

**ATTACHMENT Z-1
BON SECOURS CONTRACT WITH THE CONTRACT PHARMACY**

340B CONTRACT PHARMACY SERVICES AGREEMENT

This 340B Contract Pharmacy Services Agreement (the “Agreement”), by and between Bon Secours Hospital Baltimore, Inc., a Maryland corporation with its principal place of business is located at 2000 W. Baltimore Street, Baltimore, MD 21223 and [PHARMACY], a [STATE] corporation whose principal place of business is located at [ADDRESS] (“Pharmacy”), is made and entered into this [DATE] (the “Effective Date”).

Whereas, Bon Secours Hospital Baltimore, Inc. (“Covered Entity”) and the Maryland Department of Public Safety and Correctional Services (“DPSCS”) have entered into a contract, a copy of which is hereto attached and marked Exhibit A (“the BSH/DPSCS Contract”), pursuant to which inmates within the custody of DPSCS will be referred to the Covered Entity for medical treatment of certain infectious diseases and related pharmacy services;

Whereas, Covered Entity participates in a federal drug discount program established under section 340B of the Public Health Service Act (“340B Program”);

Whereas, pursuant to the terms of the BSH/DPSCS Contract, the Covered Entity has agreed (1) to engage the services of a contract pharmacy, approved by DPSCS, to serve patients eligible to receive 340B-discounted drugs (“Covered Entity Patients”), as permitted under 75 Fed. Reg. 10272 (March 5, 2010), and (2) that the contract pharmacy arrangement established under this Agreement shall serve the inmates referred to the Covered Entity for services pursuant to the BSH/DPSCS Contract;

Whereas, pursuant to 75 Fed. Reg. 10272, in addition to contracting with a single pharmacy for each clinical site, Covered Entities may pursue arrangements that include multiple pharmacies, provided that (1) there is a written agreement in place that meets 340B program requirements, as articulated in 340B multiple contract pharmacy guidance; (2) the written agreement includes and addresses all of the elements outlined in Sections 2 and 3 of this Agreement; (3) the operation of the arrangement continues to meet all 340B program requirements and does not create diversion of 340B Drugs or duplicate discounts; (4) the arrangements are one of the following models either individually or in combination: (i) the use of multiple contract pharmacy service sites and/or (ii) the utilization of a contract pharmacy/pharmacies to supplement in-house pharmacy services; and (5) the arrangement involves a single identifiable 340B Covered Entity and does not include a network; and

Whereas, Covered Entity desires to engage Pharmacy to provide contract pharmacy services to Covered Entity Patients in DPSCS custody with respect to

outpatient drugs purchased through the 340B Program in accordance with the BSH/DPSCS Contract.

Now, **therefore**, the Parties agree as follows:

1 Definitions. The following definitions shall apply to this Agreement.

- 1.1 “340B Drugs”** are hereby defined in accordance with applicable laws and guidance at 42 U.S.C. § 256b(b), 42 U.S.C. § 1396r-8(k), and 59 Fed. Reg. 25,110 (May 13, 1994).
- 1.2 “340B Program”** is hereby defined as part of the 1992 Veteran’s Health Care Act, which created Section 340B of the Public Health Services Act, allowing certain “Covered Entities” to purchase outpatient prescription drugs for their patients at favorable discounts from drug manufacturers who enter into drug purchasing agreements with the United States Department of Health and Human Services.
- 1.3 “Agreement”** is hereby defined as the instant Contract Pharmacy Services Agreement and accompanying exhibits, if any.
- 1.4 “Covered Entity”** is hereby defined as the legal entity identified in this Agreement, including all of its 340B-eligible clinical site locations.
- 1.5 “Covered Entity Patients”** are hereby defined as those individuals who satisfy HRSA’s patient definition criteria at 61 Fed. Reg. 55,156-58 (Oct. 24, 1996), as may be amended from time to time. All Covered Entity patients who are Medicaid beneficiaries and for whom claims for pharmaceuticals are reimbursable by a state fee-for-service Medicaid program are expressly excluded from this definition.
- 1.6 “Department”** is hereby defined as the Department of Health and Human Services.
- 1.7 “DPSCS”** is hereby defined as the Maryland Department of Public Safety and Correctional Services.
- 1.8 “Go-Live Date”** is hereby defined as the earliest date on which the first prescription for a Covered Entity Patient is presented to Pharmacy that qualifies to be filled with Covered Entity’s 340B Drugs, after the Agreement has been registered with and approved by OPA.
- 1.9 “HRSA”** is hereby defined as the Health Resources and Services Administration, which is the agency within the Department that oversees activities of the Office of Pharmacy Affairs.

- 1.10** “**OPA**” is hereby defined as the Office of Pharmacy Affairs, which is within the Health Resources and Services Administration and which administers the 340B program.
- 1.11** “**Parties**” are hereby defined as the signatories to this Agreement, which are the Covered Entity and Pharmacy.
- 1.12** “**Pharmacy**” is hereby defined as the legal entity identified in this Agreement. If there is more than one Pharmacy location that shall be utilized by Covered Entity in order to serve Covered Entity patients, each Pharmacy site shall be identified in an Exhibit B attached hereto and incorporated herein by reference.
- 1.13** “**Tracking System**” is hereby defined as a system for identifying and monitoring the use of drugs through all phases of the Parties’ involvement with such drugs, including the ordering of 340B drugs, the receipt of 340B drugs, Covered Entity’s payment for 340B drugs, internal transfers of 340B drugs within the Pharmacy, Pharmacy’s preparation and dispensing of 340B drugs, and Pharmacy’s billing of the Covered Entity Patient or third-party insurer for the 340B drugs on behalf of Covered Entity.
- 2 Essential Compliance Elements.** The Parties agree to comply with the following essential compliance elements specified by HRSA.
- 2.1 “Ship To, Bill To” Arrangement.** Covered Entity shall purchase and maintain title to the 340B Drugs and shall assume all responsibility for establishing the price of the 340B Drugs subject to applicable Federal, State, and local laws. A “ship to, bill to” procedure shall be used by the Parties, pursuant to which the Covered Entity shall order, or Pharmacy shall order on Covered Entity’s behalf, 340B Drugs directly from the drug manufacturer, a designated sales representative, or a drug wholesaler. Covered Entity, or Pharmacy on Covered Entity’s behalf, shall arrange for Covered Entity to be billed directly for purchased 340B Drugs. If Covered Entity has more than one site, it may choose between having each site billed individually or designating a single Covered Entity billing address for all 340B drug purchases.
- 2.2 Comprehensive Pharmacy Services.** The Parties agree to provide comprehensive pharmacy services to Covered Entity Patients pursuant to the terms of this Agreement and the BSH/DPSCS Contract. The respective responsibilities of the Parties in providing comprehensive pharmacy services are set forth in Section 4. In entering into this Agreement with Pharmacy, Covered Entity recognizes that it had the option of individually contracting for pharmacy services with one or more pharmacies of its choice, that it was not limited to providing comprehensive pharmacy services to any particular location and that it could choose to provide them at multiple locations and/or “in-house.”

- 2.3 Freedom of Choice.** Covered Entity has informed DPSCS, as agent and custodian of the Covered Entity Patient inmates, of its freedom to choose a pharmacy provider to serve the pharmacy needs of the inmates. If DPSCS does not elect to use Pharmacy, it is free to fill the inmates' prescriptions using the pharmacy provider of its choice. If DPSCS does not elect to use the services of Pharmacy or any Covered Entity pharmacy location (in-house or contracted), then the manufacturer is not required to offer the drug at the 340B price.
- 2.4 Other Services.** In the event Pharmacy agrees to provide other services to Covered Entity unrelated to Pharmacy's services to DPSCS, such services shall be set forth in a separate agreement. Regardless of the services provided by Pharmacy, access to 340B pricing shall be restricted to Covered Entity Patients.
- 2.5 Adherence to All Applicable Laws.** Covered Entity and Pharmacy shall adhere to all applicable Federal, State, and local laws, regulations, and requirements, including but not limited to Federal and State anti-kickback laws, self-referral laws, and false claims laws. Both Covered Entity and Pharmacy are aware of the potential for civil or criminal penalties if they violate Federal, State or local laws and requirements.
- 2.6 Reports.** Pharmacy will provide Covered Entity with reports consistent with customary business practices. The reports that Pharmacy shall provide are set forth in Section 4.
- 2.7 Tracking System.** Pharmacy, with the assistance of Covered Entity, shall establish and maintain a Tracking System suitable to prevent the diversion of 340B Drugs to individuals who are not Covered Entity Patients. The Tracking System shall include periodic comparisons of Covered Entity prescribing records with Pharmacy dispensing records to detect potential irregularities.
- 2.8 Patient Verification.** The Parties shall develop a system to verify patient eligibility, as defined by HRSA guidelines. The system shall be subject to modification in the event of change in such guidelines. The Parties agree that they will not resell or transfer a 340B Drug to an individual who is not a Covered Entity Patient. Covered Entity understands that it may be removed from the 340B Program if it participates in drug diversion.
- 2.9 Prohibition Against Duplicate Discounts.** Neither Party shall use 340B Drugs to dispense Medicaid prescriptions, unless Covered Entity, Pharmacy and the State Medicaid program have established an arrangement to prevent duplicate discounts. Any such arrangement shall be reported to HRSA by the Covered Entity.

- 2.10 Maintaining Compliance.** Covered Entity and Pharmacy will identify the necessary information for the Covered Entity to meet its ongoing obligations of ensuring that the requirements listed herein are being complied with and establish mechanisms to ensure availability of that information for periodic independent audits performed by the Covered Entity.
- 2.11 Outside Audits.** Covered Entity and Pharmacy understand that they are subject to audits by outside parties (the Department and participating manufacturers) of records that directly pertain to the Covered Entity's compliance with the drug resale or transfer prohibition and the prohibition against duplicate discounts. Pharmacy assures that all pertinent reimbursement accounts and dispensing records maintained by Pharmacy will be accessible separately from Pharmacy's own operations and will be made available to Covered Entity, HRSA and the manufacturer in the case of an audit. Such audible records shall be maintained for a period of time that complies with all applicable Federal, State and local requirements.
- 2.12 Access to Agreement.** Upon written request to the Covered Entity, a copy of this Agreement will be provided to OPA.
- 3 Ongoing Responsibility of Covered Entity to Ensure Compliance.** Covered Entity is responsible for ensuring that the process for distribution of 340B Drugs complies with 340B statutory obligations to ensure against the diversion of 340B Drugs and to prevent duplicate discounts.
- 3.1 Annual Independent Audits.** In accordance with 340B program guidance, Covered Entity shall undertake annual, independent audits for the purpose of ensuring that the prohibitions against diversion and duplicate discounts are not breached.
- 3.1.1 Selection.** Covered Entity shall maintain sole discretion over the selection of an independent, outside auditor to perform the audit.
- 3.1.2 Methodology.** Covered Entity shall determine, in consultation with the independent auditor, the methodology to be utilized in performing the audit.
- 3.1.3 Business Practices.** The auditor shall follow standard business practices for audits, including audit trails provided by Covered Entity to the auditor, and use of standard reports.
- 3.2 Remedial Action.** In the event that Covered Entity determines that 340B drug diversion or duplicate discounts have occurred or that it is otherwise unable to comply with its responsibility to ensure reasonable compliance, it must take immediate remedial action to assure compliance and notify OPA regarding such compliance problems and actions taken to remedy those problems.

- 3.3 Use of a 340B Administrator.** Pharmacy agrees that Covered Entity may utilize the services of a 340B Administrator to assist it in the management of its 340B utilization. Pharmacy agrees to cooperate with 340B Administrator to the extent such cooperation would not interfere with the independence of Pharmacy's practice of pharmacy.
- 3.4 Registration.** Covered Entity shall ensure that its enrollment in OPA's database is accurate and up to date. Covered Entity shall notify Pharmacy of any changes to its 340B enrollment status pertinent to this Agreement.
- 3.5 Third Party Billings.** Covered Entity shall seek reimbursement for 340B Drugs directly from DPSCS. Pharmacy shall not submit reimbursement claims to any third party payer, including DPSCS, in connection with the 340B Drugs. Covered Entity may direct DPSCS to pay the compensation described in Section 6 directly to Pharmacy on Covered Entity's behalf.
- 4 Operational Responsibilities.** In addition to the responsibilities described in Sections 2 and 3, Covered Entity and Pharmacy agree to operationalize the contract pharmacy arrangement established under this Agreement by developing an **Exhibit B** entitled "Operational Procedures," which exhibit shall be executed by both parties and incorporated into this Agreement. In the event of any conflict between the terms of Exhibit B and the body of this Agreement, this Agreement shall control. At a minimum, **Exhibit B** will address the following:
- 4.1 Inventory Management.** The Parties will either use a virtual inventory replenishment system (described in Section 4.1.1) or a physical inventory system (described in Section 4.1.2).
- 4.1.1 Replenishment.** If the Parties agree to establish and utilize a stock replacement system, wherein the ordering and receipt of 340B Drugs occurs after Pharmacy has filled a prescription presented by a Covered Entity Patient, the Parties will address the following topics in **Exhibit B**:
- 4.1.1.1 Ordering.** Covered Entity will arrange for Pharmacy to place orders for 340B Drugs on Covered Entity's behalf.
- 4.1.1.2 Shipment.** Covered Entity will arrange for shipment of the 340B Drugs directly to Pharmacy.
- 4.1.1.3 Receipt of 340B Drugs.** Pharmacy will be responsible for the receipt of 340B Drugs purchased by Covered Entity. Upon receipt of 340B Drugs, Pharmacy will compare all shipments received on behalf of Covered Entity and confirm that the shipments conform to the orders of 340B Drugs placed by Covered Entity. If Pharmacy should find a discrepancy between the shipment and order of 340B

covered outpatient drugs, Pharmacy will inform Covered Entity.

4.1.1.4 **NDC-by-NDC Replacement.** Drugs dispensed to Covered Entity Patients will be replenished at the NDC-11 level.

4.1.1.5 **Out-of-Stock, Slow-Moving, and Discontinued Drugs.** The Parties will develop a process for reconciling 340B Drugs dispensed by Pharmacy in insufficient quantities to trigger replenishment.

4.1.1.6 **Reconciliation.** The Parties will conduct a monthly reconciliation of 340B Drugs dispensed against those 340B Drugs received by Pharmacy. The Parties will also conduct a final reconciliation within ninety (90) days of the termination of this Agreement. If Pharmacy uncovers a discrepancy as a result of the dispensed drugs being out-of-stock, slow-moving or discontinued, the Parties will resolve such discrepancies in accordance with Section 4.1.1.5 above. The Parties will agree on procedures to rectify any instances of over-replenishment or under-replenishment identified through reconciliation, and Pharmacy will provide Covered Entity with any and all supporting reports to document any discrepancies identified.

4.1.2 Physical Inventory. If the Parties agree to establish and utilize a stock replacement system, wherein Pharmacy maintains a Covered Entity-owned inventory of 340B Drugs separate from Pharmacy's other drug inventories, the Parties will address the following topics in **Exhibit B**:

4.1.2.1 **Ordering.** Covered Entity will arrange for Pharmacy to place orders for 340B Drugs on Covered Entity's behalf.

4.1.2.2 **Shipment.** Covered Entity will arrange for shipment of the 340B Drugs directly to Pharmacy.

4.1.2.3 **Receipt of 340B Drugs.** Pharmacy will be responsible for the receipt of 340B Drugs purchased by Covered Entity. Upon receipt of 340B Drugs, Pharmacy will compare all shipments received on behalf of Covered Entity and confirm that the shipments conform to the orders of 340B Drugs placed by Covered Entity. If Pharmacy should find a discrepancy between the shipment and order of 340B covered outpatient drugs, Pharmacy will inform Covered Entity.

4.1.2.4 **Inventory Management.** Pharmacy will maintain Covered Entity's 340B Drugs physically separate from Pharmacy's other drug inventories. Pharmacy will not transfer a 340B Drug to another inventory, nor will it transfer a drug from another inventory to the 340B Drug inventory it maintains on behalf of Covered Entity. The Parties will agree upon procedures for temporarily borrowing a drug if necessary in an emergency for patient safety.

4.1.2.5 **Periodic Inventory.** Pharmacy will conduct a periodic inventory (at least quarterly) of 340B Drugs dispensed against those 340B Drugs received by Pharmacy, as well as a validation inspection to look for any other inventory errors. The Parties will agree upon procedures for rectifying any inventory errors. The Parties will also conduct a final inventory within thirty (30) days of the termination of this Agreement.

4.2 **Patient Verification.** The Parties will develop detailed processes for identifying Covered Entity Patients and ensuring that only Covered Entity Patients receive Covered Entity's 340B Drugs.

4.3 **Tracking System.** Pharmacy will establish a Tracking System to protect against diversion and duplicate discounts throughout the process by which 340B Drugs are ordered, received, dispensed and billed.

4.3.1 **Records.** Pharmacy will maintain (readily retrievable) customary business records including, at a minimum, prescription files, velocity reports, records of ordering and receipt, dispensing records, and any records required by DPSCS.

4.3.2 **Inspection.** Covered Entity will have the opportunity, upon reasonable notice and during business hours, to examine the Tracking System.

4.3.3 **Modification.** Pharmacy will make any and all adjustments to the Tracking System that Covered Entity determines are reasonably necessary to prevent the diversion of 340B Drugs to individuals who are not Covered Entity Patients.

4.4 **Recordkeeping.** The Parties will maintain auditable records relating to the purchase, dispensing and billing of 340B Drugs under the contract pharmacy arrangement described in this Agreement.

4.4.1 **Maintenance of Pharmacy Services Records.** On behalf of Covered Entity, Pharmacy will maintain all relevant records relating to its services provided under this Agreement, in

accordance with applicable Federal, State, and local laws and regulations, including but not limited to the Federal standards for the privacy of individually identifiable health information. Pharmacy will maintain all auditable records for a period of time that complies with all applicable Federal, State and local requirements, in any event not less than a period of ten (10) years.

4.4.2 Access to Business Records. Pharmacy will provide Covered Entity with reasonable access to Pharmacy's business records relating to Pharmacy services for 340B Drugs, as is deemed necessary by Covered Entity in order to ensure that Pharmacy is in compliance with applicable Federal, State, and local laws, regulations, and requirements.

4.4.3 Separation of Records. Pharmacy will ensure that all reimbursement accounts and dispensing records, and any and all other pertinent records relating to Pharmacy's responsibilities and duties under the Agreement, are maintained by Pharmacy separately from Pharmacy's own operations.

4.5 Go-Live Date. The Parties agree that the operational responsibilities described in this Section 4, including the ordering of 340B Drugs, shall not go into effect prior to the Go-Live Date. The Parties further agree that the compensation arrangement described in Section 6, and the disposition of 340B Drugs savings received by Covered Entity, shall also not go into effect prior to the Go-Live Date.

5 Pharmacy Responsibilities. Pharmacy shall perform the following tasks and functions in addition to those described above.

5.1 Practice of Pharmacy. Pharmacy agrees to render its services as herein provided in accordance with the rules and regulations of the Maryland Board of Pharmacy and all applicable Federal and State laws and regulations. The relations between an Eligible Patient and Pharmacy shall be subject to the rules, limitations, and privileges incident to the pharmacy-patient relationship. Pharmacy shall be responsible to said Eligible Patient for pharmaceutical advice and service, including the right to refuse to service any individual where such service would violate pharmacy ethics or any pharmacy laws or regulations.

5.2 Patient Counseling. Pharmacy shall provide patient counseling services to Covered Entity Patients in accordance with applicable Federal, State and local laws and regulations.

5.3 Additional Services. Covered Entity understands that Pharmacy provides pharmacy services to DPSCS inmates who are not Covered Entity Patients. In addition to the services described in this Agreement,

Pharmacy agrees to provide Covered Entity Patients with additional services that ensure that Covered Entity Patients receive at the least the same level of professional care and types of pharmacy services that Pharmacy provides DPSCS inmates who are not Covered Entity Patients.

6 Compensation. The Parties agree to the following compensation arrangement.

- 6.1 Dispensing Fee.** Covered Entity delegates to DPSCS its responsibility under the Agreement to pay Pharmacy for the cost of pharmacy services associated with the drugs purchased under this Agreement and the BSH/DPSCS Contract, including the cost of packaging and dispensing the drugs throughout the DPSCS facilities to Covered Entity Patients.
- 6.2** The Parties agree to cooperate with each other to respond to any requests for information, or to make any notifications, described in the Drug Supply Chain Security Act (DSCSA), 21 U.S.C. § 360eee *et seq.*

7 Term and Termination.

- 7.1** The term of this Agreement shall be for one year commencing on the date first written above, unless sooner terminated as set forth herein and shall automatically renew for subsequent yearly terms unless either Party gives the other at least ninety (90) days' prior written notice of its intention not to renew prior to the expiration of the then current term. Notwithstanding the forgoing, this Agreement may be terminated early:
 - 7.1.1** Covered Entity or Pharmacy may terminate this Agreement immediately upon written notice to Covered Entity or Pharmacy of any breach of the terms of this Agreement, which is not cured to the reasonable satisfaction of the non-breaching Party within thirty (30) days.
 - 7.1.2** The Parties may terminate this Agreement immediately by mutual consent.
 - 7.1.3** In the event there has been a change in any law or regulation or guidance interpreting applicable provisions of the 340B Program, the Parties will revisit, modify or terminate this Agreement in accordance with section 17.3 of the BSH/DPSCS Contract.
 - 7.1.4** Covered Entity may terminate this Agreement immediately if Pharmacy, for any reason, is no longer authorized to dispense drugs to individuals in the custody of DPSCS;
 - 7.1.5** Either Party may terminate this Agreement immediately if Covered Entity is no longer authorized to participate in the 340B Program;

7.1.6 Either Party may terminate this Agreement immediately if Covered Entity no longer provides services to individuals in the custody of DPSCS, or if Covered Entity no longer has a payer agreement in place with DPSCS that reimburses Covered Entity for correctional care services, including the purchase and dispensing of 340B Drugs; or

7.1.7 Either Party may terminate this Agreement, upon written notice to the other, in the event that either Party hereto shall: (i) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or of all or a substantial part of its assets; (ii) file a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they become due; (iii) make a general assignment for the benefit of creditors; (iv) file a petition or an answer seeking reorganization or arrangement with creditors or take advantage of any insolvency law; or (v) be the subject of an order, judgment or decree entered by a court of competent jurisdiction adjudicating such Party to be bankrupt or insolvent, or approving a petition seeking reorganization of such Party or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstated and in effect for a period of thirty (30) consecutive days.

7.2 Upon termination or expiration of this Agreement, Covered Entity is entitled to receive copies of files or other materials related to Covered Entity Patients which may be in Pharmacy's possession or under Pharmacy's control.

- 8 Governing Law.** The Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.
- 9 Force Majeure.** Each Party's delay in, or failure of, performance under this Agreement shall be excused where such delay or failure is caused by an act of nature, fire or other catastrophe, electrical, computer, software, transmissions, communications or mechanical failure, work stoppage, or delays or failure to act of any carrier or agent, or any other cause beyond such Party's direct control.
- 10 Entire Agreement.** This Agreement represent the entire understanding of the Parties in the subject matter hereof. Any amendments to this Agreement shall be in writing and signed by both Parties hereto.
- 11 Survival.** The provisions of this Agreement that by their nature are intended to continue in their effect following expiration or termination of this Agreement, including all payment obligations, shall survive any such expiration or termination of this Agreement.
- 12 Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be considered an original, and all of which taken together will

constitute one and the same instrument and will be effective as of the Effective Date. Signature execution by facsimile or other electronic means shall be considered binding.

- 13 Notice.** Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested or by overnight delivery by a nationally recognized courier, to the Parties at the addresses set forth on the signature pages hereto. Notice shall be effective on the day it is received.
- 14 Relationship Between Parties.** Pharmacy shall perform all professional and other services under the terms of this Agreement as an independent contractor. Pharmacy shall exercise its own judgment on all questions of professional practice. Nothing herein shall be deemed to make the Parties partners or joint venturers.
- 15 Confidentiality.**

15.1 The Parties acknowledge that, in the course of their relationship, they will receive, work with and be exposed to certain confidential information and knowledge concerning the business of the other Party and its affiliates, whether or not reduced to writing (collectively, the “Confidential Information”), which each Party desires to protect from unauthorized disclosure or use. Each Party hereto agrees not to disclose the Confidential Information of the other Party (the “Disclosing Party”) to any third party without the prior written consent of the Disclosing Party, except that a Party may disclose the Disclosing Party’s Confidential Information to such Party’s directors, officers, managers, attorneys, and such other persons who have a reasonable need to know such Confidential Information. Each Party agrees to use at least the same measures (but no less than reasonable care) to protect the Disclosing Party’s Confidential Information as it takes to protect its own Confidential Information. In addition, each Party agrees that it will not, without the prior written consent of the Disclosing Party, use the Disclosing Party’s Confidential Information for any purpose other than to fulfill its obligations to the Disclosing Party under this Agreement. The following information shall not be deemed to be Confidential Information subject to the confidentiality restrictions set forth in this Section:

- 15.1.1** Information which a Party can show was in its possession at the time of disclosure and was not acquired, directly or indirectly, from the Disclosing Party or from a third party under an obligation of confidence to the Disclosing Party;
- 15.1.2** Information which is now or subsequently becomes known or available to the public or in the trade by publication, commercial use or otherwise through no act or fault on the part of the receiving Party;

15.1.3 Information which a Party is required to disclose in response to a valid court order or otherwise required to be disclosed by law, but only if such Party has given the Disclosing Party prompt written notice of the potential for such disclosure and the opportunity to seek a protective order or obtain other relief to preserve the confidentiality of the Confidential Information; and

15.1.4 Information provided by the Disclosing Party to the other Party expressly for public distribution, such as (i) marketing materials, advertising, brochures and similar information and (ii) general promotional information regarding the Disclosing Party and its business.

15.2 Upon termination of the Agreement, each Party agrees to cease use of the other's Confidential Information and to return it, or destroy it, as appropriate.

16 Representations and Warranties. The Pharmacy represents and warrants that it is the owner of the pharmacies named herein and that it has full right, power, and authority to make this offer. Pharmacy warrants that professional pharmaceutical services shall only be rendered by licensed pharmacists to eligible persons, warrants that each prescription dispensed shall be in accordance with a lawful prescriber's directions, and warrants that it is a pharmacy duly licensed under the pharmacy laws of the state in which it operates. Pharmacy represents and warrants that it can legally dispense prescriptions to Covered Entity Patients in the custody of DPSCS and that it has never been subject to exclusion, suspension or debarment from any government healthcare program, including the Medicare and Medicaid programs.

17 Insurance. Pharmacy shall maintain appropriate professional malpractice and general liability insurance including blanket contractual liability in amounts not less than three million dollars (\$3,000,000) per occurrence and five million dollars (\$5,000,000) aggregate. Pharmacy shall provide Covered Entity with notice of any changes, modifications, or cancellations of such coverage. Pharmacy shall issue to the other certificates of coverage documenting Covered Entity as an additional insured, including for each renewal, in the foregoing amounts.

18 Non-Assignment. Pharmacy may not assign this Agreement without the prior written Agreement of Covered Entity.

19 Indemnification. Each Party shall indemnify, defend, and hold harmless the other Party from and against all claims, damages, causes of action, costs or expense, including court costs and reasonable attorneys' fees, which may arise as a result of the indemnifying Party's negligent performance of or failure to perform, any term or condition of this Agreement. The obligation to indemnify shall survive termination of this Agreement regardless of the reason for termination.

In witness thereof, the Parties hereto have caused this Agreement to be executed by themselves or their duly authorized representatives as of the day and year first written above.

Bon Secours Hospital Baltimore, Inc.,

By: _____
Name: _____
Its: _____
Address: _____

[PHARMACY]

By: _____
Name: _____
Its: _____
Address: _____

EXHIBIT A

ELIGIBLE PHARMACY SITES

Pharmacy NPI	Street Address	City	State	Zip
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