

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (“**Agreement**”) is among **Prime Therapeutics LLC**, a Delaware limited liability company with a principal place of business at 1305 Corporate Center Drive, Eagan, Minnesota 55121 (“**Prime**”); **Brown and Brown Lone Star Insurance Services, Inc, DBA Alamo Insurance Group**, a Texas corporation with a place of business at 3201 Cherry Ridge, San Antonio, Texas, 78230 (“**Consultant**”); and **Hidalgo County**, a Texas public entity with a place of business at 100 North Closner, Edinburg, Texas, 78539 (“**Employer**”). Prime, Consultant, and Employer are collectively referred to as the “Parties,” or singularly as “Party” and may be referred to as “Recipient” or “Discloser,” as more fully explained below. This Agreement shall be effective as of June 7, 2016 (“**Effective Date**”). As used throughout this Agreement, Parties shall be deemed to include a Party’s Affiliates, auditors, employees, attorneys, agents, assigns, successors, officers, directors, and shareholders.

1. SCOPE AND PURPOSE; DEFINITIONS.

- a) Consultant is a “business associate” of the employee health benefit plan sponsored by Employer under the applicable provisions of the Health Insurance Portability and Accountability Act (“**HIPAA**”) and the regulations thereunder.
- b) Prime is a business associate of HCSC and has a contract with HCSC to provide pharmacy benefit management services to individuals and employer groups, which contract includes provisions regarding confidential and proprietary information.
- c) Consultant has been retained by Employer to review data relating to the health benefit plan and all benefits thereunder.
- d) In connection with a current or future business relationship contemplated between the Parties (the “**Relationship**”), Prime has provided or will provide to Consultant, access to certain confidential and proprietary and trade secret information and data of Prime and Employer in order to evaluate and carry out the Relationship.
- e) The term “**Discloser**” means to a Party disclosing Confidential Information, and the term “**Recipient**” means a Party accessing or receiving Confidential Information. The term “**Affiliate**” means an entity that directly or indirectly (i) controls; (ii) is controlled by or (iii) is under common control with, a Party, including any subsidiary or successor entity.

2. CONFIDENTIAL INFORMATION.

- a) Subject to Section 2(b), “Confidential Information” means, without limitation:

information maintained as, and considered confidential by a Discloser, whether created by Discloser or a third party for Discloser, and whether in oral, written, graphic, electronic or other form, including but not limited to any business knowledge, know-how, processes, systems, structure and all related data, notes,

analysis, compilations, projections, studies, financial plans and records, marketing plans, business strategies, client lists, competitor lists, information relating to pharmaceutical drug manufacturers, current and proposed products, pricing, computer software programs and description of functions and features of software, source code, computer hardware designs, information regarding customers and suppliers, strategic planning and systems, documents, knowledge, notes created by Recipient derived from any of the foregoing, and other information pertaining to Discloser or Discloser's business, where reasonable steps have been taken by Discloser to maintain the confidentiality of the information.

- b) Confidential Information does not include information that (i) is or becomes generally available to the public through no fault or action of recipient; (ii) was already known by Recipient prior to disclosure and is not otherwise subject to confidentiality obligations, as demonstrated by written or documented evidence; (iii) is at any time furnished to Recipient by a third party, not subject to confidentiality obligations, who is rightfully in possession of such information, and who rightfully conveys such information to Recipient; or (iv) is independently developed by Recipient without use of Discloser's Confidential Information.
- c) Recipient shall use the same degree of care and protection to maintain the confidentiality of Discloser's Confidential Information as Recipient uses with respect to its own Confidential Information, but in no event shall Recipient use less than a reasonable standard of care.
- d) Subject to Section 2(e), Recipient shall not reveal, publish, disclose or transfer Discloser's Confidential Information, whether furnished or made available prior to or after the date of this Agreement, to anyone under any circumstances, and shall not use Confidential Information for any purpose, other than to carry out Recipient's obligations as to the Relationship, or with Discloser's prior written consent. Recipient will not make copies of the Confidential Information without the written consent of Discloser. Recipient will not (a) disclose any of such Confidential Information to any third party or parties, (b) use such Confidential Information to interfere with any contractual relationship Discloser may have, (c) use such Confidential Information in competition with Discloser or Discloser's customers, or (d) contact any of Discloser's customers.
- e) Recipient may disclose Discloser's Confidential Information:
 - i. to an employee, corporate member, director, officer, Affiliate, subcontractor or agent of Recipient that has a demonstrable need to know such Confidential Information for the purposes of carrying out or evaluating the Relationship, as long as such persons are informed of the confidential nature of the Confidential Information and agree to comply with the terms of this Agreement; or

- ii. to the extent that such disclosure is required by law, but only after Recipient has given prior written notice of the intended disclosure to Discloser (unless such notice is itself prohibited by law).
- f) Upon termination of the Relationship or upon written request by the Discloser, Recipient shall either return or destroy all Confidential Information no later than thirty (30) days after such termination or request. A Recipient may, however, retain an archival copy of Confidential Information. If Recipient is instructed to destroy Confidential Information, Recipient will certify to Recipient in writing of such destruction.
- g) The restrictions on use and disclosure of Confidential Information under this Agreement shall continue for as long as such Confidential Information remains confidential or a trade secret.
- h) Recipient will comply with all applicable federal and state laws regarding medical records or other health and enrollment information, including but not limited to the Health Insurance Portability and Accountability Act, as amended, (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”), as incorporated in the American Recovery and Reinvestment Act of 2009, along with all applicable guidance and regulations issued by the United States Department of Health and Human Services (“DHHS”). Recipient will develop, implement, maintain and use appropriate administrative, technical and physical safeguards to preserve the integrity, availability and confidentiality of, and to prevent intentional or unintentional non-permitted or violating use or disclosure of, protected health information (as defined in HIPAA or other applicable law, “PHI”) that it creates, receives, maintains or transmits on behalf of Discloser. Recipient will mitigate, to the extent practicable, any harmful effect that is known to Recipient of a use or disclosure of PHI by Recipient in violation of the requirements of this Agreement. Recipient will report within three (3) calendar days to Discloser any use or disclosure of PHI not provided for by this Agreement or any incident of which it becomes aware. Recipient will disclose to its subcontractors, agents or other third parties and request from Discloser only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder. Recipient may use or disclose PHI as permitted by HIPAA, HITECH and other applicable laws. Recipient will ensure that annual training on securing and safeguarding PHI, and on responsibilities and consequences of failing to secure sensitive beneficiary information, is received by all of its personnel.

3. REMEDIES.

- a) Because remedies at law may be inadequate to protect Discloser against breach of this Agreement by Recipient, and without prejudice to any other rights and remedies otherwise available, if Recipient breaches or threatens to breach this Agreement, Discloser will be entitled to injunctive or other similar relief to prevent such breach or

further breach.

4. MISCELLANEOUS.

- a) This Agreement is the entire agreement of the Parties regarding the disclosure and protection of Confidential Information between the Parties, and supersedes any and all other agreements, whether oral or in writing, between the Parties with respect to such matters, with the exception of that certain Pharmacy Benefit Management (PBM) Agreement between Prime and Health Care Services Corporation AKA Blue Cross Blues Shield of Texas dated February 2010.
- b) Modification or amendment of this Agreement is effective only if in writing and signed by the Parties.
- c) No waiver by either Party of any default shall be effective unless in writing, nor will any waiver operate as a waiver of any other default of the same default in the future.
- d) If any provision of this Agreement is found to be unenforceable by a court of competent jurisdiction, this Agreement shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely approximating the intention of the parties as expressed herein.
- e) This Agreement will be governed by, and construed in accordance with, the laws of the State of Texas without giving effect to principles of conflicts of laws.
- f) The Parties do not intend that any partnership or agency relationship be created by this Agreement. The disclosure of Confidential Information does not give any express or implied right or license to Recipient.
- g) This Agreement is binding on and inures to the benefit of the Parties' respective successors and assigns.
- h) This Agreement may be executed in one or more counter parts, each of which will be deemed an original, but all of which will constitute but one and the same instrument.

IN WITNESS WHEREOF, by their signatures below, the Parties have executed this Agreement, effective as of the Effective Date June 7, 2016.

**BROWN AND BROWN LONE STAR
INSURANCE SERVICES, INC DBA
ALAMO INSURANCE GROUP**

PRIME THERAPEUTICS LLC

Signed: _____

Signed: _____

Name: _____

Title: _____

Date: _____

Name: _____

Title: _____

Date: _____

HIDALGO COUNTY

Signed: _____

Name: _____

Title: _____

Date: _____