

# PENDING APPROVAL

## OKLAHOMA COUNTY BOARD OF COUNTY COMMISSIONERS

### AGENDA ITEM REQUEST SHEET

FOR THE \_\_\_\_\_ AGENDA

DEPARTMENT: Oklahoma County Social Services REQUESTED BY: Christi Jernigan

REQUISITION NO.: N/A REQUISITION SHEET ATTACHED: \_\_\_\_\_ YES X N/A

NAME OF FUNDS: N/A

FUND NUMBERS: N/A

DOES THE AGENDA ITEM CONTAIN PRIVACY-PROTECTED OR SECURITY INFORMATION? \_\_\_ YES X NO

AGENDA ITEMS CONTAINING PRIVACY-PROTECTED OR SECURITY INFORMATION WILL NOT BE HYPERLINKED TO THE AGENDA.

NUMBER OF ORIGINAL DOCUMENTS TO BE RETURNED TO YOUR DEPARTMENT: 2

AGENDA ITEM READS AS FOLLOWS: Discussion and possible action for renewal of the non-financial agreement between AstraZeneca pharmaceutical company (AZ&Me) and the Board of Oklahoma County Commissioners on behalf of the Department of Oklahoma County Social Services. This agreement will allow the Oklahoma County Pharmacy to receive certain medications at no charge for indigent clients. Agreement to be effective upon approval by the Board of County Commissioners through June 30, 2012. Requested by Christi Jernigan, Director, Oklahoma County Social Services.

2011 

APPROVED BY DA  
(If Applicable)

 7/20/2010  
\_\_\_\_\_  
ASSISTANT DISTRICT ATTORNEY

APPROVED BY ENGINEER  
(If Applicable)

\_\_\_\_\_  
COUNTY ENGINEER

APPROVED BY PURCHASING  
(If Applicable)

  
\_\_\_\_\_  
PURCHASING AGENT

**Please initial that document has been reviewed for privacy-protected or security information**

DISTRICT ATTORNEY: \_\_\_\_\_ YES \_\_\_\_\_ N/A

COUNTY CLERK: AC YES \_\_\_\_\_ N/A

Indicate any privacy-protected information that exists \_\_\_\_\_

**(NOTE: THE CHAIRMAN/CHIEF DEPUTY MUST APPROVE ALL EMERGENCY REQUESTS FOR ANY ITEM SUBMITTED AFTER THE DEADLINE)**

DATE OF REQUEST: \_\_\_\_\_ APPROVED BY: \_\_\_\_\_  
CHAIRMAN

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733

## REQUEST FOR DISTRICT ATTORNEY LEGAL SERVICES

THIS FORM IS TO BE USED TO REQUEST ADVICE AND/OR REPRESENTATION FOR THE COUNTY OF OKLAHOMA, COUNTY OFFICIALS AND EMPLOYEES FROM THE DISTRICT ATTORNEY AS REQUIRED BY SECTIONS 215.4, 215.5, 215.25 AND 215.26 OF TITLE 19 OF THE OKLAHOMA STATUTES. IF ADVICE IS SOUGHT, THE REQUEST MUST BE SIGNED BY AN ELECTED COUNTY OFFICER. THIS FORM MUST BE FILLED OUT AND SUBMITTED TO THE CIVIL DIVISION OF THE OKLAHOMA COUNTY DISTRICT ATTORNEY'S OFFICE IN A TIMELY MANNER. ALL REQUESTS FOR ADVICE WILL BE RESPONDED TO IN WRITING. IF THE REQUEST IS FOR LEGAL REPRESENTATION UNDER 19 O.S. SECTION 215.25, THE REQUEST MUST BE SUBMITTED IN WRITING EARLY ENOUGH TO PERMIT THE DISTRICT ATTORNEY'S OFFICE ADEQUATE TIME TO COMPLETE A "GOOD FAITH AND COURSE OF EMPLOYMENT" INVESTIGATION AS CONTEMPLATED BY 19 O.S. SECTION 215.26.

DATE OF REQUEST: \_\_\_\_\_

COUNTY DEPARTMENT MAKING REQUEST: Department of Oklahoma County Social Services

STATE, WITH SPECIFICITY, WHAT THE REQUEST IS AND WHY THE ASSISTANCE OF THE DISTRICT ATTORNEY'S OFFICE IS NEEDED:

Approval as to form and legality of renewal of non-financial agreement between AstraZeneca pharmaceutical company (AZ&Me) and the Board of Oklahoma County Commissioners on behalf of the Department of Oklahoma County Social Services. This agreement will allow the Oklahoma County Pharmacy to receive certain medications at no charge for indigent clients. Agreement to be effective upon approval by the Board of County Commissioners through June 30, 2012. Requested by Christi Jernigan, Director, Oklahoma County Social Services.

ATTACH ADDITIONAL DOCUMENTS AS APPROPRIATE.

  
COUNTY OFFICER

DATE RECEIVED BY DISTRICT ATTORNEY: 7-19-10

REPLY BY DISTRICT ATTORNEY: Reviewed

STATE OF OKLAHOMA  
OKLAHOMA COUNTY  
RECORDED OR FILED  
2010 JUL 20 P 2:33  
STATE OF OKLAHOMA  
OKLAHOMA COUNTY  
CLERK

RECEIVED

JUL 19 2010

CIVIL DIVISION  
DISTRICT ATTORNEY.

  
David Prater

# PENDING APPROVAL

## AZ&Me™ PRESCRIPTION SAVINGS PROGRAM FOR HEALTHCARE FACILITIES AGREEMENT

This AZ&Me™ Prescription Savings program for Healthcare Facilities Agreement (“**Agreement**”) is by and between AstraZeneca Pharmaceuticals LP (“**AstraZeneca**”) and Oklahoma County Clinic Pharmacy,, a not-for-profit entity (“**Facility**”), organized in OK, located at 7401 Northeast 23<sup>rd</sup> St, Oklahoma City, OK 73141 and is effective as of 1, 2010 (“**Effective Date**”). This Agreement includes Exhibits A, B, and C, all of which are incorporated herein and form a part of this Agreement.

Facility’s mission includes providing health care services and/or prescription medications to Patients (as hereinafter defined). Facility has established financial need guidelines and procedures for determining which individuals, who do not have private medical insurance and are not receiving prescription governmental assistance, will be eligible for assistance under the AZ&Me Prescription Savings program for healthcare facilities (“**Program**”) and who qualify as ill, needy or infants within the meaning of Section 170(e)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”). AstraZeneca has determined that these guidelines are consistent with the Program eligibility standards and desires to make the Program available to Patients through this Facility.

Now, therefore, Program and Facility agree as follows:

1. **Definitions.** The following terms shall have the meanings ascribed to them:

“**Affiliate**” shall mean, with respect to any person or entity, any other person or entity controlling, controlled by or under common control with such first person or entity, whether directly or through one or more intermediaries. For such purposes, “control,” together with its correlative forms “controlling,” and “controlled by,” shall mean the power to direct or cause the direction of the management and policies of the “controlled” entity, through ownership of equity securities, power to designate a majority of a governing board, exercise the powers of a general partner, by contract, or otherwise.

“**Facility**” is an organization exempt from federal income tax as described in Section 501(c)(3) of the Code, a governmental entity that can provide documentation of its tax-exempt status, or a public charity as described in Section 509(a)(1) of the Code. As used herein it is a comprehensive term used to describe as a whole, all types of entities participating in the Program.

“**Outpatient Licensed Pharmacy or Dispensary**” shall mean a non-profit licensed pharmacy or dispensary that dispenses/distributes Program Product to Patients. The pharmacy or dispensary shall be licensed and operating under the pharmacy laws of the state in which it operates. The use of retail pharmacies or Prescription Benefit Managers (PBM) to administer the Program is prohibited under this Agreement and is cause for immediate removal from the Program.

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“**Patient**” shall mean an outpatient who is eligible to receive Program Product through a Facility as a result of their meeting the Program Patient Eligibility Criteria.

“**Patient Eligibility Criteria**” the criteria the facility uses to determine whether a patient satisfies the requirements to be a Patient, which eligibility criteria shall satisfy AstraZeneca Guidelines as indicated in Exhibit B and the Business Rules (attached as Exhibit C), either of which may be amended from time to time without amendment to this Agreement by provision of notice to Facility at the address identified below.

“**Program**” is the AZ&Me Prescription Savings program for healthcare facilities, an institutional patient assistance program developed by AstraZeneca to provide low-income outpatients who qualify as ill, needy or infants within the meaning of Section 170(e)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) and who cannot obtain private prescription insurance or are not receiving prescription governmental assistance (including Medicaid or similar federal, state or public programs) with certain prescription medications through Outpatient Licensed Pharmacies or Dispensaries and clinics, which are an important health care access point for such Patients.

“**Program Products**” shall mean those products listed on **Exhibit A** attached hereto as may be amended from time to time by AstraZeneca in its sole discretion.

“**Replenishment Period**” means that period of time for which a Facility seeks replacement of Program Product that is within the timeframe established by the Program.

“**Supplemental Order**” shall mean the process by which a Facility may request an initial start-up quantity of Program Product and/or additional Program Product when there has been an increase in Patients and/or to adjust inventory as a result of damaged or recalled Program Product or destruction of expired Program Product.

“**Utilization Report**” refers to a CD, disk or web based submittal provided by Facilities to the Program Administrator to reflect the Program Product used by Facility during the Replenishment Period and for which Facility seeks replacement.

## 2. **Product Replacement.**

Subject to the conditions contained in this Agreement, and provided that Facility is in compliance with all Program requirements as contained herein, in the Business Rules attached hereto, and in other guidance as AstraZeneca may provide, AstraZeneca agrees to provide to Facility at no cost, an amount of Program Products equal to or approximately equal to the amount of Program Products that Facility dispensed to Patients during the preceding Replenishment Period. Shipment of Program Products shall be conditioned upon Facility’s submission of a Utilization Report (as defined below) or, if applicable, a Supplemental Order (as defined below) in the format and containing the information described in Section 3 below.

### 3. Utilization Reports and Supplemental Order Submission.

- 3.1 To receive Program Products hereunder, Facility will submit to AstraZeneca or its designee an acceptable Utilization Report as set forth in this Agreement and Exhibit C within sixty (60) days after the end of each Replenishment Period. Utilization reports shall not include physician samples provided to patients.
- 3.2 Each Utilization Report shall include the information required as set forth in Exhibit C for each prescription of a Program Product for which Facility seeks replacement from AstraZeneca under the Program. In providing the aforementioned information, Facility shall not include patient Social Security Numbers. Inclusion of patient Social Security Numbers will result in the Utilization Report being destroyed, and Facility will be required to submit a de-identified Utilization Report.
- 3.3 In the event that errors are discovered in any Utilization Report submitted by Facility, Facility shall be promptly notified of such error(s). Failure to respond to such notification within fifteen (15) days shall result in forfeiture of the Product requested by such Utilization Report, unless Facility provides the Program with an explanation as to why it failed to reply to notice of error(s) within the required timeframe and such explanation is approved and accepted by AstraZeneca in its sole discretion.
- 3.4 Facility shall not be entitled to any Program Product based on a Utilization Report submitted later than sixty (60) days following the end of the Replenishment Period in which such Program Product is dispensed/distributed, unless Facility provides the Program with an explanation as to why the Utilization Report was not submitted within the aforementioned timeframe and such explanation is approved and accepted by AstraZeneca in its sole discretion. Repeated failure (more than twice within a one (1) year period) to submit Utilization Reports within the required timeframe may result in Facilities suspension and/or termination from the Program.
- 3.5 Upon receipt of requested Program Products, the Facility must confirm shipment is unopened and undamaged and retain the packing slips provided with the shipment. No additional Program Product will be shipped until AstraZeneca or its designee receives such confirmation. Failure to provide confirmation within thirty (30) days of shipment on two occasions may result in suspension of Program participation and Program Product forfeiture.
- 3.6 If Facility determines or, in good faith anticipates, that the quantity of Program Product it will dispense will exceed the quantity of Program Product it currently has in inventory or that will be provided pursuant to the Utilization Report, Facility may contact the Program to submit Supplemental Order. Such a Supplemental Order shall conform to the requirements described in the Facility Business Rules attached hereto as Exhibit C and shall provide an explanation for the need for additional Program Product. Approval of a Facility's Supplemental Order shall be in AstraZeneca's sole discretion.

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3.7 As described in the Facility Business Rules, if Facility submits and receives AstraZeneca's approval for a Supplemental Order, Facility's subsequent Utilization Reports should reflect its increase in usage as specified in the Supplemental Order. If Facility fails to demonstrate utilization of Program Product requested in the Supplemental Order within three Replenishment Periods, Facility will receive no further replacements of that Program Product until further utilization is demonstrated through monthly Utilization Reports or Facility can provide an acceptable response as to the reason behind the unmet utilization.

## 4. Use of Facility-Based Outpatient Pharmacy.

4.1 Program Product must be dispensed/distributed through an Outpatient Licensed Pharmacy or Dispensary (as defined above). Each Outpatient Licensed Pharmacy or Dispensary must have appropriate policies and procedures to ensure proper Product storage and security.

The use of retail pharmacies or Prescription Benefit Managers (PBMs) to administer the Program is prohibited under this Agreement and is cause for immediate removal from the Program.

4.2 Prior to dispensing/distributing any Program Product, Facility must provide the Program with the location of all sites where Program Product will be or, is expected to be, dispensed or distributed. Facility may increase the number of Outpatient Licensed Pharmacies or Dispensaries through which it dispenses or distributes Program Product, but must provide the Program with the location of any such Outpatient Licensed Pharmacy or Dispensary not previously identified to the Program not later than ninety (90) days prior to dispensing any Program Product through such Outpatient Licensed Pharmacy or Dispensary. At Program's discretion, any such Outpatient Licensed Pharmacy or Dispensary may be subject to an audit as described in Section 6 and any applicable Business Rules prior to dispensing or distributing Program Product. All Outpatient Licensed Pharmacies or Dispensaries used to dispense Program Product must comply with the requirements of this Agreement.

4.3 Facility must also provide Program with the names and locations of any patient eligibility and/or intake locations.

## 5. Facility Documentation.

Facility agrees to provide AstraZeneca or its designee, upon request, with written documentation including, but not limited to, the following:

5.1 Documentation of the Program Products received by Facility from AstraZeneca and the date received;

5.2 Representations (and supporting documentation) that (a) the Facility meets the requirements of Section 501(c)(3) of the Code, or is a governmental entity, citing

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the relevant statutory provision under which it is incorporated; or is a county/state facility and/or a public charity as described in Section 509 (a)(1) of the Code, or (b) if applicable, that the Facility qualifies as a Disproportionate Share Hospital or Clinic;

- 5.3 Representations that the Facility will distribute Program Products exclusively to ill, needy or infant patients within the meaning of Section 170(e)(3) of the Code;
- 5.4 Facility's policies and procedures for patient eligibility, product receipt, storage and distribution, security, document retention and the assignment of billing codes, if applicable, and other policies and procedures that AstraZeneca may require;
- 5.5 Representations that (a) the Facility's participation in the Program is consistent with all applicable State and Federal laws and any other obligations, contractual or otherwise, that the Facility has and (b) the Facility has adequate controls in place to ensure that the Facility is in compliance with the terms and conditions of this Agreement.
- 5.6 Representations that all Facility staff, employees, and other personnel involved in the management and/or administration of the Program, including third-party contractors, have reviewed and understand the Program obligations and responsibilities created by this Agreement and any attachments or amendments thereto.

## 6. **Audits and Inspections.**

- 6.1 During the term of this Agreement, and for a period of three (3) years following expiration or termination, AstraZeneca or its designee shall have the right to inspect and audit all policies, procedures, original records and operations of Facility and its network pharmacies and/or dispensaries, if applicable related to the Program and usage of the products listed in **Exhibit A** (regardless of where such records and/or operations are held or conducted). To facilitate such audit and/or inspection, Facility agrees to obtain
  - 6.1.1 The necessary approvals and consents from third parties, if necessary, in advance of the audit to make all original records available to AstraZeneca; and
  - 6.1.2 The necessary approvals and consents from patients at the time of patient qualification to ensure compliance with the Health Insurance Portability and Accountability Act ("HIPAA"), as amended, and other laws and regulations relating to privacy.
- 6.2 AstraZeneca shall provide Facility with thirty (30) calendar days prior notice of such audit to be conducted during Facility's usual business hours. Facility agrees to maintain adequate books and records, which shall be retained for a period of three (3) years in connection with the Program, and to make such records available to AstraZeneca, its designee or the Internal Revenue Service upon request. In the

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event Facility fails to comply with this provision, immediate suspension and/or termination of this Agreement may result.

## 7. Transfer of Program Product to Non-Qualified Patients.

In the event that it is determined that Facility transferred a Program Product to a person other than a Patient or sought reimbursement for a Program Product from a Patient or third party:


7.1 Facility will immediately be placed in suspended status and will not be eligible for further product replacement until AstraZeneca completes a review and/or audit of the events which led up to the transfer of Program Product to a Non-Qualified Patient and/or reimbursement for a Program Product from a Patient or third party and determines that either:

7.1.1 The event does not represent a pattern of behavior of Facility and is remedied through enhanced Facility policies and procedures addressing the issue; in which case upon acceptance by AstraZeneca of Facility's enhanced policies and procedures, Facility will resume Active status; or

7.1.2 The event represents a pattern of behavior of Facility and/or is evidence of Facility's inability generally to comply with Program requirements; in which case Facility will be terminated from the Program.

7.2 Upon a determination under either subparagraph 7.1.1 or 7.1.2 above, AstraZeneca will invoice and Facility shall pay AstraZeneca for such Program Product based on the product's then-current wholesale acquisition cost ("WAC") as published by AstraZeneca, or if lower, the applicable contract price of the product or the amount of such Program Product shall be deducted from the next month's shipment of Program Products pursuant to Section 2.

## 8. Term and Termination.

8.1 Term. This Agreement shall commence on the Effective Date and shall remain in effect until July 31, ~~2012~~ <sup>2011</sup>. This Agreement may be renewed for additional one (1) year terms (not to exceed two additional one-year terms) by the mutual written agreement of the parties. 

8.2 Either party may terminate this Agreement immediately by written notice to the other party in the event of a breach of this Agreement by the other party.

8.3 Either party may terminate this Agreement without cause on thirty (30) days prior written notice to the other party.

8.4 Right to Terminate. Nothing herein shall be construed as limiting the right of AstraZeneca to terminate this Agreement in the event of a breach of Facility's covenants under this Agreement.

8.5 Expiration or Termination.

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- 8.5.1 Upon the expiration or termination of this Agreement or the Program, Facility shall submit to AstraZeneca or its designee a Utilization Report for the period ending on the date of expiration or termination of this Agreement (the “**Final Utilization Report**”) within thirty (30) days of such date. Failure to provide the Final Utilization Report within thirty days of the expiration or termination of this Agreement shall be considered forfeiture of that period’s product replacement, unless Facility provides the Program with an explanation as to why the Final Utilization Report was not submitted within the aforementioned timeframe and such explanation is approved and accepted by AstraZeneca in its sole discretion. In no event will a Final Utilization Report be accepted more than sixty (60) days after the date of expiration or termination of this Agreement.
- 8.5.2 If upon the event of expiration or termination of the Facility, an audit of Facility’s Utilization Report reveals that Facility transferred a Program Product to a person other than a Patient or sought reimbursement for a Program Product from a Patient or third party, AstraZeneca shall invoice and Facility shall pay AstraZeneca for such Program Product based on the product’s then-current WAC as published by AstraZeneca, or if lower, the applicable contract price of the product.

## 9. **Out-of-Stock or Back-Ordered Program Product:**

If a Program Product is out-of-stock or is in backorder at AstraZeneca, the facility will be notified that product will be shipped to the Facility upon availability.

## 10. **Damaged, Adulterated or Expired Program Product or Shipping Errors.**

- 10.1 Upon receipt, Facility shall be responsible to ensure Program Product is properly handled during storage and any subsequent transfer.
- 10.2 Facility will notify AstraZeneca immediately if it receives or possesses any Program Product that is:
- 10.2.1 Damaged;
  - 10.2.2 In an adulterated or unusable condition;
  - 10.2.3 Expired or outdated; or
  - 10.2.4 Shipped in error (i.e. wrong product, wrong quantity).
- 10.3 Facility shall segregate, but shall not dispose of, any such Program Products identified in paragraph 10.2 immediately upon discovery and shall contact the Program at 1-866-325-8198 for authorization and procedures before returning any of the aforementioned Program Products. Facility shall return or dispose of any Program Products described above only in accordance with the procedures and instructions provided by the Program. The failure of Facility to comply with the

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provisions of this Section may result in a denial of Program Product replacement by AstraZeneca.

10.4 If Program Product is lost or stolen while in Facility's possession, Facility must notify AstraZeneca immediately for further instructions.

## 11. **Product Recall.**

AstraZeneca will notify the Facility in the event of any product quality issue or recall of a Program Product. In such situations, the Facility will immediately move affected Program Products to a "no dispense" inventory status, and await further direction from AstraZeneca.

## 12. **Advance Notice of Facility Program Modifications.**

Facility shall notify AstraZeneca in writing at least ninety (90) days prior to implementing any proposed modification of the financial need criteria used to determine the eligibility of Qualified Patients under the Program or other significant changes in supporting systems or organizational changes. In the event that AstraZeneca determines that such proposed modifications are inconsistent with the Program standards, AstraZeneca may terminate this Agreement.

## 13. **Additional Representations, Warranties and Covenants of Facility.**

13.1 Facility represents and warrants that it is free to enter into this Agreement and perform its obligations under this Program. Facility further represents, warrants and covenants that its performance of its obligations under the Program does not, and will not, breach any agreement that obligates Facility to keep in confidence any trade secrets or confidential information of Facility or of any other party or to refrain from competing, directly or indirectly, with the business of any other party.

13.2 Facility represents and warrants that:

13.2.1 Facility and its employees are, and at all times during the term of this Agreement will be, qualified by training and experience with appropriate expertise to perform their obligations under the Program.

13.2.2 Facility and its employees have, and at all times during the term of this Agreement will have, appropriate licenses, approvals and certifications necessary to perform safely, adequately and lawfully their obligations under this Agreement.

13.2.3 Facility, during the term of this Agreement, will not hold, without the express written prior approval of AstraZeneca, any financial interest in AstraZeneca or its Affiliates.

13.2.4 Neither it nor any of its employees shall dispense any Program Product except to Patient(s) as defined herein, directly through Facility staff and will not sell or transfer any Program Product(s) to any third party. In the

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event Facility fails to comply with this provision, immediate suspension and possible termination of this Agreement may result.

13.3 Facility represents and warrants that it shall:

- 13.3.1 Comply with all applicable Local, State and Federal laws and any other obligations, contractual or otherwise, it may have;
- 13.3.2 Maintain adequate controls to ensure compliance with the terms and conditions of this Agreement; and
- 13.3.3 Not seek payment for any Program Product dispensed from any Patient, any federal or state government program (including, but not limited to Medicare or Medicaid) or any third-party payor.

## 14. **Regulatory Inspections.**

If any governmental or regulatory authority: (i) contacts Facility with respect to the Program, (ii) conducts, or gives notice of its intent to conduct, an inspection of Facility or (iii) takes, or gives notice of its intent to take, any other regulatory action alleging improper or inadequate practices with respect to any activity of Facility, whether or not in connection with the Program, then Facility shall notify AstraZeneca within three (3) business days after such contact or notice, or sooner if necessary to permit AstraZeneca to be present at, or otherwise participate in, any such inspection or regulatory action with respect to the Program, and shall supply AstraZeneca with all information pertinent thereto. AstraZeneca shall have the right to be present at and to participate in any such inspection or regulatory action with respect to the Program. Facility shall provide AstraZeneca with copies of all documentation issued by any governmental or regulatory authority in connection therewith and any proposed response thereto. No such response shall include any false or misleading information with respect to the Program or AstraZeneca.

## 15. **Confidential Information.**

- 15.1 Facility acknowledges and agrees that it will have access to, or become acquainted with, Confidential Information of AstraZeneca in the performance of the Program. For purposes of this Agreement, “**Confidential Information**” shall mean all confidential, proprietary, or trade secret information, property, or material of AstraZeneca and any derivatives, portions, or copies thereof, including, without limitation, information resulting from or in any way related to: (i) the Program, (ii) the business practices, plans, or relationships of AstraZeneca and (iii) any other information or material that AstraZeneca designates as Confidential Information. Facility shall keep all Confidential Information in strict confidence and shall not, at any time during or for ten (10) years after the expiration or earlier termination of this Agreement, without prior written consent from AstraZeneca, disclose, publish, disseminate or otherwise make available, directly or indirectly, any item of Confidential Information to anyone unless required to do so by law or pursuant to a Freedom of Information Act request. With respect to any information that the Facility is requested or required to disclose pursuant to an order of a court, regulatory agency or by applicable federal

or state laws, including without limitation by subpoena, request for information in litigation, or other legal process, the Facility shall provide AstraZeneca with prompt written notice of such request or requirement so that AstraZeneca may seek a protective order or other appropriate remedy to maintain the confidentiality of such information or limit or condition any disclosure thereof. If, in the absence of a protective order or other remedy, the Facility is required to disclose information pursuant to an order of a court, regulatory agency or by applicable federal or state laws, rules or regulations, the Facility may disclose only that portion of the information which is legally required to be disclosed, and the Facility shall take all actions available to it to preserve the confidentiality of information disclosed to the greatest extent possible in accordance with applicable law, including without limitation, by designating any such information provided as exempt from disclosure pursuant to the federal Freedom of Information Act. Facility shall use the Confidential Information only in connection with the performance of the Program and for no other purpose.

- 15.2 AstraZeneca and its designees agree they will not use any of the information provided pursuant to this Agreement for any purpose other than those described in this Agreement. AstraZeneca and its designees agree that, except as may be required by relevant law, subpoena, or other valid legal process, they will maintain in strict confidence any such information received from Facility and not reveal it to any other third party or the public. Neither AstraZeneca nor its designees will attempt to identify such information. If any such information is used or disclosed in a manner not permitted under this Agreement. AstraZeneca shall promptly notify Facility of such use or disclosure.

16. **Equitable Relief.**

A breach by either party of their obligations under this Agreement will cause irreparable damage and the nonbreaching party will not be adequately compensated by monetary damages. In the event of a breach, or threatened breach, the nonbreaching party shall be entitled to obtain from any court of competent jurisdiction equitable relief, whether preliminary or permanent, without the need to show irreparable harm or the inadequacy of monetary damages as a remedy and without the requirement of having to post a bond. Nothing in this Agreement is intended, or shall be construed, to limit the parties' rights to equitable relief or any other remedy for a breach of any provision of this Agreement.

17. **Notices.**

Any notice provided for in this Agreement shall be in writing and shall be given either by hand delivery or facsimile and confirmed in writing, by overnight courier service (charges prepaid) or certified mail, return receipt requested addressed to the Program or Facility at their respective addresses set forth below, or at such address as either party shall designate to the other in accordance herewith. Notices shall be deemed to have been given when received, as evidenced by written receipt or confirmation.

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## If to Program:

AZ&Me Prescription Savings program for healthcare facilities  
P.O. Box 668  
Somerville, NJ 08876

Phone: 866-325-8198  
Fax: 732-584-0909

## If to Facility:

Facility: OKlahoma County Pharmacy  
Attention: Dr. Tamberlyn Herd  
Address: 7401 NE 23rd Street  
OKC, OK 73141  
Phone: (405) 713-1891  
Fax: (405) 713-6518

## 18. Program Discontinuation, Amendments and Modifications.

The Program may be discontinued, amended or modified by AstraZeneca in its sole discretion at any time or from time to time without prior notice.

## 19. General Provisions.

- 19.1 Headings. The descriptive headings of the sections and paragraphs of this Agreement are inserted for convenience of reference only and shall not affect the meaning or construction of any paragraph, or provision of this Agreement.
- 19.2 Assignment. This Agreement may not be assigned by either party in whole or in part without the prior written consent of the other party, which consent shall not be unreasonably withheld, except that AstraZeneca without such consent may assign this Agreement and its rights and obligations hereunder to any of its Affiliates or any successor in interest (whether by merger, acquisition, asset purchase or otherwise) to all or substantially all of the business to which this Agreement relates. AstraZeneca shall always have the right to perform any or all of its obligations and exercise any or all of its rights under this Agreement through any of its Affiliates.
- 19.3 Force Majeure. Noncompliance with obligations to perform under this Agreement due to force majeure, such as acts of God, acts of governmental

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authority and/or regulatory authorities, war, civil commotion, terrorist acts, destruction of product facilities and materials, fire, earthquake or storm, labor disturbances, shortages of materials, product shortage or entire lack of product availability, failure of public utilities or common carriers, and any other causes, circumstances or contingencies beyond the reasonable control of the Parties, shall not constitute a breach of this Agreement. In the event that either Party ceases to perform its obligations under this Agreement due to the occurrence of a Force Majeure Event, such Party shall: (1) immediately notify the other Party in writing of such Force Majeure Event and its expected duration; (2) take all reasonable steps to recommence performance of its obligations under this Agreement as soon as possible. If the performance of any obligation under this Agreement is delayed owing to a Force Majeure for any continuous period of more than six (6) months, the Parties hereto shall consult with respect to an equitable solution, including the possible termination of this Agreement.

- 19.4 Independent Contractor. Facility agrees that Facility is acting as an independent contractor in the performance of its obligations under this Agreement and that the relationship between the Facility and AstraZeneca shall not constitute a partnership, joint venture or agency. Neither Facility nor any of Facility's employees or agents (collectively referred to herein as the "**Employees**") is an employee, agent or legal representative of AstraZeneca, or shall have any authority to represent AstraZeneca or to enter into any contracts or assume any liabilities on behalf of AstraZeneca. Facility retains all the rights and privileges of sole employer of its Employees, including, without limitation, the right to control, hire, discipline, compensate and terminate such Employees. Neither Facility nor any of its Employees shall have any right to receive any employee benefits as are in effect generally for AstraZeneca employees.
- 19.5 Obligations. The parties acknowledge and agree that nothing in this Agreement shall obligate Facility to purchase, order, recommend, or arrange for the use of any AstraZeneca product.
- 19.6 Waiver. The failure of either Party to insist upon the strict observation or performance of any provision of this Agreement, or to exercise any right or remedy shall not impair or waive any such right or remedy in the future. Every right and remedy given by this Agreement to the Parties may be exercised from time to time as often as possible.
- 19.7 Use of Names. Facility hereby agrees that AstraZeneca and the Program may list Facility on a Program website for the purpose of informing potential Patients of the availability of the Program at Facility.
- 19.8 Entire Agreement. This Agreement consists of these terms and conditions, together with Exhibits A through C. This Agreement constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes all prior negotiations, agreements and understandings between the parties, whether oral or in writing, concerning the subject matter hereof.

# PENDING APPROVAL

- 19.9 Amendments. Except as provided herein, this Agreement may be amended only in writing signed by both parties hereto.
- 19.10 Severability. Except as otherwise provided herein, if any term or provision of this Agreement is declared illegal or unenforceable or in conflict with any law or regulation, the validity of any other term or provision of this Agreement shall not be affected hereby.
- 19.11 Counterparts. This Agreement may be executed simultaneously in two or more counterparts (including by means of telecopied signature pages), all of which taken together shall constitute one agreement.
- 19.12 Governing Law. The interpretation and construction of this Agreement shall be governed by the laws of the State of Delaware excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction. Notwithstanding the foregoing, any disputes regarding the validity, scope or enforceability of any patents, trademarks, copyrights or other intellectual property rights shall be submitted to a court of competent jurisdiction in the territory in which such rights apply.
- 19.13 Survival. The provisions of Sections 3, 5, 6, 7, 13, 15, 19.4, and 19.12 shall indefinitely survive the termination or expiration of this Agreement.
- 19.14 Effectiveness of Agreement. This Agreement shall not be legally binding upon Facility or AstraZeneca unless and until it is executed and delivered by each of Facility and AstraZeneca.
- 19.15 Indemnification.
- 19.15.1 AstraZeneca hereby agrees to indemnify and hold harmless Facility and its directors, officers and employees from and against any claims, liabilities, damages and expenses arising out of or in connection with: (a) AstraZeneca's breach of this Agreement or any of its representations herein; or (b) bodily injury or death arising out of or in connection with any negligence or willful misconduct of AstraZeneca, except to the extent such claims arise out of Facility's negligence, willful misconduct or breach of this Agreement, including, but not limited to, Facility's failure to ensure proper handling of Program Product once received from AstraZeneca.
- 19.15.2 Facility hereby agrees to indemnify and hold harmless AstraZeneca and its directors, its shareholders, directors, officers, employees, and affiliates from and against all claims, liabilities, damages and expenses arising out of or in connection with: (a) Facility's breach of this Agreement or any representations herein; or (b) any third-party claims due to any act or omission of Facility pursuant to the performance of its obligations under this Agreement, except to the extent such claims arise

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out of AstraZeneca's negligence, willful misconduct or breach of this Agreement.

- 19.16 Third Party Beneficiaries. This Agreement is intended exclusively for the benefit of the parties hereto and their successors and permitted assigns, and is not intended to and does not confer upon any third party any right, remedy or cause of action. All rights, remedies or causes of action arising under this Agreement shall be exercised exclusively by the parties hereto and their successors and permitted assigns.
- 19.17 Corporate Compliance. Each party agrees to perform its obligations of this Agreement in a responsible and ethical manner and in compliance with all applicable laws and regulations.

**[SIGNATURE PAGE TO FOLLOW]**

# PENDING APPROVAL

Date: \_\_\_\_\_

**APPROVED**  
By the Board of County Commissioners

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

**ATTEST:**

\_\_\_\_\_  
Carolynn Caudill, County Clerk

*Approved:*  
*[Signature]*  
ASSIST. DA  
7/20/2010

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**IN WITNESS WHEREOF**, the parties intending to be legally bound, do hereby execute this Agreement as of the Effective Date and represent that the individuals executing this Agreement have the authority to bind their respective entities.

Oklahoma County Clinic Pharmacy, OK  
Oklahoma County Clinic Pharmacy #1, OK (Eligibility & Dispensing)  
Oklahoma County Clinic Pharmacy #2, OK (Eligibility & Dispensing)

AstraZeneca Pharmaceuticals LP

By: Tamberlyn Herd duly authorized

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

Name: Tamberlyn Herd

Name: Garrett Warner

Title: Chief Pharmacist

Title: Institutional Patient Assistance Program  
Manager

Date: 7-15-10

Date: \_\_\_\_\_

<Facility Financial Officer>

By: Karae Pittman

Name: Karae Pittman

Title: Fiscal Officer

Date: 7/15/10

<Facility Pharmacy Director>

By: Christi Jernigan

Name: CHRISTI JERNIGAN

Title: DIRECTOR, OKLAHOMA COUNTY SOCIAL SERVICES

Date: 7/15/10

## Exhibit A

### Program Product List\*

The permitted Program Products are as follows:

ACCOLATE<sup>®</sup> (zafirlukast) Tablets  
ARIMIDEX<sup>®</sup> (anastrozole) Tablets  
ATACAND<sup>®</sup> (candesartan cilexetil) Tablets  
ATACAND HCT<sup>®</sup> (candesartan cilexetil-hydrochlorothiazide) Tablets  
CRESTOR<sup>®</sup> (rosuvastatin) Tablets  
FASLODEX<sup>®</sup> (fulvestrant)  
NEXIUM<sup>®</sup> (esomeprazole magnesium) Tablets  
NEXIUM<sup>®</sup> (esomeprazole magnesium) For Delayed-Release Oral Suspension  
PULMICORT RESPULES<sup>®</sup> (budesonide inhalation suspension)  
PULMICORT FLEXHALER<sup>®</sup> (budesonide inhalation powder)  
RHINOCORT AQUA<sup>®</sup> (budesonide)  
SEROQUEL<sup>®</sup> (quetiapine fumarate) Tablets  
SEROQUEL XR<sup>™</sup> (quetiapine fumarate) Extended-Release Tablets  
SYMBICORT<sup>®</sup> (budesonide/formoterol fumarate dihydrate) Inhalation Aerosol  
TOPROL-XL<sup>®</sup> (metoprolol succinate)  
ZOLADEX<sup>®</sup> (goserelin acetate implant)  
ZOMIG<sup>®</sup> (zolmitriptan) Tablets  
ZOMIG-ZMT<sup>®</sup> (zolmitriptan) Orally Disintegrating Tablets  
ZOMIG<sup>®</sup> (zolmitriptan) Nasal Spray

\*Program Product list subject to change.

# PENDING APPROVAL

## Exhibit B

### AstraZeneca Income Guidelines

Patients eligible for the Program cannot have income greater than the following AstraZeneca criteria, which may be amended.

Household Size	Income Criteria
1	\$30,000
2	\$40,000
3	\$50,000
4	\$60,000
5	\$70,000
6	\$80,000
7	\$90,000

**Exhibit C**

**Facility Business Rules (attached)**