

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

between

COUNTY OF SANTA BARBARA

and

340B HOLDINGS, LLC (formerly SUNRx LLC)

for

PRESCRIPTION DRUG ADMINISTRATIVE SERVICES

SIXTH AMENDMENT

Effective October 1, 2017

This Sixth Amendment (the “**Sixth Amendment**”) to the SUNRx Prescription Drug Administrative Services Agreement (“**Agreement**”) is entered into this 1st day of October, 2017, by 340B Holdings, LLC (hereinafter referred to as “**SUNRx**”), a limited liability corporation organized under the laws of the State of Delaware, whose principal place of business is located at 3220 Tillman Drive, Suite 100, Bensalem, PA 19020, and Santa Barbara County Public Health Department (the “**Eligible Entity**”), whose principal place of business is located at 300 North San Antonio Rd Santa Barbara, CA 93110. (Each a “Party” and collectively the “Parties”).

A. The Eligible Entity and SUNRx entered into the Agreement on June 19th, 2012 whereby the Eligible Entity receives certain prescription drug administrative services from SUNRx for Eligible Entity’s 340B program.

B. Safeway, on behalf of itself and all retail pharmacies it owns and/or operates and any successor thereto (“Member Pharmacy” or “Safeway”) wishes to contract with ProviderPay for inventory and accounting standardization for its 340B contract pharmacies (this solution hereinafter referred to as “Safeway 340B Direct”).

C. SUNRx and Eligible Entity desire to amend the Agreement to provide for the exceptions with Safeway as a 340B pharmacy relative to the Safeway 340B Direct services and the 340B Administrative Services provided under the Agreement. The Amendment will capture these exceptions and enable the Eligible Entity to continue with Safeway as a 340B Contract Pharmacy, whose operations and obligations will vary from those of current SUNRx Contract Pharmacies.

NOW THEREFORE, in consideration of the mutual promises contained herein, and intending to be legally bound, the Parties agree as follows:

1. **Obligations of SUNRx** – the obligations listed below are exceptions to, and replace, the obligations listed in the SUNRx Agreement for pharmacies using Safeway 340B Direct:



- 1.1 **Ordering 340B Drugs.** Eligible Entity can utilize the SUNRx virtual inventory tool to view orders, as reported to SUNRx by Safeway 340B Direct, that have been placed to drug Wholesalers in order to replenish stocks of 340B Covered Drugs dispensed to Contract Pharmacy.
 - 1.2 **Inventory management.** SUNRx shall perform ongoing reporting of physical and virtual inventory of Eligible Entity's 340B Covered Drugs using the SUNRx System based on information received by Safeway 340B Direct.
 - 1.3 **Securing Contract Pharmacy Services.** Eligible Entity acknowledges that any obligations that SUNRx has under the Agreement to secure Contract Pharmacies on behalf of the Eligible Entity are not applicable for Contract Pharmacies using Safeway 340B Direct.
 - 1.4 **Authorized 340B Dispensing Fee Structures.** Eligible Entity acknowledges that 340B dispensing fees for Contract Pharmacies using Safeway 340B Direct are governed by the Safeway 340B Direct agreement.
 - 1.5 **Third Party Claims.** SUNRx's obligations for Third Party Claims under the Agreement will generally remain the same for Eligible Entity. The only difference for pharmacies using Safeway 340B Direct will be the that SUNRx will provide claims data to Safeway 340B Direct and Safeway 340B Direct will report back to SUNRx the data approved for billing.
 - 1.6 **True-up Reporting.** Safeway 340B Direct will periodically identify claims that need to be trued-up based the reconciliation of inventory owed to the Contract Pharmacy. After a claim has been identified to be trued-up, Safeway 340B Direct will determine the financial amount due from the Eligible Entity and will provide this information to SUNRx. SUNRx will make this information available in a report to the Eligible Entity.
2. **Indemnification.** Eligible Entity shall indemnify, defend and hold harmless SUNRx, and its parents, subcontractors, subsidiaries and affiliates, and their respective officers, directors, employees, agents and representatives, from and against any and all liabilities, claims, demands, actions, causes of action, losses, judgments, damages, costs, and expenses, including reasonable attorneys' fees, directly resulting from: (i) a breach by Eligible Entity of any of Eligible Entity's representations, warranties, covenants or agreements in this Amendment, or (ii) any negligent or wrongful acts or omissions of Eligible Entity (including but not limited to 340B In-House Pharmacy) in connection with the performance of this Amendment.

SUNRx shall indemnify, defend and hold harmless Eligible Entity, and its parents, subsidiaries and affiliates, and their respective officers, directors, employees, agents and representatives, from and against any and all liabilities, claims demands, actions, causes of action, losses, judgments, damages, costs and expenses, including reasonable attorneys' fees, directly resulting from: (i) a breach by SUNRx of any of SUNRx's representations, warranties, covenants or agreements in this Amendment, or (ii) any gross negligence or wrongful acts or omissions of SUNRx in connection with the performance of this Amendment.



3. **Limitation of Liability.** IN NO EVENT SHALL SUNRX, SUNRX SUBCONTRACTOR (INCLUDING MEDIMPACT), OR ANY AFFILIATE THEREOF BE LIABLE TO ELIGIBLE ENTITY, 340B IN-HOUSE PHARMACY, ANY ELIGIBLE PATIENT, OR ANY AFFILIATE OF SUCH PARTY FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS, ARISING OUT OF OR RELATED TO SUNRX OR SUNRX'S SUBCONTRACTOR PERFORMANCE UNDER THIS AMENDMENT OR BREACH HEREOF, EVEN IF SUNRX OR SUNRX SUBCONTRACTOR HAVE BEEN ADVISED OF THE POSSIBILITY THEREOF. SUNRX'S AND ANY OF ITS SUBCONTRACTOR'S LIABILITY TO ELIGIBLE ENTITY, ELIGIBLE PATIENTS, OR ANY AFFILIATE OF SUCH PARTY UNDER THIS AMENDMENT, IF ANY, SHALL NOT IN ANY EVENT EXCEED THE TOTAL CLAIMS PROCESSING FEES PAID TO SUNRX BY ELIGIBLE ENTITY FOR THE TWELVE (12) MONTHS PRIOR TO THE DATE THE CLAIM IS ASSERTED.

Neither SUNRx, SUNRx's subcontractor, nor any affiliate thereof will be liable for any claim asserted by Eligible Entity more than thirty (30) days after Eligible Entity is or reasonably should have been aware of such claim. Further, in no event will SUNRx, SUNRx's subcontractor, or any affiliate of thereof be liable for any claim asserted by Eligible Entity more than twelve (12) months after the event giving rise to the claim.

Except as otherwise stated in this Amendment, all terms and provisions of the Agreement are hereby incorporated into this Amendment, as if fully restated herein. In the event that the terms of this Amendment conflict with the terms of the Agreement, the terms of this Amendment shall govern. All capitalized terms in this Amendment, not specifically defined herein, shall have the meaning of such terms as defined in the Agreement.



Sixth Amendment to Agreement for Prescription Drug Administrative Services between the **County of Santa Barbara** and **340B Holdings, LLC**.

IN WITNESS WHEREOF, the parties have executed this Sixth Amendment to be effective October 1, 2017.

COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

Chair, Board of Supervisors

By: _____
Deputy Clerk

Date: _____

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
THEODORE A. FALLATI, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED:
VAN DO-REYNOSO, MPH, PhD
DIRECTOR
PUBLIC HEALTH DEPARTMENT

APPROVED AS TO FORM:
RAY AROMATORIO, ARM, AIC
RISK MANAGER

By: _____
Director

By: _____
Risk Manager



Sixth Amendment to Agreement for Prescription Drug Administrative Services between the **County of Santa Barbara** and **340B Holdings, LLC**.

IN WITNESS WHEREOF, the parties have executed this Sixth Amendment to be effective October 1, 2017.

340B Holdings, LLC.

By: _____

Name: Jill G. Simoes, General Manager

Date: _____

