

340B CONTRACT PHARMACY SERVICES AGREEMENT

This 340B Contract Pharmacy Services Agreement ("**Agreement**") is made and entered into this _____ ("**Effective Date**") by and between Mangum Regional Hospital ("**Covered Entity**") and Puckett Discount Drug. ("**Contracted Pharmacy**").

1. RECITALS

- 1.1. Covered Entity qualifies for and participates in a federal drug discount program established under Section 340B of the Public Health Service Act that requires participating pharmaceutical manufacturers to extend discounted pricing to certain health care providers classified as covered entities;
- 1.2. Covered Entity is authorized: (i) to purchase prescription and non-prescription medications at reduced cost through Section 340B of the Public Health Service Act for outpatients of Covered Entity Locations; and (ii) to contract with a licensed pharmacy to manage and dispense its 340B Drugs;
- 1.3. Covered Entity desires to contract with Puckett Discount Drug to manage and dispense Covered Entity's 340B Drugs pursuant to Covered Entity's 340B Drug Program; and
- 1.4. Puckett Discount Drug agrees to manage and dispense Covered Entity's 340B Drugs pursuant to the terms and conditions of this Agreement.
- 1.5. In consideration of the promises, covenants and agreements hereinafter set forth, Covered Entity and Puckett Discount Drug hereby agree to the following terms and conditions:

2. DEFINITIONS

- 2.1. "**340B Drugs**" means drugs which are "covered outpatient drugs" as defined in Section 1927(k) of the Social Security Act, 42 USC 1396r-8(k)(2), and which are prescribed by an authorized medical provider affiliated with Covered Entity. All 340B Drugs shall be subject to the limiting definition of "covered outpatient drug" set forth in Section 1927(k) of the Social Security Act, 42 USC 1396r-8(k)(3).
- 2.2. "**340B Drug Program**" means the Covered Entity's program to purchase and either dispense or arrange for the dispensing of 340B Drugs to Eligible Patients in accordance with Section 340B of the Public Health Service Act (the "**Act**").
- 2.3. "**Contracted Rate**" means the contracted and/or agreed upon reimbursement rate between Puckett Discount Drug and the applicable Private Insurer and includes any Taxes, Eligible Patient co-pay, or other amounts that may be due from an Eligible Patient or Private Insurer or arise out of the coordination of benefits, as applicable.
- 2.4. "**Covered Entity Locations**" means those individual Covered Entity locations related to Covered Entity, including all associated eligible child sites, that are listed on the HRSA web-site

pursuant to an executed enrollment or registration form which authorizes Covered Entities to contract with a licensed pharmacy to manage and dispense 340B Drugs. Covered Entity Locations shall only be eligible under this Agreement for so long as such locations are registered and identified as active in the HRSA 340B database and for which Covered Entity is the designated billing entity.

2.5. **"DHHS"** means the United States Department of Health and Human Services.

2.6. **"Eligible Patient(s)"** means those Covered Entity outpatients who Covered Entity determines are eligible to purchase and/or receive 340B Drugs from Covered Entity Locations, subject to the limiting definition of "Patient" set forth in 61 Federal Register 55156 (1996), as the same may be modified or amended. All Covered Entity patients who are Medicaid beneficiaries and for whom claims for pharmaceuticals are reimbursable by a state fee-for-service Medicaid program are expressly excluded from this definition.

2.7. **"HRSA"** means the Health Resources and Services Administration.

2.8. **"Inventory Replenishment Rate"** means the amount due Puckett Discount Drug for each 340B Drug dispensed by Puckett Discount Drug but for which Puckett Discount Drug does not receive replenishment from the Supplier. The Inventory Replenishment Rate will be determined in accordance with Exhibit A.

2.9. **"Manufacturer"** means any pharmaceutical manufacturer of 340B Drugs purchased by Covered Entity and delivered to Puckett Discount Drug via Supplier pursuant to the terms of this Agreement.

2.10. **"NDC-11"** means a medication's unique 11-digit number containing: (i) the labeler code assigned by the Food and Drug Administration; (ii) the product code; and (iii) the package size of the pharmaceutical product.

2.11. **"Non-Eligible 340B Drugs"** means drugs (based upon the NDC-11) that are not a 340B Drug, on the 340B Price File, and/or eligible for the 340B Drug Program.

2.12. **"Pharmacy Location"** means the specific pharmacy location that manages and dispenses medications pursuant to Covered Entity's 340B Drug Program. The Pharmacy Locations shall only be available to provide 340B Pharmacy Services for so long as such locations are registered and identified as active in the HRSA 340B database.

2.13. **"Prescriber List"** means the list of prescribers eligible to write prescriptions for 340B Drugs under the terms of this Agreement and the 340B Drug Program.

2.14. **"Price File"** means the list of 340B Drugs and associated pricing available from the Supplier.

2.15. **“Private Insurer”** means the third-party payor responsible: (i) for an Eligible Patient’s prescription coverage; and (ii) to reimburse Puckett Discount Drug the Contracted Rate for pharmacy services.

2.16. **“Supplier”** means the pharmaceutical manufacturer, supplier, or drug wholesaler that has entered into a written agreement with Covered Entity to provide 340B Drugs to Puckett Discount Drug via a ship-to, bill-to arrangement.

2.17. **“Usual and Customary Charge”** means the amount charged by the Pharmacy Location at the time of dispensing of a pharmaceutical product or service to a customer with no coverage by a third party payor, exclusive of: (i) Tax; (ii) discounts claimed; or (iii) discounts provided for prescription drug savings card or other similar discounts.

3. COVERED ENTITY RESPONSIBILITIES

3.1. Patient Eligibility Verification. Covered Entity prescribers will provide all Eligible Patients with a valid prescription as required by law. Prescription must be written or submitted electronically to Puckett Discount Drug in accordance with applicable federal and state laws.

3.2. Supplier and Payments. Covered Entity acknowledges and agrees that establishing a successful virtual replenishment process with the Supplier is essential to this Agreement and Puckett Discount Drug provision of 340B Pharmacy Services.

3.2.1. A third party administrator (TPA) will assist with managing a virtual inventory of 340B eligible medications and processing 340B pricing payments to the supplier.

3.2.2. For each 340B medication dispensed to patient(s) that reaches depletion of a full package size, the TPA will assist with virtual replenishment at 340B pricing from the Supplier (on behalf of Covered Entity) to replace 340B medications with the same NDC-11.

3.2.3. Puckett Discount Drug will ensure that reordered 340B eligible medications are delivered by the Supplier to the applicable Pharmacy Location.

3.3. Patient Choice. Covered Entity will inform Eligible Patients that they are free to choose a pharmacy provider of their choice and, at its discretion, advise Eligible Patients that they may be eligible for a discount on certain prescription drugs at Covered Entity’s authorized 340B pharmacy locations.

4. AUDITS AND RECORDS

4.1. Covered Entity Records. Covered Entity shall maintain customary records relating to its responsibilities under this Agreement, including but not limited to eligibility records for patients and payment information regarding the services provided by Puckett Discount Drug hereunder, for the periods required by law and shall make such records available to Puckett Discount Drug.

4.2. Contracted Pharmacy Records. Puckett Discount Drug shall maintain customary business and pharmacy records relating to its responsibilities under this Agreement, including without limitation prescription dispensing records regarding Eligible Patients, payments received from

Eligible Patients and Covered Entity, and 340B Drug ordering, receiving, and dispensing information in an accessible and auditable form.

4.3. Compliance Violations. In the event that Covered Entity determines that 340B Drug diversion or duplicate discounts have occurred or that it is otherwise unable to comply with its responsibility to ensure compliance with the 340B Drug Program, then it must take immediate remedial action to assure compliance and notify the Office of Pharmacy Affairs regarding such compliance problems and actions taken to remedy those problems.

5. TERM AND TERMINATION

5.1. Term. The term of this Agreement shall commence on the Effective Date and shall continue in effect for a one (1) - year period thereafter, unless terminated earlier as provided herein. Upon expiration of the initial term, this Agreement shall be renewed automatically for successive one-year terms.

5.2. Termination. Either party may immediately terminate this Agreement at any time upon written notice to the other party in the event any of the following occurs:

5.2.1. The omission or the commission by the other party of any act or conduct for which its authority to provide 340B Drug Program services may be revoked or suspended by any governmental or administrative body (whether or not such suspension or revocation actually occurs);

5.2.2. The other party becomes insolvent or bankrupt;

5.3. Termination without Cause. Notwithstanding any provision to the contrary, either party may terminate this Agreement at any time and without cause upon thirty (30) calendar days' prior written notice to the other party. In addition, either party may terminate any or all of the Pharmacy Locations at any time and without cause upon thirty (30) days' prior written notice to the other party.

6. GENERAL PROVISIONS

6.1. Confidentiality. The parties agree to protect the confidentiality of each other's records and business information disclosed to them and not to use such information other than as necessary and appropriate in connection with performance of this Agreement. Each party acknowledges that disclosure of confidential information of the other would cause the other party irreparable harm and may, without limiting the remedies available for such breach, be enjoined at the instance of the harmed party. Upon termination of the Agreement, each party agrees to cease use of the other's information and to return it, or destroy it, as appropriate. The parties further agree that: (i) the negotiations of the terms of this Agreement and the entire Agreement are confidential; and (ii) they may disclose, on an as needed basis, the terms of this Agreement only to their employees (including employees of affiliates) and contractors, and as otherwise necessary and appropriate in connection with the performance of this Agreement. Nothing in this paragraph shall be construed to prevent either party from providing a copy of this Agreement to the Manufacturer or DHHS upon their request.

6.2. Enforceability. If any term or provision of this Agreement is held to be invalid, illegal, or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances, other than those to which it is held invalid or unenforceable, will not be affected or impaired thereby.

6.3. Patient Privacy and HIPAA Compliance. The parties recognize that each may be a healthcare provider and a covered entity within the meaning of the federal Health Insurance Portability and Accountability Act ("HIPAA"). The parties agree to protect and respect the patient's right to privacy and confidentiality concerning their medical and pharmaceutical records, and to protect all individually identifiable health information as protected health information from misuse or disclosure, in compliance with all applicable state and federal law. Without limiting the generality of the foregoing, the parties agree to use patient-specific information: (i) only for permitted treatment, billing and related record-keeping purposes; or (ii) as otherwise permitted by law. In the event that any patient information created, maintained or transmitted in connection with this Agreement is to be transmitted electronically, the parties agree that they shall comply in all respects with the requirements of HIPAA governing electronic transmission of individually identifiable patient information. Failure by either party to abide by these requirements shall be a basis for immediate termination of this Agreement.

6.4. Regulatory Compliance. Each party agrees to comply with applicable federal and state laws and regulations. Covered Entity and Puckett Discount Drug mutually acknowledge that their intent in entering into this Agreement is solely to facilitate Covered Entity's 340B Drug Program. The services provided hereunder are only those necessary in order to fulfill this intent, and all financial arrangements established herein are mutually determined to represent either cost or fair market value for the items and services received. The parties expressly do not intend to take any action that would violate state or federal anti-kickback prohibitions, such as those appearing in Section 1128B of the Social Security Act, 42 USC Section 1320a-7b. Instead, it is the intention of the parties that this Agreement, and all actions taken in connection herewith, shall to the greatest extent possible be construed to be consistent with the regulatory requirements of the safe harbor for personal services and management contracts appearing in 42 CFR Section 1001.952(d) or health centers appearing in 42 CFR Section 1001.952(w). Both parties agree that they will neither knowingly resell nor transfer a 340B Drug to an individual who is not an Eligible Patient nor will they dispense 340B Drugs to any person whose prescription is reimbursable by a State Medicaid Agency.

6.5. Signature Authority. Each party to this Agreement warrants that it has full power and authority to enter into this Agreement and that the person signing this Agreement on behalf of either party warrants that he or she has been duly authorized and empowered to enter into this Agreement.

IN WITNESS WHEREOF, Mangum Regional Hospital (Covered Entity) and Puckett Discount Drug (Contracted Pharmacy) have executed and delivered this Agreement by their representatives duly authorized.

Mangum Regional Hospital

By: _____

Name: _____

Title: _____

Date: _____

Puckett Discount Drug

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A
Fee Schedule

1. Self-Pay Patients. For those Eligible Patients whose **Brand Name** prescriptions are not reimbursable by a Private Insurer (i.e. Cash/uninsured patients):

1.1 Puckett Discount Drug shall be compensated a \$15.00 dispensing fee per eligible 340B prescription ("**Self-Pay Dispensing Fee**") as payment in full.

2. Private Insurer Patients. For those Eligible Patients whose **Brand Name** prescriptions are reimbursable by a Private Insurer, Puckett Discount Drug will process and bill the Eligible Patient's Private Insurer for the Contracted Rate provided to the Pharmacy Location at the time of dispensing.

2.1 Puckett Discount Drug shall be compensated a \$15.00 dispensing fee per prescription PLUS 25% of the total reimbursement per eligible 340B prescription ("**Private Insurer Dispensing Fee**") as payment in full.