

## **AGREEMENT TO PROVIDE PHYSICIAN SERVICES**

This Agreement To Provide Physician Services (“Agreement”) is entered into as of \_\_\_\_\_ (“Effective Date”), by and between PPMMD, Inc., a California professional medical services company whose principal address is 1125 Monterey Boulevard, #1, Hermosa Beach, CA 90254 (the “Company”), and Dr. \_\_\_\_\_, whose principal office address is \_\_\_\_\_, \_\_\_\_\_ (the “Physician”).

### RECITALS

WHEREAS, the Company through such services as the website PPMMD is retained by individuals (“Patients”) who wish to be referred to a doctor for a consultation, and, if needed, prescribing of medication or refills;

WHEREAS, Physician is licensed by the Medical Board of the State of California (the “Board”) and possesses a current valid license to practice medicine, and is not currently on probation or suspension for any reason; and

WHEREAS, the Company desires to engage the services of Physician as an independent contractor to provide treatment, if needed, for Patients and prescribe any necessary medication and/or refills, and Physician is willing to do so.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, including the mutual covenants contained herein, the Company hereby hires Physician, and Physician agrees to render services to Company, as set forth herein.

1. DUTIES – Company shall refer Patients to Physician for in person, face-to-face consultations and, if needed, prescribing of medication or refills. Physician agrees to accept such referrals and to devote such time and effort as is generally required in the field and perform the tasks and duties related to consulting and prescribing so required in a manner consistent with the practice of his profession in medicine. Physician understands he will not provide consultations/treatment for life-threatening and/or emergency conditions or for matters that he is not qualified to treat. Physician will refer any such Patients to emergency or other appropriate personal care.

2. LICENSES – Physician acknowledges that he is currently a licensed physician in the State of California. Physician acknowledges that both his licenses and privileges to engage in the practice of medicine and prescribe medication are in good standing with both the Federal Government of the United States of America, and the State of California, in which Physician is licensed to practice medicine. Physician shall, upon execution of this Agreement, provide Company with a copy of his state physician license and DEA controlled substance registration certificate. Physician shall remain fully licensed to practice medicine in compliance with

applicable law during the term of this Agreement, and he shall immediately notify Company in writing if such is not true.

3. TERM – The term of this Agreement shall begin on the \_\_\_\_ day of \_\_\_\_\_, 200\_, and will continue until terminated by a Party hereto upon at least thirty (30) days written notice, except that it may be terminated earlier by Company pursuant to Section 7 herein.

4. PATIENT-PHYSICIAN RELATIONSHIP – Physician shall establish a valid patient-physician relationship with each Patient pursuant to all applicable local, state, and Federal laws, regulations, and professional standards, which relationship shall include, without limitation, the following components:

- a.) Total compliance at all times with the federal Controlled Substances Act (21 U.S.C. 829) and all amendments thereof (including but not limited to the Ryan Haight Online Pharmacy Consumer Protection Act of 2007);
- b.) Obtaining a reliable medical history and performing a face-to-face, in person physical examination of the Patient, adequate to establish the diagnosis for which any pharmaceutical drug is being prescribed and to identify underlying conditions and/or contraindications to the treatment recommended/provided, including any review of the Patient's previous medical records;
- c.) Having sufficient dialogue with the Patient regarding treatment options and the risks and benefits of treatment(s);
- d.) As appropriate, following up with the Patient to assess the therapeutic outcome;
- e.) Maintaining a contemporaneous medical record that is readily available to the Patient, and, subject to Federal and/or state requirements concerning the Patient's consent or authorization; to his or her other health care professionals;
- f.) Including the electronic prescription information as part of the Patient's medical record; and
- g.) Consultant action as needed or required with the Patient's previous physician(s) and making sure such physician(s) are involved in any evaluation process and supervision as to any recommended treatment or pharmaceutical drugs.

Exclusions to the above criteria exist for the treatment provided in consultation with another physician who has an ongoing professional relationship with the Patient, and who has agreed to supervise the Patient's treatment, including use of any prescribed medications, and on-call or cross coverage situations.

5. INSURANCE – Physician at all times shall maintain adequate professional liability insurance as required by law, and Physician further agrees that during the term hereof he shall maintain a policy of malpractice insurance in the minimum amount of One Million Dollars

(\$1,000,000) per occurrence with an aggregate amount of Three Million Dollars (\$3,000,000). Physician shall, upon execution of this agreement, provide Company proof of insurance and shall if possible have the Company added to such insurance as a co-insured. Such insurance during the term hereof shall not be changed or terminated without at least thirty (30) days notice in writing to Company.

6. NOTIFICATION OF STATE OR FEDERAL ACTION OR A COMPLAINT – Physician shall notify Company in writing immediately if Physician is disciplined concerning an allegation of professional misconduct, or if Physician otherwise becomes ineligible or unable to treat Patients and/or prescribe medication, or if any person files any type of complaint against Physician, whether in court or to a state body, or alleges he will do so. Physician warrants and represents that Physician has never had its professional liability insurance terminated or decreased nor been disciplined by any entity nor been sued by any Patient except as stated in Exhibit A herein, with the terms and conditions of said exhibit and all other exhibits herein being incorporated into the terms and conditions of this Agreement.

7. TERMINATION BY COMPANY – Company may terminate this Agreement by written notice to Physician upon the occurrence of any of the following, with Physician immediately notifying Company in writing should any such event take place:

- a.) The revocation, suspension, or cancellation of the Physician's professional license.
- b.) The imposition of any restriction or limitation on the Physician by any governmental authority having jurisdiction over the Physician to the extent that the Physician cannot render the required professional services.
- c.) A final determination by any board, or other organization having jurisdiction over the Physician's right to practice that the Physician has engaged in unprofessional or unethical conduct.
- d.) Physician is convicted in a criminal or civil proceeding of fraud, misappropriation, embezzlement, Medicare or Medicaid fraud and abuse, or the commission of a felony or of a narcotics related offense or pleads nolo contendere to any such charge.
- e.) The failure or refusal of the Physician to comply with the reasonable policies, work requirements, standards, and regulations of the Company.
- f.) Physician breaches any material obligation or covenant under this Agreement, or Physician fails to faithfully perform the services required by this Agreement; provided Physician is first given written notice of default and ten (10) business days to cure the alleged breach.

- g.) Company in its sole discretion determines that Physician is committing, or has committed during the term hereof, unfair and/or unethical practices, or practices which are or could be harmful to Patients, or in violation of law.
- h.) The revocation, loss, or relinquishment (either voluntary or involuntary, temporary or permanent) of Physician's medical staff membership or clinical privileges for medical disciplinary cause or reason (as defined in California Business and Professions Code Section 805) at any hospital or other health facility where Physician regularly performs professional medical services.
- i.) The imposition of a substantial restriction on Physician's medical staff membership or clinical privileges at any hospital or other health facility which prevents Physician from regularly performing professional medical services at such hospital or health facility.
- j.) The uninsurability of Physician for professional liability insurance purposes as evidenced by the refusal of reputable insurance carriers issuing professional liability insurance in the State of California to provide professional liability insurance coverage, at then commercially reasonable market rates and with coverage limits equal to those to be provided for him pursuant to Section 5.
- k.) The exclusion, either temporary or permanent, of Physician from participation in Medicare, Medi-Cal, or other federal or state health care payment programs.
- l.) The failure by Physician to obtain or retain certification in his medical specialty field.
- m.) The embezzlement or conversion by Physician of the Company's assets or properties.
- n.) Substance or alcohol abuse which is reasonably determined by the Company to impair Physician's ability to perform professional services.
- o.) Inadequate or unsatisfactory quality of medical practice or performance of professional medical services of Physician in the sole discretion of the Company.
- p.) Any other medical disciplinary cause or reason (as defined in California Business and Professions Code Section 805) involving Physician.

8. EFFECT OF TERMINATION – Upon termination of this Agreement, neither Party shall have any further rights, duties, or obligations under this Agreement, except as otherwise provided herein. The termination or expiration shall not affect any liability or other obligation of either Party that accrued prior to the termination or expiration. Any compensation owed to Physician for services rendered in periods prior to termination shall remain payable to Physician, unless Physician is in breach hereof in which case Company shall be entitled to withhold any unpaid compensation until the breach is resolved.

9. PHYSICIAN DUTIES UPON TERMINATION – Upon the termination of this Agreement, Physician shall take all reasonable steps necessary for the prompt and efficient transfer of Patients under Physician’s care to other supervising physicians hired by Company. For a period of thirty (30) days after the effective date of termination, Physician shall continue to take such actions as are reasonably necessary to ensure that Patients under supervision continue to receive effective professional care.
10. CONTINUING EDUCATION – Physician acknowledges that he has satisfied the continuing education requirements for the State of California.
11. FACILITIES – Company may or not provide facilities for Physician to see Patients. Physician acknowledges that he will conduct Patient services utilizing any facility made available that meets or exceeds all standards necessary for Patient to receive and Physician to perform an in person, face-to-face adequate medical consultation (the “Medical Consultation Criteria”), although Physician in his discretion can see Patients at their residence as long as the Medical Consultation Criteria is satisfied.
12. PAYMENT – Physician shall be paid by Company within ten (10) business days of seeing a Patient pursuant to the terms of Exhibit B.
13. OTHER ACTIVITIES – Company understands that Physician may have other activities, including but not limited to, a full-time practice, to which he must devote time.
14. INDEPENDENT CONTRACTOR – It is expressly understood and agreed that Physician is an independent contractor expected and entitled to freely and independently exercise his judgment in accordance with good medical practice in the care and treatment of a Patient. Neither of the Parties is the agent, employee, or representative of the other. Further, neither Party shall have the right to control the method or manner by which an employee or agent of the other carries out his duties. Physician shall exercise his skill, learning, intelligence, and experience in the evaluation, diagnosis, medication, and treatment of the Patients according to his informed judgment and shall not be constrained in the exercise of his independent judgment by the terms or conditions of the Agreement. Company shall have no right to control the diagnosis made by the Physician or the prescription provided by the Physician. These areas are within the sole medical judgment of the Physician. Physician is and shall be responsible for all self-employment, income, and other taxes for any compensation paid under this Agreement.
15. NON-EXCLUSIVE AGREEMENT – This Agreement is not exclusive. The Company may hire other physicians to perform the same or similar services at any time.
16. CASE RECORDS AND HISTORIES – All medical records, films, or files concerning Patients shall belong to and remain the property of the Physician.
17. PATIENT RELATIONSHIPS – Physician agrees and acknowledges that all Patients treated pursuant to this Agreement shall only be treated by him pursuant to a referral each time from Company. Physician agrees that he shall have no follow-up contact with any Patient except

pursuant to a then referral from Company for such Patient, unless Company is notified by Physician that there is a medical need for such follow-up contact and so agrees. Physician further agrees that Physician shall not directly bill any Patient nor accept any payment from Patient and that his compensation therein is pursuant to Section 12 of this Agreement.

18. NOTICES – All notices, requests, demands, and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered personally, given by prepaid telegram or mailed first class, postage prepaid, registered or certified mail, to the address of the Party first stated in this Agreement.

A Party may change the address of notice by complying with this Section. Receipt shall be deemed to have occurred (regardless of actual receipt) on the date served, if personally delivered, or three (3) business days after mailing, if placed in the United States Mail, postage prepaid, by registered or certified mail.

19. NON-TREATMENT; NON-COMPETITION; NON-SOLICITATION – Physician agrees that for one (1) year after the termination of this Agreement, he shall not treat nor meet professionally with a Patient. Physician further agrees that during the term of this Agreement and for one (1) year thereafter, Physician shall not directly or indirectly, either as an employee, employer, consultant, agent, principal, partner, stockholder, corporate officer, director, or in any other individual or representative capacity, engage or participate in any business anywhere in the United States that is in competition in any manner whatsoever with the business of Company. Physician further agrees that during the term of this Agreement and for a period of one (1) year after termination of this Agreement, Physician shall not directly or indirectly solicit, hire, recruit, or in any way encourage any employee of Company to leave Company.

20. CONFIDENTIALITY – Physician acknowledges that in the course of performing his services pursuant to this Agreement, he will have access to Company’s confidential information, including confidential customer lists; confidential pricing information; business and financial plans and information; and trade secrets; all of which are confidential and proprietary and are owned and used by Company. Such information, except any hereinafter defined “Excluded Information”, shall hereafter be called Proprietary Information. Physician agrees to keep all Proprietary Information confidential and shall not use such information except performing his services pursuant to this Agreement. Physician agrees not to disclose, directly or indirectly (except as required by law), to any person other than Company any Proprietary Information at any time hereafter. Upon the termination of Physician’s employment with Company, Physician agrees to deliver to Company all notes, letters, documents and records which may contain Proprietary Information which are then in his possession or control and to destroy any and all copies and summaries thereof. This provision shall survive the termination of this Agreement.

“Excluded Information” means any Proprietary Information:

- a.) which is in the public domain at the time of its disclosure, or which after disclosure comes into the public domain, in each case for any reason other than as a direct or indirect result of Physician’s failure to comply with the terms of this Agreement or of any other duty of confidentiality relating to that information;

- b.) which is disclosed by Company on a non-confidential basis;
- c.) which, prior to its disclosure, was properly and lawfully in Physician's possession or was obtained by Physician from a source which is not connected with Company and which was obtained in circumstances which did not give rise to any breach of any duty of confidentiality and which can be evidenced as having been in Physician's possession at the relevant time by Physician's written records; and
- d.) which Physician is required to disclose by law or any regulatory or government authority, except that in such case Physician shall (unless prohibited by law or any regulatory or governmental authority) promptly notify Company of such matter and shall (unless prohibited by law or any regulatory or governmental authority) assist Company if it decides to attempt to restrict or prevent such disclosure.

## 21. MISCELLANEOUS PROVISIONS

21.1 Entire Agreement – This Agreement supersedes any and all other agreements, whether oral or written, between the Parties with respect to the subject matter of this Agreement, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

21.2 Assignment – This Agreement and any duties or obligations hereunder shall not be assignable by Physician without the consent of Company in its sole discretion, except that Physician may sub-contract his services: (i) to another physician as long as such physician is reasonably satisfactory to Company and executes an agreement with Company similar to this Agreement; and (ii) to a nurse practitioner or physician's assistant as long as Physician supervises such person and is responsible for such person's work and to the best of Physician's knowledge such person is duly licensed and authorized by the appropriate state and state board to perform such services, except that should (i) or (ii) occur, then in any event the obligations of Section 4 herein must be satisfied, as well as any other obligation that may apply. Company shall have the right to assign this Agreement to another company, firm, or person without Physician's consent provided that the assignment does not amend or alter the material terms and conditions of this Agreement with respect to Physician.

21.3 Successors and Assigns – Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the Parties.

21.4 Governing Law; Venue; Attorneys' Fees – The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the Parties hereunder, shall be governed by the laws of the State of California for contracts entered into and to be performed in California. Any litigation concerning an alleged breach of this Agreement or its interpretation shall only be filed in a state or federal court located in Los Angeles County, California, and in such litigation the prevailing Party therein shall be entitled to receive its attorneys' fees as part of its award.

21.5 Equitable Relief – Physician agrees and acknowledges that a breach by him of Sections 17, 19, or 20 shall entitle the Company to equitable relief, in addition to any other remedy at law it may be granted.

21.6 Amendment – This Agreement cannot be modified or amended except by a writing signed by the Parties.

21.7 Captions and Headings – All captions and headings in this Agreement are for reference purposes and convenience only and shall not affect the meaning or interpretation of any provision of this Agreement.

21.8 Waiver – Waiver of any default or breach of this Agreement or of any warranty, representation, covenant, or obligation contained herein shall not be construed as a waiver of any subsequent breach.

21.9 Governmental Requirements – This Agreement is subject to the requirements of all applicable laws and regulations. The Parties agree to negotiate in good faith to amend this Agreement to comply with any governmental requirements affecting the Agreement, including without limitation, requirements affecting reimbursement for health care services. If the Parties are unable to negotiate a mutually acceptable amendment to comply with any provision of law, regulation, or ruling materially affecting this Agreement, either Party may initiate a voluntary termination of this Agreement on thirty (30) days notice.

21.10 Counterparts; Telefax Signature – This Agreement may be signed in two (2) or more counterparts, each of which shall be deemed to be an original document. A signature by telefax shall be deemed by the parties to be an original signature therein.

IN WITNESS WHEREOF, the Parties have executed this Agreement in one or more counterparts which, taken together, shall constitute one Agreement and shall be effective as of and on the Effective Date.

“Company”  
PPMMD, Inc.

“Physician”  
Dr. \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

Physician warrants and represents as follows:

1. I have not had my professional liability insurance terminated or decreased except as follows:

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2. I have not been disciplined by any entity except as follows:

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3. I have not been sued by any patient except as follows:

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**EXHIBIT B**

Terms of Payment: