

**MEMORANDUM OF UNDERSTANDING
BETWEEN ELECTRX AND HEALTH SOLUTIONS LLC AND THE CITY
OF OCALA**

- 1) **Parties.** This Memorandum of Understanding (hereinafter referred to as "MOU") dated November 21st 2016 is made and entered into by and between:

ELECTRX AND HEALTH SOLUTIONS LLC

(Hereinafter referred to as "ElectRx")

whose registered address is:

32232 Crossbow

Beverly Hills, Michigan, 48025

United States of America

-and-

CITY OF OCALA

(Hereinafter referred to as "City")

whose registered address is:

110 SE Watula Avenue

Ocala, FL 34471

United States of America

- 2) **Purpose of the MOU.** The purpose of this MOU is to establish the terms and conditions under which employee members of the City of Ocala, and/or their eligible dependents, and various other groups, as defined in the articles of City of Ocala Employee Benefit Plan(s) can participate in a voluntary program that enables their acquisition of certain pharmaceutical products for personal consumption from both the United States of America and International Mail Order Pharmacies, at the lowest net cost.



3) **Term of the MOU.** This MOU shall begin on **January 1, 2017** and terminate at the end of the business day on **December 31, 2019**. This MOU may be terminated, for any reason or cause, by either party upon 30 days written notice, which notice shall be delivered by certified mail to the addresses listed below.

4) **Responsibilities of ElectRx.** ElectRx has facilitated the ElectRx Network to provide Member Participants with the opportunity to acquire pharmaceutical products, at the lowest net cost. Employee members of the City of Ocala and their eligible dependents, who are residents of the US, can voluntarily become Member Participants in the ElectRx Network, and obtain prescription drug products at the lowest net cost. Member Participant in this context will denote a person who is a cardholder entitled to a drug discount card or other evidence of authorized eligibility and/or participation, issued directly by City or by a third party, having a contractual right from City to issue such card or grant such authorized participation. ElectRx, as an independent contractor, shall, subject to the provisions of this Understanding, make it's reasonable best efforts to:

- a. Develop with the City, a revolving formulary of various pharmaceuticals that will provide the most competitive pricing and that is mutually agreeable to City and ElectRx.
- b. Arrange for the supply of those pharmaceuticals to City Member Participants with a valid prescription from their US Attending Physician.
- c. Provide quality assurance as outlined in **Exhibit A: ElectRx Statement of Quality Assurance for the City of Ocala Drug Benefit Plan.**
- d. The pharmaceuticals provided under this MOU will be limited by the excluded medications detailed in **Exhibit B: Excluded Medications ElectRx/City of Ocala.**

Each supply of Pharmaceuticals through the ElectRx Network to Member Participants shall be a separate and distinct tripartite contract between the dispensing pharmacy, the duly licensed pharmacist, and the Member Participant.

The listed prices in US Dollars of the fulfilled pharmaceuticals will always be available upon request to the City of Ocala as well as the listed price in US Dollars of any handling and/or delivery costs incurred by the pharmacy in respect of the shipment of the pharmaceuticals to the eligible members.

The listed pharmaceutical price in US Dollars may occasionally be increased or decreased to reflect the following:

- a. global currency fluctuations
- b. price increases or decreases by the manufacturer and/or distributor for the cost of the pharmaceutical(s)

5) **Responsibilities of Ocala.** City agrees to offer these Member Participants and their eligible dependents, who are residents of the US, the opportunity to voluntarily participate in the ElectRx Network and afford them the opportunity of acquiring certain prescription drugs at the true lowest net cost. Ocala, when requested by ElectRx, agrees to provide confirmation of authorized eligibility and / or participation for any Member Participant seeking to fulfill prescription drugs through the ElectRx

Network. On the 1st of each month (or next business day following if either of those days fall on a Saturday, Sunday or US holiday), ElectRx shall prepare and submit to City a detailed invoice for all pharmaceuticals purchased by City of Ocala Member Participants during the preceding four week period. Upon execution of this MOU, and for its entire duration, City agrees that on receipt of this detailed invoice, if acceptable, Ocala shall remit payment in full by a duly authorized Bank Check, Bank Draft, Wire Transfer, or Direct Debit, also referred to as ACH, eCheck, or Online Check, in favor of ElectRx within fifteen (15) calendar days. It is the unequivocal intention of the parties that for the entire term of this MOU, full payment of each detailed invoice will be remitted within this fifteen (15) calendar day period.

6) General Provisions

- A. Amendments.** Either party may request changes to this MOU. Any changes, modifications, revisions or amendments to this MOU which are mutually agreed upon by and between the parties to this MOU shall be incorporated by written instrument, and effective when executed and signed by all parties to this MOU.
- B. Applicable Law.** The construction, interpretation and enforcement of this MOU shall be governed by the laws of the State of Florida. The courts of the State of Florida shall have jurisdiction over any action arising out of this MOU and over the parties, and the venue shall be the Fifth Judicial Circuit Court of Florida, Marion County, Florida.
- C. Entirety of Agreement.** This MOU, consisting of 5 pages, represents the entire and integrated understandings between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.
- D. Severability.** Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.
- E. Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of a third party beneficiary, and this MOU shall not be construed so as to create such a status. The rights, duties and obligations contained in this MOU shall operate only between the parties to this MOU, and shall have effect and be applied solely to the benefit of the parties to this MOU. The provisions of this MOU are intended only to assist the parties in determining and performing their obligations under this MOU. The parties to this MOU intend and expressly agree that only parties signatory to this MOU shall have any legal or equitable right to seek to enforce this MOU, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this MOU, or to bring an action for the breach of this MOU.
- F. Indemnity.** Vendor shall indemnify City and its elected officials, employees and volunteers against, and hold City and its elected officials, employees and volunteers harmless from, all damages, claims, losses, costs, and expenses, including reasonable attorneys' fees, which City or its elected officials, employees or volunteers may sustain, or which may be asserted against City

or its elected officials, employees or volunteers, arising out of the activities contemplated by this Agreement including, without limitation, harm or personal injury to third persons during the term of this Agreement to the extent attributable to the actions of Vendor, its Vendors, and employees, except in the event of the City's, its elected officials, employees, volunteers, or any of their agents' negligence, gross negligence, and wilful misconduct.

G. No Waiver of Sovereign Immunity. Nothing herein is intended to waive sovereign immunity by the City to which sovereign immunity may be applicable, or of any rights or limits of liability existing under Florida Statute § 768.28. This term shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought under this Agreement is barred by any applicable statute of limitations.

H. Liability Insurance. General liability insurance, with combined single limits of not less than \$1,000,000 per occurrence, and \$4,000,000 aggregate shall be provided and maintained by ElectRx.

- 7) **Notices.** Any notices, consents, approvals, statements, authorizations, documents, or other communications (collectively Notices) required or permitted to be given hereunder shall be in writing, and shall be delivered personally (which shall include confirmed or receipted delivery by a courier) or mailed by registered mail, postage prepaid, to the parties at their respective addresses set forth hereunder, namely:

To ElectRx and Health Solutions LLC at:

32232 Crossbow
Beverly Hills, Michigan 48025
United States of America

And with a copy to:

Christopher R. Martella Esq.
Kemp Klein Law Firm
201 W. Big Beaver, Suite 600
Troy, Michigan 48084
United States of America

To City of Ocala at:

Tiffany Kimball
Director of Contracts
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
United States of America

And with a copy to:

Patrick G. Gilligan
Gilligan, Gooding & Franjola, P.A.
Attorneys at Law
1531 SE 36th Avenue
Ocala, Florida 34471

United States of America

Or at any such other address or addresses as may be given by any of them to the other in writing from time to time. Such notices if mailed, shall be deemed to have been given on the fourth business day (excluding Saturday and Sundays) following such mailing or if delivered personally shall be deemed to have been given on the day of delivery, if a business day, or if not a business day, on the business day next following the day of delivery; provided that if such notice shall have been mailed and if regular mail service shall be interrupted by strike or other irregularity before the deemed receipt of such notice as aforesaid, then such notice shall not be effective unless delivered

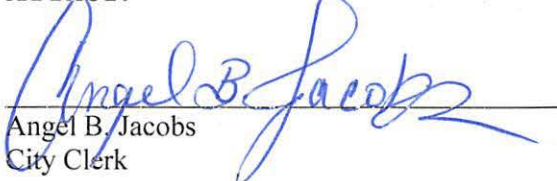
- 8) **Contract Documents.** The contract documents that comprise the entire MOU between the City and ElectRx are made a part hereof, and are listed as exhibits. There are no contract documents other than those listed below. If there is a conflict in terms between this MOU and the contract documents, then the terms of this MOU will control over the terms of the contract documents listed below. If there is a conflict within the exhibits regarding scope of service, the order of precedence is as follows: (1) Exhibit A, then (2) Exhibit B.

Exhibit A: ElectRx Statement of Quality Assurance for the City of Ocala Drug Benefit Plan (A-1 through A-3)

Exhibit B: Excluded Medications ElectRx/City of Ocala (B-1)

- 9) **Signatures.** IN WITNESS WHEREOF, the parties to this MOU, through their duly authorized representatives, have executed this MOU on the days and date set out below, and certified they have read understood and agreed to the terms and conditions of this MOU as set forth herein.

ATTEST:


Angel B. Jacobs
City Clerk

CITY OF OCALA:


Brent R. Malever
City Council President

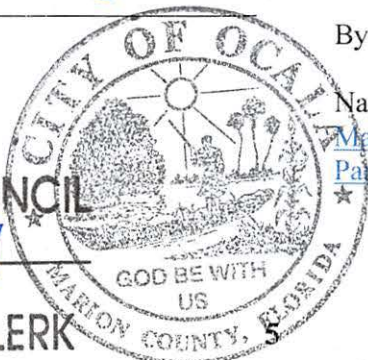
Approved as to form and legality:


Patrick G. Gilligan
City Attorney

ELECTRX AND HEALTH SOLUTIONS
LLC:

By: 
Name: Jeffrey A Dinsmore
Managing
Partner

ACCEPTED BY CITY COUNCIL
January 17, 2017
DATE
OFFICE OF THE CITY CLERK



ElectRx Statement of Quality Assurance for the City of Ocala Drug Benefit Plan

ElectRX facilitates a network of various independent service providers to enable member participants and their eligible dependents of US based Employer Groups participate in a voluntary program and acquire certain pharmaceutical products for personal consumption from both the United States of America and International Mail Order Pharmacies, at the lowest net cost.

Eligible member participants of the City of Ocala drug benefit plan will be offered the opportunity to participate in the ElectRx Network subject to certain terms and conditions. By participating in the ElectRx program, each eligible member participant will receive the benefit of a \$20 co-pay for any fulfilled medications through this program.

ElectRx provides the following assurances:

- ElectRx is a fully Pharmacy Benefit Manager (PBM) integrated organization that specializes in providing only the highest quality prescription drug products to end users at the true lowest net cost.
- ElectRx achieves the true lowest net cost for any particular prescription drug product the member participant by directing the fulfillment of your prescription to the source of maximal savings.
- Any and all prescription drug products shipped through our supply chains meet or exceed all safety concerns that have been addressed by the Food and Drug Administration (FDA).
- Elect RX services provided through any channel including US Retail, US Mail Order, International Mail Order, and Specialty Pharmacy, have Pharmacy Benefit Manager (PBM) oversight and are fully insured.
- Elect Rx maintains a laser-like focus on process and safety standards. Our pharmacies are all fully accredited bricks and mortar pharmacies and staffed by fully licensed and regulated Pharmacists in that jurisdiction.
- The Active Pharmaceutical Ingredients (API) of any product being sourced internationally are comparable to the US FDA version. Elect Rx uses the following ways and means to demonstrate similarity:
 - ElectRx warrants that we only ship drugs whose product monograph is substantially similar to the FDA approved version of that particular product monograph. The chemical name, chemical description, empirical formula, molecular weight, and the molecule of the active pharmaceutical ingredient, are identical but may be shown in different areas of the product monograph. Drug manufacturers are required by the regulatory bodies in each country to



attest to the monographs annually and produce a monograph in every country that the particular drug is sold in.

- Elect Rx only sources drug products from GMP (Good Manufacturing Process) countries whose regulatory environments are comparable to, or more robust than, the United States. These GMP countries include Canada, the United Kingdom, Ireland, Australia, and New Zealand.
- ElectRx warrants that it only ships drug products when purity and dissolution tests confirm absolute similarity based on the standards set by the United States Pharmacopeia (USP) to determine whether a particular drug meets this expectation, Elect Rx has contracted an approved Good Laboratory Practices (GLP) certified prescription drug testing lab to test FDA approved drugs compared to their locally regulated and approved international counterparts.
- By only providing prescription drugs from GMP countries including Canada, the United Kingdom, Ireland, New Zealand, and Australia, ElectRx affirms that all prescription medications will only be manufactured in accordance with FDA manufacturing standards in facilities that maintain the designation, "FDA Approved Manufacturing Facility."
- ElectRx assures that prescriptions dispensed through the ElectRx network are labeled similarly to those dispensed in the US. The only difference is that ElectRx suppliers cannot put the corresponding NDC number on the specific package/bottle label.
- The Elect Rx network is fully HIPAA compliant. The possibility of an adverse drug event, dangerous drug interaction, or of a client receiving a contraindicated drug product is extremely remote. Utilizing Drug Utilization Reviews or DUR's at multiple points, a pharmacy administration management system and the dispensing Pharmacist will red flag a contraindicated medication after reviewing a patient's drug history and current drug profile. Both the US Attending Physician and the local Dispensing Pharmacist must complete a DUR this process prior to prescribing or dispensing a drug to a patient.
- Elect Rx, on a best efforts basis, will contact eligible member participants to obtain permission for second and third prescription refills before the previous prescription expires. We will also advise members to obtain a new 90 day prescription with repeats and a medical file update with the last refill.
- Phone support to eligible member participants will be provided through our call center from 9:00 a.m. to 6:00 PM EST during US business days.
- Member participants will be advised of potential prescription or non-prescription drug reactions, interactions, and adverse side effects or appropriate precautions, based on current information available to the Dispensing Pharmacist at the time the prescription is fulfilled. If available, a drug information sheet will be provided with every prescription fulfilled through the ElectRx Network to the covered members.



- Member participants and/or the US Attending Physician will be contacted when a prescription item may be unduly delayed. Examples of when this may occur are for a product in short supply, a DUR issue, postal interruption and if additional information required to fulfill the prescription. In the event a delay occurs, the employee could obtain a limited quantity short-fill prescription through a local pharmacy.
- ElectRx will advise member participants if any of their current medications are ever subject to a recall.
- ElectRx will create and maintain full medication profiles for all participating member participants.
- ElectRx will conduct both retrospective and prospective drug utilization reviews ("DUR's") including current non-prescription/over-the-counter ("OTC") medications and for herbal or nutraceutical type preparations, prior to dispensing the prescribed pharmaceutical medication.
- ElectRx will ensure that all pharmaceuticals are maintained in accordance with appropriate temperature, light, and humidity standards, during both warehousing, shipping, and storage, by our fully licensed regulated licensed pharmacy networks.
- Requirements for the fulfillment of pharmaceuticals will be anticipated on a best effort basis to secure adequate inventory of such pharmaceuticals for member participants on a timely basis. ElectRx will always utilize the most cost-effective and competitive shipping rates.
- ElectRx will always maintain secure warehousing and retail pharmacy facilities.
- ElectRx will ensure that all legal, regulatory, and other relevant documentation, including customs declarations to allow for the personal importation of the pharmaceuticals by the member participant in to the United States are diligently prepared, stored, and forwarded with all fulfilled prescription drug products
- ElectRx will maintain member participant confidentiality, protect member participant identity and safeguard member participant specific personal health information in order to meet and/or exceed both domestic and international privacy legislation guidelines.
- Any access to an eligible member participants profile is limited to authorized personnel only including the pharmacies/pharmacists/call center personnel and other designated ElectRx Network contractors, employees, the member participant who owns the personal health information, and the US Attending Physician.


JANUARY 04/17

EXHIBIT B

Excluded Medications ElectRx / The City of Ocala

Narcotics and any other **Controlled Substance** as defined by the FDA.

Oral antibiotics or other **Non – Maintenance Medications** including stat orders.

Stat: Immediate fill and initiation mandatory in Attending Physician's opinion)

Biologics include but are not limited to a wide range of medicinal products such as vaccines, blood and blood components, allergenics, somatic cells, gene therapy, tissues and recombinant therapeutic proteins created by biological processes (as opposed to chemical).

Drugs where **frequent blood levels** are required for titration with respect to narrow therapeutic ranges allied with close clinical observation.

Certain drugs that may require refrigeration to preserve therapeutic efficacy, or other drugs that are supplied in a vial or include hardware such as needles or syringes for administration.

Any Drug that is the subject of current or future **FDA Consumer Safety Alerts** or a **Department of Homeland Security Alert or Process Change**. Additions and deletions to the Formulary will be made to reflect the current status of such alerts or process changes, with timely notification to the affected Member / Plan Sponsor.


JANUARY 04/17