agreement between a Network and a Client pursuant to the terms of which the Network shall educate, train and monitor Participants, or shall arrange for, coordinate and oversee the education, training and monitoring of Participants.

Term has the meaning given such term in Section 5.1.

2. Diabetes Program Elements. The parties hereto acknowledge and agree that the primary elements of the Diabetes Program are to develop and implement through the workplace a system of care for individuals with diabetes, including the following:

Identifying and enrolling Participants who have diabetes and are covered by the Client's health plan;

Identifying and entering into an agreement with a Network that will help Participants effectively manage their diabetes;

Conducting a preliminary assessment of each Participant's understanding of his/her disease for subsequent comparisons;

Conducting a preliminary assessment of each Participant's health;

Conducting an educational and skills training program for each Participant;

Assessing each Participant's knowledge, skills and performance of their diabetes management during the training program and awarding a Credential;

Establishing and maintaining a confidential data collection mechanism and data source that can track Outcome Data for purposes of developing statistical comparisons of improved health and total health care savings over the life of the Diabetes Program; and

Evaluating and reporting results of the Diabetes Program.

3. Foundation Undertakings and Agreements. In connection with the Diabetes Program, the Foundation agrees and undertakes to do the following:

Process of Care. The Foundation shall provide a process of care to be employed by the Networks and the Educators during the Diabetes Program and provide a written outline of the process of care to the Client for informational purposes and to Networks and Educators for implementation.

Recruit Educators. During the Term of this Agreement, the Foundation shall facilitate the identification, approach and recruitment of potential Networks and Educators by Clients for the Diabetes Program and the negotiation of Service Agreements with Networks.

Provide Curriculum. The Foundation shall provide a curriculum with which to educate Participants and prepare them to participate actively in the Participant's own diabetes treatment and care. The Foundation shall also provide a validated Credential to be awarded to each Participant upon their successful completion of the curriculum and

evaluation. The Foundation shall furnish the curriculum, the assessments and the Credential to the Client, the Networks and the Educators.

Coordinate with Networks and Educators. The Foundation shall facilitate the training of Educators to participate in the Diabetes Program and administer the curriculum and the process of care. The Foundation shall assist in identifying a coordinator at the Network to coordinate the administration of the process of care and the curriculum for the Client. The Foundation shall provide policies, procedures and forms for use by the Network and the Educators in administering the process of care, the curriculum and other aspects of the Diabetes Program. The Foundation shall furnish the policies, procedures and forms to the Networks and the Educators.

Website. The Foundation will provide access to a secure website for submission of Outcome Data by Networks and Educators.

Data Analysis. The Foundation shall collect Outcome Data, analyze it and provide periodic reports to the Client.

Recognition of Client. The Foundation shall designate the Client as a Ten City Challenge Diabetes Program Client during the Term of this Agreement. The Foundation shall provide analyzed Outcomes Data to the Client. The Foundation shall recognize and acknowledge the Client as a Diabetes Program Client, including, in:

the Foundation Focus Newsletter through articles announcing the Clients and pharmacy provider networks and the discussing the results obtained by the Foundation during the course of the PSM: Diabetes Program; and

the Foundation website, with links to the Client's website.

4. Client Undertakings and Agreements. In connection with the Diabetes Program, the Client agrees and undertakes to do the following:

Services Agreement with Network. The Client agrees to enter into Services Agreement with a Network to administer the process of care and curriculum to all Participant employed by Client. The Client agrees to abide by the terms of those agreements, including, without limitation, with respect to payments to the Network.

Promotion of and Enrollment in the Diabetes Program. The Client agrees to promote the Diabetes Program among its employees, including without limitation, through voluntary employee meetings and information sessions, over the Client's intranet or in a company newsletter. The Client agrees, in conjunction with the Network and the Educators, to offer voluntary diabetes diagnostic screenings. The Client agrees to enroll eligible employees and/or covered under the benefit in the Diabetes Program.

Incentives. The Client agrees to provide or cause to be provided incentives to Participant such as waived co-payments for diabetes medication and supplies.

Provide Data. Subject to the provisions of Section 4.7 below, the Client shall provide, or arrange or permit to be provided to the Foundation, Outcome Data related to inpatient and outpatient diabetes care costs and diabetes medication and supply costs.

Representative and Committee. The Client shall appoint a representative to communicate with the Foundation and the Network with respect to the Diabetes Program.

Expenses. The Client acknowledges and agrees that it shall be entirely responsible for all costs and expenses it incurs with respect to the Diabetes Program during the Term of this Agreement.

Patient Confidentiality and Regulatory Matters. Notwithstanding any other provision of this Agreement to the contrary, the Client shall not disclose any Participant identifiable information, including without limitation, Participant name, address, social security number, medical record number or any other information sufficient to identify a specific Participant, and the Client shall comply with all applicable federal and state laws, rules, and regulations regarding the privacy of personal health and other information of all Participant.

Outcome Data and Sponsor. The Client acknowledges and agrees that all de-identified Participant Outcome Data may be shared with the Sponsor and maybe externally published by either the Sponsor or the Foundation or both of them, and may be used by the Sponsor for commercial purposes.

Ownership. The Client acknowledges and agrees that all of the materials prepared by the Foundation for use in the Diabetes Program and, including without limitation the process of care, the curriculum, the test, the Credential are and shall remain the property of the Foundation. Those materials developed for internal use by the Client for the implementation of the Diabetes Program are and shall remain the property of the Client. Neither party shall use, disseminate, publish or permit to be published materials that are the property of the other without prior written consent.

## 5. Consideration.

5.1 Initial Consulting Fee. The initial consulting fee the Client is responsible for paying the Foundation is waived as part of the Ten City Challenge diabetes program.

5.2 On-going enrolled Client fee. The on-going enrollment fees (\$192/participant/year) the Client pays to the Foundation will be waived for the initial 12 months for the first 156 employees who are enrolled, or a credit not to exceed \$30,000 can be applied creating a pro-rated fee for the total enrolled population for the first year if the number exceeds 156 enrollees. After the 12 month program period, if the Client chooses to continue with the Diabetes

program, the Client agrees to pay \$192 enrollment fee for each Participant enrolled in the program for 12 months.

6. Term and Termination.

Term. Subject to an extension or early termination in accordance with the terms hereof, the term of this Agreement shall commence on the date hereof and continue for the duration of the Diabetes Program and a period of one year during which Outcome Data is compiled, but no later than December 31, 2006 (the "Term").

Extension. In the event that the parties determine that the Term of this Agreement should be extended, whether to allow for the gathering and compilation of additional data or to extend the Diabetes Program, the parties may agree to extend the Term of the Agreement for a reasonable period of time.

Termination. Either party may terminate this Agreement upon the occurrence of a material default hereunder and the continuation of such default for 30 days following written notice to the defaulting party.

Effect of Expiration or Termination. The termination or expiration of this Agreement shall not affect any rights or obligations of any party under this Agreement that are intended by the parties to survive such termination. Termination shall have no impact on the right of the Foundation to use Outcome Data.

7. Publication and Public Announcements.

Public Announcements. Neither the Client nor the Foundation shall make any public announcement, press release or other public statement, whether oral or written, concerning the execution or existence of this Agreement, the Diabetes Program, the Diabetes Program, performance of any of the terms of the Agreement without the prior written consent of the other, provided that either party shall be permitted to make such announcements that are required by law. The Client and the Foundation shall each afford the other at least five Business Days' advance notice during which time to examine and comment upon any public announcement, press release or other public statement.

Use of Name. Neither party shall, without the prior written approval of the other, use the name or logo of the other party or that of any of its affiliates, or imply the other party or any of its affiliates' identity, in any way whatsoever including without limitation in any advertising, promotional material, press release or publication, including without limitation, a publication described in Section 3.7. The Client and the Foundation shall each afford the other at least five Business Days' advance notice during which time to examine and comment upon any use or implication of the name or logo of the other party or any of its affiliates.

8. Confidentiality.

Confidential Information. For the purpose of this Agreement, “Confidential Information” shall mean all data, information and materials, whether verbal, in writing (whether in hard copy, electronic, telephonic or otherwise) or whether actual physical materials, including without limitation, samples or specimens that may be exchanged between the parties, or to which one party may have access, at any time, in relation to the subject matter of this Agreement. Confidential Information shall include all summaries, compilations, analyses, studies, notes or interpretations created by the recipient of the Confidential Information that reference, reflect or concern the Confidential Information. The Foundation and the Client undertake to keep and cause their respective employees and agents to keep the Confidential Information strictly confidential, not permit disclosure to third parties and not to use it for any purpose whatsoever except as contemplated by this Agreement.

Disclosure Required by Law. Either party may disclose the Confidential Information to the extent such disclosure is required by law or by a court of competent jurisdiction provided, the recipient shall provide prompt written notice to the discloser of such requirement so that the discloser may seek a protective order or other appropriate remedy. Whether or not a protective order or other remedy is obtained, the recipient agrees to disclose only that portion of the Confidential Information it is legally required to disclose and to exercise all reasonable efforts to obtain confidential treatment for such Confidential Information.

Exceptions. The obligations of confidentiality and non-use shall not apply with respect to, as reasonably demonstrated by the recipient, the following:

information that at the time of disclosure is or subsequently becomes public knowledge, except by breach of this Agreement or breach by any third party under an obligation of confidentiality to discloser; or

information that is or was in the possession of the recipient at the time of disclosure by the discloser and was not acquired directly or indirectly from the discloser or from any other third party under an agreement of confidentiality to the discloser; or

information which is or was developed by recipient or its Affiliates independently of receipt hereunder.

Remedy. The Foundation and the Client agree that the disclosure of Confidential Information without the prior written consent of the discloser may cause the discloser irreparable harm and that any breach or threatened breach of this Article 7 by the recipient may entitle the discloser to injunctive relief, in addition to any other remedies available to it, in any court of competent jurisdiction.

## 9. Indemnification.

Indemnification by the Foundation. The Foundation shall indemnify, defend and hold harmless the Client, its Affiliates and their respective present and former directors,

officers, shareholders, agents, attorneys, representatives and employees from and against any and all Claims arising or resulting from: (a) any breach, violation or noncompliance of or with any term of this Agreement by the Foundation; (b) any breach or violation of applicable Law by the Foundation; or (c) any negligent or wrongful act or omission on the part of the Foundation, except to the extent that such Claim arises from the negligence or willful misconduct of the Client.

Indemnification by the Client. The Client shall indemnify, defend and hold harmless the Foundation, its Affiliates and their respective present and former directors, officers, shareholders, agents, attorneys, representatives and employees from and against any and all Claims arising or resulting from: (a) any breach, violation or noncompliance of or with any terms of this Agreement by the Client; (b) any breach or violation of applicable Law by the Client; or (c) any negligent or wrongful act or omission on the part of the Client, except to the extent that such Claim arises from the negligence or willful misconduct of the Foundation.

Indemnification Procedures. Promptly after learning of the occurrence of any event which may give rise to its rights under the provisions of this section, any person or entity intending to claim indemnification hereunder (an “Indemnitee”) shall give written notice of such matter to the party hereunder from whom indemnification is sought (the “Indemnitor”). The Indemnitor shall diligently defend any such action, claim or liability, and subject to the Indemnitor’s compliance with its indemnification obligations, the Indemnitee shall, at the Indemnitor’s expense, cooperate fully with the Indemnitor and its legal representatives in the investigation and defense of any Claim covered by this Agreement. The Indemnitor shall be in charge of and control such negotiations, compromise and defense and shall have the right to select counsel with respect thereto, provided that the Indemnitor shall promptly notify the Indemnitee of all developments in the matter. In no event shall the Indemnitee compromise or settle any such matter without the prior consent of the Indemnitor, who shall not be bound by any such compromise or settlement absent its prior consent, which shall not be unreasonably withheld or delayed. The Indemnitee shall have the right, but not the obligation, to be represented by counsel of its own selection and at its own expense. If the Indemnitor fails to promptly act to protect the interests of the Indemnitee after having been notified of Claim, the Indemnitee may, at Indemnitor’s expense, take action in its own defense.

#### 10. Miscellaneous.

No Waiver: Cumulative Remedies. No failure or delay on the part of either party in exercising any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the party giving such waiver. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.



Headings. Article and section headings used in this Agreement are for convenience only and shall not affect the construction of this Agreement.

Governing Law. This Agreement shall be construed and the respective rights of the parties hereto determined according to the substantive laws of the District of Columbia without regard to conflict or choice of laws principles. Exclusive jurisdiction of all matters arising under this Agreement shall be vested in the United State District Court for the District of and the parties hereto expressly consent and submit to such jurisdiction.

Severability. If any provision of this Agreement or any other document delivered under this Agreement is prohibited or unenforceable in any jurisdiction, it shall be ineffective in such jurisdiction only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability shall not invalidate the balance of such provision to the extent it is not prohibited or enforceable nor the remaining provisions hereof, nor render unenforceable such provision in any other jurisdiction. In the event any provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the parties hereto shall use their best efforts to substitute valid, legal and enforceable provisions which, insofar as practical, implement the purposes hereof.

Entire Agreement; Modification. This Agreement contains the entire agreement between the parties in respect of the subject matter hereof and supersedes and cancels all previous agreements, negotiations, commitments and writings between the parties hereto in respect of the subject matter hereof. This Agreement may not be changed or modified in any manner or released, discharged, abandoned or otherwise terminated unless in writing and signed by the duly authorized officers or representatives of the parties.

Notices. Any notice or request required or permitted to be given in connection with this Agreement shall be deemed to have been sufficiently given if sent by reliable national courier service (such as FedEx), pre-paid registered or certified mail or facsimile transmission to the intended recipient at the address set forth below or such other address as may have been furnished in writing by the intended recipient to the sender. The date of mailing or facsimile transmission shall be deemed to be the effective date on which notice was given, provided that all facsimile transmissions shall contain a provision requiring the intended recipient to confirm receipt and such facsimile transmissions shall not be effective unless confirmation of its receipt is received within twenty-four hours of its transmission.

*If to Client:*

City of Milwaukee Employee Benefits  
200 East Wells Street, Room 701  
Milwaukee, WI 53202

Attn: Michael Brady, Employee Benefits Director  
Fax: 414-286-2106

*with a copy to:*

Attn: Katrina Whitley  
Fax: 414-286-2106

*If to the Foundation:*

American Pharmacists Association Foundation  
2215 Constitution Avenue, NW  
Washington, DC 20037

Attn: Cindy Wicht  
Fax: 202-429-6300

Execution in Counterparts. This Agreement may be executed in counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which together shall constitute one and the same document.

Assignment. Except as otherwise expressly provided in this section, neither party may assign this Agreement in whole or in part without the prior written approval of the other party. Any such attempted assignment without prior written consent shall be void and ineffective. Notwithstanding the foregoing, the Client may, without the other party's consent, assign its right, title and interest in this Agreement to any Affiliate or any entity with which it may merge or consolidate, which acquires all or substantially all of its business and assets, or which otherwise controls, is controlled by or is under common control with the assigning party.

Survival. The provisions of Section 1 (Definitions), 7 (Publication and Public Announcements), Section 8 (Confidentiality), 9 (Indemnification) and 10 (Miscellaneous) shall survive the termination of this Agreement for the duration of the applicable statute of limitations.

Successors. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their successors and permitted assigns.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers.

AMERICAN PHARMACISTS ASSOCIATION FOUNDATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

CLIENT

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_