

## P-19982

Please note the unredacted version of this document will be used at trial. See attached letter agreement between parties from September 14, 2021 regarding IQVIA fee agreements. The unredacted version has been provided to counsel for the respective party.

PLAINTIFFS TRIAL  
EXHIBIT

**P-19982\_00001**

September 14, 2021

Patrick L. Oot

VIA ELECTRONIC MAIL

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Re: *In re National Prescription Opiate Litigation*, MDL No. 2804

Dear Anthony:

This letter will serve as a response to Plaintiffs' request to utilize certain contracts and statements of work ("the documents") in unredacted form on a limited and protected basis and pursuant to Case Management Order No. 2: Protective Order, entered May 15, 2018, and the Amendments to Case Management Order No. 2, entered September 29, 2019 (collectively "the Protective Order"). The documents were provided by IQVIA to Defendants for production to Plaintiffs pursuant to Discovery Rulings in the above-referenced litigation ("the litigation"), and produced by Defendants to Plaintiffs. The documents include the following beginning Bates numbers:

Beginning Bates No.
CVS-MDLT1-000119294
CVS-MDLT1-000119318
CVS-MDLT1-000119340
CVS-MDLT1-000119346
CVS-MDLT1-000119363
CVS-MDLT1-000119381
WAGMDL00710219
WAGMDL00710230
WAGMDL00710241
WAGMDL00710250
WMT IQVIA MDL 000000001

Each of the documents contain confidential and commercially sensitive pricing information that is IQVIA Confidential Commercial Information ("IQVIA CCI"). As we discussed with Plaintiffs during our August 27, 2021 meet-and-confer, pricing information is highly confidential and proprietary, the disclosure of which to the public, including IQVIA's competitors, would be highly prejudicial to IQVIA. Even the sharing of IQVIA CCI amongst the

individual Defendants in the litigation would have significant negative consequences to IQVIA's business, the value of which cannot be calculated.

Nevertheless, in the spirit of cooperation and in efforts to protect IQVIA CCI, IQVIA will agree to re-produce the documents in unredacted form subject to the following:

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- IQVIA will agree to re-produce each of the documents in unredacted form directly to Plaintiffs' Counsel in the litigation with the following confidentiality branding: "Judge/Jury/Attorneys' Eyes Only".
- Plaintiffs' Counsel agree that while the re-produced documents may be used for the purpose of trial, any public filing or display will include only the redacted version that was previously produced by Defendants.
- Plaintiffs' Counsel agree to not provide the unredacted documents to anyone outside of counsel for the individual Defendant who originally produced the document in redacted form and Plaintiffs' Counsel.

Subject to your agreement to the foregoing, IQVIA will consent to your request and re-produce each of the documents in unredacted form. If the above terms are acceptable, please counter-sign a copy of this letter where indicated and return it to my attention. We appreciate your cooperation.

Best Regards,



Patrick L. Oot  
Partner

*Acknowledged and Agreed By:*

Plaintiffs' Counsel Representative on behalf of the PEC in *In re National Prescription Opiate Litigation*, MDL No. 2804 and related cases.

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SIGNATURE:



NAME:

ANTHONY IRPINO

TITLE:

ATTORNEY

FIRM:

IRPINO, AVIN, HAWKINS

DATE:

9/15/2021



## FIRST AMENDMENT

This First Amendment ("First Amendment"), effective as of October 1, 2013 ("Amendment Effective Date"), by and between IMS Health Incorporated, with offices located at 400 Campus Drive, Collegeville, PA 19426 ("IMS") and Walgreen Co., with offices located at 1411 Lake Cook Road, Deerfield, IL 60015 ("SUPPLIER"), hereby modifies the following agreements by and between IMS and SUPPLIER:

- a. IMS DATA ACQUISITION AGREEMENT FOR CHAIN RETAIL PHARMACY DATA AND SALES DATA dated May 1, 2010 ("Data Agreement");
- b. IMS DATA ACQUISITION AGREEMENT FOR NON-RETAIL (MAIL ORDER, SPECIALTY AND LONG TERM CARE) PHARMACY DATA dated October 1, 1999 ("Non-Retail Agreement");
- c. SDI DATA SUPPLY AGREEMENT effective February 18, 2011, as amended ("SDI Agreement").

In November 2011, IMS acquired SDI Health LLC ("SDI"). SDI received, and IMS (as its successor in interest) currently receives data from SUPPLIER for both its retail and non-retail pharmacies under the SDI Agreement. In addition, IMS currently receives data from SUPPLIER for both its retail and non-retail pharmacies under separate agreements, the Data Agreement and Non-Retail Agreement, respectively. IMS and SUPPLIER desire to consolidate their data supply arrangements so that (1) SUPPLIER continues to provide IMS with all of the data it provides to IMS under its existing data feeds and (2) the parties operate their data supply arrangements pursuant to the terms and conditions of a single agreement.

In addition, SUPPLIER has a growing need for information services from IMS, and the parties desire to amend the financial arrangements between the parties to reflect this need. The parties also wish to extend the term of the agreement.

The parties, therefore, agree as follows:

1. Consolidation of agreements. As of the Amendment Effective Date, the Non-Retail Agreement and the SDI Agreement are terminated. SUPPLIER shall continue to provide to IMS all Data it was providing under the Non-Retail Agreement and the SDI Agreement, provided that, as of the Amendment Effective Date, such Data will be provided to IMS pursuant to the terms of the Data Agreement, as modified herein.
2. Term. The end date set forth on the first page of the Data Agreement under the heading "Complete Data Term" of the Data Agreement is modified to September 30, 2018.
3. Definitions. As of the Amendment Effective Date, the definition of "Pharmacies" set forth in Paragraph 1.m. of the Data Agreement is amended to include all pharmacies owned or operated by the Supplier in the United States (including Puerto Rico) including all mail order, long term care, specialty and all other non-retail pharmacies in addition to retail pharmacies.
4. Data. As of the Amendment Effective Date, Paragraph 2 of the Data Agreement is deleted in its entirety and replaced with the following:

"2. Data.

a. SUPPLIER hereby agrees to sell to IMS and IMS hereby agrees to purchase the Data elements described in **Exhibits A-1 and A-2** (collectively, "Exhibit A") attached to this Agreement in accordance with the terms of Paragraph 3; provided however, that SUPPLIER will not supply any Data elements that: (i) would violate any applicable Law, (ii) would require a material change to Supplier's computer hardware and/or software, or (iii) would come from those pharmacies, facilities or outlets that are not considered a Covered Entity (as that term is defined by HIPAA) under the Walgreens family of companies. In the event that SUPPLIER discloses any Data or all or a portion of a data element that relates to an individual patient and is not in compliance with **Exhibit A** ("Non-Compliant Data"), IMS shall notify SUPPLIER within two (2) business days, or sooner as required by applicable Law, of IMS's detection and confirmation of receipt of Non-Compliant Data received from Supplier to ensure the Non-Compliant Data is in conformity with the specifications set forth in **Exhibit A** and all such Non-Compliant Data is De-identified to the mutual satisfaction of

both IMS and SUPPLIER and in accordance with the terms of this Agreement. Both parties will handle and use all Data in accordance with applicable Law.

b. IMS hereby covenants and agrees that it shall:

- (i) not (A) re-identify, or attempt to re-identify, or allow to be re-identified, any individual(s) who are the subject of Data, or (B) re-identify, or attempt to re-identify, or allow to be re-identified, any relative(s), family or household member(s) of such individual(s);
- (ii) not link any other data elements to any of the Data without either (A) obtaining a statistician's determination that the Data remains de-identified consistent with all of the conditions imposed by 45 C.F.R. § 164.514(b)(1), as may be amended or (B) otherwise determining that the Data is de-identified under HIPAA;
- (iii) implement and maintain appropriate data security and privacy policies, procedures and associated physical, technical and administrative safeguards as needed to assure that Data and the data therein is (A) accessed only by personnel authorized hereunder, and (B) will remain de-identified in accordance with 45 C.F.R. § 164.514(b); and
- (iv) assure that all personnel or parties with access to any Data have agreed to abide by all of these foregoing conditions.

c. IMS shall be deemed to be compliant with its obligations under 2.b.(i) above if IMS does not release the information to a third party in a manner which identifies such individual or entity, or which is readily identifiable based on the information provided by IMS, and IMS includes a paragraph in the third party's contract substantially as follows:

*'CLIENT shall not use or copy or permit any other person or entity to use or copy the Data, or any information derived therefrom, in any manner to attempt to reverse engineer or analyze the Data for purposes of identifying or isolating the information associated with specific outlets, suppliers, prescribers or other entities or individuals not explicitly identified in the Data provided to CLIENT'.*

5. Information Services and Resources. As of the Amendment Effective Date, the section entitled "Payment Rate for Data" on the first page of the Data Agreement is deleted in its entirety. In addition, Paragraph 5 of the Data Agreement, entitled "Rate Schedule" is deleted in its entirety and replaced with the following:

*"5. Information Services. In consideration of Supplier's delivery of Useable Data as set forth in this Agreement and in order to address SUPPLIER'S need for information services from IMS, IMS shall waive the fees associated with the Data, Software, Services and Personnel ("**Information Services**") set forth in the attached Schedule of Fees and Services. The Information Services provided during a contract year must be used during the corresponding contract year and any Information Services not used during the corresponding contract year shall be forfeited.*

*In the event that SUPPLIER requests Information Services in excess of the Information Services ordered on the Schedule of Fees & Services, then the applicable fees shall be invoiced by IMS in its entirety upon the initial delivery of the applicable Information Services.*

*In the event that SUPPLIER requests Information Services that contain information specific to an identifiable physician, SUPPLIER shall pay all AMA fees and any associated fees plus execute the third party data rider in the form attached hereto and execute the applicable AMA agreement between an AMA-approved Database Licensee and SUPPLIER.*

*The IMS Health Incorporated Information Services Agreement General Terms and Conditions for Suppliers (July 2005) (the "General Supplier ISA Terms") shall apply to any information Services provided by IMS to Supplier. The General Supplier ISA Terms include provisions related to license rights granted to the parties and related restrictions, general obligations of the parties, fees and payment, confidential information protection, warranties and disclaimers, limitation of liability, and other relevant subjects. The General Supplier ISA Terms may be accessed at [www.imshealth.com/DSA-STC0705SP](http://www.imshealth.com/DSA-STC0705SP). If SUPPLIER cannot access the General Supplier ISA Terms on the above website, a hard copy will be provided upon request. SUPPLIER acknowledges that it has been provided with an opportunity to review the General Supplier ISA Terms and agrees to be bound by them."*

6. **Resources/Technology.** As additional consideration for SUPPLIER's delivery of Data that constitutes Useable Data through the Complete Data Term as extended by this First Amendment, IMS will reimburse SUPPLIER for reasonable expenses incurred by SUPPLIER during the term of this First Amendment but not exceeding [REDACTED] in employing a full time resource to fill an analyst position in SUPPLIER's contracting & pricing group dedicated to coordinating payer alignment mapping with IMS. IMS will also assign a resource at IMS to facilitate the payer mapping process and maintenance.

IMS will, as required, establish a BI tools customization fund of [REDACTED] during the term of this First Amendment, in order to customize the business intelligence tools provided by IMS to SUPPLIER (i.e. PBI, CLS, and CS Ratings) to meet SUPPLIER's reasonable and agreed upon business requirements

7. **Amendment Consideration.** As additional consideration for SUPPLIER's delivery of Data that constitutes Useable Data through the Complete Data Term as extended by this First Amendment, IMS will pay to SUPPLIER an additional fee as set forth below during the first and second contract years following the Amendment Effective Date of this Amendment. The additional fee will be paid in twelve equal monthly installments and a single payment will be mailed to SUPPLIER no later than thirty days following the end of each calendar month.

- Annual fee for the first twelve month period following the Amendment Effective Date: [REDACTED]
- Annual fee for the second twelve month period following the Amendment Effective Date: [REDACTED]

8. **Third Year Election.** At the end of the third twelve month period following the Amendment Effective Date ("Third Contract Year"), SUPPLIER may elect to cease receiving the Information Services, Resources and Personnel described in Paragraphs 5 & 6, above, and in the attached Schedule of Fees and Services by providing IMS with written notice of such election at least one hundred eighty days prior to the end of the Third Contract Year. In the event of such election, the following shall occur for the fourth and fifth twelve month periods following the Amendment Effective Date (the "Fourth Contract Year" and "Fifth Contract Year", respectively):

- IMS will cease providing the Information Services, Resources and Personnel described in this First Amendment
- The "Payment Rate for Data" and the "Rate Schedule" paragraphs of the Data Agreement will be reinstated as in effect immediately prior to the Amendment Effective Date. In addition, the "Payment Rate for Data" paragraph of the Non-Retail Agreement and all applicable definitions will be deemed added to the Data Agreement for the purposes of determining payment for Non-Retail Data (as such term is defined in the Non-Retail Agreement) only.
- IMS will compensate SUPPLIER for SUPPLIER's delivery of Data that constitutes Useable Data in accordance with the "Payment Rate for Data" section as modified above. For the sake of clarity, the parties acknowledge that the intent is that IMS will pay for Data, except Non-Retail Data, at the rates set forth in the Data Agreement as in effect on September 19, 2013 and IMS will pay for Non-Retail at the rates set forth in the Non-Retail Agreement as in effect on September 19, 2013.
- In addition, IMS will provide the information services set forth in the Data Agreement as in effect immediately prior to the Amendment Effective Date.

In the absence of such an election by SUPPLIER as described above, the Information Services, Resources and Personnel shall continue to be available during the Fourth Contract Year and Fifth Contract Year as in the Third Contract Year and IMS shall make a one-time payment to SUPPLIER, within ninety days prior to the end of the Third Contract Year, [REDACTED] as consideration for costs incurred by SUPPLIER to employ additional resources to support the collaboration between IMS and SUPPLIER.

9. **Data Feeds.** As of the Amendment Effective Date, SUPPLIER will continue to provide IMS with all of the Data for the Pharmacies as set forth in Exhibit A (the Data Elements Exhibit) of the Data Agreement. In addition, SUPPLIER will continue to provide IMS (on a prospective basis) with all data it provided to IMS prior to the Amendment Effective Date under the existing data feeds as set forth in the Non-Retail Agreement and the SDI Agreement; provided that the provision of such data shall be governed by the terms and conditions of the Data Agreement, as further described in Paragraph 1 and the recitals of this First Amendment. Over time, IMS and SUPPLIER will work together in good faith to consolidate the data feeds and to enhance the quality, completeness and timeliness of the Data provided. From time to time the parties will also work together to structure and provide additional Data as agreed upon to meet their respective business needs.
10. **Miscellaneous Amendment Provisions:** If any terms of this First Amendment are in conflict with any terms of the Data Agreement, the terms of this First Amendment shall prevail and govern. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Data Agreement. Except as herein modified or supplemented, the terms and conditions of the Data Agreement shall remain in full force and effect.

[Signature Page Follows]





IN WITNESS WHEREOF, and intending to be legally bound, IMS and SUPPLIER have caused this Agreement to be duly executed by authorized representatives of the parties.

IMS Health Incorporated

Signature: HASANEK

Name: Hossam Sadek

Title: V.P. Supplier Services

Date: October 29, 2013

Walgreen Co.

Signature: Michael Felish

Name: Michael Felish

Title: Director, Tax Counsel

Date: 10/30/13



## INFORMATION SERVICES SCHEDULE OF FEES & SERVICES

### PART 1: DATA, SOFTWARE AND SERVICES AND DELIVERY DATES:\*

\*Data periods / term of services reflect data term of the Agreement

#### **A. RxInsights™**

Access to RxInsight through the use of an online tool accessed by IMS Personnel. The RxInsight Data is US retail prescription data in a decision support system designed for IMS data suppliers. The prescription information in RxInsight is derived from IMS' Xponent PlanTrak service.

##### Data Elements:

RxInsight can currently be reported by:

- Geography: State/MSA
- Standard age groupings
- Therapy Class/Product (to Form/Strength level)
- Distribution Channel: Retail
- Payment Type: Cash, Medicaid, Third party, with breakout by PBM and Plan
- Time: 24 rolling months of data

Frequency: Ad hoc and syndicated reports generated by IMS Personnel.

#### **B. Dataview™ Platinum**

Dataview provides access to standard Rx and Sell-in information. The sell-in information is used for understanding product distribution across channels. NSP sell-in information is especially useful for Supply Management generating manufacturer activity reports.

##### Data Accessed through Dataview™ Platinum online tool:

- National Prescription Audit™ (NPA™): Reports prescription activity at a national level.
- National Sales Perspectives™ (NSP™): Reports drug sales at a national level.

##### Users:

20 seats

Frequency: Ad hoc reports accessed by SUPPLIER and syndicated reports generated by IMS Personnel.

#### **C. Customer Loyalty Scorecard (CLS) (to be provided following development by IMS)**

IMS tool that provides access to de-identified longitudinal measures including acquisition, retention and loyalty. Provides comparison of SUPPLIER to other channels to individual store level.

##### Metrics include:

- Monthly patient counts
- Continuing
- Gained/Regained
- Multiple User Internal (MUI)
- Multiple User External (MUE)
- Lost
- Inactive

##### Users:

20 seats

Frequency: Web-based Business Intelligence Tool accessed by SUPPLIER and reports generated by IMS Personnel.

**D. Pharmacy Business Insights (PBI) (to be provided following development by IMS)**

IMS tool that provides access to prescription insights into geographic performance compared to the market and other channels, and provides visibility to the following areas:

- generic utilization
- therapeutics category
- brand / generic product performance
- managed care impact
- 90 day Rx's
- chronic vs. acute performance

Users:

20 seats

Frequency: Web-based Business Intelligence Tool accessed by SUPPLIER and reports generated by IMS Personnel.

**E. IMS CS Ratings Analytical Platform (to be provided following development by IMS)**

IMS CS Ratings is a web based application that uses outlet purchasing and outlet dispensing information along with geographical comparative data to provide visibility to prescription activity for certain controlled substances at the national, state, outlet and prescriber level. The IMS CS Ratings leverages data available from IMS's DDD™, Xponent™, LifeLink™ and HCRS™ databases, and such data is refreshed on a per month basis.

Using a ratings system encompassing pharmacy, prescriber and patient metrics, this application provides views to particular geographies, products (certain controlled substances), outlets and/or prescribers and how they rate relative to comparable benchmarks. Trending information is also available that is designed to provide:

- impact of efforts made to decrease potential product diversion.
- movement of diversion between geographies and/or products

The IMS CS Ratings application provides the following views:

- National. National tab contains a heat-map displaying each state, which will provide an indication of the outlets and prescribers that have a high rating. The top rated outlets and prescribers will also be displayed. The user will also have the option to view all outlets and prescribers.
- Retailer Summary Tab: Utilizes Exception reports on various key metrics to provide Walgreen with a summary of the Top, 10, 50, and 100 Walgreens Stores and Prescribers who's prescriptions are filled in Walgreens stores.
- Outlet. Outlet tab will allow the user to view detailed outlet ratings for subscribed outlets. Outlet monthly trend information and highly rated prescribers with prescriptions filled in the outlet will be displayed.
- Prescriber. Prescriber tab will allow the user to view detailed prescriber ratings along with the metrics used to calculate ratings. Prescriber monthly trend information and outlets where prescriptions were filled will be displayed.

Users:

20 seats

Frequency: Web-based Business Intelligence Tool accessed by SUPPLIER and reports generated by IMS Personnel.

The parties agree that if the IMS Ratings application is not made available to SUPPLIER within one year from the Amendment Effective Date, the parties will work in good faith to mutually determine a substitute product or consideration for SUPPLIER's delivery of Data.

**F. Rx Customer Behavior Study (RxCB)**

Patient centric study available from IMS on a quarterly basis. The RxCB was developed for the SUPPLIER "Loyalty Team" and productionized for reporting of key authority metrics for SUPPLIER. These key business areas assessed by the RxCB include:

- Patient Acquisition



IMS Data, Software and Services. For the avoidance of doubt, standard data sharing rules apply; e.g., in order to access the information related to a data type (DDD) or analytic field (pricing) the SUPPLIER must provide the comparable information for that database and would be needed to produce the desired reports.

SUPPLIER acknowledges that all Information Services provided during a contract year must be used during the corresponding contract year and any Information Services not used during the corresponding contract year shall be forfeited. The applicable contract year is determined by date of delivery. So, for example, if a contract year runs October – September and SUPPLIER orders a report to be delivered monthly for twelve months beginning in August, two months would fall under the first contract year and the remaining ten months would fall under the next contract year.

IMS represents and warrants that the data, software and services described in this Schedule will not infringe upon or violate any trademark rights of a third party.

## **PART 2: SERVICES PROVIDED BY IMS PERSONNEL**

### **A. IMS Personnel**

As additional consideration of SUPPLIER's provision of Useable Data, IMS shall also provide the following personnel to support the use of IMS Data and/or Services provided under the Agreement ("IMS Personnel"):

#### **1. Principal – On Site (3).**

IMS will provide SUPPLIER the services of three IMS principals ("Principals") who will lead the IMS team supporting SUPPLIER's needs.

Each Principal will be responsible for tasks mutually agreed upon by the parties. Such tasks may include the following:

- Building and maintaining positive relationships with customers of IMS information and serve as their day-to-day contact;
- Consulting with SUPPLIER to understand business issues and recommend solutions using IMS information;
- Manages the IMS resources dedicated to SUPPLIER to ensure SUPPLIER business needs are met;
- Monitoring industry to understand trends and opportunities/threats that may impact SUPPLIER's business;
- Educate the SUPPLIER users on the appropriate use of IMS information;
- Using creativity and analysis skills to identify business opportunities and provide proactive marketplace insights to SUPPLIER;
- Tracking and ensuring timeliness of report deliveries;
- Maintaining effective communication with teams (SUPPLIER and IMS) to keep apprised of activities with SUPPLIER; and
- Facilitating meetings and presentations of IMS information for SUPPLIER.

IMS shall provide the Principals at a timeframe agreed to by the parties.

#### **2. Business Consultant – Onsite (2)**

IMS will provide SUPPLIER the services of two IMS business consultants ("Business Consultant") who will provide assistance and support to various SUPPLIER stakeholders.

Each Business Consultant will be responsible for tasks mutually agreed upon by the parties. Such tasks may include the following:

- Support educational efforts on IMS information and its application to client business needs;
- Work with client teams to identify business issues and analytic needs to be addressed using custom analytic approaches;
- Gather custom project/analytic requirements and specifications;
- Work with Engagement Manager, Client Service Analyst, and/or technical team to ensure timely execution and delivery; and
- Participate in client meetings to deliver and discuss results, implications to client business, and further analyses to address new insights.

IMS shall provide the Business Consultants at a timeframe agreed to by the parties.

3. Client Services Manager – On-site (2), IMS (1)

IMS will provide SUPPLIER the services of three client services managers ("Client Service Manager") who will provide assistance and support to SUPPLIER. Two of the Client Service Managers will provide support on-site at a SUPPLIER facility agreed upon by the parties.

Each Client Services Manager will be responsible for tasks mutually agreed upon by the parties. Such tasks may include the following:

- Creates, QC's and delivers client's ongoing reports;
- Calls out insights for the client;
- Acts as offering "Help desk" handling client questions and data inquiries;
- Initiates, triages, and escalates Data Investigations when required;
- Managing, designing and implementing ongoing and ad hoc IMS reports; and
- Participating in SUPPLIER meetings as required with respect to IMS Data.

4. Advanced Analytics Resource (2):

IMS will provide SUPPLIER the services of two advanced analytics resources ("Advanced Analytics Resource") who will provide assistance and support to SUPPLIER. The Advanced Analytics Resources will specifically support the design, development, data extraction, data manipulation, and reporting of longitudinal data analyses. This team includes one senior manager and one stat services programmer.

Each Advanced Analytics Resource will be responsible for tasks mutually agreed upon by the parties. Such tasks may include the following:

- Support ongoing research tasks, proposals, ad-hoc requests, and complex data investigations;
- Develop appropriate statistical data treatments and study designs to meet SUPPLIER's business questions;
- Develop programs to explore/analyze data characteristics, and comparing and validating statistical projection methodologies relevant to the client business questions;
- Support report delivery via data visualization where appropriate; and
- Manage data provisioning for custom analytic needs.

**B. Miscellaneous**

IMS Personnel will be available no more than five (5) days per week, seven and one-half (7.5) hours per day, except for holidays observed by IMS and vacation days approved by IMS. IMS Personnel may take additional time to attend training sessions with IMS and to attend events sponsored by IMS.

IMS Personnel will be responsible only for maintaining workloads that are considered normal by IMS' current standards for such personnel resources. IMS will continually assess the workloads of the IMS Personnel and will notify SUPPLIER when the workload of any individual exceeds IMS normal standards.

IMS Personnel shall not be responsible for providing any of the following services:

- Conducting in-depth market analysis using non-IMS Data (i.e. compilation and interpretation of multiple secondary, and possibly primary, market research data sources);
- Creating market forecasts based on SUPPLIER forecasting models;
- Providing medical or disease expertise;
- Directing primary research; or
- Performing services not related to IMS Data.

For any IMS Personnel that work primarily on-site at SUPPLIER's office, (1) SUPPLIER will be given the opportunity to interview individuals designated by IMS prior to IMS engaging such individual to provide services to SUPPLIER as IMS Personnel, and (2) IMS shall obtain SUPPLIER's consent prior to engaging any such individual to provide services to SUPPLIER as IMS Personnel. Further, IMS will comply and ensure that IMS Personnel will comply with all applicable SUPPLIER policies when on-site at SUPPLIER's office, including: (i) no smoking; (ii) drug-free environment; (iii) dress code; (iv) non-harassment; (v) all safety and security policies (including a prohibition against weapons), and (vi) computer security and use policies.

**C. Independent Contractor; Performance.**

1. Independent Contractor Status. IMS shall not be considered a partner, co-venturer, agent, employee, or representative of SUPPLIER, but shall remain in all respects an independent contractor. Neither party hereto shall have any right or authority to make or undertake any promise, warranty or representation, to execute any contract, or otherwise to assume any obligation or responsibility in the name of or on behalf of the other party. As an independent contractor, IMS and IMS Personnel shall not participate in any employee benefits provided by SUPPLIER to its employees, including worker's compensation insurance, disability, pension or other employee plans.
2. Manner of Performance by IMS.
  - (i) IMS shall work closely with SUPPLIER's personnel to the extent required and, if necessitated by the nature of the services provided by IMS Personnel, SUPPLIER will provide reasonable working space and access to SUPPLIER's equipment as may be reasonably required for the performance of the Analyst Services.
  - (ii) IMS acknowledges and agrees that the IMS Personnel are employees or agents of IMS and will remain employees or agents of IMS during the term of the Agreement. IMS further warrants that the compensation, benefits, if any, and all other compensation owed to or claimed by the IMS Personnel is and shall be the responsibility of IMS.
3. Performance Warranties. IMS shall perform all services provided by IMS Personnel in a professional manner, consistent with industry standards. Additionally, IMS shall perform such services in good faith and with reasonable care and skill, and warrants to SUPPLIER that it (and/or the individual IMS Personnel that it appoints to conduct such services) is sufficiently competent and has appropriate professional qualifications in order to perform such services.
4. Compliance with Policies. SUPPLIER acknowledges and agrees that all IMS Personnel are employees or agents of IMS and as such they are bound by IMS Policies and Procedures, including but not limited to, confidentiality guidelines.

**D. No-Solicitation of Employees.**

SUPPLIER shall not actively solicit for employment any IMS Personnel or any other IMS employee during the period of any individual IMS Personnel or employee's work on any matter under this Agreement and for an additional period of twelve (12) months following termination of such IMS Personnel or employee's work on such matter. Publicizing available employment positions in newspapers or other media of mass communication shall not be deemed active solicitation for employment under this provision.