

# PBM PLUS, INC.

## PROVIDER PHARMACY APPLICATION

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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" \_\_\_\_\_ Please attach a 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: \_\_\_\_\_

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**PBM PLUS, INC.**  
**PROVIDER PHARMACY**  
**PHARMACEUTICAL CARE NETWORK AGREEMENT**

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**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: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Please do not provide the country

Telephone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Federal Tax ID #: \_\_\_\_\_

**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

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: \$ \_\_\_\_\_ / \$ \_\_\_\_\_

**Minimum \$1.0 million/\$3.0 million is required**

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”) with Plan Sponsors (as defined below), PBM PLUS has agreed to provide Covered Services (as defined below) to Enrollees (as defined below) 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 per the terms and conditions set forth herein; and

**WHEREAS**, in providing its services hereunder, PBM Plus is acting on behalf of a Plan Sponsor, as a manager of Plan Sponsor’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;

NOW, therefore, in consideration of the foregoing and the mutual promises hereafter set forth, PBM PLUS and Pharmacy agree as follows:

**INCORPORATION OF RECITALS**

The above recitals are incorporated into and made part of this Agreement.

## I. DEFINITIONS

- A. Average Wholesale Price (AWP): means the current average wholesale price of the dispensed medication as defined in the latest edition published by either Medispan or First Data Bank (as PBM PLUS may designate in its sole discretion) or any other reference source agreed to in writing by the parties to this Agreement., subject in each case to the adjustment described in Section V of Exhibit A. The parties acknowledge that AWP is a list price only and does not reflect discounts, fees or other amounts provided to wholesalers or others which may affect such entities' actual acquisition cost.
- 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 under the applicable Plan.
- E. Covered Pharmaceutical: The medically necessary federal legend drugs, biologicals and other pharmaceutical products 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.
- F. Covered Service: Covered Pharmaceuticals and other services or supplies as defined in the Plan that Pharmacy may provide to an Enrollee, pursuant to a valid Prescription.
- G. Discounted AWP: The AWP of the covered pharmaceutical dispensed less the discount applicable to the covered pharmaceutical as defined in Exhibit A.
- H. Enrollee: Any individual who is duly enrolled in or otherwise a beneficiary of a Plan and is eligible to receive Covered Services under that Plan.
- I. Formulary: The list of Covered Pharmaceuticals, supplies and devices developed by PBM PLUS and adopted by a Plan Sponsor as Covered Pharmaceuticals for Enrollees.
- J. MAC List: The list of generic drugs that will be reimbursed to Pharmacy at the compensation level determined by PBM PLUS.
- K. 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.
- L. Participating Pharmacy: A pharmacy that has entered into an Agreement with PBM PLUS to provide Covered Services to Enrollees.
- M. Plan: The benefits plan or program which defines those benefits to which Enrollees of the given Plan are entitled, including any plan agreement or other applicable plan documentation.
- N. Plan Sponsor: Any employer, health insurer, or other entity that provides benefits to Enrollees of Plans sponsored, offered, issued or administered by such employer, health insurer or other entity.
- O. Provider: Any hospital, physician practice, pharmacy, nursing facility or other health care provider legally permitted to provide pharmaceutical products and/or services to Enrollees..
- 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. Prescriber or Health Care Practitioner: An individual legally licensed and authorized to prescribe Covered Services per applicable state and federal laws to Enrollees.
- S. Prescription: An order for a Covered Pharmaceutical from a Health Care Practitioner that is authorized and licensed by applicable federal and state statutes to prescribe the Covered Pharmaceutical.
- T. 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.
- U. 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.
- V. Wholesale Acquisition Cost (WAC): means the current wholesale acquisition cost of the dispensed medication as defined in the latest edition published by either Medispan or First Data Bank (as PBM PLUS may designate in its sole discretion) or any other reference source agreed to in writing by the parties to this Agreement. The parties acknowledge that WAC is a list price only and does not reflect discounts, fees or other amounts provided to wholesalers or others which may affect such entities' actual acquisition cost.

## 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 Exhibit 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 On-Line 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 and as required by applicable state or federal law. 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 FOR PROVISION OF COVERED SERVICES**: Pharmacy agrees to provide services to each Enrollee pursuant to the terms of this Agreement, including the terms and conditions described in Exhibit 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 or D.0 and Batch Standard Version 1.1) Any Claim submitted will include, but not be limited to, the National Drug Code number of the package from which the prescription was dispensed.
- c. For Enrollees having both primary and secondary coverage for their pharmacy benefit, Pharmacy agrees to submit an initial Claim to the primary carrier and then submit the results of the primary adjudication, via the NCPDP defined "COB segment", to the secondary carrier.
- d. Pharmacy agrees to submit either the Prescriber's DEA number or NPI number with each Claim submitted to PBM PLUS. Default and /or "dummy" prescriber identification numbers are not acceptable.
- e. 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 thirty (30) days of date of service unless otherwise stated in Exhibit A.
- f. PBM PLUS will use its best efforts to secure timely reimbursement payments to Pharmacy. PBM PLUS will pay Pharmacy via Electronic Funds Transfer (EFT) or other means as determined by PBM PLUS within 30 days after each semi-monthly billing cycle for claims submitted by Pharmacy during that cycle.
- g. PBM PLUS will reimburse Pharmacy per the terms and conditions defined in Exhibit A attached to this Agreement and incorporated by reference herein. Other exhibits may be added from time to time and will be valid only if signed by both parties to this agreement.
- h. It is understood and agreed that Pharmacy shall have no claim against PBM PLUS for payment of claims for Covered Services provided to Enrollees.

- i. 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.
- j. 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.
- k. 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.
- l. 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.
- m. Pharmacy must conduct due diligence to ensure that Claims approved by PBM PLUS but not received by the Enrollee are reversed within 30 days of the initial fill date.
- n. Pharmacy shall maintain a log of partially filled prescriptions. Prescriptions in which a partial amount was owed to the Enrollee but never received shall be modified via the PBM PLUS' On-Line System within 30 days to accurately represent the quantity of medication received by the Enrollee.
- o. If Pharmacy's reversal of previously approved Claim or Claims results in payment being due to PBM PLUS, Pharmacy will, upon request from PBM PLUS, immediately forward payment to PBM PLUS for such payment due.

**3.2 CO-PAYMENTS, DISCOUNTS:** Pharmacy acknowledges and agrees that, without the prior written 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 amounts 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 Enrollee pharmaceutical records, including prescriptions, in accordance with such Enrollee's request in accordance with applicable state and federal law; 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 state and federal legal requirements, 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 and for a period of three (3) 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. For prescriptions filled for patients who have coverage through Medicare plans, there is no time limit for audits.

**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 current or future Claim 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. Physician identification numbers shall be considered invalid if the physician identification numbers (DEA or NPI) 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

**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 and Pharmacy 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) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate. 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



**13.4 ENFORCEABILITY:** This Agreement has been duly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditor's rights generally.

#### **14.0 INDEMNIFICATION**

**14.1 INDEMNIFICATION BY PBM PLUS:** PBM PLUS shall defend, indemnify and hold Pharmacy harmless from and against any loss, cost, damage or expense (including reasonable attorney's fees) (collectively, "Damages") which Pharmacy may sustain resulting from or arising out of: (i) any misrepresentation or breach of warranty made by PBM PLUS herein; or (ii) any failure by PBM PLUS to perform its obligations hereunder.

**14.2 INDEMNIFICATION BY PHARMACY:** Pharmacy shall defend, indemnify and hold PBM PLUS harmless from and against any Damages which PBM PLUS may sustain resulting from or arising out of: (i) any misrepresentation or breach of warranty made by Pharmacy herein; or (ii) any failure by Pharmacy to perform its obligations hereunder

**14.3 NOTICE OF CLAIMS:** Promptly after any party hereto (i) receives notice of any claim or the commencement of any action or proceeding against it, (ii) has knowledge of any claim, action or proceeding against it, or (iii) has knowledge of any matter for which it intends to seek indemnification hereunder, such party shall, if any claim for reimbursement with respect thereto is to be made against any other party hereto obligated to provide indemnification (the "Indemnifying Party") hereunder, give the Indemnifying Party written notice of such claim or commencement of such action or proceeding provided, however, that failure to give such notification shall not affect indemnification hereunder except to the extent 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 and conditions contained herein are confidential and/or proprietary. The Pharmacy agrees not to disclose the terms or conditions of this Agreement to any party including, but not limited to, Enrollees, health care facilities, Health Care Practitioners or Plan Sponsors without the expressed written consent of PBM PLUS. Pharmacy further agrees that its owner (s), employed Pharmacists and other employees will not discuss any reimbursement issues with any party including, but not limited to, Enrollees, health care facilities, Health Care Practitioners or Plan Sponsors. Furthermore, the Pharmacy's owner (s), employed Pharmacists, other employees or other parties with knowledge thereof, shall not disclose the amount of reimbursement received by the Pharmacy from PBM PLUS for any Claim to any party including, but not limited to, Enrollees, health care facilities, Health Care Practitioners or Plan Sponsors.

#### **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 **ASSIGNMENT NOT PERMITTED:** 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 Compliance with Anti-Kickback Statute:** Omnicare, Inc. (“Omnicare”), an affiliate of PBM PLUS, has entered into an Amended and Restated Corporate Integrity Agreement with the Office of Inspector General of the Department of Health and Human Services (the “Omnicare CIA”) which, among other things, requires that the following provisions be included in contracts to which Omnicare or an affiliate of Omnicare is a party. Accordingly, in compliance with the Omnicare CIA:

- (a) All individuals who meet the definition of “Covered Persons” shall comply with Omnicare’s Compliance Program, including training related to the Anti-Kickback Statute (42 U.S.C. §1320a-7b). Under the Omnicare CIA the term “Covered Person” includes (i) all officers, directors and employees of Omnicare, and (ii) any contractors, subcontractors, and agents of Omnicare who are engaged to furnish pharmaceutical items or services to Federal health care program beneficiaries or to prepare or submit claims for pharmaceutical items or services to any Federal health care program; provided, that such term does not include part-time or per-diem employees, contractors, subcontractors, agents or other persons who are not reasonably expected to work more than 160 hours per year, except that any such individuals shall become “Covered Persons” at the point when they work more than 160 hours during the calendar year; and provided, further, that this term only applies to those persons employed by Omnicare or a contractor, subcontractor, subsidiary, division, or affiliate of Omnicare that is involved in the furnishing of pharmaceutical items or services to Federal health care program beneficiaries or the preparing or submitting of claims for pharmaceutical items or services to any Federal health care program.
- (b) In the event that any of Pharmacy’s personnel become a Covered Person at any time, (i) Pharmacy shall ensure that such personnel comply with Omnicare’s compliance program, including all Omnicare training relating to the Anti-Kickback Statute, and (ii) PBM PLUS shall provide to Pharmacy a copy of Omnicare’s Code of Conduct and Anti-Kickback Statute Policies and Procedures. Pharmacy shall comply with such reasonable requirements as Omnicare may establish from time to time relative to determining if any of Pharmacy’s personnel become Covered Persons, including without limitation any requirements to track the time its personnel expend in providing Covered Services on behalf of Omnicare Providers hereunder and to notify Omnicare if such personnel approach or exceed the 160 hour per year threshold set forth above.
- (c) 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 Federal Exclusion and Debarment Screening**

- (a) Pharmacy shall confirm that personnel assigned by Pharmacy to provide Covered Services under this Agreement are not excluded from participation in any Federal health care program, as such term is defined at 42 U.S.C. §1320a-7b(f), or debarred or otherwise prohibited from participating in federal procurement and non-procurement programs, by checking the Department of Health and Human Services’ Office of the Inspector General’s List of Excluded Individuals/Entities (<http://exclusions.oig.hhs.gov/search.html>) and the General Service Administration’s list of debarred contractors (<http://epls.arnet.gov>). Pharmacy hereby certifies that it will perform screening on such personnel at least every six (6) months.
- (b) Pharmacy represents and warrants to PBM PLUS that Pharmacy and its directors, officers, and employees (i) are not currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs, as defined in 42 U.S.C. §1320a-7b(f), and (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in Federal health care programs. Pharmacy shall immediately notify PBM PLUS if any representation and warranty made in this Section 16.17 becomes untrue in any respect during the term of this Agreement.

**16.18 Medicare Requirements.** To the extent that Pharmacy is providing Covered Services for which a Plan Sponsor or Provider receives payment pursuant to the Medicare Part D or Medicare Advantage programs, Pharmacy agrees that such Covered Services shall be provided consistent and in compliance with the terms of the Medicare Part D plan sponsor or Medicare Advantage organization’s contract with CMS. Without limitation of the foregoing:

- (a) Pharmacy agree to abide by United States state and federal privacy and security requirements, including the confidentiality and security provisions stated in the regulations for the Part D program at 42 C.F.R. § 423.136.
- (b) Pharmacy will abide by all applicable United States Federal laws and regulations and CMS instructions in accordance with 42 C.F.R § 423.505(i)(4)(iv). Any activity under the contract between CMS and a Medicare Advantage organization or Part D sponsor delegated to Pharmacy may be revoked if CMS, the Medicare

Advantage organization or the Part D sponsor determines that Pharmacy has not performed satisfactorily pursuant to 42 C.F.R. § 423.505(i)(4)(ii).

- (c) Pharmacy will comply with 42 C.F.R. § 423.505(i)(2) and 42 C.F.R. § 423.505(e)(2), which generally requires retention of books, records, documentation and contracts in connection with this Agreement, including all medical records, in which the applicable Part D covered product is dispensed, and to make such materials available for audit, inspection and evaluation by the Department of Health and Human Services, the Comptroller General, or their designees pursuant to 42 C.F.R. § 423.505(i)(3)(iv). Pharmacy agrees to make available any books, contracts, records and documentation that pertain to any aspect of services performed to HHS, the Comptroller General, or their designees as required by 42 C.F.R. § 423.505(e)(2).
- (d) Pharmacy will ensure that Enrollees are not held liable for fees that are the responsibility of the applicable Part D plan sponsor in accordance with 42 C.F.R. § 423.505(i)(3)(i).
- (e) Pharmacy shall conduct or have their personnel receive such trainings as maybe required under 42 C.F.R. § 422.504 or § 423.504 for pharmacies providing services under Medicare Parts C and/or D. Pharmacy shall ensure effective lines of communication to all personnel and allow compliance issues to be reported to the Omnicare, Inc. compliance officer or applicable Part D plan sponsor including a method for anonymous and confidential good faith reporting of all potential compliance issues as they are identified.
- (f) Pharmacy shall provide certifications (based on best knowledge, information and belief) to the extent requested under 42 C.F.R. § 423.504 and § 423.505.

To the extent that other requirements apply to a Plan Sponsor or Provider pursuant to the Medicare program or the policies of a given Medicare Part D plan sponsor or Medicare Advantage organization, PBM PLUS may give Pharmacy notice of such requirements and Pharmacy agrees to comply with the same. Pharmacy will include the requirements of this Section in its contract with any subcontractor performing services under this Agreement.

**16.19 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 caused this Agreement to be executed and delivered by their proper and duly authorized officers on the date set forth below. By executing this Agreement, the undersigned individuals hereby warrant and represent that they have read this Agreement (and any Exhibits) in its entirety and agree to all its terms.

\_\_\_\_\_  
(Signed for) PBM PLUS  
by: Klaus A. Hieber, B.S.Pharm., R. Ph.  
President

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signed for) Pharmacy  
by: \_\_\_\_\_,  
Printed Name and Title of Signatory

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Pharmacy

**PBM PLUS, INC.**  
**PROVIDER PHARMACY**  
**PHARMACEUTICAL CARE NETWORK AGREEMENT**

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**EXHIBIT 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 Enrollee 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 lower of the Average Wholesale Price (AWP) less 16% (AWP -16%) equivalent to Wholesale Acquisition Cost (WAC) + 5% as defined herein, of the dispensed medication plus a dispensing fee of \$1.75, 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 \$1.75, 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 lower of AWP less 25% (AWP - 25%) of the dispensed medication plus a dispensing fee of \$1.75, 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 ("Contracted Rate") is less than the Patient's required Co-payment amount, Pharmacy will receive as reimbursement, the lower of the Patient's required copayment, the Contracted Rate 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 lower 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 Exhibit 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 over the counter products which are Covered Pharmaceuticals, the dispensing Pharmacy shall be reimbursed at the same rate as described in Sections I and II of this Exhibit A.

V. **AWP Rollback:** Due to the AWP rollback implemented by First DataBank ("FDB") and Medi-Span on September 26, 2009, PBM PLUS implemented the following pricing adjustment processes:

- i. PBM PLUS continues to receive and utilize the most current WAC and AWP pricing information provided by FDB or Medi-Span.
- ii. PBM PLUS proportionally adjusts the AWP price for each NDC to reflect the markup factors utilized by FDB or Medi-Span as of September 25, 2009, i.e., as though the AWP rollback had not occurred.
- iii. The adjustments are only applied to NDCs affected by the rollback.
- iv. At its sole discretion and without notice to Pharmacy, PBM Plus may at any time change any reimbursement formula hereunder which is based upon AWP to an equivalent reimbursement formula based on the Wholesale Acquisition Cost (WAC), as defined in this Agreement. The parties agree that for such purposes the rate documented above, AWP – 16%, pre-rollback is equivalent to WAC plus 5%.

VI. **AWP Discontinuance:** In the event that AWP will no longer be available, the parties agree to modify the reimbursement discounts under the Agreement using a 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. This Section VI. shall be subject to Section V.iv. above, inasmuch as PBM PLUS may unilaterally change reimbursement to a WAC-based formula in the event AWP is no longer published.

\_\_\_\_\_  
(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