



3. BMS's responses are made based upon reasonable and diligent investigation conducted to date. Discovery and investigation in this matter are ongoing and BMS reserves the right to amend its responses and to raise any additional objections it may have in the future.

4. These responses are made based upon the typical or usual interpretation of words contained in the Requests, unless a specific definition or instruction has been provided and/or agreed upon.

5. BMS's responses to the Requests contain information subject to the Protective Order entered on November 29, 2005 in this matter and must be treated accordingly.

6. BMS's responses are submitted without prejudice to BMS's right to produce evidence of any subsequently discovered facts and to present in any proceeding and at trial any further information and documents obtained during discovery and preparation for trial. BMS reserves its right to provide further responses as additional facts are ascertained.

7. Any statement by BMS contained in these objections and responses that non-privileged documents or information will be produced in response to a specific request does not mean that any such documents or information actually exist, but only that they will be produced to the extent that they exist.

### **GENERAL OBJECTIONS**

BMS objects generally to the Requests as follows:

1. BMS objects to Plaintiff's "Definitions" and "Instructions" to the extent Plaintiff intends to expand upon or alter BMS's obligations under the Wisconsin Rules of Civil Procedure. BMS will comply with applicable rules of civil procedure in providing its

responses and objections to the Requests.

2. BMS objects to each Request to the extent that it calls for the identification or production of documents or information not relevant to the issues in this action and is not reasonably calculated to lead to the discovery of admissible evidence, or is overly broad, unduly burdensome, ambiguous and vague. In response to these Requests, BMS refers Plaintiff to BMS's prior productions in this action and in the action entitled *In re Pharmaceutical Industry Average Wholesale Price Litigation*, pending in the District of Massachusetts before Judge Patti B. Saris ("MDL 1456").

3. BMS objects to the definition of "Documents" on the grounds that it is vague and ambiguous and to the extent that it seeks to impose obligations beyond those imposed by the applicable Wisconsin Rules of Civil Procedure. BMS further objects to this definition to the extent that it purports to require BMS to identify or produce documents or data in a particular form or format, to convert documents or data into a particular file format, to produce documents or data on any particular media, to search for and/or produce or identify documents or data on back-up tapes, to produce any proprietary software, data, programs or databases, to violate any licensing agreement or copyright laws, or to produce data, fields, records, or reports about produced documents or data. The production of any documents or data or the provision of other information by BMS as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

4. BMS objects to the extent that any Request seeks information that is protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, by any common interest or joint defense

agreement, or by any other applicable privilege or protection. BMS agrees to prepare and provide Plaintiff with a listing or log of documents withheld on the grounds of privilege at the conclusion of its final production.

5. BMS objects to each Request to the extent that it calls for production of documents or information not within its possession, custody, or control. In responding to these requests, BMS has undertaken or will undertake a diligent and reasonable search of documents and information within BMS's current possession, custody, or control.

6. BMS objects to each Request to the extent that it calls for information that is confidential, proprietary, and/or a trade secret of a third party. Any such materials produced will be subject to the Protective Order entered in this action.

7. BMS objects to each Request to the extent that it seeks disclosure of information that is a matter of public record, is equally available to the Plaintiff, or is already in the possession of the Plaintiff.

8. BMS objects to the time period, "January 1, 1993 to present," to the extent that it seeks information from outside the statute of limitations applicable to the claims in this litigation, or beyond the time period relevant to this litigation.

9. BMS objects to the definition of "you," "your," and "your company" on the grounds that it is overly broad and unduly burdensome.

10. BMS objects to the definition of "Together Rx" and "Together Rx Access Prescriptions Savings Program" on the grounds that it is vague, ambiguous and overly broad.

11. BMS expressly incorporates the above General Objections into each specific response to the Requests set forth below as if set forth in full therein. The response to a

Request shall not operate as a waiver of any applicable specific or general objection to the Request.

### **RESPONSE TO SPECIFIC REQUESTS**

**DOCUMENT REQUEST NO. 20:** The following documents relating to the Together Rx programs:

- (a) contracts or written agreements with providers (including doctors and retail pharmacies);
- (b) documents identifying or relating to the reimbursement to participating providers (including doctors and retail pharmacies) for the ingredient cost of covered prescription drugs, including but not limited to, any formula for reimbursement based on the average wholesale price (“AWP”) of such drugs;
- (c) documents identifying or relating to the amount of the dispensing fee paid to participating providers (including doctors and retail pharmacies) for covered prescription drugs;
- (d) documents identifying or relating to the eligibility requirements for participation in the Together Rx programs; and
- (e) documents identifying your prescription drugs covered by the Together Rx programs.

**RESPONSE:** In addition to its General Objections, which are incorporated herein by reference, BMS objects to this Request on the grounds that it is overly broad, unduly burdensome, and the following phrases are vague, ambiguous, and undefined: “relating to the reimbursement,” “ingredient cost,” “formula for reimbursement,” “relating to the amount of the dispensing fee,” “covered prescription drugs” and “relating to the eligibility requirements.” BMS further objects to this Request on the grounds that it calls for the production of documents not relevant to the issues in this action and it is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its general and specific objections, BMS states that it has already produced to Plaintiff documents in its possession, custody and control that are responsive to this Request.

**DOCUMENT REQUEST NO. 21:** All documents relating to any program of yours that provides, or is marketed as providing, a discount or savings to consumers for any of your prescription drugs. Examples of such programs are the Novartis Savings Program a/k/a the Novartis Care Plan (Novartis Care Card), Pfizer for Living Program (Pfizer Share Card), Pfizer U Share Prescription Drug Discount Card, and the GlaxoSmithKline Orange Card. This request includes, but is not limited to, the following documents:

- (a) contracts or written agreements with providers (including doctors and retail pharmacies);
- (b) documents identifying or relating to the reimbursement to participating providers (including doctors and retail pharmacies) for the ingredient cost of covered prescription drugs, including but not limited to, any formula for reimbursement based on the AWP of such drugs;
- (c) documents identifying or relating to the amount of the dispensing fee paid to participating providers (including doctors and retail pharmacies) for covered prescription drugs;
- (d) documents identifying or relating to the eligibility requirements for participation in the program; and
- (e) documents identifying your prescription drugs covered by the program.

**RESPONSE:** In addition to its General Objections, which are incorporated herein by reference, BMS objects to this Request on the grounds that it is overly broad, unduly burdensome, and the following phrases are vague, ambiguous, and undefined: “any program,” “marketed as providing,” “discounts or savings,” “consumers,” “relating to the reimbursement,” “ingredient cost,” “formula for reimbursement,” “relating to the amount of the dispensing fee,” “covered prescription drugs” and “relating to the eligibility requirements.” BMS further objects to this Request on the grounds that it calls for the production of documents not relevant to the issues in this action and it is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its general and specific objections, BMS states that the only discount programs it offered to consumers were the Together Rx and Together Rx Access Programs. Accordingly, BMS incorporates by reference its response to Request No. 20 as if set forth fully herein. In

addition, BMS states that it has no other documents responsive to this Request in its possession, custody, or control.

Dated: February 13, 2008

GODFREY & KAHN, S.C.

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Company*

**Certificate of Service**

I, Thomas J. Sweeney, III, hereby certify that on February 13, 2008, a true and correct copy of the foregoing Bristol-Myers Squibb Company's Responses And Objections to Plaintiff State of Wisconsin's Sixth Set of Request For Production of Documents to All Defendants was served on all counsel of record by Lexis Nexis File & Serve®.

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/s/Thomas J. Sweeney, III  
Thomas J. Sweeney, III