

CONFLICT OF INTEREST
DISCLOSURE FORM and AGREEMENT

WHEREAS _____ [fill in the name of the corporation, union, government entity or health plan] (“CLIENT”) is considering the retention of a consulting firm, or has already retained a consulting firm; and

WHEREAS CLIENT wishes to learn of all relationships its consulting firm may have in the prescription drug industry, _____ [use blank to add any other industries that are of concern] and all monies that a consulting firm may be receiving from any entity operating in the above-described industry(ies), and CLIENT also wishes to form an Agreement precluding its consulting firm from receiving any undisclosed monies in connection with services that may be rendered to CLIENT; and

WHEREAS _____ [fill in the name of the consulting firm] (“CONSULTING FIRM”) wishes to be retained by CLIENT, or has already been retained by CLIENT, and CONSULTING FIRM is willing to provide the above-described agreement, and CONSULTING FIRM is also willing to disclose all relationships it has in the prescription drug industry, _____ [use blank to add other industries that are of concern], and all monies CONSULTING FIRM has received or is receiving from any entity operating in the above industry(ies), provided that all such information is kept entirely confidential, and is never disclosed by CLIENT to any third party without the express written permission of CONSULTING FIRM; and

WHEREAS CLIENT is hereby binding itself, and all trustees and employees, and all related and affiliated entities and their trustees and employees, to maintain all information referenced in the paragraph above as confidential information, and to never disclose said information to any third party without the prior written consent of CONSULTING FIRM, other than as expressly provided in this Agreement.

The CONSULTING FIRM represents and agrees as follows:

I. DEFINITION OF CONSULTING FIRM

CONSULTING FIRM, as referenced herein, shall be defined to include the following: _____ [fill in the name of the CONSULTING FIRM], all parent companies, subsidiaries, divisions, and/or related or affiliated entities, and all officers and directors and board members and partners and employees of _____ [fill in the name of the CONSULTING FIRM] and the previously described entities.

II. CONSULTING FIRM’S RELATIONSHIPS

CONSULTING FIRM hereby identifies all direct and indirect relationships CONSULTING FIRM has with any Pharmacy Benefit Management company, drug manufacturer, or drug wholesaler or distributor or repackager, and _____ [use blank to add other industries that are of concern], or any parent, subsidiary, division, or related or affiliated entity to the previously described entities, or any officer/director/board member/agent/partner/or employee of any of the previously described entities.

CONSULTING FIRM includes all such relationships, whether arising from written or oral agreements, whether formal or informal, whether direct or indirect, whether separate or bundled, including but not limited to all relationships arising out of: any brokerage agreements, commission or other fee agreements, or any contracts to perform any work or services for the previously described entities or individuals.

For each relationship identified, CONSULTING FIRM hereby states (a) the name of the entity or individual with which CONSULTING FIRM has the relationship; (b) the type and basic terms of the relationship; (c) whether the relationship was or is based on an oral or written agreement; (d) when the relationship arose; (d) and when the relationship terminated or will terminate. (Only relationships on or after **January 1, 2014** need be identified). [change date as necessary] [consulting firm should add lines as necessary]

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III. CONSULTING FIRM'S RECEIPT OF MONIES

CONSULTING FIRM hereby identifies all monies or other financial benefits that CONSULTING FIRM has directly or indirectly received from any: Pharmacy Benefit Management company, drug manufacturer, or drug wholesaler or distributor or repackager and _____ [use blank to add other industries that are of concern], or any parent, subsidiary, division, or related or affiliated entity, or any officer/director/board member/agent/partner/or employee of any of the previously described entities.

CONSULTING FIRM includes all such monies or other financial benefits, including but not limited to: lump sum payments made in one payment or over time, percentage payments, separate or bundled payments, "per prescription" or "per claim" or "per capita" (such as "per employee", "per beneficiary" or "per participant") fees or other

payments, gifts, awards, trip payments, finder's fees, placement fees, commissions, agency fees, servicing fees, stock or option awards, or float compensation or income.

For each transaction for which CONSULTING FIRM has received monies, CONSULTING FIRM hereby states: (a) the entity and/or individual from which the CONSULTING FIRM received the monies; (b) the transaction for which the CONSULTING FIRM received the monies (i.e., PBM RFP, PBM audit, PBM/CONSULTING FIRM brokerage agreement or service agreement, etc.); (c) the type of monies received (i.e., lump-sum payment, "per prescription payment", stock, etc.); (d) the date(s) when CONSULTING COMPANY received, or will receive, the monies; and (e) the aggregate amount received, or expected to be received, from the transaction. (Only monies or other financial benefits received on or after **January 1, 2014** need be identified). **[change date as necessary]** [consulting firm should add lines as necessary]

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IV. CONSULTING FIRM'S AGREEMENT CONCERNING MONIES TO BE RECEIVED IN CONNECTION WITH REQUESTED SERVICE CONTRACT

A. CONSULTING FIRM hereby agrees that in connection with the services for which it is currently being considered by CLIENT, or is already providing to CLIENT, CONSULTING FIRM's only direct or indirect compensation will be the compensation stated in CLIENT's retainer agreement.

B. CONSULTING FIRM further agrees that it will not directly or indirectly receive any monies or other compensation or financial benefit in connection with said services from any: other consulting firm, pharmacy benefit management company, drug manufacturer, or drug wholesaler or distributor or repackager, or _____ **[add other industries that are of concern here]**, or any parent, subsidiary, division, or related or affiliated entity of any of the previously described entities, or any officer/director/board member/agent/partner/or employee of any of the previously described entities.

V. MATERIAL CHANGES TO INFORMATION DISCLOSED AND AGREEMENTS CONTAINED HEREIN

CONSULTING FIRM hereby agrees that it will execute this DISCLOSURE FORM and AGREEMENT, on a quarterly basis, beginning on _____

[fill in date], until the completion of its work for CLIENT, and thereby keep current its disclosures to CLIENT, and its agreements with CLIENT.

VI. DAMAGES and PENALTIES FOR INACCURATE DISCLOSURES, and FOR FAILURE TO PERFORM AS AGREED UPON HEREIN

CONSULTING FIRM hereby acknowledges that CLIENT is reasonably relying on all disclosures made herein, and all agreements entered into herein, and any inaccuracies or misrepresentations or omissions by CONSULTING FIRM, or any failure by CONSULTING FIRM to perform as agreed upon, will result in damages to CLIENT, some of which may be quantifiable and others of which will not be quantifiable. CONSULTING FIRM hereby agrees to compensate CLIENT for all such damages, including all consequential damages, to the extent such damages are quantifiable. For those damages that CONSULTING FIRM agrees will occur but be unquantifiable, CONSULTING FIRM agrees that it will pay CLIENT liquidated damages in the amount of _____ to compensate CLIENT for its unquantifiable damages. [Client to fill in appropriate liquidated damages before transmitting Form to Consulting Firm(s)] CONSULTING FIRM also agrees to return all fees paid to CONSULTING FIRM after it was retained. CONSULTING FIRM further agrees that to the extent CONSULTING FIRM failed to accurately disclose all relevant information on, and perform all agreements contained in, this DISCLOSURE FORM and AGREEMENT, CLIENT shall be free to make CONSULTING FIRM's failures publicly known.

VII. AGREEMENT TO ARBITRATE ALL DISPUTES

A. Any dispute arising out of, or in connection with, this DISCLOSURE FORM and AGREEMENT, shall be resolved by final and binding arbitration, conducted in _____ [state name of CLIENT's state] under the rules of the American Arbitration Association.

B. The parties shall in good faith attempt to mutually agree upon an arbitrator, within thirty (30) days of the filing of an arbitration request by either party. If the parties are unable to reach such agreement, each party shall select one arbitrator, and the two arbitrators thus selected shall select a third arbitrator.

C. Any judgment upon any award rendered by an arbitrator or arbitration panel may be entered by any state or federal court having jurisdiction to do so.

D. Each party shall bear its own legal fees and expenses in connection with any arbitration, unless the arbitrator or arbitration panel finds that CONSULTING FIRM failed to accurately disclose, or misrepresented or omitted facts from this DISCLOSURE FORM and AGREEMENT, or breached any agreement herein, in which case CONSULTING FIRM shall pay CLIENT's legal fees and expenses arising from the arbitration.

VIII. MISCELLANEOUS

A. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument.

B. This Agreement may be amended only with the written consent of the parties.

C. Each of the persons signing below on behalf of a signatory entity warrants that he or she has the authority to execute this Agreement on behalf of such entity. CLIENT warrants that by signing this DISCLOSURE FORM and AGREEMENT, CLIENT is binding itself, and all trustees and employees, and all related and affiliated entities and their trustees and employees to this Agreement. CONSULTING FIRM warrants that by signing this DISCLOSURE FORM and AGREEMENT, CONSULTING FIRM is binding itself, and all entities and individuals defined to be included in the term CONSULTING FIRM.

D. This Agreement shall be governed by and construed under the laws of the State of _____ [Fill in name of CLIENT's state]. If any provision of this Agreement is determined to be unenforceable under applicable law, such provision shall be severed from this Agreement, and the remainder of the Agreement shall remain in full force and effect.

Name of CLIENT: _____

By: _____
[type Signatory's Name and Title]
On Behalf of _____ [type CLIENT's name]

Date: _____

Name of CONSULTING FIRM: _____

By: _____
[type Signatory's Name and Title]
On Behalf of _____ [type CONSULTING FIRM's name]

Date: _____