

INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement ("**Agreement**") is entered into between University of North Texas Health Science Center on behalf of its UNT System College of Pharmacy ("**UNTHSC**"), and Methodist Health System that operates Methodist Dallas Medical Center ("**Contractor**");

UNTHSC desires to receive certain services from Contractor and Contractor desires to provide certain services to UNTHSC under the terms and conditions of this Agreement;

Contractor shall perform the Services with that standard of professional care, skill, and diligence customarily and ordinarily provided in the performance of similar services. These Services are to be provided at the request of and only to the extent and limits specified by UNTHSC from time to time.

Methodist Health System Foundation, a Texas nonprofit corporation with Methodist Health System as its sole member will be the recipient of the compensation as outlined in Exhibit B of this Agreement.

In exchange for valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Services.** UNTHSC engages Contractor, and Contractor accepts the engagement, to perform the services in this Agreement. Contractor agrees to perform the services in **Exhibit A** (the "Services") in accordance with the terms of this Agreement.

2. Independent Contractor

- a. Contractor will be an independent contractor with the sole authority to control and direct the performance of the details of the Services provided by Contractor. The manner, means and methods of performing the Services are under the sole control of Contractor so long as they are lawful. UNTHSC is only interested in the results of Contractor's Services. The Services provided must meet UNTHSC's approval and are subject to UNTHSC's general right of inspection to secure their satisfactory completion.
- b. This Agreement will not create an association, partnership, or joint venture, or a principal/agent or employer/employee relationship between UNTHSC and Contractor. Contractor will not be an employee of UNTHSC and will not be entitled to participate in or receive any benefit or right under any of UNTHSC's employee benefit or welfare plans. Neither party will enter into any agreement, oral or written, on behalf of the other party or otherwise obligate the other party without that party's prior written approval. Contractor agrees to comply with all federal and state laws and regulations that are applicable to the Services.
- c. Contractor will comply with all UNTHSC rules that are provided to Contractor in advance and that are applicable to the Services. Contractor will perform all of the Services in accordance with all regulatory and accreditation standards applicable to UNTHSC and the Service, including the requirements imposed by the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO") and the Medicare/Medicaid conditions of participation.

3. **Compensation.** For Services actually performed, UNTHSC agrees to pay Methodist Health System Foundation in accordance with the attached **Exhibit B**.

4. **Taxes.** Contractor will account for and pay Contractor's own federal and state income taxes and self-employment taxes as required by the Internal Revenue Service. Contractor will at all times (even after the termination of this Agreement) indemnify UNTHSC against any actual or asserted liability (including interest

and penalties) incurred as a result of Contractor's failure to pay all federal, state and local income, employment, occupational and excise taxes due in connection with Methodist Health System Foundation's receipt of any compensation under this Agreement.

5. Term of Agreement. This Agreement will begin on date of last signature and unless terminated by either party, will end on 6/30/2023.

6. Termination

- a. Either party may terminate this Agreement without cause by providing at least thirty (30) days prior written notice to the other party. In the event that the Agreement is terminated within the first year following the Effective Date, the parties may not enter into another agreement with each other for the same or substantially the same Services during the remainder of the first year following the Effective Date.
- b. Either party may, by written notice of default to the other party, terminate this Agreement if the other party fails to perform any of the obligations of this Agreement in accordance with its terms, and does not cure such failure within a period of thirty (30) days (or such extension as authorized by the other party in writing) after receiving notice of default.
- c. Either party may terminate this Agreement by written notice to the other party, and may regard the other party as in default of this Agreement, if the other party becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise.
- d. The Texas Constitution prohibits obligations beyond the current appropriations term. This Agreement may be canceled at any time without penalty if legislative and/or university funds are not appropriated for goods and service obligated in this Agreement beyond the current fiscal year (September 01 through August 31 of any given year).
- e. In the event this Agreement is terminated in accordance with this section, then within thirty (30) days after the Effective Date of such termination, Contractor shall submit Contractor's final billing statement for appropriate Services rendered to the date of termination.

7. Confidential Information.

- a. **"Confidential Information"** means information relating to: the UNTHSC (including any person, corporation, partnership, general partner or other entity that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with UNTHSC), its trade secrets, proprietary information, arrangements with suppliers or payors; its patients and their personal, medical or financial information; technical data, records, or any other information which derives economic value from not being generally known to other persons or is the subject of efforts that are reasonable under the circumstances to maintain its secrecy or confidentiality. Confidential Information will not include information which is in the public domain, other than as a result of Contractor's action or which Contractor can establish was obtained from a source other than UNTHSC, who is not under a duty of nondisclosure.
- b. Contractor acknowledges having a position of the highest trust and confidence with the UNTHSC, due to Contractor's position and access to Confidential Information. This position of trust will exist both during the term of this Agreement and thereafter. Contractor will use its best efforts and exercise

utmost diligence to protect and safeguard the Confidential Information. Contractor will not use or disclose any Confidential Information, except as required to perform the Services or as required by law.

- c. All records, computer software, or other documents relating to the business of the UNTHSC, whether prepared by the Contractor or otherwise coming into Contractor's possession, will be the exclusive property of UNTHSC and will be delivered to UNTHSC when requested and may not be retained by Contractor upon termination of this agreement for any reason. The requirements of this section will survive the termination of this Agreement.

8. **Indemnification.** Contractor agrees to indemnify UNTHSC, its officers, directors, employees and representatives against any claims or damages (including reasonable attorneys' fees, expenses and court costs) arising out of any act or omission constituting negligence or willful misconduct on the part of Contractor, its employees, representatives or agents arising out of Contractor's performance under this Agreement. This section will survive the termination of this Agreement.

To the extent permitted by the constitution and laws of the State of Texas UNTHSC agrees to indemnify Contractor, its officers, directors, employees and representatives against any claims or damages (including reasonable attorneys' fees, expenses and court costs) arising out of any act or omission constituting negligence or willful misconduct on the part of UNTHSC, its employees, representatives or agents arising out of UNTHSC's performance under this Agreement. This section will survive the termination of this Agreement.

9. **Insurance.** Contractor will secure and maintain at all times during the term of this Agreement, at Contractor's sole expense, general and/or professional liability insurance with limits of not less than \$200,000 per occurrence and \$500,000 aggregate with a reputable and financially viable insurance carrier. Upon request, Contractor will provide UNTHSC with certificates evidencing this coverage. Contractor will notify UNTHSC immediately of any material change in any insurance policy required to be maintained by Contractor. Contractor will secure and maintain workers compensation insurance, or the equivalent occupational injury benefit coverage as a nonsubscriber, in accordance with the law of the state in which UNTHSC is located. The Contractor may choose to provide coverage through a program of self-insurance.

UNTHSC, as an agency of the State of Texas, is insured for general liability insurance under a self-insurance program covering its limits of liability.

10. **Records.** At any time during the term of this Agreement and for a period of four (4) years thereafter, the State of Texas, the University of North Texas System, UNTHSC, or other federal, state, and local agencies which may have jurisdiction over this Agreement, at reasonable times, with advanced notice, during normal business hours and at its expense reserves the right to audit Contractor's records and books that relate only to this Agreement. In the event such an audit by UNTHSC reveals any errors/overpayments by UNTHSC, Contractor shall refund UNTHSC the full amount of such overpayments within thirty (30) days of such audit findings, or UNTHSC, at its option, reserves the right to deduct such amounts owing UNTHSC from any payments due Contractor. In the event such an audit by UNTHSC reveals any errors/underpayments by UNTHSC, UNTHSC shall refund Contractor the full amount of such underpayments within thirty (30) days of such audit findings. If needed for audit, original or independently certified copies of off-site records will be provided to auditors at UNTHSC's expense within two (2) weeks of written request. If Contractor is requested or required to disclose any books, documents, or records relevant to this Agreement for the purpose of an audit or investigation relating to the provision of Services pursuant to this Agreement (e.g. a governmental investigation of services provided to patients), Contractor shall, if legally permissible, notify UNTHSC of the nature and scope of such request or requirement, and shall, upon written request, make available to UNTHSC copies of all such books, documents, or records. The terms of this Section shall survive the termination or expiration of this Agreement. In accordance with 42 U.S.C. section 1385(v)(1)(I) and 42 C.F.R. Part 420, Subpart D section 420.300 et seq., if Medicare reimbursable services provided by Contractor under this Agreement are carried out by means of a subcontract with an organization related to Contractor, and the related organization provides the Services at a value or cost of \$10,000 or more over a twelve-month period, the subcontract between Contractor and the related organization will contain a clause comparable to the clause specified in the preceding sentences.

11. **Assignment.** Neither party will assign or subcontract this Agreement or performance of the Services without the other party's written consent.

12. **Governing Law.** Texas law governs this Agreement.

13. **Entire Agreement; Notices.** This Agreement and the exhibits hereto contain the entire Agreement between the parties. There are no other representations or agreements. Written notices under this Agreement will be deemed given when delivered in person or mailed to the other party at the address of UNTHSC or at the last known address of such party concerning the subject matter described herein. This Agreement may not be modified or supplemented, except in writing signed by all the parties herein. All notices shall be addressed to the appropriate Party as follows:

If to UNTHSC:

University of North Texas Health Science Center
3500 Camp Bowie Blvd.
Fort Worth, Texas 76107
[REDACTED]

If to Contractor:

Methodist Dallas Medical Center
1441 N. Beckley Avenue
Dallas, Texas 75203
[REDACTED]

If to Contractor's Foundation:

Methodist Health System Foundation
1441 N. Beckley Avenue
Dallas, Texas 75203
[REDACTED]

14. **Non-Discrimination.** Contractor will provide equal opportunity to persons regardless of race, religion, age, gender, disability or any other classification within federal, state and local statutes, regulations or ordinances.

15. **No Excluded Individuals.** The parties represent and warrant that they will not employ or contract with any individual or entity who is excluded from participation in Medicare or any federal health care program under section 1128 and 1128A of the Social Security Act or as defined at 42 U.S.C. section 1320a-7b(f) or is currently listed on the Specially Designated Nationals List maintained by the Office of Foreign Assets Control of the United States Treasury Department and with which U.S. persons are prohibited from dealing. The parties represent and warrant that they are not currently, nor have been excluded from participation in any federal health care program as defined at 42 U.S.C. section 1320a-7b(f) or listed on the Specially Designated Nationals List maintained by the Office of Foreign Assets Control of the United States Treasury Department and with which U.S. persons are prohibited from dealing. The parties will notify one another immediately if either party is excluded from participating under Medicare or any other governmental program at which time the non-excluded party will have the right to immediately terminate this Agreement.

16. **No Obligation to Make Referrals.** This Agreement does not require or obligate either party to admit or cause the admittance of a patient to the other hospital, or to use its services. None of the benefits granted the parties under this Agreement are conditioned on any requirement or expectation that the parties make referrals to, be in a position to make or influence referrals to, or otherwise generate business for the other party. Neither party is restricted from referring any service to, or otherwise generating any business for any other entity from their choosing.

17. **No Physician Ownership Interest.** Each party represents and warrants that no physician, nor immediate family member of a physician, has any direct or indirect ownership interest in the party. If this situation changes at any

time during the term of this Agreement, the physician owned party will immediately notify the other party and the non-physician owned party will have the right to terminate this Agreement immediately.

18. **HIPAA Requirements.** Each party agrees to comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d ("HIPAA"). Each party agrees not to use or further disclose any Protected Health Information (as defined in 45 C.F.R. Section 164.501) or Individually Identifiable Health Information (as defined in 42 U.S.C. Section 1320d), other than as permitted by HIPAA and the terms of this Agreement. Each party will make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with HIPAA.

19. **Dispute Resolution.** Chapter 2260 of the Texas Government Code established a dispute resolution process for contracts involving goods, services, and certain types of projects. To the extent that Chapter 2260, Texas Government Code, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the Contractor to attempt to resolve any claim for breach of contract against UNTHSC that cannot be resolved in the ordinary course of business. Should the dispute resolution process not be successful, the parties may attempt to resolve the dispute using any other legal remedies available to them.

20. **Compliance Program.** Each party maintains a compliance program intended to address overall compliance with, among other things, the requirements of the Social Security Act and associated regulations promulgated by the Centers for Medicare and Medicaid Services. Each party agrees to comply with their compliance program and shall comply with all federal, state and local regulations applicable to this Agreement.

21. **Public Information.** UNTHSC shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Contractor shall make public information available to UNTHSC in an electronic format.

22. **Waiver; Severability.** No waiver of any term or condition of this Agreement whether by conduct or otherwise in any one or more instances shall be deemed to be or construed as a further or continuing waiver of such term or condition, or of any other term or condition of this Agreement. If any terms or conditions of this Agreement are held to be invalid, illegal or unenforceable, the remaining terms and conditions contained herein shall not be affected.

23. **Israel Non-Boycott Verification.** Pursuant to Texas Gov't Code Section 2270.002, Vendor hereby represents, verifies, and warrants that it does not boycott Israel and will not boycott Israel during the term of the Agreement.

UNTHSC: UNIVERSITY OF NORTH TEXAS
HEALTH SCIENCE CENTER on behalf of its
UNT System College of Pharmacy

CONTRACTOR: Methodist Dallas Medical Center

Title: [REDACTED]

Date: 7/18/2018

Date: 4/26/18

HSC Contract #2018-0879



EXHIBIT A

SERVICES

Methodist Dallas Medical Center shall provide the following in exchange for the compensation in Exhibit B of this agreement

- A. One (1) PGY-2 Methodist Dallas Medical Center resident with a faculty appointment in the College at the rank of Clinical Instructor in the Department of Pharmacotherapy shall provide the following services:
 - 1. Provide clinical pharmacy services in both inpatient and outpatient settings particularly within transitions of care and advance the profession and practice of pharmacy.
 - 2. Participate in a required academic rotation at UNTSCP, which will include didactic and laboratory teaching assignments as assigned by the Chair of Pharmacotherapy
 - 3. Participate as a preceptor in the UNTSCP experiential education program and provide availability for at least one Advanced Pharmacy Practice Experience required rotation (e.g. Hospital/Health-System or Inpatient Acute Care Medicine).
 - 4. Participate in the UNTSCP Residency Teaching and Learning Certificate Program, unless the resident has completed a similar program delivered by an ACPE-accredited college of pharmacy
- B. Provide, at a minimum, experiential availability for 25 UNTSCP Advanced Pharmacy Practice Experience (APPE) Rotations, including at least 10 core experiential rotations (i.e. Hospital/Health System, Acute Care Medicine, and/or Ambulatory Care). All rotations shall still be paid honoraria as specified in the Educational Affiliation Agreement between Methodist Dallas Medical Center and University of North Texas Health Science Center at Fort Worth
- C. Provide, at a minimum, experiential availability for 4 UNTSCP IPPE Required Rotations. All rotations shall still be paid honoraria as specified in the Educational Affiliation Agreement between Methodist Dallas Medical Center and University of North Texas Health Science Center at Fort Worth.
- D. Include UNTSCP branding on all collateral, marketing media, and resident presentations in addition to Methodist branding.
- E. Provide leadership and coordination for collaborative recruiting and marketing efforts

EXHIBIT B COMPENSATION

UNTHSC shall reimburse Methodist Health System Foundation an annual flat fee equal to [REDACTED] as follows:

\$14,052.35 – to be paid on July 5, 2018
\$14,052.35 – to be paid on October 5, 2018
\$14,052.35 – to be paid on January 5, 2019
\$14,052.35 – to be paid on April 5, 2019

Payments shall be sent to:

Methodist Health System Foundation – General Pharmacy Fund
1441 N. Beckley Ave.
Dallas, Texas 75203
Attn: Department of Pharmacy

Payment will be made in accordance with the terms of the UNTHSC Purchase Order. UNTHSC shall not reimburse Contractor for any direct or indirect business expenses.

Contractor must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur.

UNTHSC shall reimburse Contractor for reasonable expenses related to residency training, approved in advance by UNTHSC and paid or incurred by Contractor in relation to this Agreement. Expenses shall be paid separately from the Quarterly Fees. Expense reimbursement forms will be submitted monthly and paid within thirty (30) days of submission.

Declaration of Procurement Method

The attached contract document has been issued as a result of either a sole source or proprietary justification approved by the University of North Texas System Procurement Department.

The approved justification form is on file with the UNT System Procurement Department records.