

PBM PLUS, INC.

PROVIDER PHARMACY APPLICATION

All items must be completed; items that do not apply should be indicated with "N/A". Please type information or print clearly.

Pharmacy Full Legal Name: _____ NPI#: _____

Pharmacy DBA Name: _____

DBA- "Doing Business As" _____ Attach store label to the back of this application

NABP#: _____ Federal Tax ID #: _____ DEA # _____ State ID #: _____

Address: _____ City: _____ State: ____ Zip: _____ - _____

County: _____ Telephone: (____) _____ - _____ Fax: (____) _____ - _____

Hours of Operation:

M-F: ____ A.M. to ____ P.M. **Sat:** ____ A.M. to ____ P.M. **Sun:** ____ A.M. to ____ P.M. Holidays: ____ A.M. to ____ P.M

Remittances are to be paid to: Individual Stores Corporate Account - NCPDP Chain Code: _____

General Liability Insurance Carrier: _____

Coverage Amount: \$ _____ / \$ _____ \$1.0million/\$3.0 million is required

PHARMACIES WITH MULTIPLE LOCATIONS MUST ATTACH A LIST (OR PROVIDE ELECTRONIC MEDIA) SHOWING THE ABOVE DATA FOR EACH LOCATION

Owner's Full (legal) Name: _____

Pharmacist in Charge: _____ State Pharmacy ID #: _____

Pharmacies should provide the following information for the contact person at their headquarters (main) location or for the primary contact person at the pharmacy listed above.

Name: _____ Title: _____

E-Mail Address: _____ @ _____ . _____

Contact Address: _____ City: _____ State: ____ Zip: _____ - _____

Contact Phone: (____) _____ - _____ FAX: (____) _____ - _____

Pharmacy Software Vendor: _____ Switch: _____

Other services provided: Delivery ____ Compounding ____ Other Languages _____

24 hour access _____ Holidays Open: _____

In the last five (5) years has any disciplinary action been taken or is any such action pending against the pharmacy, owner, employed pharmacists or pharmacy technicians by any local, state or federal agency? No: ____ Yes: ____

If yes, provide details (with dates and specifics of actions pending or taken) on a separate page.

Pharmacy agrees to become a participating pharmacy in the PBM Plus national network and bind itself and any of its affiliated pharmacies by the terms and conditions of the PBM Plus Participating Pharmacy Provider Agreement. Pharmacy warrants that the information contained in this application is true, accurate and complete. The undersigned warrants that he/she is authorized to sign on behalf of the pharmacy (pharmacies) covered by this application.

Authorized Signature: _____ Date: _____

Printed Name: _____ Title: _____

PBM PLUS, INC.
PROVIDER PHARMACY
PHARMACEUTICAL CARE NETWORK AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 201__ by and between PBM PLUS, Inc. (“PBM PLUS”) and the party designated as PROVIDER PHARMACY (“Pharmacy”) identified as follows:

NABP#: _____ NPI#: _____ Pharmacy Name: _____

Chains should provide a list of NABP numbers and all other data requested below for all locations.

Address: _____ County: _____

Please do not provide the country

City: _____ State: _____ Zip Code: _____

Telephone: (____) _____ - _____ Fax: (____) _____ - _____ Federal Tax ID #: _____

Hours of Operation: **M-F:** _____ A.M. to _____ P.M. **Sat:** _____ A.M. to _____ P.M. **Sun:** _____ A.M. to _____ P.M

PHARMACIES WITH MULTIPLE LOCATIONS MUST ATTACH A LIST (OR PROVIDE ELECTRONIC MEDIA) SHOWING THE ABOVE DATA FOR ALL LOCATIONS

General Liability Insurance Carrier: _____ Coverage Amount: \$ _____

Chains should provide the following information for the contact person at their headquarters (main) location.

Independents please provide the following information for the primary contact person for your pharmacy.

Contact Name: _____

Contact E-Mail Address: _____ @ _____ . _____

Contact Address: _____

Contact City: _____ State: _____ Zip: _____ - _____

Contact Phone: (____) _____ - _____ FAX: (____) _____ - _____

Remittances are to be paid to: Individual Stores Corporate Account - NCPDP Chain Code: _____

RECITALS

WHEREAS, Pharmacy is a duly licensed pharmacy that employs pharmacists duly licensed and able to provide pharmaceutical services; and

WHEREAS, pursuant to various plan agreements (the “Plan Agreements”), PBM PLUS has agreed to provide certain pharmaceutical and other services (“Covered Services”) to enrollees (“Enrollees”) under certain health care plans; and

WHEREAS, PBM PLUS desires Pharmacy to provide, and Pharmacy desires to provide Covered Services to Enrollees on behalf of PBM PLUS on the terms and conditions set forth herein; and

WHEREAS, in providing its services hereunder, PBM Plus is acting on behalf of Client, as a manager of Client’s pharmacy benefits, PBM Plus is not a Payer or a provider of healthcare services; and

WHEREAS, PBM PLUS and Pharmacy desire to set forth the terms of their agreement for Pharmacy’s provision of Covered Services to Enrollees. In consideration of the foregoing and the mutual promises hereafter set forth, PBM PLUS and Pharmacy agree as follows:

I. DEFINITIONS

- A. Average Wholesale Price (AWP): means the current wholesale cost of the dispensed medication as defined in the latest edition of any of the following:
1. Medispan and weekly updates; or
 2. First Data Bank and weekly updates; or
 3. Any other reference that may be agreed to in writing by the parties to this Agreement

- B. Claim: A request from a pharmacy for payment for providing a Covered Service to an Enrollee. Pharmacies must submit requests for payment via the PBM PLUS On-Line System.
- C. Cognitive Services: Those services that are not prescribed by law for dispensing Covered Pharmaceuticals but which may, from time to time, be provided to Enrollees by a Pharmacy.
- D. Co-payment: Any fixed or percentage dollar amount, coinsurance, deductible or any other amount that an Enrollee is required to pay for Covered Services.
- E. Covered Plan: Any entity that chooses to provide covered pharmaceuticals to enrollees and that has entered into an agreement with PBM PLUS.
- F. Covered Pharmaceutical: The medically necessary federal legend drugs, and other drugs to include, but not be limited to, insulin, devices, supplies and equipment dispensed to an Enrollee, for which an Enrollee is entitled to receive benefits pursuant to a Plan Agreement.
- G. Covered Service: Covered Pharmaceuticals and other services or supplies, as described in the Plan, that Pharmacy may provided to an Enrollee.
- H. Discounted AWP: The AWP of the covered pharmaceutical dispensed less the discount applicable to the covered pharmaceutical as defined in Schedule A.
- I. Enrollee: Any individual who is duly enrolled in a Covered Plan and is eligible to receive Covered Services
- J. Formulary: The list of Covered Pharmaceuticals, supplies and devices developed by PBM PLUS and adopted by a Plan Sponsor as Covered Pharmaceuticals for Enrollees.
- K. MAC List: The list of generic drugs that will be reimbursed to Pharmacy at the compensation level determined by PBM PLUS.
- L. Pharmacy and Therapeutics (P&T) Committee: A committee comprised of physicians, pharmacists, and administrative personnel, as deemed appropriate, who review medications, policies and procedures related to the use of medications for PBM PLUS enrollees.
- M. Participating Pharmacy: A pharmacy that has entered into an Agreement with PBM PLUS to provide Covered Services to Enrollees.
- N. Plan (or Covered Plan): The benefits or services provided by PBM PLUS on behalf of an employer or other entity or individual that describes the Covered Services to be provided to an Enrollee.
- O. Plan Sponsor: Any employer, health plan, or other entity that provides Covered Services to its Enrollees, employees or other individuals.
- P. On-Line System: The on-line real time system utilized or designated by PBM PLUS to process Claims submitted by Pharmacies.
- Q. Preferred Drug List: A preferred list of medications approved by the PBM PLUS Pharmacy and Therapeutics (P&T) Committee. When reviewing medications for formulary status, they consider quality, safety, effectiveness and affordability.
- R. Prescription Charge: The total compensation payable to Pharmacy for providing a Covered Service to an Enrollee. The total compensation includes any payments made to the Pharmacy by PBM PLUS and any Co-payments made to the Pharmacy by the Enrollee.
- S. Usual and Customary Charge (U&C): The price Pharmacy would have charged an Enrollee (net of any applicable discount, including, but not limited to senior citizen discounts, frequent shopper discounts, non-insurance discounts, or any other special discount offered to attract customers) on the date the service was provided for a retail prescription IF the Enrollee were a cash customer.

II. TERMS AND CONDITIONS

1.0 PHARMACY SERVICE COMMITMENTS

- 1.1 **LICENSE.** During the term of this Agreement, Pharmacy shall maintain a valid permit in each state in which Pharmacy operates a pharmacy, and each pharmacist (“Pharmacist”) employed or engaged by Pharmacy shall maintain a valid and qualified license to practice as a pharmacist in the states in which such Pharmacist practices. Pharmacy shall comply with all applicable federal, state and local laws and regulations and shall obtain and maintain all federal, state and local approvals, licenses, and permits required to operate as a pharmacy at each location. Pharmacy will notify PBM PLUS immediately of any revocation, suspension, limitation or other restriction that would impede Pharmacy in the performance of its obligations under this Agreement. Pharmacy shall maintain patient profiles, purchasing records and other records, including patient signature logs, of Covered Pharmaceuticals dispensed to PBM PLUS Enrollees. Pharmacy shall have a licensed pharmacist or other designated licensed professional, as allowed by applicable statute available during all business hours for patient consultations at no additional charge.
- 1.2 **ENROLLEE SERVICES.** Subject to the terms of this Agreement, Pharmacy agrees to accept all Enrollees as customers at all pharmacies operated by Pharmacy and to provide each Enrollee all Covered Services to which such Enrollee is entitled under the terms described in Schedule A. Pharmacy shall verify by means of PBM PLUS’ On-Line System the eligibility of each person who presents as an Enrollee. Pharmacy agrees that it has the sole responsibility for verifying the eligibility of Enrollees and obtaining payment from any non-Enrollee to whom Pharmacy provides services. Pharmacy agrees that it shall not assert any claim against PBM PLUS with respect to any losses, costs or expenses incurred as a result of or attributable to its provision of services to any non-Enrollee. PBM PLUS is solely responsible for the accuracy, completeness, reliability, and timeliness of all information provided to Pharmacy through the On-Line System and acknowledges Pharmacy’s reliance thereupon. Any errors or omissions in the information are the sole responsibility of PBM PLUS. PBM PLUS may not deny claims submitted by Pharmacy for payment subsequent to receiving approval via the online system.
- 1.3 **FACILITIES, EQUIPMENT, STAFF.** Pharmacy shall provide such facilities, equipment, non-pharmacist support personnel and Pharmacists as shall be reasonably necessary to provide Covered Services to Enrollees. Pharmacy shall have sole responsibility for the selection and supervision of qualified, licensed and competent Pharmacists. Pharmacy shall not differentiate or discriminate between Enrollees and other customers of Pharmacy with respect to the provision of services.
- 1.4 **TERMS OF PLAN AGREEMENTS.** Pharmacy agrees to provide services to each Enrollee pursuant to the terms of this Agreement and the terms and conditions described in Schedule A.
- 1.5 **CONFIDENTIALITY.** Pharmacy agrees to abide by all Federal and state laws regarding confidentiality and disclosure for health information, mental health records, other health information and Enrollee information. Additionally, Pharmacy agrees to maintain records and other information with respect to Enrollees in an accurate and timely manner; to ensure timely access by Enrollees to the records and information that pertain to them; and to safeguard the privacy of any information that identifies any enrollee. Information from, or copies of, records may be released only to authorized individuals. Pharmacy must ensure that unauthorized individuals cannot gain access to or alter Enrollee records. Original medical records may only be released pursuant to Federal or State laws, court orders or subpoenas.

2.0 **TERM AND TERMINATION.** The term of this Agreement shall commence as of the date this Agreement is executed by both PBM PLUS and Pharmacy and shall continue thereafter unless terminated upon the occurrence of any of the following:

- a. Either party may terminate this Agreement upon written notice to the other for material breach including but not limited to non-payment of claims. However, each party shall provide notice to the other of such material breach and the breaching party shall have ten (10) days (the “Cure Period”) to resolve such material breach. If such breach is rectified within the Cure Period, this Agreement will remain in full effect.
- b. At the option of PBM PLUS upon thirty (30) days notice to Pharmacy, in the event PBM PLUS discontinues its operations or merges with or into another corporation or business entity.
- c. PBM PLUS reserves the right to terminate this Agreement immediately for, in the opinion of PBM PLUS, actions detrimental to any PBM PLUS pharmacy network, including but not limited to, loss of pharmacy license, any fraudulent act or act in violation of any Federal, State, or local law, regulation or rule, or if the Pharmacy becomes the subject of bankruptcy or insolvency proceedings.
- d. At the option of either party hereto upon sixty (60) days prior written notice to the other party hereto.

- e. In the event Pharmacy disagrees with any amendment PBM PLUS makes to this Agreement upon sending PBM PLUS written notice within ten (10) days after Pharmacy's receipt of notice of the amendment.

3.0 **PAYMENT OF CLAIMS**

3.1 **CLAIMS SUBMISSION AND PAYMENT.** Pharmacy's claims for Covered Services provided to Enrollees under this Agreement shall be processed and paid as follows:

- a. At the time Pharmacy delivers Covered Services to an Enrollee, Pharmacy shall submit its Claim for such Covered Services to PBM PLUS by means of PBM PLUS' On-Line System. When delivering Covered Services to an Enrollee, Pharmacy shall price such services as set forth on PBM PLUS' On-Line System. In addition, subject to the pharmacist's professional judgment, Pharmacy shall comply with the Drug Utilization Review ("DUR") advice, if any, provided with respect to such Enrollee by PBM PLUS' On-Line System.
- b. Claims will be transmitted using telecommunications (or batch processing if approved by PBM PLUS) standards established by The Department of Health and Human Services Administrative Simplification or any successor organization (currently, the National Council for Prescription Drug Program's (NCPDP) Telecommunications Standard Version 5.1 and Batch Standard Version 1.1) Any Claim submitted will include, but not be limited to, the National Drug Code number for the package from which the prescription is dispensed.
- c. PBM PLUS may refuse to submit to plan sponsors any claims which are not submitted to PBM PLUS or its designee by Pharmacy as provided above. Original claims must be submitted within 30 days of date of service unless otherwise stated in Schedule A.
- d. PBM PLUS will use its best efforts to secure timely reimbursement payments to Pharmacy. PBM PLUS will pay Pharmacy within 30 days after each semi-monthly billing cycle for claims submitted by Pharmacy during that cycle.
- e. PBM PLUS will reimburse Pharmacy per the terms and conditions defined in Schedules A & B attached to this Agreement and incorporated by reference herein. Other schedules may be added from time to time and will be valid only if signed by both parties to this agreement.
- f. It is understood and agreed that Pharmacy shall have no claim against PBM PLUS for payment of claims for Covered Services to Enrollees.
- g. Pharmacy agrees to hold PBM PLUS harmless from any claim for any Plan Sponsor's delay or failure to make payment due Pharmacy, including any claim for interest or penalties because of such a delay in or failure to make payment and any claim for costs or attorney's fees.
- h. Non-covered services: Pharmacy shall bill Enrollee directly for non-covered services. However, Enrollees may never be billed for any Covered Services (except the applicable Co-payments as set forth on the PBM PLUS on-line prescription claims adjudication system) provided pursuant to the terms of this Agreement.
- i. Payment By Enrollees: Pharmacy agrees that in no event, including but not limited to non-payment by PBM PLUS or the Plan Sponsor, PBM PLUS's or the Plan Sponsor's insolvency or breach of this Agreement, shall Pharmacy bill, charge, collect from, seek compensation or remuneration from, surcharge or have any recourse against an Enrollee for Covered Services pursuant to this Agreement (except for Co-payments). This section shall survive termination of this Agreement regardless of the cause of termination and shall be construed to be for the benefit of the Enrollees.
- j. Pharmacy expressly and unconditionally agrees to submit to PBM PLUS via the On-Line System information regarding all Covered Services provided to Enrollees regardless of the Co-payment status of such Covered Services.
- k. Pharmacy must conduct due diligence to ensure that claims not received by the enrollee are reversed within 30 days of the initial fill date.
- l. Pharmacy shall maintain a log of partially filled prescriptions. Prescriptions in which a partial amount was owed to the patient, but never received shall be modified via the PBM PLUS' On-Line System within 30 days to accurately represent the quantity of medication received and billed to the plan sponsor.

3.2 **CO-PAYMENTS, DISCOUNTS.** Pharmacy acknowledges and agrees that, without the prior consent of PBM PLUS, it may not waive or discount any co-payment or deductible required under any Covered Services provided to Enrollees

under this Agreement. Pharmacy shall collect all required Co-payments and deductibles from Enrollees in the amount set forth on PBM PLUS' On-Line System.

4.0 **PHARMACEUTICAL SERVICE RECORDS.**

- 4.1 **INSPECTION AND TRANSFER RECORDS:** Pharmacy agrees to comply with all state and federal laws regarding the confidentiality of Enrollees' pharmaceutical records. Subject to the foregoing, and Section 1.5 of this Agreement, Pharmacy agrees:
- (i) That PBM PLUS or any duly authorized representative of Plan Sponsor (s) shall have the right, during normal business hours and upon reasonable written advance notice, to inspect such pharmaceutical records as relate to that part of the record documenting services provided to an Enrollee in connection with Covered Services;
 - (ii) To transfer customer pharmaceutical records relating to an Enrollee in accordance with such Enrollee's written request and at Enrollee's expense; and
 - (iii) To provide any Plan Sponsor's representative or PBM PLUS within a reasonable time and upon a written request therefore, copies of any such pharmaceutical records.
- 4.2 **EVALUATION OF SERVICES AND RETENTION OF RECORDS:** Pharmacy agrees, upon reasonable advance written notice and during normal business hours, to allow a representative of PBM PLUS or any Plan to evaluate, through inspection of facilities and Enrollees pharmaceutical records, the quality, appropriateness, and timeliness of Pharmacy's provision of Covered Services to Enrollees. Pharmacy further agrees to retain all records and reports relating to Pharmacy's performance under this Agreement for the greater period of five (5) years after the date to which the records are applicable or until the resolution of any audit, litigation or other action for which Pharmacy has received written notice, involving such reports and records which are initiated prior to the end of such five (5) year period. PBM PLUS may perform such audits at any time during the term of this Agreement or for a period of two years thereafter.
- 4.3 **AUDITING:** PBM PLUS or its subcontractor shall have the right, at reasonable intervals and during regular business hours, to cause a complete or partial audit of Pharmacy's records as they pertain to the Agreement and may inspect Pharmacy's premises, books, records and operations to ensure that they are adequate to perform Pharmacy's obligations under this Agreement, are consistent with the intent and purpose of this Agreement, and are in accordance with applicable laws. PBM PLUS or its subcontractor shall give Pharmacy written notice thereof at least fifteen (15) business days prior to the date on which it intends to cause such examination and audit to be made of Pharmacy's books, profiles and other records relating to the dispensing of Covered Services to Enrollees and other obligations under the Agreement, including, without limitation, financial records, procedures and reports relating to such dispensing activities. Pharmacy agrees to allow PBM PLUS or its subcontractor to copy, photocopy, photograph, or use digital camera photography, for all prescriptions, profiles and other records relating to the dispensing of Covered Services to Covered Individuals. Any expenses incurred will be paid by the requesting party. Upon request, copies of such records shall be sent to PBM PLUS at a reasonable charge. PBM PLUS agrees to keep all such profiles and records confidential. PBM PLUS may perform such audits at any time during the term of this Agreement or for a period of 3 years thereafter.
- 4.4 **OVERPAYMENT:** If an audit shall disclose that PBM PLUS overpaid Pharmacy with respect to any Claims which Pharmacy has theretofore submitted to PBM PLUS for payment, such overpayment as determined by extrapolation, using standard accepted accounting and statistical methods, shall be offset against any Claims payments and may be rectified by causing Pharmacy's future payments to be debited by the corresponding amounts if Pharmacy does not distribute requested amounts to PBM PLUS within fifteen (15) days of such a request.
- 4.5 **PENALTIES:** PBM PLUS will assess and collect a penalty fee for all prescription Claims submitted by the Pharmacy with invalid physician identification numbers. The penalty fee will be equal to \$2.00 per prescription Claim and will be assessed based on the percentage of Claims found to contain invalid physician identification numbers during an audit, extrapolated, using standard accepted accounting and statistical methods, against all Claims paid during the time period covered by the audit. The penalty will not be assessed if less than 5% of the Claims audited are found to contain invalid physician identification numbers. Physician identification numbers shall be considered invalid if the physician identification numbers submitted by the Pharmacy with the prescription Claim is not the physician identification number provided on the prescription by the prescriber; or if the physician identification number submitted by the Pharmacy with the prescription Claim does not correspond to the actual prescriber of the prescription. This provision of the Agreement does not prohibit the Pharmacy from submitting valid physician identification numbers which may be available to the Pharmacy through its prescription claims processing system.

5.0 UTILIZATION REVIEW: Subject to the right of Pharmacy's Pharmacists to exercise professional judgment with respect to the dispensing of Covered Services, Pharmacy agrees to abide by, cooperate with, and participate in the utilization review, quality assurance and audit procedures established and approved by PBM PLUS, as modified from time to time. Upon notice to Pharmacy, Pharmacy shall supply PBM PLUS with all data and information reasonably requested by PBM PLUS regarding the provision and utilization of Covered Services to Enrollees for purposes of such utilization review.

6.0 STATUS OF PARTIES: It is expressly acknowledged by the parties that PBM PLUS on the one hand, and Pharmacy on the other hand, are independent contractors, and nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, a joint venture relationship or to allow PBM PLUS to exercise control or direction over the manner or method by which Pharmacy performs services which are the subject matter of this Agreement. Neither of the parties hereto, nor any of their respective employees, agents or representatives shall be construed to be the employee, agent, or representative of the other.

7.0 INSURANCE: Pharmacy shall, at its expense, procure and maintain professional liability insurance covering its Pharmacists and employees with limits not less than One Million Dollars (\$1,000,000.00). Such professional liability insurance shall provide coverage for incidents, claims, and suits by Enrollees arising from Covered Services provided by Pharmacy pursuant to this Agreement during the Agreement period. Pharmacy shall furnish PBM PLUS with a certificate of insurance upon request.

8.0 DISPUTE RESOLUTION

8.1 The parties will make a good faith effort to resolve any disputes arising during the term of this Agreement. If they are unable to resolve the dispute through informal discussions, either party may submit a written complaint to the other party describing and proposing a manner of resolving that dispute. The party receiving that complaint will respond by accepting, rejecting, or modifying that proposal, in writing, within thirty (30) days of the date that it receives the complaint.

8.2 If the parties are unable to resolve the dispute in accordance with the procedures set forth in section 8.1 above, either party may submit the dispute to binding arbitration in accordance with the Rules for the Conduct of Arbitration of the American Arbitration Association (the "Rules") in effect at the date of commencement of such arbitration, by one (1) arbitrator who will be appointed by the American Arbitration Association. The arbitration will take place in Cincinnati, Ohio unless otherwise agreed, and will be final and binding. Each of the parties will cooperate with the arbitrator and will provide him with all information in their possession or under their control necessary or relevant to the matter being determined. The arbitrator will be required to make his award as soon as possible and if at all practicable, within five (5) days after the conclusion of the arbitration hearing. The law governing the procedures and substance of the arbitration will be that of the State of Ohio. Disputes involving more than two (2) parties will be settled by one (1) arbitrator, as determined by the arbitration procedures adopted in this clause. Where by this clause any dispute or difference is to be referred to arbitration, the making of a final award will be a condition precedent to any right of action by either party against the other. Judgment upon an award, including any interim award, rendered by the arbitrator may be entered in any Court having jurisdiction thereof. The arbitrator may determine all questions of law and jurisdiction including questions as to whether the dispute is arbitratable, and has the right to grant permanent and interim damages or injunctive relief, and will have the discretion to award costs including reasonable legal fees, interest and costs of the arbitration. Notwithstanding the provisions of this section 8.0, either party will be entitled to apply to a court for injunctive or other equitable relief in any case involving a breach or alleged breach by the other party of any obligations set out in this Agreement relating to the use, protection or confidentiality of any proprietary or confidential information of the party seeking such injunctive or other equitable relief.

9.0 NON-DISCRIMINATION: Pharmacy shall provide Covered Services to Enrollees in a manner similar to the manner in which it provides services to any other individual. Pharmacy shall not discriminate or differentiate against any Enrollee as a result of his/her enrollment in a particular Plan, or because of race, color, creed, national origin, ancestry, religion, sex, sexual orientation, marital status, age, disability, payment source, state of health, need for health services, status as a Medicare or Medicaid beneficiary, or any other basis prohibited by law.

10.0 TRADEMARKS: Neither party shall use the other's logos, trademarks, or service marks without the other's prior written consent. All authorized use of the other party's logos, trademarks, or service marks shall cease promptly upon termination of this Agreement.

11.0 PUBLICITY: Neither party hereto shall make any public announcements or other general public communications concerning this Agreement nor the terms hereof without the prior written consent to the timing, manner and content thereof by the other party hereto.

12.0 NOTICES: Any notice required or permitted to be given hereunder shall be deemed sufficient and shall be deemed to have been given when delivered in person, when transmitted via facsimile (transmission confirmed) or three (3) days after being sent through

that the Indemnifying Party is unable to defend or verify such claims or is required to pay a greater amount or accrue additional expenses with respect thereto as result of such failure to provide prompt notice.

14.4 DEFENSE OF INDEMNIFYING PARTY: In connection with any claim for indemnification hereunder resulting from or arising out of any claim or legal proceeding by a person who is not a party to this Agreement, the Indemnifying Party, at its sole cost and expense may (but shall not be required to) upon written notice to the party seeking indemnification (the “Indemnified Party”), assume the defense of any such claims or legal proceeding, with counsel responsibly satisfactory to the Indemnified Party. If the Indemnified Party shall undertake to defend any such claim or legal proceeding, the Indemnified Party shall cooperate with the Indemnifying Party in the defense thereof. Such cooperation shall include, but not be limited to, furnishing the Indemnifying Party with any books, records or information reasonably requested by the Indemnifying Party in relation to or defence of such claim or legal proceeding. After the Indemnifying Party has undertaken to defend any such claims or legal proceeding, the Indemnifying Party shall not be liable for any additional legal expense incurred by the Indemnified Party in the defense of such claims or legal proceeding. However, the Indemnified Party shall be entitled to participate in (but not control) the defense of any such claims or legal proceeding with its own counsel at its own expense.

14.5 COMPROMISE OF CLAIMS: If the Indemnifying Party undertakes to defend any such claim or legal proceeding as described in this Section 14, the Indemnifying Party shall have the right to settle or compromise, at its own expense, any such claim or legal proceeding, provided such settlement or compromise provides a full and complete release of the Indemnified Party with respect to claim or legal proceeding in question.

14.6 EXCLUSIVE REMEDY: Each party’s right under this Section 14 shall constitute the sole and exclusive remedy for such party with respect to any violation or breach of the terms of this Agreement, or a default hereunder, by any other party hereto.

15.0 CONFIDENTIAL AND PROPRIETARY INFORMATION. The Pharmacy agrees that all terms contained herein are confidential and/or proprietary. The Pharmacy agrees not to disclose the terms and conditions of this Agreement without the expressed written consent of PBM PLUS.

16.0 MISCELLANEOUS

16.1 REFUSAL TO PROVIDE COVERED SERVICES: Nothing in this Agreement shall be construed to limit the right of Pharmacy to refuse to provide Covered Services to any Enrollee if such services should not, in the professional judgment of Pharmacy’s Pharmacist, be provided to such Enrollee.

16.2 FEE-FOR-SERVICE PRACTICE: Nothing in the Agreement shall be construed to limit Pharmacy from providing fee-for-service pharmaceutical services.

16.3 USE OF PHARMACY’S NAME: Pharmacy agrees that PBM PLUS or any Plan Sponsor may use the name, address, and fact of Pharmacy’s participation in a PBM PLUS network as part of any list of pharmacies in the network. Any such use or approval shall not operate or be construed as granting any right, title or interest in or to the logo, name, trademarks or other intellectual property of Pharmacy. PBM PLUS shall use its best efforts to protect such intellectual property and to prevent any act which would impact Pharmacy’s rights with respect to such intellectual property in any advertising or informational material relating to PBM PLUS or the provision of Covered Services.

16.4 THIRD PARTY INSURANCE CLAIMS: Pharmacy agrees (i) to cooperate with PBM PLUS in filing claims with insurance carriers for coordination of benefits regarding Enrollees and (ii) any recoveries resulting from the filing of such claims shall be retained by PBM PLUS or the applicable Plan Sponsor in accordance with the terms of the applicable Plan Sponsor agreement.

16.5 ENTIRE AGREEMENT: This Agreement, together with any schedules and exhibits attached hereto and as amended from time to time, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and all prior agreements, correspondence, discussions and understanding of the parties are superseded hereby. This Agreement supersedes any prior agreements between PBM PLUS and Pharmacy with respect to the subject matter hereof.

16.6 AMENDMENTS: PBM PLUS may amend any term, part or provision of this Agreement, including, without limitation, changes to or the addition of Pharmacy Program Conditions, including the Prescription Charge, by giving written notice to Pharmacy at least thirty (30) days prior to the effective date of the amendment.

- 16.7 **NO ASSIGNMENT:** Neither party may assign this Agreement to any other party without the prior written consent of the other party. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.
- 16.8 **GOVERNING LAW:** This Agreement shall be interpreted under the laws of the State of Ohio without giving effect to the principles of conflicts-of-law, or any rule, which would result in the application of the law of any different jurisdiction. The courts of Ohio shall have exclusive jurisdiction in connection with any legal proceeding arising hereunder, and Pharmacy hereby submits to the jurisdiction of such courts and waives any objection to the venue of such courts and any claim that such courts may be inconvenient. Pharmacy and PBM PLUS agree to comply with all federal and state laws applicable to the performance of this Agreement, including but not limited to those laws relating to nondiscrimination, civil rights and equal employment opportunity.
- 16.9 **SEVERABILITY:** If any provision of this Agreement is held to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Agreement shall remain valid and effective.
- 16.10 **BINDING EFFECT:** This Agreement shall be binding on the parties hereto and their successors and permitted assigns.
- 16.11 **WAIVER:** A waiver by either party of strict compliance with the terms of this Agreement shall only be effective if in writing and signed by both parties hereto, and shall not be effective with respect to any prior or subsequent failure by either party to comply with any term of this Agreement.
- 16.12 **CONSTRUCTION:** This Agreement shall be construed without reference to title or articles or sections, which are inserted for reference purposes only.
- 16.13 **FORCE MAJEURE:** A party shall not be deemed to have breached this Agreement if its delay or failure to perform all or any part of its obligations hereunder results from a condition beyond its reasonable control including, without limitations, acts of God, or the public enemy, flood or storm, strikes, power or communication line failure, statute, or rule or action of any federal, state or local government agency.
- 16.14 **PATIENT CONFIDENTIALITY:** Each party acknowledges and agrees that the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA) and regulations promulgated there under by the U.S. Department of Health and Human Services (the "HIPAA Regulations") govern the privacy of personally identifiable health information ("PHI"). Accordingly, each party agrees to comply with the HIPAA Regulations to the extent such regulations apply to the sharing of PHI between them.
- 16.15 **COMPLIANCE WITH APPLICABLE LAWS:** PBM PLUS and Pharmacy agree to comply with all applicable federal, state and local laws, statutes, regulations, rules, orders and ordinances now in effect or as hereafter enacted, amended or promulgated including the Social Security Act, as amended (42 U.S. § 301, et seq.) and anti-kickback statute or regulations (i.e. 42 USC Section 320a-7b) and the managed care "safe harbor" regulations published by Department of Health and Human Services in 56 Fed. Reg. 35953, 57, 57 Fed. Reg. 52723, and 58 Fed. Reg. 4908.
- 16.16 **CERTIFICATION:** PBM Plus and pharmacy hereby certify that they will not violate the Anti-Kickback Statute (42 U.S.C. §1320a-7b(b)) with respect to their performance under this Agreement.
- 16.17 **NO CHANGES TO AGREEMENT:** Pharmacy is not authorized to make any changes (whether typed, hand-written or otherwise) to this Agreement. Any such changes to this Agreement shall be invalid and shall have no effect.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

(Signed for) PBM PLUS	Date	(Signed for) Pharmacy	Date
by: Klaus A. Hieber, B.S.Pharm., R. Ph. President		by: _____, Printed Name and Title of Signatory	
		_____ Printed Name of Pharmacy	

PBM PLUS, INC.
PROVIDER PHARMACY
PHARMACEUTICAL CARE NETWORK AGREEMENT

SCHEDULE A
PAYMENT SCHEDULE

- I. **REIMBURSEMENT RATES FOR SERVICES:** For each retail pharmacy prescription or refill covered by this Agreement, PBM PLUS will pay Pharmacy at the rates set forth in this Article I, reduced by any applicable co-payment the member is required to pay at the time service is rendered and as conveyed to the Pharmacy by the On-Line System.
- A. **BRAND NAME DRUGS:** The lesser of 85% of the Average Wholesale Price (AWP), as defined herein, of the dispensed medication plus a dispensing fee of \$1.95, or the dispensing pharmacy's Usual and Customary (U&C) retail charge as defined in this Agreement. The dispensing Pharmacy agrees to submit its then current Usual and Customary charge via PBM PLUS' on line system with each request for payment.
 - B. **GENERIC DRUGS:** For generic drugs covered by the Maximum Allowable Cost ("MAC") List, as defined herein, reimbursement will be the lesser of the MAC plus a dispensing fee of \$1.95, or the dispensing pharmacy's then current U&C retail charge. For those generic drugs not covered by or included on the MAC List, reimbursement will be the lesser of 75% of the AWP of the dispensed medication plus a dispensing fee of \$1.95, or the pharmacy's then current U&C retail charge. The dispensing Pharmacy agrees to submit its then current Usual and Customary charge via PBM PLUS' on line system with each request for payment.
 - C. Notwithstanding the rates set forth in Section I.A. and I.B. above, if the total of the discounted AWP or MAC, whichever is applicable plus the dispensing fee is less than the Patient's required co-payment amount, Pharmacy will receive as reimbursement, the lesser of the discounted AWP or MAC, whichever is applicable plus the dispensing fee or the dispensing pharmacy's prevailing U&C retail charge. Pharmacy expressly and without limitation or conditions agrees to submit its U&C retail charge with each Claim submitted via the On-Line System. If Pharmacy fails to submit its then effective U&C retail charge on a claim resulting in the Enrollee being charged an amount greater than the then effective U&C retail charge, Pharmacy will, upon request by PBM PLUS or the Enrollee, refund to PBM PLUS or the Enrollee any amount paid by the Enrollee in excess of the then effective U&C retail charge.
 - D. **TAXES:** If a Pharmacy tax or similar fee is imposed on Pharmacy for provision of Covered Services by any government authority (other than duly imposed applicable sales taxes), Pharmacy shall be responsible for the Pharmacy tax and shall not pass such tax on to Enrollees or PBM PLUS unless specifically required to do so under applicable law or regulation.
 - E. **COMPOUNDED PRESCRIPTIONS:** For prescriptions requiring the skills and expertise of a pharmacist to mix two or more ingredients (at least one of which must be a federal legend drug) "Compounding", the reimbursement rate will be the lesser of the sum of the AWP's of the ingredients in the compound plus a \$5.00 dispensing fee or the dispensing pharmacy's Usual and Customary (U&C) retail charge as defined in this Agreement. The dispensing Pharmacy agrees to submit its then current Usual and Customary charge via PBM PLUS' on line system with each request for payment. "Compounding" rates will not apply to the mixing of two or more liquids or to the reconstitution of lyophilized powders.
 - F. Reimbursement for Brand Name drugs will be based on the National Drug Code (NDC) submitted by the Pharmacy with the Claim via the On-Line System.
 - G. Payment to the Pharmacy will be the lesser of Pharmacy's Usual & Customary price or contracted rates as defined in Article I of this Schedule A.
- II. **CALCULATION:** The "Calculation" of the payment to the pharmacy will be as follow:
- A. For Brand Name Drugs: [(Discounted AWP of the NDC Submitted/package size of NDC submitted*metric quantity dispensed) plus the brand dispensing fee less the applicable enrollee co-payment]
 - B. For Generic Drugs not on the MAC List: [(Discounted AWP of the NDC Submitted/package size of NDC submitted*metric quantity dispensed) plus the generic dispensing fee less the applicable enrollee co-payment]

C. For Generic Drugs on the MAC List: [(the MAC Price applicable to the NDC Submitted*metric quantity dispensed) plus the generic dispensing fee less the applicable enrollee co-payment]

- III. **MULTI-SOURCE PRODUCTS:** The dispensing pharmacy will dispense multi-source products using the inventory customarily maintained; the terms of reimbursement and the dispensing by any retail community pharmacy of such multi-source products may not be restricted by PBM PLUS formulary or any list of covered drugs that identifies multi-source products by manufacturer. Pharmacy shall dispense a generic equivalent product whenever possible and permitted by applicable state and federal laws. Pharmacy's reimbursement will always be at the applicable MAC price, as defined above, when Pharmacy dispenses a multi-source product on the MAC list unless pharmacy submits an allowable DAW code as defined by NCPDP and as further defined by PBM PLUS in its Operating Guidelines.
- IV. **OVER THE COUNTER PRODUCTS (OTCs):** For those benefit plans where a sponsor provides coverage for over the counter products, the dispensing pharmacy shall be reimbursed at the same rate as described in Sections I and II of this Schedule A.
- V. **AWP Rollback** In the event the AWP rollback is implemented by First DataBank (FDB) and Medi-Span , PBM PLUS will implement the following pricing adjustment processes:
- i. PBM PLUS will continue to receive and utilize the most current WAC and AWP pricing information provided by FDB or Medi-Span.
 - ii. PBM PLUS will proportionally adjust the AWP pricing information by adjusting the AWP price for each NDC to reflect the markup factors utilized by FDB or Medi-Span as of September 25, 2009, or the day prior to the AWP Rollback in the event such date should change
 - iii. The adjustments will only be applied to affected NDCs
- VI. **AWP Discontinuance** As a result of an industry wide change which will take effect on or before September 26, 2011, AWP will no longer be used as a pricing benchmark for determining reimbursement rates. Once a new industry-wide standard is established as a replacement for AWP as a pricing benchmark, the parties agree to modify the reimbursement discounts under the Agreement using the new pricing benchmark to maintain the parties' respective economic positions under the Agreement such that the total reimbursement of a product using the new pricing benchmark is the same as before the discontinuation of AWP. Within thirty (30) days after a new pricing benchmark is established the parties will, in good faith, begin to negotiate a new reimbursement rate schedule to the Agreement. Pursuant to a written agreement signed by both parties, the parties will agree upon a new reimbursement schedule prior to the new pricing benchmark's effective date. If the parties cannot agree upon a new reimbursement rate schedule, either party can terminate the entire Agreement by providing sixty (60) days prior written notice.