



MEMBER-REQUESTED PARTICIPATION AGREEMENT

This Member-requested Participation Agreement (MPA) is by and among:

**STATE OF MINNESOTA
ACTING THROUGH ITS COMMISSIONER OF ADMINISTRATION
ON BEHALF OF THE MINNESOTA MULTISTATE CONTRACTING ALLIANCE FOR
PHARMACY (MMCAP);**

DIAMOND DRUGS, INC. (VENDOR);

and

STATE OF OKLAHOMA

and amends the Agreement between MMCAP and Vendor to include the following:

Term: This MPA is effective upon final signature, and expires upon the expiration of MMCAP's contracts with Diamond Drugs, Inc. (MMS14004) or by any party upon 30 days' written notice to the other parties to this MPA listed below.

Scope: The State of Oklahoma desires to access the MMCAP agreement for prescription filling services, which is incorporated into this MPA by reference.

Contacts:

Diamond Drugs, Inc.:

Mark Zilner
645 Kolter Drive
Indiana, PA 15701
800-882-6337 x1003

State of Oklahoma:

Laura Bybee
Central Purchasing Division
P.O. Box 528803
Oklahoma City, OK 73152
405-522-1037

MMCAP:

MMCAP Managing Director
State of Minnesota, MMCAP Program
50 Sherburne Avenue, Suite 112
St. Paul, MN 55155
651-201-2420

Additional Terms:

The following terms and conditions apply solely to the performance of Vendor and the State of Oklahoma and solely for facilities designated as applicable by the State of Oklahoma. These terms will be enforced by the State of Oklahoma.



MEMBER-REQUESTED PARTICIPATION AGREEMENT

Pursuant to Oklahoma State Statute Title 74, Chapter 4, Section 85.33B, the State of Oklahoma Purchasing Director may enter into or award contracts that provide a contract management fee, levy or rebate to the Department of Central Services. The State Purchasing Director will ensure that a contract that provides a management fee. Pursuant to this statute, the Oklahoma State Purchasing Director hereby imposes a management fee, as defined below:

Vendor will add the following state procurement fee to all invoices and it will be calculated on the total invoice cost. This fee will be considered a “pass through” fee paid by the affected Member facility in the State of Oklahoma and it will be in addition to the cost of the Vendor’s goods or services.

State Procurement Fee	
State	Administrative Fee Percentage
Oklahoma	1%

The Fee will be remitted by Vendor to the State of Oklahoma Purchasing Director as further described in this Amendment 1. The management fee is non-refundable when an item is rejected or returned, or declined, due to the Vendor’s failure to perform or comply with specifications or requirements of the Original Contract. Failure to comply with these requirements will constitute grounds for declaring the Vendor in default.

a. *Quarterly Payment and Sales Reporting Requirements.* The parties agree that the collected Fees and the corresponding Quarterly Sales Report, which identifies the total sales pursuant to the Original Contract for the corresponding fiscal quarter, will be submitted by Vendor to the Oklahoma Central Purchasing Director. The total sales reported in the Quarterly Sales Report should be limited to sales in which the Vendor has received payment from the state’s authorized customer. The Fees and the Quarterly Sales Report must be received by the Oklahoma State Purchasing Director on or before the Vendor’s Payment Due Date as defined in the table below:

Fiscal Quarters	Months	Contractor’s Payment
		Due Date
Quarter 1	July 1 st – September 30 th	<u>November 15th</u>
Quarter 2	October 1 st – December 31 st	<u>February 15th</u>
Quarter 3	January 1 st – March 31 st	<u>May 15th</u>



MEMBER-REQUESTED PARTICIPATION AGREEMENT

Quarter 4	April 1 st – June 30 th	<u>August 15th</u>
-----	-----	<u>30 calendar days following the</u> <u>termination of this Statewide</u> <u>Contract for any reason</u>

- b. The Quarterly Sales Report must be in Excel spreadsheet format and must contain the following fields: Agency Name, Agency Location, Item description, Invoice Price, Procurement Fee Applied to Invoice, Quarterly.
- c. At the end of each state fiscal quarter as defined above, Vendor will prepare the Quarterly Sales Report. In the event no sales have occurred, the Vendor must complete and submit the Quarterly Sales Report, indicating no sales have occurred. No later than the date identified above as the “Vendor’s Payment Due Date” for each fiscal quarter, Vendor shall remit a check payable to the Oklahoma Department of Central Services, Central Purchasing Division for the Fees, which check shall include the note “Management Fee – Prescription Filling Services” and the contract number, MMS14004. Vendor will remit the check together with the Quarterly Sales Report to:
- (U.S. POSTAL SERVICE)
 Oklahoma Department of Central Services,
 Central Purchasing Division
 P.O. Box 528803
 Oklahoma City, OK 73152
- (COMMON CARRIER)
 Oklahoma Department of Central Services,
 Central Purchasing Division
 2401 N. Lincoln, Ste 116
 Oklahoma City, OK 73105
- d. *Auditing and Contract Close Out.* All reports and Fee payments will be subject to audit by the State of Oklahoma. In no event will Vendor retain any amount of money in excess of the compensation to which Vendor is entitled and all Fees owed the Oklahoma Department of Central Services, Central Purchasing Division will be paid within 30 calendar days of termination of this Original Contract for any reason.
- e. *Modifying or Canceling the Fee.* The Oklahoma State Purchasing Director reserves the right to modify and/or cancel the Fee at any time. Vendor will work with MMCAP to amend the Contract pricing to reflect any modification or cancellation of the Fee by The Oklahoma State Purchasing Director. In addition, The Oklahoma State Purchasing Director reserves the right to revise collection and reporting requirements in conjunction with implementation of an on-line procurement system.
- f. *Late Payment Fee.* In the event The Oklahoma State Purchasing Director does not receive the Vendor’s payment of the Fees on or before the Vendor’s Payment Due Date, the parties agree the Vendor must pay the interest on the overdue Fees at a rate of 0.36 percent per annum, computed on a 360 day calendar, or \$0.0010 per \$100 per day, which will be in effect on the Effective Date, through June 30 of the Term. This interest rate is provided by the State Treasurer based on the average interest rate for 30 day time deposits of State funds during the



MEMBER-REQUESTED PARTICIPATION AGREEMENT

last calendar quarter of the last preceding fiscal year. (Titles 62, § 41.4a & 4b and 74, § 840.14. and OSF Prompt Payment Rules/Regulations).

For the purposes of this provision, payment of the Fees will be considered received by The Oklahoma State Purchasing Director on the date the Oklahoma State Purchasing Director receives the envelope containing a check for the correct amount of the administrative fee. In the event the Vendor does not submit full payment of the Fees owed, interest will only be applicable to the portion of the Fees which is outstanding. In the event the Vendor makes an error and overpays, the Vendor is responsible for alerting the Oklahoma State Purchasing Director in writing of the Vendor's discovery of the overpayment. The Oklahoma State Purchasing Director will confirm whether an overpayment has occurred and refund the overpayment amount to the Vendor no later than thirty (30) days' following the Oklahoma State Purchasing Director's receipt of written notice of the overpayment. The Oklahoma State Purchasing Director will have no responsibility for interest or any other fees with respect to Vendor's overpayment of Fees.

g. *Default.* **THE PARTIES AGREE THE VENDOR'S RESPONSIBILITY TO COLLECT AND REMIT THE MANAGEMENT FEE ON BEHALF OF THE OKLAHOMA STATE PURCHASING DIRECTOR IS A SERIOUS RESPONSIBILITY AS THE VENDOR IS HANDLING STATE FUNDS.** Accordingly, failure to comply with these contractual requirements shall constitute grounds for declaring Vendor in default and recovering re-procurement costs from Vendor in addition to all outstanding Fees and interest.

This document includes all discussions and negotiations of the parties related to Vendor's services and the parties agree to be bound.

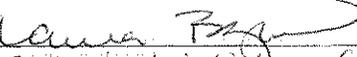
1. Diamond Drug, Inc.

By:  MARK J. ZILWUEL

Date: 6/9/2014

Title: Chief Operating Officer

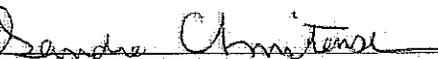
2. State of Oklahoma

By:  Laura Pegg
Title: Statewide Initiative Contract
OE# 115

Date: 6/12/14

3. State of Minnesota for MMCAP

In accordance with Minn. Stat. § 16C.03, subd. 3

By:  Sandra Christensen

Date: 6-11-14



MEMBER-REQUESTED PARTICIPATION AGREEMENT

4. Minnesota Commissioner of Administration

In accordance with Minn. Stat. § 16C.05, subd. 2

By: Heather Pickett

Date: June 11, 2014

AMENDMENT NO. 3 TO MMCAP CONTRACT NO. MMS17017

THIS AMENDMENT is by and between the State of Minnesota acting through its commissioner of Administration ("State") on behalf of the Minnesota Multistate Contracting Alliance for Pharmacy ("MMCAP") and Diamond Drugs, Inc., 645 Kolter Drive, Indiana, PA 15701 ("Vendor").

MMCAP has a contract with the Vendor identified as Contract No. MMS17017 (Contract). MMCAP and the Vendor are willing to amend the Contract as stated below.

Contract Amendment

In accordance with the Contract, MMS17017, both MMCAP and Vendor agree to the following actions:

Action 1: Vendor will move the below-referenced facilities that had been accessing MMCAP Contract MMS14004 as of September 30, 2018 to MMCAP Contract MMS17017 with a start date of October 1, 2018. The date of initial use of the Contract shall remain the date of first use of MMS14004.

Diamond Facility Code	Facility / System Name
Multiple	Oklahoma Department of Corrections
ORMI	MULTNOMAH INVERNESS JAIL
ORMJ	MULTNOMAH JUV JUSTICE CENTER
ORMU	MULTNOMAH CO JUSTICE CENTER
AK	ARLINGTON COUNTY, VIRGINIA
Multiple	Virginia Department of Corrections
UM	Salt Lake County A. D. C.

Action 2: Vendor and MMCAP agree that the below-listed MMCAP Participating Facilities may continue to use the Member-Requested Participation Agreements (MPAs) entered into under MMS14004, attached hereto for reference, and that all references within those MPAs to MMS14004 shall be considered deleted and replaced with MMS17017, until such time as each individual Participating Facility has negotiated a new MPA with Vendor, at which time the newly executed MPA shall replace the prior MPA.

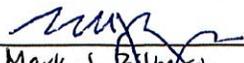
Diamond Facility Code	Facility / System Name	MPA Attachment Number
Multiple	Oklahoma Department of Corrections	C-7
ORMI	MULTNOMAH INVERNESS JAIL	C-3
ORMJ	MULTNOMAH JUV JUSTICE CENTER	C-3
ORMU	MULTNOMAH CO JUSTICE CENTER	C-3
AK	ARLINGTON COUNTY, VIRGINIA	C-4
Multiple	Virginia Department of Corrections	C-2

Except as herein amended, the provisions of the Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

[Signature page follows]

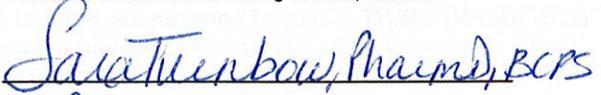
1. DIAMOND DRUGS, INC.

The Vendor certifies that the appropriate person(s) have executed this Amendment on behalf of the Vendor as required by applicable articles, bylaws, resolutions, or ordinances.

By: 
Title: Mark S. Bliney Chief Operating Officer
Date: 9/28/2018

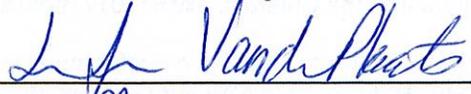
2. STATE OF MINNESOTA FOR MMCAP

In accordance with Minn. Stat. § 16C.03, subd. 3

By: 
Title: Pharmacist Sr.
Date: 9-28-18

3. COMMISSIONER OF ADMINISTRATION

In accordance with Minn. Stat. § 16C.05, subd. 2

By: 
Title: SFA-C
Date: 10/1/2018