

TEMPLATE - BPS SME Attestation Form

6. Conflict of Interest/ Non-Disclosure for Service Contracts

This AGREEMENT ("the Agreement") is made this ___ day of _____, 2019, by and between the Board of Pharmacy Specialties (hereinafter "BPS"), and _____ (hereinafter "the Consultant").

WHEREAS, BPS wishes to engage the Consultant as an independent contractor to perform certain consulting services for BPS related to _____
and

WHEREAS, the Consultant is willing to provide these consulting services to BPS.

NOW, THEREFORE, the parties, intending to be legally bound, hereby agree as follows:

1. **Scope of Services.** The Consultant will provide consulting services as an independent contractor for the benefit of BPS as set forth in Consultant's Proposal to the Board of Pharmacy Specialties for _____ dated ____ (the "Proposal"), which is attached hereto and incorporated herein as Attachment A.

2. **Period of Performance.** The period of performance for this Agreement shall be upon execution of this Agreement by both parties, through the dates set forth in the Proposal, unless this Agreement is amended by written mutual agreement of both parties or terminated earlier in accordance with the terms hereof.

3. **Compensation.** BPS shall pay the Consultant at the rates and in the amounts as set forth in the Proposal. Consultant shall submit invoices to BPS at the end of each month and BPS shall pay such invoices within thirty (30) days of receipt of the invoice from Consultant.

4. **Expenses.** The Consultant shall furnish, at its own expense, all basic labor, materials, equipment, supplies and other items necessary to carry out the terms of this Agreement. Travel related out-of-pocket expenses, including travel, meals, and lodging, may be expensed separately to BPS by the Consultant, if approved in advance by BPS. Such expenses shall be invoiced on a monthly basis to BPS.

5. **Relationship of Parties.**

a. **Independent Consultant.** Both parties intend that this Agreement will create an independent contractor relationship. The Consultant will not be considered an agent or employee of BPS for any purpose whatsoever. BPS shall use the services of the Consultant on an as needed basis and is not obligated to use the Consultant exclusively.

b. **Right of Supervision.** Although the actual performance and supervision of all services performed under this Agreement shall be by the Consultant, the services performed by the Consultant must ultimately meet the approval of BPS. Therefore, BPS shall have a general right of inspection and supervision to secure satisfactory completion of the services. Accordingly, BPS shall designate a representative or representatives who shall regularly be kept informed of the services being performed by the Consultant in accordance with this Agreement. Such representative or representatives shall be empowered to act for BPS in all matters relating to the Consultant's performance under this Agreement.

c. **Delegation of Work.** The services provided herein shall be performed by the Consultant, and no person except the regular associates or employees of the Consultant shall be engaged upon such services without prior written approval of BPS.

6. **Proprietary Rights and Nondisclosure.** All materials provided to Consultant herein by BPS and all materials produced or developed (whether finished or unfinished) under the terms of this Agreement are the property of BPS. The Consultant will not use, disseminate, publish or permit to be published in any form any such materials produced or collaborated on by the Consultant, except with the prior written permission and consent of BPS. The Consultant agrees that any materials produced or developed (whether finished or unfinished) under this Agreement will be Works Made for Hire, to the extent the

materials come within the terms of the Copyright Act (Title 17 U.S.C., Section 110) and, that BPS will own all of the right, title and interest in and to the copyright of said materials. To the extent that the materials produced or developed (whether finished or unfinished) under this Agreement are not Works Made for Hire, the Consultant hereby assigns and transfers to BPS all of the Consultant's right, title, and interest in and to any copyright interest the Consultant has or might have in the materials produced or developed (whether finished or unfinished) under this Agreement. BPS reserves the right to require the Consultant to sign a further release transferring statutory copyright on any such materials to BPS. All information provided to Consultant herein related to BPS and all project materials shall be considered the confidential information and proprietary materials of BPS. Consultant shall not use such information and materials except in furtherance of completing the services under this Agreement and shall not disclose such information and materials except to BPS under this Agreement. The nonuse and nondisclosure requirements shall survive the termination or expiration of this Agreement. The Consultant commits to comply with the rules defined by the Board of Pharmacy Specialties, including those relating to confidentiality, impartiality and conflicts of interest.

7. **Compliance with Laws.** The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now or may in the future become applicable to the Consultant or to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement.

8. **Indemnification.** Each party shall indemnify the other party and its officers, directors, employees, members and agents against all liability or loss sustained in connection with, and against all claims or actions based upon or arising out of, any negligent acts or omissions of the indemnifying party or its officers, directors, employees or agents, or based upon the performance or non-performance of this Agreement, or based upon any violation of any statute or ordinance, and the defense of any such claims or actions. Any joint liability shall be apportioned between the parties based upon each party's degree of responsibility for the liability.

9. **Termination.** Either party may terminate this Agreement at any time and for any reason upon seven (7) days' prior written notice to the other party. Upon termination of the Agreement, Consultant shall be paid for its services through the date of termination. Paragraphs 5-8 and 10-14 shall survive the termination or expiration of this Agreement.

10. **Assignment.** Neither this Agreement nor any rights or obligations described in this Agreement may be assigned by Consultant without the prior written consent of BPS.

11. **Name and Logo.** The Consultant agrees not to use the name of BPS or its logo for any promotional or commercial purpose or any other purpose without the prior written consent of BPS.

12. **Entire Understanding.** This Agreement constitutes the entire understanding between the parties hereto and no modification or amendment thereof will bind either party unless it shall be in writing and signed by persons authorized to bind both parties to the Agreement.

13. **Governing Laws.** This Agreement shall be governed by the laws of the District of Columbia.

14. **Severability.** The provisions of this Agreement are severable, and, in the event that any provisions are determined to be invalid or unenforceable under any controlling body of law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

Board of Pharmacy Specialties

_____ Consultant

Signature

Date

Signature

Date

Printed Name

Title

Printed Name

Title