

## HEALTHCARE GROUP PURCHASING INDUSTRY INITIATIVE

### 2008 Annual Public Accountability Questionnaire

**Purpose:** Each Signatory of the Initiative pledges to: (a) follow a set of six core ethical and business principles and each of their components (i.e., The Health Care Group Purchasing Industry Code of Conduct Principles); (b) report annually on adherence to these principles using an Annual Public Accountability Questionnaire; and (c) participate in an Annual Best Practices Forum to discuss best ethical and business conduct practices with other GPO representatives and interested parties.

The Initiative is committed to transparency and public accountability. One of our six fundamental Principles states: “Each Signatory is accountable to the public.” In keeping with this Principle, the responses to this annual questionnaire will be displayed on the Initiative’s web site for public review.

Please read each question carefully and respond fully to help us meet this commitment. The Coordinator will contact the GPO person responsible for completing this Questionnaire should the Coordinator require clarification or additional information.

#### **Instructions for Preparing Responses:**

- Provide a separate response for each sub-question listed in the boxes below.
- Provide electronic links to documents which are available online for each question.
- Do not include any information you consider competitively sensitive.
- Provide additional supporting documents for responses if not electronically linked. These documents are to be submitted on a confidential basis to the Initiative Coordinator who will review them and then return them to the company after he or she approves the questionnaire for posting on-line and completes the Summary Report. These materials will not be shared with other GPOs.
- In collating the “supporting documents,” no GPO needs to submit internal documents which are covered by the attorney-client or work-product privilege, or which contain competitively sensitive information. However, each GPO should submit information adequate to allow the Initiative Coordinator to have confidence that each answer is “responsive, complete and accurate.” (Language adopted by Steering Committee).
- The GPO’s Chief Executive Officer and Compliance Officer are required to sign the cover letter indicating review and approval of the GPO’s Public Accountability Questionnaire submission and that the GPO is in compliance with the Healthcare Group Purchasing Industry Code of Conduct Principles.

#### **1. Please describe the key components of the GPO’s written code of business ethics and conduct. (Please provide a copy and describe any changes since the last submission.)**

Please assure your response includes:

- 1.1. The title of the GPO’s written code of business ethics and conduct.
- 1.2. Summary of the key components of the GPO’s written code of business ethics and conduct.
- 1.3. Identification of changes that have been made to the written code of business ethics and conduct since last year.

- 1.1 Novation LLC (“Novation”) has established a written code of business ethics and conduct, titled “Business Ethics Policy” (the “Code”) (Exhibit 1). In addition to the Code, and to communicate business practices and assure transparency, Novation adopted certain Operating Principles on August 8, 2002 (the “Operating Principles”) (Exhibit 2).

- 1.2 The Code provides that all officers and employees must avoid situations in which their personal activities or relationships could create, or appear to create, a conflict of interest, or make it difficult to objectively carry out job responsibilities or act in the best interest of Novation. The Code includes equity ownership restrictions as well as provisions prohibiting gifts or business entertainment (other than that of nominal retail value less than \$50.00).

The Operating Principles include the following commitments:

**Innovative Technology.** Novation has resources dedicated to the identification of new and emerging technology, including a Web-based Technology Forum that invites vendors to post information about new products. In addition, Novation has a comprehensive and defined process for evaluating innovative technology outside of the regular contracting cycle. This process is open and fair, protects the confidentiality of innovative technology, and is not unduly burdensome, time-consuming or cost-prohibitive. Novation's policies and procedures offer a defined and objective process to address vendor grievances relating to any evaluation of innovative technology that provides vendors with a detailed response within 90 days.

**Sole, Dual, and Multisource Contracts.** Novation is committed to reviewing its contracting process on an ongoing basis to ensure that its utilization of sole-source contracts is appropriate and facilitates the successful introduction of innovative technology to members. Further, in recognition of the unique dynamics associated with clinical preference products, Novation does not award a sole-source contract for a clinician preference product that has an alternative that offers incremental patient care benefits or incremental safety benefits. In the event a new product enters the market that offers incremental patient care benefits or incremental safety benefits, Novation will re-bid the relevant product category or make a dual or multisource award. Additionally, Novation requires that all recommendations to award a sole-source contract for a clinical preference product receive review and approval by the relevant Novation clinical council or task force before going into effect.

The term "clinical preference products" refers to any medical device or any item of medical equipment or supply used to treat a patient for any illness, injury, condition, disease or ailment about which a physician or other clinician (including nurses) could reasonably be expected to express a preference or could be expected to effect patient health or safety or worker health or safety. Relevant member councils or task forces make the determination as to whether or not a particular product is a clinical preference product.

**Commitment.** Novation's Standardization Program, formerly known as the OPPORTUNITY® Spectrum program, is designed to increase member choices and flexibility. The program, in which participation by a member is voluntary, does not include (i) any combination of clinical preference products and non-clinical preference products or any combination of unrelated clinical preference items with each other, or (ii) any combinations of capital equipment and consumable products.

**Contract Term.** Novation preserves its existing contracting flexibility by ensuring that all vendor contracts contain (i) a provision permitting termination without cause, upon no more than 90 days written notice; and (ii) a provision permitting the addition of vendors or the termination and re-bid of the contract in the event of the introduction of products which offer incremental patient care benefits or incremental safety benefits. Except in limited circumstances approved by senior management, vendor contracts are limited to an initial term of three years or less. Further, alternative technologies are thoroughly and objectively evaluated prior to exercising any option to renew a vendor contract.

**Vendor Fees.** Novation does not accept administrative or marketing fees of any kind from vendors that are paid prior to the inception of the contract or that are in the form of vendor equity. The contract process contains measures to ensure that vendor fees are not a determinative factor in the award of contracts (except in those situations where the quality and pricing of competing products are essentially the same). With respect to clinical preference products, Novation does not accept administrative fees that are above three percent or any other form of contract-related marketing fees.

**Code of Conduct and Compliance Program.** Novation has appointed a corporate Ethics and Compliance Officer, and Novation's Board of Directors has named a board-level Corporate Compliance and Audit Committee, to ensure implementation of the Compliance Program.

1.3 Novation has made no substantive changes to the Code or Operating Principles since last year.

**2. Please describe the GPO's policies and procedures that address conflicts of interest for all employees and clinical advisory members in a position to influence contracting decisions and for all other employees and members of the Board of Directors and/or the GPO's governing body.**

Please include in your answer:

- 2.1. Who is covered by your conflict of interest policies?
- a) All employees or employees directly involved in purchasing?
  - b) All executives of the company or those directly supervising purchasing activity?
  - c) The board of directors?
  - d) Members of clinical advisory committees?
  - e) Any other groups?
- 2.2. What are the primary conflict of interest constraints for each of the categories listed in the question above?
- a) No equity investments in participating vendors or disclosure of equity investments? (Or no investments above a threshold dollar level?)
  - b) No service on boards of directors of participating vendors or disclosure of board of director positions?
  - c) Are gifts allowed to be accepted from or provided to vendors? If yes, please describe the limitations.
  - d) Are meals or entertainment allowed to be accepted or provided to vendors?
  - e) Other constraints?

2.1 Novation's Code and Operating Principles (each referenced in response to question 1) cover all employees and officers. In addition, Novation has conflict of interest policies for members of its Board of Directors and advisory committees.

- (a) See responses to Questions 2.1 and 2.2(a)-(c).
- (b) See responses to Questions 2.1 and 2.2(a)-(c).
- (c) See responses to Questions 2.1 and 2.2(a)-(c).
- (d) See responses to Questions 2.1 and 2.2(a)-(c).
- (e) Not applicable.

2.2 The primary conflict of interest constraints for each of these categories of individuals are as follows:

- (a) Ownership of Individual Equity Interests in Participating Vendors.

Officers and employees who are in position to exercise pervasive influence on contracting decisions (and their spouses and minor children) are prohibited from owning an Individual Equity Interest (defined below) in any participating vendor.

Officers and employees who are in a position to influence Novation's contracting decisions in a particular product category (and their spouses and minor children) are prohibited from owning an Individual Equity Interest in a participating vendor in that product category. An individual who may be in a position to influence Novation's contracting decision may own an Individual Equity Interest in a participating vendor, if the Ethics and Compliance Officer determines that the individual has no actual influence on the contracting decision of the participating vendor. Such

individual may not, however, own an Individual Equity Interest in a national participating vendor that does business across several service lines.

All other employees who do not influence contracting decisions and members of advisory committees must disclose individual equity interests in participating vendors and recuse themselves from any negotiations or decisions regarding those participating vendors.

The term “Individual Equity Interest” means securities, options, warrants, debt instrument (including loans) or rights to acquire any of the foregoing; provided, however, that (i) interests in mutual funds, or (ii) interests held in blind trust shall not be included.

Members of Novation’s Board of Directors and advisory committees must adhere to conflicts of interest policies that require the member to disclose ownership of an Individual Equity Interest in a participating vendor and be recused from any decisions relating to such vendors.

(b) Service on Board of Participating Vendors.

Employees and officers are prohibited from serving as an officer, director, employee or consultant of a participating vendor.

Members of Novation’s Board of Directors and advisory committees must adhere to conflicts of interest policies that require the member to disclose service on any board of directors of any participating vendor and be recused from any decisions relating to such vendors.

(c) Vendor Gifts, Services, Entertainment and Favors.

Employees and officers may not accept gifts, services, entertainment, favors, honoraria from a participating vendor, unless the item or service is of Nominal Value. The term “Nominal Value” means any item, service or other thing of value (not including cash or cash equivalents) that does not exceed \$50 per instance or \$100 in any given calendar year. The total retail value of all nominal value gifts received by each employee during each calendar year from all sources shall not exceed \$300.00.

Members of Novation’s Board of Directors and advisory committees must adhere to conflicts of interest policies that require the member to disclose the acceptance of any gifts, favors, honoraria or personal services payments, other than those of Nominal Value, from any participating vendor to the appropriate governing body. The member is then recused from any decisions relating to such vendors.

(d) See response to Question 2.2(c).

(e) Not applicable.

**3. Please describe the GPO’s policies and procedures that address activities, including other lines of business of the GPO and the GPO’s parent company or affiliates, that might constitute conflicts of interest to the independence of its purchasing activity.<sup>1</sup>**

Please include in your answer:

3.1. List other lines of business or investments of the GPO?

<sup>1</sup> Business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly, (1) either one controls or has the power to control the other, or (2) a third party controls or has the power to control both. 48 CFR, Section 9.403 (2007)

- 3.2. List other lines of business or investments of its parent company?
- 3.3. What other services does the GPO and its parent company sell to vendors?
- 3.4. What policies or guidelines does the GPO have to address any potential conflicts of interest with regard to other lines of business within the GPO and/or its parent company?
  - a) Does the GPO and/or its parent company have either a policy to ensure that it does not accept a corporate equity interest in any participating vendor or a policy to mitigate against this potential conflict of interest?
  - b) Does the GPO and/or its parent company accept any vendor fees relating to conference sponsorship or exhibit booth space or have a policy to guard against any potential conflict of interest relating to vendor participation in industry trade shows?
  - c) Does the GPO and/or its parent and company accept any grants for educational programs or other projects from vendors or have a policy to guard against any potential conflict of interest relating to such donations?

- 3.1 Novation offers two types of services other than those related to its contracting activities: (i) consulting services through Novation UK Limited, a wholly-owned subsidiary, and (ii) advertising space on its website.
- 3.2 Information regarding activities and other lines of business of Novation’s parent company, VHA, Inc. (“VHA”), may be found at <https://www.vha.com/portal/server.pt>. Information regarding activities and other lines of business of Novation’s parent company, University HealthSystem Consortium (“UHC”), may be found at <http://www.uhc.edu>. Information regarding Provista, LLC (“Provista”), Novation’s affiliate, is available at <http://www.provistaco.com>.
- 3.3 See responses to Questions 3.1 and 3.2.
- 3.4 In addition to the Code and the Operating Principles, Novation maintains a Supplier Sponsorship Policy to ensure that vendors who advertise on Novation’s website are not given preference in the vendor selection process. The Supplier Sponsorship Policy also applies to any type of vendor sponsorship, including donations for educational programs.
  - (a) Novation has no ownership or equity interest in any participating vendor and does not accept administrative fees in the form of vendor equity.
  - (b) See response to Question 3.4(a).
  - (c) See response to Question 3.4(a).

**4. Please describe the GPO’s policies with regard to disclosing to members money or value received from vendors, whether in the form of administrative fees, marketing fees, partnership incentives, equity or any other form.**

- Please include in your answer:
- 4.1. Does the GPO make annual disclosures of administrative fees received from vendors for contracting activities with respect to the member’s purchase of products and services?
  - 4.2. Does the GPO disclose to members all payments other than administrative fees the GPO received from any vendor in the course of the GPO’s group purchasing activities, whether from the purchasing activity of those members or not?
  - 4.3. Does the GPO accept marketing fees?
  - 4.4. Does the GPO accept partnership incentives?
  - 4.5. Does the GPO accept equity?
  - 4.6. Does the GPO accept upfront fees?
  - 4.7. Does the GPO accept honoraria?

4.8. Please describe the GPO's policy with respect to administrative fees received on purchases made by an ineligible member (e.g., a policy regarding the return of such administrative fees to the applicable vendor.

Pursuant to the instructions, the following response to this question does not contain information that is competitively sensitive and proprietary to Novation.

4 Members receive two types of disclosures for GPO administrative fees (sometimes referred to as "marketing fees" in older agreements): First, members may view vendor contracts with fee provisions that are not fixed at three percent or less of the dollar value of member purchases through a secure internet database that is available 24 hours a day, 365 days a year. In addition to this "up-front" notice of vendor contract administrative fee provisions, members receive annual fee disclosure reports that indicate, on a contract-by-contract basis, the amount each member purchased in the previous year and the amount of administrative fees Novation received in connection with those purchases.

4.1 See response to Question 4.

4.2 In addition to the administrative fee disclosures described in response to Question 4, Members also receive information regarding vendor sponsorship, grant, and exhibition fees.

4.3 See response to Question 4.

4.4 Novation does not accept partnership incentives, vendor equity, or any "sign-on bonus" or other "up front" lump sum fees of any kind that are paid prior to inception of the contract.

4.5 See response to Question 4.4.

4.6 See response to Question 4.4.

4.7 Novation does not accept honoraria payments.

4.8 Novation requires the return of administrative fees to the applicable vendor for purchases made by an ineligible member.

**5. Does the GPO disclose to each member all fees, in any form, paid to the member organization?**

Please include in your answer:

5.1. Describe your disclosure practices.

5.2. Does the GPO pay fees to members upon the signing or re-signing of a participation agreement with the GPO or the joining or renewal of membership in the GPO program?

5.1 Members receive annual reports detailing the cash and non-cash value that the members earned during the prior reporting period. The reports include both (i) value provided by the GPO to their members (such as cooperative distributions), and (ii) value provided by vendors to the members (such as rebates) to the extent this information is reported to the GPO by vendors.

5.2 Novation does not pay fees to members upon the signing or re-signing of a participation agreement with the GPO or the joining or renewal of membership in the GPO program.

**6. Please describe the GPO's publicly available description of its bid and award process which includes the following principles similar to those embodied in the Federal Competition in Contracting Act?**

Please include in your answer:

- 6.1. Does the GPO have a publicly-available description of its bid and award process?
- 6.2. Is the description on a public website or sent to those who inquire, or provided in some other way?

6.1 Novation utilizes a Request for Proposal (“RFP”) Process that follows principles similar to those embodied in the Federal Competition in Contracting Act. Information regarding Novation’s RFP Process and its bid calendar are publicly-available at [www.novationco.com](http://www.novationco.com). In addition, any vendor who registers to participate in a particular RFP receives an “RFP Package,” which includes instructions for the particular procurement.

6.2 See response to Question 6.1.

**6i. Please describe the GPO’s requirements for how items or services to be purchased are generally identified and published so they are accessible to potential vendors.**

Please include in your answer:

- 6i.1. Does the GPO publish to all vendors the decision criteria used to award potential contracts? Where is it available?

6i.1 Novation’s RFP Package contains (i) bid specifications for the product being procured, (ii) basic qualifying factors that vendors must meet, and (iii) the criteria that will be used to evaluate proposals. The RFP Package is sent to all interested vendors who register to participate in a particular RFP. RFP proposals are evaluated in accordance with the evaluation criteria and procedures set forth in the RFP Package.

**6ii. Please describe the GPO’s disclose requirements regarding how vendors are to be identified as a responsible bidder.**

Please include in your answer:

- 6ii.1. Does the GPO publish the general requirements to be considered a responsible bidder?
- 6ii.2. Does the GPO publish specific requirements to be considered a responsible bidder in each specific contract category?

6ii.1 The RFP Package, which is available to all registered vendors, contains the requirements to be considered a responsible bidder in connection with each contract category.

6ii.2 See response to Question 6ii.1.

**6iii. Please describe the GPO’s policy with regard to whether all responsible vendors are eligible to compete and receive a contract award under the criteria.**

Please include in your answer:

- 6iii.1. Are all responsible vendors eligible for every contract award, or are there specific requirements for each bid process to be considered for an award?

6iii.1 Novation’s RFP Process is open to all vendors.

**6iv. Please describe how the criteria for selection of a vendor is identified and publicized to potential vendors, and followed.**

Please include in your answer:

- 6iv.1. Are the criteria by which a winning vendor will be selected identified to all bidders?
- 6iv.2. Does the GPO have a process to assure that the criteria are followed in the actual awards?

6iv.1 The criteria by which a winning vendor will be selected is identified to all bidders through the instructions included in the RFP Package.

6iv.2 To assure that the criteria are followed in the actual awards, the appropriate member council or task force reviews information regarding the RFP prior to the announcement of winning vendors.

**6v. Please describe GPO's practice with regard to having a fair and unbiased system for evaluating products and services considered for procurement.**

Please include in your answer:

- 6v.1. Does the GPO have such a system?
- 6v.2. Describe the process by which products and services are evaluated.

6v.1 Novation's RFP Process provides a fair and unbiased review of competing proposals and is intended to lead to an award to the vendor(s) who offers the best value, based upon the combined total of their financial and qualitative (non-financial) scores.

6v.2 Novation's contracting process engages member councils and task forces to the greatest practical degree, including the determination of the qualitative scores based upon their evaluation of the quality of the vendors' product and the service offerings.

**6vi. Please describe how this practice includes a preference for competitive procurement.**

Please include in your answer:

- 6vi.1. Describe your policies that support competitive procurement.

6vi.1 The RFP Process follows principles similar to those embodied in the Federal Competition in Contracting Act and is modeled upon, to the extent possible, the requirements of the ABA Model Procurement Code. Awards may be made without using this process in unique circumstances where they enhance member choice or flexibility and/or to promote Novation's supplier diversity initiative. For example, non-competitive contract awards are provided: (i) to innovative medical products which offer incremental benefits to patient care, patient safety or health care worker safety; (ii) to small, women-owned, minority-owned, or veteran-owned businesses; and (iii) to innovative proprietary products which have no alternatives.

**6vii. Please describe the GPO's policy with regard to the appropriate use of single, sole, dual, and multi-source procurement.**

Please include in your answer:

- 6vii.1. Does the GPO have a policy for sole, dual and multi-source procurement?
- 6vii.2. When will sole and dual source procurement be used?
- 6vii.3. Describe the GPO's process for awarding contracts including contracts awarded to a single vendor where there is no exclusivity provision in the contract.

Sole and dual source contracts are contracts that contain exclusivity language that prevents the GPO from entering into a contract with more than one or two vendors.

6vii.1 With the active input of its member councils and task forces, a number of factors are carefully considered when evaluating whether to contract with one vendor (a single-source contract) or with more than one vendor (multi-source contracts) for a given product category. Single-source contracts are entered into when a member council or task force determines that such an agreement would provide substantial member value without compromising patient care, patient safety, or healthcare worker safety.

6vii.2 See response to Question 6vii.1.

6vii.3 See response to Question 6vii.1.

**6viii. Please describe the GPO's process for ensuring that administrative fees do not encroach upon the best interests of the member organizations.**

Please include in your answer:

6viii.1. What is the GPO's practice regarding the amount of administrative fees accepted?

6viii.2. Under what conditions does the GPO accept administrative fees beyond 3 percent, requiring specific (not blanket) disclosure under the Federal Regulatory Safe Harbor provisions?

6viii.3. Please describe the range of administrative fees accepted.

6viii.4. Does the GPO accept other kinds of fees from vendors, such as marketing fees, equity, signing bonuses, and upfront fees? Please describe these other fees and how prevalent they are.

6viii.5. Does the GPO impose a minimum fee requirement for suppliers, and if so, under what circumstances?

6viii.1 The fee rates are offered by suppliers in their response to Novation's invitation to bid and are based upon the value they attribute to the agreement.

6viii.2 See responses to Questions 6viii.1 and 6viii.3.

6viii.3 Novation's overall average administrative fee is less than 3% and there is no minimum administrative fee requirement. Novation does not accept fees above 3% in contracts for any clinical preference items. Approximately 85% of all contracts include fees of 3% or below. Approximately 13% of all contracts contain fees between 3% and 6% and approximately 2% of all contracts contain fees between 6% and 9.9%. All fees are disclosed and reported per Federal Regulatory Safe Harbor provisions.

6viii.4 Novation does not accept marketing fees, equity, signing bonuses or upfront fees. In certain older Novation agreements, GPO administrative fees are referred to as "marketing fees."

6viii.5 See response to Question 6viii.3.

**6ix. Please describe the GPO's policy to ensure the appropriate use of bundling products and the length of contracts for clinical preference products.**

Please include in your answer:

6ix.1. Describe the GPO's policy guiding the use of bundling.

6ix.2. Does the GPO permit bundling of unrelated products or services from the same vendor? When?

6ix.3. Does the GPO permit bundling of unrelated products or services from different vendors? When?

6ix.4. Describe the GPO's policy guiding the appropriate length of contracts for clinical preference products.

6ix.1 Novation carefully assesses all proposed multi-product proposals in an effort to avoid those that would unreasonably limit member choice or flexibility, prevent innovative technology from reaching members, or

unreasonably foreclose competition. Multi-product packages that combine clinical preference and non-clinical preference categories are not offered. However, multi-product packages for a group of functionally-related products may be offered when consistent with the overriding objective to provide members with the most innovative, cost-effective products possible.

6ix.2 See response to Question 6ix.1.

6ix.3 See response to Question 6ix.1.

6ix.4 In order to ensure that contract length does not encumber member access to innovative technology, with rare exception that must be approved by executive management, vendor contracts are limited to an initial term of three years or less. Alternative technologies are evaluated before exercising any option to renew these vendor contracts. Additionally, contracts permit termination without cause, upon no more than 90 days written notice, and include a provision permitting the addition of other vendors or the termination and re-bid of the contract if products that offer incremental patient care or safety benefits are introduced.

**6x. Please describe whether the GPO has a private label program for medical products.**

Please include in your answer:

- 6x.1. Describe the medical products the private label program covers.
- 6x.2. Describe the GPO's practice regarding the fees derived from this private label program?
- 6x.3. Please describe the range of private label fees accepted.
- 6x.4. Describe any internal policies that address the private labeling of medical products.

Pursuant to the instructions, the following response to this question does not contain information that is competitively sensitive and proprietary to Novation.

- 6x.1 Novation's private label products, which are sold under the NovaPlus® brand name, provide high quality, non-clinical preference medical, surgical and pharmaceutical commodities.
- 6x.2 Novation receives an administrative fee and a trademark license fee for the use of the NovaPlus® brand name.
- 6x.3 See response to Question 6viii.3.
- 6x.4 Novation maintains a rigorous quality and regulatory affairs program designed to ensure, among other things, the quality of contracted suppliers and NovaPlus® products. Among other elements, Novation conducts regular quality audits of contracted NovaPlus® suppliers under the direction of Novation's Director of Quality and Regulatory Affairs.

**7. Please describe the GPO's publicly available policy and procedure that addresses vendor rights, including a procedure for vendor grievances.**

Please include in your answer:

- 7.1. Please describe the GPO's policy and procedure related to vendor rights and where is it available.
- 7.2. How does the GPO address vendor grievances?
- 7.3. Please describe in general the grievance process.

7.1 Information regarding Novation's Vendor Grievance Process is available at [http://www.novationco.com/technology/grievance\\_process.asp?menu=sdp](http://www.novationco.com/technology/grievance_process.asp?menu=sdp).

- 7.2 See response to Question 7.3.
- 7.3 Vendors may submit a grievance to Novation via e-mail within 30 days of the relevant product category contract's effective date. Novation acknowledges receipt of any grievance and provides a detailed response within 90 calendar days. The primary Novation member council or task force involved in the award at issue reviews the grievance and decides on the appropriate response.

**8. Please describe the GPO's policy and process to evaluate and provide opportunities to contract for innovative clinical products and services.**

Please include in your answer:

- 8.1. Does the GPO have a process for evaluating innovative technologies? Please describe the process in general.
- 8.2. Does the GPO have the right to write a new contract at any time for innovative technology? Describe.
- 8.3. How does the GPO ensure innovative technology provisions exist in vendor contracts?
- 8.4. Are GPO members allowed to evaluate products from vendors, regardless of whether such vendor has a contract with the GPO?
- 8.5. Are GPO members allowed to communicate with all vendors, regardless of whether the vendor has a contract with the GPO?
- 8.6. Are GPO members allowed to purchase non-contracted products of clinical preference products or services directly from vendors?

- 8.1 Novation has a detailed process for evaluating innovative technologies. Vendors may submit information concerning potentially innovative medical technology for contract consideration outside of the normal contracting cycle at any time. Submissions are evaluated to determine whether the device or product offers incremental benefit to patient care, patient safety or health care worker safety. If the device or product does offer such benefits, a contract will be awarded, even if the new technology determination is made outside normal contracting cycles. Innovative technology contracting recommendations are made by the appropriate member council or task force. Novation also actively monitors and evaluates the medical product development pipeline to identify potentially innovative products and devices for contract opportunities and operates a Web-based Technology Forum on which vendors can post information about new products. Further information regarding Novation's innovative medical technology process is available at <http://www.novationco.com/technology/default.asp>.
- 8.2 Novation retains the right to execute new agreements for innovative technology products that offer incremental benefit to patient care, patient safety or healthcare worker safety at any time. Virtually all Novation agreements for medical or surgical products contain provisions authorizing Novation to add new vendors of innovative technology products, or to terminate the agreement and re-bid the affected product category.
- 8.3 See response to Question 8.2.
- 8.4 Novation in no way restricts the members of UHC, VHA or Provista from evaluating products from, communicating with, or contracting with vendors of any products. Members are free to communicate and contract with vendors, regardless of the vendor's contracting status with Novation or the product's classification as an innovative or clinical preference product.
- 8.5 See response to Question 8.4.
- 8.6 See response to Question 8.4.

**9. Please describe the GPO's program or activities that encourage contracting with small, women-owned and minority businesses.**

Please include in your answer:

- 9.1. Please describe the program or activities and indicate specifically which types of businesses are included in the program
- 9.2. Please provide current statistics reflecting the percentage by dollar value and number of contract awards to support the program.

9.1 Through its Supplier Diversity Program, Novation is committed to encouraging and supporting the development of minority-, women- and veteran-owned business enterprises ("MWVBEs") that meet high quality standards. Toward this end, Novation's Supplier Diversity Program, seeks agreements with certified minority-, women- and veteran-owned manufacturers and distributors; and maintains a database of approved MWVBEs as potential supply partners. Information regarding Novation's Supplier Diversity Program is available at [http://www.novationco.com/suppliers/supplier\\_diversity/default.asp](http://www.novationco.com/suppliers/supplier_diversity/default.asp).

9.2 At the present time, Novation has a portfolio of 64 contracts with minority-, women- and veteran-owned firms. For the 6 month period ending June 30, 2008, members conducted \$41,600,000 of business activity with Novation's portfolio of diverse firms.

**10. Please describe whether and in what manner the GPO distributes its written code of business ethics and conduct to all applicable employees, agents, contractors, clinical advisory committees, and others involved in group purchasing activity.**

Please include in your answer:

- 10.1. Does the GPO distribute the code of conduct to all employees? By what manner is the code provided to employees? How often?
- 10.2. Where can the code be found electronically?
- 10.3. Does the GPO distribute its code of conduct to all members of clinical advisory committees? How often?
- 10.4. Does the GPO distribute the code to all of the board of directors? How often?
- 10.5. Does the GPO distribute its code of conduct to all agents and contractors that participate in the GPO activity? How often?
- 10.6. Does the GPO distribute its code to vendors and others with whom it does business?

10.1 Novation distributes the Code to all employees upon employment.

10.2 The Code is posted and available on Novation's employee intranet site and the external, publicly-available website for all vendors, agents, contractors and others with whom Novation does business.

10.3 Novation distributes a conflict of interest policy to all members of its Board of Directors and advisory committees upon selection of the member and on an annual basis thereafter.

10.4 See response to Question 10.3.

10.5 See response to Question 10.2.

10.6 See response to Question 10.2.

**11. Please describe how new employees involved in group purchasing are provided an orientation to the written code of business ethics and conduct.**

Please include in your answer:

- 11.1. Do all new employees involved in group purchasing get a copy of the code during their orientation?
- 11.2. Do all new employees get some type of orientation to or discussion of the code? Please describe the orientation.

11.1 A review and explanation of the Code is included in new employee orientation and in training which occurs shortly following employment. Subsequent to that instruction, each new employee is required to complete a Business Ethics Certification form.

11.2 See response to Question 11.1.

**12. Please describe the nature and content of the GPO's annual employee refresher training on the written code of business conduct.**

Please include in your answer:

- 12.1. Which employees receive annual refresher training?
- 12.2. Please describe the content of the training and the method of delivery.

12.1 All employees receive annual refresher training on the Code.

12.2 The training is provided using a Web-based presentation that includes a certification of completion. In addition to explanatory text, the training presentation provides examples and questions to verify learning. All employees are required to certify compliance with the Code on an annual basis.

**13. Please describe the mechanism (e.g., a corporate review board, ombudsman, corporate compliance or ethics officer) for employees to report possible violations of the written code of business ethics and conduct to someone other than one's direct supervisor, if necessary.**

Please include in your answer:

- 13.1. Does the GPO have a mechanism for employees to report possible violations of the code to someone other than the direct supervisor? Please describe the mechanism.
- 13.2. What process is used to protect the confidentiality of the reporting employee's identity?
- 13.3. What safeguards are in place to mitigate the opportunities for retaliation?

13.1 Novation employees are required to report any conduct that they believe may violate the Code and or other compliance policies or procedures, or any laws or regulations. Suspected misconduct may be reported: (i) to Novation's Compliance Officer, Compliance Department or Legal Department; (ii) through Novation's Compliance Hotline (1-800-750-4972); or (iii) to the employee's direct supervisor. If a direct supervisor receives a report of suspected misconduct, he or she must report the suspected misconduct to the Compliance Officer.

13.2 The identities of individuals who report suspected misconduct are maintained as confidential to the fullest extent possible. Employees who wish to remain anonymous are able to anonymously report suspected misconduct through Novation's Compliance Hotline.

13.3 Novation does not retaliate against an employee who makes a good faith report of suspected misconduct.

**14. Please describe the mechanism the GPO utilize to follow up on reports of suspected violations to determine what occurred and who was responsible, and to recommend corrective and other actions.**

Please include in your answer:

14.1. Describe the process to evaluate, investigate and resolve the report or concern and to review related current policies and practices for possible revision.

14.1 Novation's Ethics & Compliance Officer is required to promptly and thoroughly investigate reports of suspected misconduct to determine whether there has been a probable and material violation of any laws, regulations, or Novation's policies and procedures. The Compliance Officer may also, on his/her own initiative, investigate instances of suspected misconduct that have not been reported. The Compliance Officer is supported internally by Novation's Compliance Department, as well as dedicated compliance counsel within the Legal Department. Depending on the nature and severity of the suspected misconduct, the Compliance Officer may utilize outside legal counsel to assist in conducting internal investigations. If the Compliance Officer determines that there has been a material violation of any laws, regulations or Novation's policies and procedures, Novation must take appropriate remedial actions, which may include programmatic corrective action and/or personnel disciplinary action, and must report any such actions to the Board of Directors.

**15. Please describe how the GPO employees' compliance with its written code of business ethics and conduct is measured in their job performance?**

Please include in your answer:

15.1. Is ethical conduct or conduct consistent with the written code of conduct an explicit standard by which all employees and levels of supervision are measured in their job performance?

15.2. Describe how ethics is evaluated and taken into account.

15.1 The employee performance review cycle includes a performance evaluation criterion addressing conduct consistent with the Code. "Permission to Play" values of respect, integrity, service and judgment are an integral part of Novation's performance evaluation process. In addition, each year all Novation managers are instructed to (i) discuss the Code with each employee during the annual review process, and (ii) determine if there are any unresolved ethical issues that need to be addressed.

15.2 See response to Question 15.1.

**16. Please describe the processes the GPO utilizes to monitor, on a continuing basis, adherence to the written code of business ethics and conduct, and with applicable federal laws.**

Please include in your response:

16.1. Is there a process to evaluate at least annually the GPO's adherence to the law and to the code of conduct? Please describe.

16.2. Who conducts the evaluation(s)?

16.3. To whom are reports of the evaluation(s) provided (e.g., Board, CEO)?

16.1 Employees are required to report any suspected misconduct and such reports are investigated. Additionally, all employees in a position to influence contracting decisions are required to execute quarterly compliance certifications regarding their knowledge of any deviations from Novation's internal policies and procedures. Any issues identified on quarterly compliance certifications or otherwise are investigated by the Compliance Officer with the assistance of the Novation Compliance Department, Legal Department and/or outside legal counsel, as appropriate. In addition, the Novation Legal Department conducts a vendor contract compliance review before each of its vendor contracts is executed to ensure compliance with Novation's policies and procedures, as well as relevant laws and regulations. Finally, the

Novation Compliance and Legal Departments conduct periodic compliance audits to ensure compliance with applicable laws and regulations and adherence to its Compliance Program policies and procedures.

16.2 See response to Question 16.1.

16.3 The results of compliance investigations and audits are reported to the Compliance and Audit Committee of the Novation Board of Directors and, where appropriate, the entire Novation Board of Directors.

**17. Please describe how the GPO fulfilled its obligation to participate in the most recent Best Practices Forum.**

Please include in your answer:

17.1. Please state how many company persons attended the Best Practices Forum in Washington D.C. in January 2008.

17.2. Please name the most senior executive who attended.

17.1 Six Novation personnel participated in the GPO Best Practices Forum in 2008.

17.2 Novation attendees were: Joellyn Willis, President; Eldon Petersen, Group Senior Vice President; Jody Hatcher, Senior Vice President; Dan Sweeney, Senior Vice President; Larry McComber, Senior Vice President; and Jill Witter, Vice-President, General Counsel, Ethics & Compliance Officer.

**18. Please describe how the GPO reports to the company's Board of Directors or its Audit or other appropriate committee on the GPO's ethics and compliance program and its commitment to the Initiative's Principles.**

Please include in your answer:

18.1. Are periodic reports on the company's ethics and compliance program made to the GPO's board of directors or to a committee of the board? If so, please state how often and in general, what information is reported?

18.2. Are periodic reports on the company's participation in the Initiative made to the GPO's board of directors or a committee of the board? If so, please state how often and in general, what information is reported?

18.1 The Novation Ethics and Compliance Officer reports to the Compliance and Audit Committee of the Board of Directors on a quarterly basis regarding compliance issues and the status of the Compliance Program.

18.2 Periodic reports on Novation's participation in the Initiative are made to the Compliance and Audit Committee during its quarterly meetings. The Committee and/or President in turn report to the full Board of Directors.

**19. Please name the senior manager assigned responsibility to oversee the business ethics and conduct program.**

Please include in your answer:

19.1. The name and title of the individual.

19.2. Contact information for the individual.

19.3. Please give the contact information for the person responsible for responding to questions related to this report.

- 19.1 Jill Witter, Vice President, General Counsel, Ethics and Compliance Officer, oversees Novation's Ethics and Compliance Program.
- 19.2 Jill Witter  
Vice President, General Counsel, Ethics and Compliance Officer  
125 E. John Carpenter Freeway  
PO Box 140909  
Irving, TX 75062-2324  
(972) 581-5135  
[jwitter@novationco.com](mailto:jwitter@novationco.com)
- 19.3 See response to Question 19.2.

**Exhibit 1**  
Business Ethics Policy

## **Provista and Novation Business Ethics Policy**

Provista, LLC/Novation, LLC Huron, Michigan Business Ethics Policies and Procedures

Policy No. 2.05

Effective Date: Oct. 1, 2002; revised August 17, 2007

### **Philosophy**

To enable Provista, LLC/Novation, LLC, (collectively, "Provista/Novation") to conduct their business effectively and to promote confidence in the integrity of their officers and employees, the highest standards of loyalty and ethical principles must be maintained. The guiding principles of this policy are that all officers and employees must avoid situations in which their personal activities or relationships could create, or appear to create a conflict of interest, or make it difficult to objectively carry out job responsibilities or act in the best interest of Provista/Novation. Additionally, confidential and proprietary information must be carefully protected.

The spirit of this policy is to preserve and protect the integrity and independence of all decisions affecting Provista/Novation made by its officers and employees so that the interests of Provista/Novation, and not that of any individual, prevail. The mere appearance of a conflict or a breach of confidence can often be as serious as an actual conflict or breach and can result in irreparable damage to Provista/Novation and its reputation. At the same time, Provista/Novation does not wish to unnecessarily infringe upon the personal lives of its employees. Each individual has a responsibility and will be held accountable for complying with the spirit and letter of this policy, and to seek assistance from management when necessary.

### **Scope**

All employees of Provista/Novation will be required to complete the Certificate Regarding Business Ethics and Confidentiality Agreement when joining Provista/Novation as a regular employee, and at the beginning of each subsequent year.

### **Guidelines**

This policy sets forth guidelines for those areas of business ethics in which employees are most likely to encounter difficulties. It should be kept in mind that these are guidelines and may not address every specific situation that may arise.

#### **I. Conflict Situations**

A potential conflict would exist whenever an employee has an interest in, or connection with, a participating vendor if the interest is of such a nature that it might influence, or appear to influence the independent judgment of the employee. Participating vendor shall

mean a vendor that has a contract with or submits a bid or formal offer to contract with Novation or Provista to provide goods or services, including consultants, financial institutions and equipment lessors. Conflicts may be difficult to detect, and sometimes it is only a matter of degree between an acceptable and unacceptable activity. To avoid conflicts, employees must use sound judgment and exercise prudence in all of their business dealings.

Business transactions in which there may be conflicts of interest include, for example, the sale or purchase of products, services, supplies or equipment; the purchase, sale and lease of real estate; the purchase of advertising space and time; the investment and borrowing of funds; the investments in competitors or participating vendors; and the selection or supervision of participating vendors. It is not practical to describe every situation that might raise a conflict of interest or the appearance of one, but the following are examples of activities that are prohibited.

## **Ownership Restrictions**

Employees, their spouses and minor children may not own an Individual Equity Interest in any company in which VHA, UHC, Provista /Novation or any of their subsidiaries owns securities, warrants, options, debt instruments (including loans) or rights to acquire any of the foregoing.

"Individual Equity Interest" shall mean securities, options, warrants, debt instruments (including loans) or rights to acquire any of the foregoing; provided, however, that (a) interests in mutual funds or (b) interests held in a blind trust shall not be included.

Employees who are in a position to influence the contracting decisions of Provista /Novation, their spouses and minor children may not own an Individual Equity Interest in any company where they may influence contracting decisions.

Provista /Novation senior management and other key positions who the Boards determine exercise a pervasive influence on contracting decisions of Provista /Novation, their spouses and minor children are prohibited from owning an Individual Equity Interest in any participating vendor.

Property or Services Transactions: Employees should not buy, sell or lease any kind of property or services from or to Provista /Novation, or from or to a participating vendor, except when authorized by Provista /Novation.

Employees who do not influence contracting decisions may be required to disclose individual equity interest in participating vendors and recuse themselves from any discussions or decisions regarding those participating vendors.

The following Ownership Restriction Guidelines are provided to further define pervasive and influencing positions:

1. Certain Novation/Provista employees exercise a pervasive influence on contracting decisions of Novation/Provista.  
These include:
  - President
  - Group Senior Vice President
  - all Senior Vice Presidents
  - Chief Financial Officer
  - Vice President, Custom Services
  - Vice President, Supply Chain Data Management
  - Vice President, Supply Chain (UK)
  - Vice President, Strategic Sourcing
  - Vice Presidents, Provista Sales & Operations
  - Vice Presidents, Contract Services & Program Services
  - General Counsel
  - Legal Counsel
  - Senior Counsel
  - Legal Representative
  - Senior Director, Finance Services
  - Senior Director, Contract Administration
  - Senior Compliance Counsel
  - Senior Director, Supplier Diversity
  - Senior Director, Provista Market Segments
  - Director, Innovative Technology
  - Director, QA/RA
  - Director, Strategic Sourcing & Supplier Relations
  - These employees, their spouses and minor children are prohibited from owning an Individual Equity Interest in any participating vendor.
  
2. Employees who are in a position to influence the contracting decisions of Novation/ Provista, their spouses and minor children may not own an Individual Equity interest in any company where they may influence contracting decisions.

As used here in, "Individual Equity Interest" shall mean securities, options, warrants, debt instruments (including loans) or rights to acquire any of the foregoing; provided, however, that (a) interests in mutual funds or (b) interests held in a blind trust shall not be included.

**Key Points:**

- Influencing employees MAY own stock in Novation/ Provista suppliers over which they have No influence in contracting decisions.
- NO influencing employees may own stock in national supplier companies that do business across several service lines (e.g.- Johnson and Johnson; Tyco; Abbott, etc.)
- Influencing positions include:
  - Senior Directors, Clinical Services
  - Senior Director, Contract & Program Services

- Senior Director, 340B Program
    - Director, Contract Services
    - Senior Director, Custom Services
    - Director, Custom Services
    - Portfolio Executives - Custom Services
    - Senior Product Manager, 340B
    - Portfolio Executives/Portfolio Specialists
    - Analyst/Program Coordinators
    - Analyst Managers/Program Managers
    - Manager, Capital Asset
    - Senior Clinical Managers
    - Senior Director, Standardization Program
    - Director, Standardization Operations
    - Manager, Standardization Programs
    - Manager, Novation Supply Relations
    - Senior Director, NOVAPLUS
    - Senior Director, Business Development
  - Influencing positions do not include Administrative Assistants or Coordinator positions within the Operations, Contract & Program Services area of the company.
3. All other employees who are not in pervasive or influencing positions may own stock in suppliers with whom Novation/ Provista does business. HOWEVER, employees who do not influence contracting decisions may be required to disclose individual equity interest in participating suppliers and must recuse themselves from discussions/decisions regarding those participating suppliers in certain situations.

For example:

- Sales staff who are selling from a dual source/ multi source award and who own, or who have a spouse and/or minor children, who own stock in one of the suppliers.
  - Sales or Clinical Operations staff who are asked to participate on a Member Council/Task Force to discuss possible awards to suppliers in which they, their spouse, and/or minor children own stock.
  - Any Novation/ Provista employee, who by virtue of their expertise/ experience, is asked for advice and input regarding a contracting decision, will need to recuse himself/herself from the discussion if their stock ownership, or that of their spouse and/ or minor children, may even appear to cause a conflict of interest.
4. Employees, their spouses and minor children may not own an Individual Equity Interest in any company in which VHA, UHC, Provista /Novation or any of their subsidiaries owns securities, warrants, options, debt instruments (including loans) or rights to acquire any of the foregoing.

Each individual has the responsibility for complying with the spirit and letter of this policy, including notifying management of any work situation that may even appear to cause a conflict of interest. Other key contacts include the Senior Director, Human Resources and the Corporate Compliance Officer.

## **II. Gifts**

**Prohibited Gifts:** No employee may accept any gift, entertainment, favors or personal services or payments (other than those of a nominal retail value less than \$50.00) from any participating vendor. No employee may encourage or induce any participating vendor to make gifts, including cash, materials or services, to company-sponsored functions, including employee-related recreational projects or activities.

**Annual Maximum Value:** The total retail value of all nominal value gifts received by an Provista /Novation employee during each calendar year from a participating vendor shall not exceed \$100. The total retail value of all nominal value gifts received by a Provista /Novation employee during each calendar year from all sources shall not exceed \$300.

**Handling Prohibited Gifts:** Employees receiving prohibited gifts must promptly report them to their supervisors, and return them to the donor with a letter of explanation. Gifts of a perishable nature that are impractical to return should be donated to a charity in the name of the donor. If it is not practical to donate these gifts (i.e., flowers, unwrapped food, etc.), they should be put in a public area where all Provista /Novation employees have access to them.

## **III. Business Entertainment**

Provista /Novation employees may attend business entertainment events hosted by participating vendors including lunches, dinners, social and recreational outings having a value of \$50 or less.

**Annual Maximum Value:** The total retail value of all business entertainment participated in by a Provista /Novation employee during each calendar year from a participating vendor, shall not exceed \$100.00. The total value of all business entertainment participated in by a Provista /Novation employee during each calendar year from all participating vendors, shall not exceed \$300.

**Alcohol:** Alcohol may be served at business meetings, but must be consumed in moderation, thereby allowing all individuals to maintain an appropriate level of sobriety and professionalism.

**Judgment Calls:** Employees and their supervisors should use their best judgment regarding participation in recreational or social outings, and any other type of business entertainment, and must avoid even the appearance of impropriety. No participation in business entertainment of any kind may occur if it is of such a nature that it might influence or appear to influence the independent judgment of any Provista /Novation

employee. In the event of uncertainty or disputes regarding such decisions, they must submit the issue to the Provista /Novation Corporate Compliance Officer for a decision. That decision may be appealed to the CEO/President, and then may be appealed to the Provista /Novation Board of Directors, which has overall responsibility for corporate compliance.

**Examples:** An example of an allowed participation in business entertainment would be dinner at a local restaurant with a retail value of less than \$50.00 per person after completion of a half-day business meeting. An example of prohibited business entertainment would be a sight-seeing, cruise, fishing or other recreational-type trip that follows a half-day business meeting, but has a retail value of more than \$100.00 per person. An example of prohibited entertainment would be a recreational-type trip that follows a one-hour business meeting that was used as a mere pretext for participation in the entertainment.

#### **IV. Confidential or Proprietary Information**

In the course of employment with Provista /Novation, employees will come into possession of and have access to confidential or proprietary documents, materials and information used by Provista /Novation and participating health care organizations in the conduct of their businesses, and will become familiar with the nature of the business of Provista /Novation and Provista /Novation institutions, their business secrets, including patient, financial, operational, statistical and other confidential or proprietary information, whether specific or aggregate, and any or all special or general methods of doing business. Employment with Provista /Novation is upon express condition that employees will under no circumstances, except as required by law or as directed by Provista /Novation, divulge the confidential or proprietary information acquired while in the course of said employment, or use such confidential or proprietary information to their personal advantage or to the advantage of any other person or organization.

No Provista /Novation employee should give, release or discuss with anyone employed or not employed by Provista /Novation who does not have a legitimate business "need to know" information that might adversely affect Provista /Novation's interests, including, but not necessarily limited to, information relating to strategic planning, decisions, operations, goals, financial or business prospects, competitive bids, technical processes or confidential employee, patient, financial, operational or statistical information, whether specific or aggregate, belonging or relating to Provista /Novation or its health care organizations; or use such information to the personal advantage of the employee or to any other person or organization. Nor should any Provista /Novation employee make publicly available or discuss with any person or organization who does not have a legitimate business "need to know" any information regarding Provista /Novation or its health care organizations that by contract is required to be kept confidential.

#### **V. Personal Relationships of Employees**

While Provista/Novation does not wish to infringe upon the personal lives of its employees, situations may arise involving personal or family relationships that may impact the business or its environment. It should be kept in mind that these are guidelines and may not address every specific situation that may arise.

#### **A. Internal Conflicts of Interest:**

While Provista /Novation does not wish to infringe upon the personal lives of its employees, situations may arise involving personal or family relationships that may impact the business or its environment. It should be kept in mind that these are guidelines and may not address every specific situation that may arise.

#### **A. Internal Conflicts of Interest:**

It is Provista /Novation's policy that employees who have personal or family relationships with another Provista /Novation employee, member, or participating vendor that impede or have the appearance of impeding objective business decisions, will not be assigned to positions which may create such a conflict of interest. It is the intent of this policy to promote an environment in which business decisions are made free from the effect of such personal or family relationships. Likewise, employees should not accept or remain in positions in which such personal or family relationships could impact their ability to make decisions in an objective manner.

Some examples of work assignments which must be avoided when a personal or family relationship exists include individual work assignments that:

- Require one to direct, review or process the work of the other
- Require one to serve in a supervisory or higher level management role over the other.
- Permit one to have access to privileged or confidential information about the other.
- Permit one to approve financial transactions affecting the other, such as approval of expense reports, salary increases, or bonus payments
- Involve dependent responsibilities (i.e., purchasing and accounts payable)

#### **B. External Conflicts of Interest**

Employees with responsibilities for external relationships must avoid situations that could cause an actual or perceived conflict of interest or make it difficult to objectively carry out job responsibilities or act in the best interest of Provista /Novation.

When an employee's responsibilities include working with members, participating vendors or competitors, particular care should be taken to ensure that business decisions are free from any actual or perceived conflict of interest. Provista /Novation employees who have a personal or family relationship with employees of a member, participating vendor or competitor should not become involved in the business decisions that involve

Provista /Novation and the other company if that individual can benefit, either directly or indirectly, from the other company's business with Provista /Novation. Nor should employees conduct any business on behalf of Provista /Novation with a participating vendor, or member when the employee has a personal or family relationship with any individual who is a principal, officer or representative of that participating vendor or member, without first disclosing that relationship to a Provista /Novation CEO/President.

## **VI. Employees Serving as Officers or Board of Directors Outside of Provista/Novation**

The duties owed by a Provista /Novation employee who is on the board of directors or serves as an officer of an outside company, association or organization are separate from and in addition to the duties and responsibilities that employee has to Provista /Novation as one of its employees.

Many companies, associations and organizations pay their outside officers and board of directors fees for services as well as offering reimbursement for out of pocket expenses incurred while attending meetings or other functions. A Provista /Novation employee who is serving in such an outside capacity may accept such fees and reimbursements and retain them. If, however, the Provista /Novation employee is offered stock or the opportunity to subscribe for stock in consideration for his/her services, he/she should contact the legal department before accepting or subscribing for such stock.

As an officer or board member of an outside company, association or organization, a Provista /Novation employee may be called to act in situations where the interests of Provista /Novation and those of the other entity are in conflict or potential conflict. In any such situation, the employee should refrain from participating in any votes on the matter in question. In addition, he/she should be careful not to unduly influence any discussion or votes on the matter.

## **VII. Employment or Consulting Relationships**

Employees should not serve as an officer, director, employee or consultant of/or with any actual or potential competitor or participating vendor of Provista /Novation. Employees should not engage in any other business activity that is competitive with any of Provista /Novation's business, that takes advantage of a corporate opportunity of Provista /Novation or that could result in a conflict between the private interests of the employee and the interests of Provista /Novation.

Outside employment or business activities, including preparation, are not to be conducted on company time, nor should they in any way impact the employee's job performance at Provista /Novation.

## **VIII. Contributions and Unethical Payments**

Federal law prohibits a corporation from making direct or indirect political contributions of any kind, including transportation or other services at company expense. Provista /Novation encourages the lawful participation during non-business hours of all employees as private citizens in the electoral process or in making contributions to political action committees of their choice.

Employees are prohibited from giving, offering or accepting anything that could be construed as a bribe, kickback or an illegal or unethical payment in connection with Provista /Novation and its businesses. Employees who receive such offers of/or solicitations for bribes, kickbacks or illegal or unethical payments must report the offers or solicitations immediately to their supervisors and to Provista /Novation's legal department.

## **IX. Compliance with Federal and State Laws**

All employees must conduct Provista /Novation's affairs with the highest possible standards of ethics, and are expected to comply fully with applicable federal, state and local laws and regulations.

## **X. Employee Assistance**

In addition to the specific situations discussed above, there are many other possibilities for a conflict of interest. It is also understood that there may be some unique aspects of a situation that deserve individual consideration. This policy is meant to be interpreted fairly so that its application does not cause harsh results in situations in which a conflict arises unavoidably. Furthermore, if through no action by the employee, he/she should come to violate any provision of this policy, the employee would be given a reasonable amount of time to comply (i.e., when an employee changes job responsibilities).

Employees who are or potentially may be in conflict of interest situations are responsible for discussing the situations with their supervisor or a human resources department employee relations representative. If an individual employee feels a desire or need to alter his/her position or job characteristics, the employee's supervisor should make all possible efforts to consider the request. If the employee does not feel the desire or need to make job related changes, he/she should be counseled by the manager or human resources department employee relations representative or both as to his/her responsibilities under this policy. If a Provista /Novation employee or employee's supervisor is uncertain regarding a possible conflict, he/she may contact a human resources department employee relations representative or the legal department. Conflict situations can often be avoided by discussing the potential situation in advance.

## **XI. Procedures**

The Boards of Directors of Provista /Novation will establish procedures to implement and monitor adherence to this policy, consider exceptions, if any, and assure that any apparent or actual conflict of interest is avoided.

## **XII. Grace Period**

Newly hired employees, employees who are promoted or transferred into "positions of influence" or "pervasive influence" jobs will have 90 days from the date of the employment action to achieve compliance with the stock ownership requirements.

## **XIII. Reporting Violations**

Employees are encouraged to discuss concerns about this policy or potential violations with their management, the employee relations department or the Compliance Officer. Employees may also anonymously report violations or potential violations by using the compliance hot line. The telephone number is (800) 750-4972.

## **XIV. Violations**

Violations of this policy may be grounds for disciplinary actions up to and including termination by Provista /Novation as well as appropriate legal action.

## **Related Policy:**

Termination of Employment

## **Applicable Forms**

Certificate Regarding Business Ethics  
Confidentiality Agreement  
Annual disclosure forms

Exhibit 2

**NOVATION OPERATING PRINCIPLES**

**August 8, 2002**

Novation, LLC (“Novation”) is the joint purchasing agent of University HealthSystem Consortium (“UHC”) and VHA Inc. (“VHA”), two hospital alliances that were formed and owned and governed by not-for-profit academic medical centers and community-based hospitals. Novation is committed to operating a truly voluntary group purchasing program that provides members of UHC and VHA with full access to any health care item or service (including innovative medical technologies) from any vendor regardless of whether that vendor has a contract with Novation. As part of that commitment, Novation has worked closely with the Health Industry Group Purchasing Association (“HIGPA”) – to develop and implement an industry code of conduct.

**I. INNOVATIVE TECHNOLOGY**

UHC and VHA members expect and deserve access to the most innovative and cost-effective medical technology. Novation’s business practices, including its competitive bidding process, have been – and will continue to be – aligned to ensure such access. Novation, however, is always searching for ways to better serve UHC and VHA members, and is committed to becoming a leader in enabling the development, awareness and utilization of innovative health care technology. As part of that commitment, Novation is determined to make itself, its advisory councils, and UHC and VHA members even more aware of innovative technologies. Novation is also determined to ensure that the vendors of such technology have a meaningful opportunity to participate in Novation’s contracting process.

Toward these ends, Novation will augment its current practices by (for example):

- developing and implementing a more comprehensive and defined process for evaluating innovative technology and ensuring that this process:
  - is open and fair, protects the confidentiality of innovative technology, and is not unduly burdensome, time-consuming or cost-prohibitive;
  - considers innovative technology outside of the applicable contracting cycle;
  - increases the involvement of UHC and VHA hospital members and, where appropriate, outside experts, in the evaluation of innovative technology;
  - adheres to policies and procedures that offer a defined and objective process to address vendor grievances relating to the evaluation of innovative technology;
- increasing overall awareness of innovative technology through the creation of a forum within its Web site wherein member hospitals and vendors may provide and exchange information about innovative technology; and
- reiterating and reinforcing – to UHC and VHA members, vendors and the public at large – Novation’s commitment to operating a voluntary group purchasing program that gives members the freedom to purchase any product that they determine offers the best

combination of clinical value and price, regardless of whether the product is under contract with Novation.

## **II. SOLE, DUAL AND MULTISOURCE CONTRACTS**

Novation is committed to a member-driven, integrity-driven, public competitive bid contracting process that awards contracts to suppliers that provide the best quality products and lowest total cost – as determined by the members of VHA and UHC.

Novation is also committed to reviewing its contracting process on an ongoing basis to ensure that its utilization of sole-source contracts is appropriate and facilitates the successful introduction of innovative technology to members. Further, in recognition of the unique dynamics associated with clinical preference products<sup>1</sup>, on a prospective basis, Novation:

- will not award a sole-source contract for a clinician preference product<sup>2</sup> that has an alternative that offers incremental patient care benefits or incremental safety benefits;
- will re-bid the relevant product category or make a dual or multisource award (based upon the review and recommendation of the relevant Novation clinical council or task force) in the event a new product enters the market that offers incremental patient care benefits or incremental safety benefits; and
- will require that all recommendations to award a sole-source contract for a clinical preference product<sup>1</sup> receive review and approval by the relevant Novation clinical council or task force before going into effect.

## **III. COMMITMENT**

Novation will impose no commitment requirement as a condition to participate in any base vendor group purchasing contracts or as a condition of membership or continued membership in UHC or VHA.

Any vendor's proposal that offers additional discounts in exchange for commitment levels over 75% on clinical preference products<sup>1</sup> will be reviewed and approved by the relevant Novation clinical council or task force before going into effect. In making this determination, the relevant council or task force shall endeavor to ensure maximum choice for member hospitals, physicians, clinicians and patients for clinical preference products<sup>1</sup> and to facilitate the introduction of innovative clinical preference products<sup>1</sup>.

With respect to Novation's OPPORTUNITY® Spectrum Portfolios, these portfolios were originally designed and implemented to provide competitive advantages to not-for-profit hospitals by giving them access to the type of price reductions and rebates offered by vendors to

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<sup>2</sup> Clinical preference products shall refer to any medical device or any item of medical equipment or supply used to treat a patient for any illness, injury, condition, disease or ailment about which a physician or other clinician (including nurses) could reasonably be expected to express a preference or could be expected to effect patient health or safety or worker health or safety. Relevant member councils or task forces will make the determination as to whether or not a particular product is a clinical preference product.

for-profit hospital chains. The OPPORTUNITY® program – which offers “best-of-breed” product combinations from multiple vendors – also was intended to provide not-for-profit hospitals with a viable alternative to standard vendor volume and market-share discount programs that linked price reductions on one product to a hospital’s agreement to buy other, less desirable products from the same vendor.

Consistent with Novation’s broader commitment to operating a voluntary group purchasing program:

- hospital participation in OPPORTUNITY® Spectrum Portfolios is and will continue to be completely voluntary;
- participation in OPPORTUNITY® Spectrum Portfolios is not and will not be a precondition to a hospital joining or maintaining membership in UHC or VHA; and
- the price discounts offered by Novation under its base vendor contracts are and will continue to be available to any member whether or not the member makes any purchasing commitment or participates in OPPORTUNITY® Spectrum Portfolios.

In addition, on a prospective basis, Novation will:

- review its OPPORTUNITY® Spectrum Portfolio descriptions and contracts to eliminate language that could be construed as anti-competitive;
- eliminate any combination of clinical preference products<sup>1</sup> and non-clinical preference products or any combination of unrelated clinical preference items with each other in OPPORTUNITY® Spectrum Portfolios;
- eliminate combinations of capital equipment and consumable products in OPPORTUNITY® Spectrum Portfolios;
- increase the percentage of dual and multisource vendor contracts in OPPORTUNITY® Spectrum Portfolios; and
- pursue the implementation of lower purchasing commitment levels within the OPPORTUNITY® Spectrum Portfolios.

#### **IV. CONTRACT TERM**

Novation’s position is that neither contract length nor other contract provisions should encumber hospital access to innovative technology. By the same token, Novation’s competitive bidding process takes, on average, nine months to complete, making it highly inefficient and prohibitively expensive to re-bid contracts after only one or two years.

With this position and information in mind, Novation is reviewing all of its vendor contracts to ensure that contract terms do not erect a barrier (or a perceived barrier) to member access to

innovative technology. As necessary and appropriate, on a prospective basis, Novation will modify any such contracts. In addition, Novation will preserve its existing contracting flexibility by:

- ensuring that all of its vendor contracts permit (and continue to permit) contract termination without cause, upon 90 days written notice; and
- including a provision in its vendor contracts permitting Novation to add additional vendors or to terminate and re-bid the contract in the event of the introduction of products which offer incremental patient care benefits or incremental safety benefits.

Further, in recognition of the subcommittee's concerns relating to the potential anticompetitive effects of long-term contracts, on a prospective basis, Novation will:

- limit vendor contracts to an initial term of three years or less; and
- thoroughly and objectively evaluate alternative technologies before exercising any option to renew a vendor contract.

## **V. PRIVATE LABEL**

Novation's private-label program – NOVAPLUS™ – is member-driven, assisting hospitals in achieving standardization and additional cost savings with respect to frequently purchased, commodity products. Notwithstanding the benefits of the NOVAPLUS™ program to UHC and VHA members – and despite the fact that the NOVAPLUS™ program represents just 5 percent of member purchases through Novation – Novation will take several steps to address the Subcommittee's concerns. Specifically, on a prospective basis, Novation will:

- limit the NOVAPLUS™ program to commodity products;
- reduce the vendor administrative fees associated with private-label products while achieving equal value to members through improved price reductions or other member incentives;
- take further steps to document and communicate the benefits derived from the NOVAPLUS™ program, including product standardization, safety improvement, training efficiencies and the like; and
- enhance communications to members with regard to services and activities uniquely associated with the NOVAPLUS™ private-label brand.

## **VI. VENDOR FEES**

Although the payment and acceptance of vendor fees is both legal, appropriate and common in other industries, in order to avoid any inference that the timing or amount of fees may affect

contract awards, on a prospective basis, Novation will not accept administrative or marketing fees of any kind from vendors that are paid prior to the inception of the contract.

Novation will not accept administrative fees in the form of vendor equity.

Moreover, on a prospective basis, Novation will implement additional measures to further ensure that vendor fees are not a determinative factor in the award of contracts under Novation's competitive bidding process (except in those situations where the quality and pricing of competing products are essentially the same).

Although UHC and VHA already provide their members with robust fee disclosures, Novation will explore ways to make its disclosures (including those relating to private-label products) even more transparent and user-friendly (such as providing members with password-protected electronic access to vendor fee information).

On a prospective basis, with respect to clinical preference products<sup>1</sup>, Novation will reduce administrative fees that are above 3 percent to 3 percent while achieving equal value to members through improved price reductions or other member incentives.

In addition, for clinical preference products<sup>1</sup>, Novation will not accept other forms of contract-related marketing fees. Vendor participation in any additional services for which fees may be charged (such as trade shows or advertising) shall be entirely voluntary and a vendor's participation (or nonparticipation) shall have no bearing upon contracting decisions.

## **VII. NOVATION CODE OF CONDUCT & COMPLIANCE PROGRAM**

Novation's compliance program – which is monitored and enforced by Novation's Board of Directors and executive management team – is being reviewed, enhanced and customized to reflect Novation's distinct ownership structure and corporate mission. A number of the resulting policies and procedures will be more stringent than those set forth in the HIGPA code of conduct. For example, Novation's compliance program will:

- prohibit the ownership of individual equity interests by all directors, employees and their spouses and minor children in companies (such as Neoforma Inc.) in which Novation, UHC or VHA own securities, warrants, options, or debt instruments (including loans), or rights to acquire any of the foregoing;
- prohibit Novation from owning any equity interests in any vendor that sells (or can be reasonably expected to sell within the next two years) items or services to hospitals (regardless of whether the vendor has a contract with Novation);
- prohibit participating vendors from owning equity interests in Novation;

- prohibit all Novation employees (and not just those in a position to influence contracting decisions) from accepting gifts, entertainment, favors, and the like (other than those of nominal value) from vendors;
- prohibit (1) Novation employees who are in a position to influence contracting decisions in a particular product category (e.g., pharmaceuticals) and (2) their spouses and minor children from owning individual equity interests in any vendor that has a contract with Novation, has submitted a bid to Novation, or can reasonably be expected to submit a bid within the next two years in connection with that product category; and
- prohibit members of Novation's senior management (who are determined by the Novation Board of Directors to exercise pervasive influence over Novation's contracting process), their spouses and minor children from owning individual equity interests in any Novation vendor or any vendor that can reasonably be expected to submit a bid for a clinical preference product<sup>1</sup> within the next two years.